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**SITTING DAYS—2016**

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FORTY-FIFTH PARLIAMENT
FIRST SESSION—FIRST 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 Susan Lines
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. Don Farrell
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Katy Gallagher

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. Don Farrell
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senators Scott Ludlam and Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Dean Anthony Smith
The Nationals Whip—Senator Matthew James Canavan
Chief Opposition Whip—Senator Anne Elizabeth Urquhart
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Jennifer McAllister
Australian Greens Whip—Senator Rachel Siewert

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

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

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</table>

(1) Chosen by the Parliament of Victoria to fill a casual vacancy (vice S Conroy), pursuant to section 15 of the Constitution.

(2) Vacancy created by the resignation of Senator Bob Day on 01 November 2016.

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party; DHJP—Derryn Hinch's Justice Party; FFP—Family First Party; IND—Independent; JLN—Jacqui Lambie Network; LDP—Liberal Democratic Party; LNP—Liberal National Party; LP—Liberal Party of Australia; NATS—The Nationals; NXT—Nick Xenophon Team; PHON—Pauline Hanson's One Nation

**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services— R Stefanic
Parliamentary Budget Officer—P Bowen
## TURNBULL MINISTRY

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<td>Prime Minister</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
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<tr>
<td>Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td>Cabinet Secretary</td>
<td>Senator the Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td>Minister Assisting the Prime Minister for Counter-Terrorism</td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>Senator the Hon Scott Ryan</td>
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<tr>
<td>Minister Assisting the Prime Minister for Cyber Security</td>
<td>Hon Dan Tahan MP</td>
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<tr>
<td>Assistant Minister to the Prime Minister</td>
<td>Senator the Hon James McGrath</td>
</tr>
<tr>
<td>Assistant Minister for Cities and Digital Transformation</td>
<td>Hon Angus Taylor MP</td>
</tr>
<tr>
<td>Deputy Prime Minister and Minister for Agriculture and Water Resources</td>
<td>Hon Barnaby Joyce MP</td>
</tr>
<tr>
<td>Assistant Minister for Agriculture and Water Resources</td>
<td>Senator the Hon Anne Ruston</td>
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<tr>
<td>Assistant Minister to the Deputy Prime Minister</td>
<td>Hon Luke Hartsuyker MP</td>
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<tr>
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<td>Hon Julie Bishop MP</td>
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<tr>
<td>Minister for Trade, Tourism and Investment</td>
<td>Hon Steve Ciobo MP</td>
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<tr>
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<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<td>Hon Keith Pitt MP</td>
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<tr>
<td>Attorney-General</td>
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<td>(Vice-President of the Executive Council)</td>
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<tr>
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<td>Minister for Local Government and Territories</td>
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<tr>
<td><strong>Minister for Health and Aged Care</strong></td>
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<td><strong>Minister for Sport</strong></td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
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<td><strong>Minister for Regional Communications</strong></td>
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Each box represents a portfolio except for (1) which is in the Education portfolio, (2) which is in the Treasury portfolio and (3) which is in the Health portfolio. **Shadow Cabinet Ministers are shown in bold type.**
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Tuesday, 8 November 2016

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 12:30, read prayers and made an acknowledgement of country.

DOCUMENTS

Tabling

The Clerk: I table documents pursuant to statute. The list is available from the Table Office or the chamber attendants.

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

COMMITTEES

Meeting

The Clerk: Proposals to meet have been lodged as follows:

Environment and Communications References Committee—public meetings during the sitting of the Senate on Wednesday, 9 November 2016, from noon and 4.30 pm, to take evidence for the committee’s inquiry into closures of electricity generators.

Joint Standing Committee on Migration—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 9 November 2016, from 10 am.

Joint Standing Committee on the National Broadband Network—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 10 November 2016, from 1 pm.

Standing Committee of Privileges—private briefing during the sitting of the Senate today, from 4 pm.

The PRESIDENT (12:31): Does any senator wish to have the question put on any of those motions? There being none, we will proceed to business.

BUSINESS

Days and Hours of Meeting

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (12:32): I move:

That the days of meeting of the Senate for 2017 be as follows:

Autumn sittings:
Tuesday, 7 February to Thursday, 9 February
Monday, 13 February to Thursday, 16 February
Monday, 20 March to Thursday, 23 March
Monday, 27 March to Thursday, 30 March

Budget sittings:
Tuesday, 9 May to Thursday, 11 May

Winter sittings:
Tuesday, 13 June to Thursday, 15 June
Monday, 19 June to Thursday, 22 June
Spring sittings:
Tuesday, 8 August to Thursday, 10 August
Monday, 14 August to Thursday, 17 August
Monday, 4 September to Thursday, 7 September
Monday, 11 September to Thursday, 14 September

Spring sittings (2):
Monday, 16 October to Thursday, 19 October

Spring sittings (3):
Monday, 13 November to Thursday, 16 November
Monday, 27 November to Thursday, 30 November
Monday, 4 December to Thursday, 7 December.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:32): Firstly, we would like to acknowledge that the government have managed to avoid all the school holidays with its sitting timetable for next year. We acknowledge the government's approach there. For the last number of years, I have been on my feet saying, 'What about school holidays?' We are, however, concerned that we are not sitting long enough in this place. We are very concerned that there are a lot of significant issues that I am sure are on the government's agenda; there are certainly a lot on our agenda that we would like to be pursuing through the parliament. So we are concerned that there are not enough weeks on the timetable for us to complete that business. We are also concerned that the government may decide next year to seek additional sitting days that are not on the agenda because they find themselves in the position where they have not scheduled enough sitting days for this place to complete its business properly, or that they will seek to guillotine bills through because they do not have enough time to prosecute their arguments because they have not scheduled enough days. While I do acknowledge that we have avoided the school holidays, we think that there should have been more time scheduled for this place to sit longer to deal with the legislative matters that no doubt the government will be bringing on but also that we wish to prosecute through this place.

Senator HINCH (Victoria) (12:34): I think it is a disgrace that we are only sitting for 15 weeks. I know as a newbie you all say to me: 'Wait till you've been here a while. We do work hard.' There are estimates committee weeks—I know that. I have been told by a senator not far from your chair, sir, that when I have been here a few years, as long as you have, maybe, I will realise that those vacations and that time back with constituents are necessary. But I think that out there, in what they call the real world, we are seen to be only sitting for 15 weeks out of 52, or only 60 days out of 365.

I agree with the senator that we have a lot of work to do. The hours you put in here are long. I think the general public do not understand that you can be here from six or seven o'clock in the morning until 10 o'clock at night, like last night. But the general perception is that we do not work long enough times. We are well paid for what we do. I just want to lodge my protest. I think we should be sitting longer.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (12:35): If there are no other colleagues who wish to contribute, I will close the debate. Thank you—through you, Mr President—to
Senator Siewert for acknowledging that we have endeavoured to ensure that the Senate is not sitting during school holidays. I would note Senator Siewert expressing concern that maybe there are not enough sitting days to transact the business required. The only observation I would make in relation to that is that, in a chamber where no one party, including the government, has a majority, management of this place and management of the legislative agenda is a shared responsibility of all parties and groupings that are represented here.

I think the sitting days should be adequate. Whether they are or are not I do not think is a function or will be a function of government management. It will really be a reflection particularly of whether the opposition needlessly and unnecessarily extends the debate from time to time or adopts a cooperative and positive approach, which we did when we were in opposition. So I just remind colleagues that ultimately the management of this place is a shared responsibility.

Certainly, let me acknowledge that Senator Siewert is someone who, as the whip and manager for the Greens, is extremely good to work with and cooperative, and my experience to date with the Manager of Opposition Business in the Senate, Senator Gallagher, has also been the same. I know that there are from time to time others in the respective parties who might not be as cooperatively minded, but I just observe that it really is a responsibility of all of us to manage the business in the time that is available.

Question agreed to.

**BILLS**

**Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016**

**Second Reading**

Consideration resumed of the motion:

That this bill be now read a second time.

**Senator PRATT** (Western Australia) (12:37): I rise today to make a contribution on behalf of the opposition on the second reading debate on the Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016, to put forward our views. As we know, the bill seeks to amend the 2012 Murray-Darling Basin Plan, allowing for the second notification of supply and efficiency measures, and further adds a deadline for sustainable diversion limit, SDL, adjustment. The amendment bill also puts a deadline on determination of the adjustment of the sustainable diversion limit until 15 December 2017. This deadline is here to add more certainty to the plan.

The bill is integral, as it allows for the development of supply and efficiency measures for basin states—New South Wales, Victoria, the ACT, Queensland and South Australia—as requested by the Murray-Darling Basin Ministerial Council. We have in this bill before us an additional year to help develop and refine projects that will deliver for the environment and for farmers.

As those across the chamber would be aware, Labor overcame more than 100 years of conflict and partisan politics to put the Murray-Darling Basin Plan in place. The significance of this achievement should not be underestimated. The basin covers approximately one-seventh of the coastal area of mainland Australia, with over two million people living there,
including Canberra and many of our other regional centres: Toowoomba, Bendigo, Albury-Wodonga, Tamworth, Dubbo, Orange, Wagga Wagga, Queanbeyan and Shepparton. It is also home to many bioregions and includes landscapes as diverse as subtropical rainforests in the north, our semi-arid desert in the west, and alpine areas and snowfields in the south. It has an incredible array of animals, including endangered birds, mammals and snakes.

In addition to its environmental assets, the basin contains some of the oldest remains of modern humans. It is worth noting that ritual burial sites at Lake Mungo in New South Wales highlight that humans have been in this region for more than 40,000 years, and the region is home to around 50 Aboriginal nations. They have long and strong connections with the rivers and land in this region. It houses a vast ecosystem, but, as many know, agriculture is the most significant user of the basin's land and water resources. It provides employment for basin residents and contributes significantly to our regional economies. Here in the Murray-Darling Basin region, we have approximately 20 per cent of Australia's total agricultural land area and also one-third of the nation's food supply and exports, which go to many countries overseas, 40 per cent of Australia's farms and 65 per cent of all irrigation farms. The scale of irrigated cropping production in the basin is not matched by any other region in Australia. It was worth approximately $6.7 billion when the Basin Plan was put in place.

While the scale of production is not matched by any other region, the volume of water that flows into the Murray from its tributaries and out to the Southern Ocean can, as we know, be extremely variable. This means the water for farmers and water for the environment, including the precious wetlands, is not always there. Variation also means that, when there is a flood, there can be too much water. These pressures and variability in water availability are expected to increase with climate change. So, to manage the extreme dry times, a plan to buy back water licences from irrigators and improve farm efficiency has been developed. Examples like this highlight how vulnerable the basin is and how we need to ensure its management through supply and efficiency measures for years to come.

So Labor is committed to returning the Murray-Darling system to health through the implementation of this plan. As I previously stated, in 2012 the Labor government introduced the plan, which sought to secure the long-term health of the basin. It set limits for irrigators and other water users and established where more water was needed for the system to survive. The plan aimed to return to the basin 2,750 billion litres of water which was being used mainly for irrigation and allows for up to 3,200 billion litres to be recovered. Stakeholder input was key to developing the plan and to a number of consultation activities taking place, including formal consultation periods, community meetings, round tables, visits to Aboriginal communities, briefings with businesses and almost 12,000 submissions during the consultation period. We know from this that discussions and differences continue to some degree about the plan and its impact. The plan, however, continues to provide a clear framework and certainty that was long overdue. This certainty is critical to rural communities and to the precious environment that exists in our Murray-Darling Basin. The 641-page final plan delivered on the Murray-Darling Basin Authority's draft recommendations, which the water minister at the time, Tony Burke, said would mean an extra focus on infrastructure investments to improve water use efficiency. However, it would not forget water buybacks and water for our environment. Basin state governments along the river system were tasked with coming up with ideas to return 650 gigalitres to the environment, with the final 450
gigalitres to be found in removing capacity restrictions. The bill that we have before us today is another step in this process.

The bill will help people on the ground as well as the basin states. Achieving greater water offsets requires projects that can provide more environmental water and projects that address physical and operational constraints to free up the delivery of environmental water to where it is needed. While some have critcised the delay in implementation of these projects, there is, however, little point having these innovations without the funding and consideration they need; otherwise, they will be set up to fail.

Basin states have submitted a range of projects and have asked for time to further develop some of these. While we do not want to see delays to such an important plan, we want quality projects to receive the attention they deserve and the funding they need, so it is only natural that we would like to support good environmental policy. Labor wants the Murray-Darling Basin Plan to work and we are committed to returning the Murray-Darling system to health through the implementation of the plan. The coalition's political moves to cap water buybacks in 2015 and to slash infrastructure funding in 2014 put pressure on every other component of the Basin Plan, making it more fragile than it needs to be.

We on this side will always carefully monitor the implementation of the plan, because we have always done so. We support this bill so Labor's Murray-Darling Basin Plan can continue to be effectively implemented.

Senator LEYONHJELM (New South Wales) (12:46): I support the Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016 before the Senate today. It concerns a sustainable diversion limit applicable in the Murray-Darling Basin Plan and it extends the deadline for any decision to adjust this limit. The SDL, sustainable diversion limit, is the maximum amount of water that can be taken for consumptive use. The extension will allow further time to gather information that should lead to a greater upward adjustment in the limit—in other words, more water for consumptive use. This would mean: more for farmers to grow food and to support productivity throughout the basin; more time for the current floods to recede so that we can appreciate the natural restorative effects of flooding rains that we were told were never likely to return; and more time to see if we can get the implementation of the Basin Plan right.

We do not have any more time to wait for the government's response to the Senate Select Committee on the Murray-Darling Basin Plan, which I chaired, and from which the committee's report was tabled on 17 March 2016. That report made 31 recommendations, which, if implemented, would significantly reduce the negative impact the plan is having on communities in the basin, from Queensland to the mouth of the Murray in South Australia.

It was reported last month that a Murray-Darling Basin Authority report on the northern basin showed employment in northern irrigation communities has been smashed by the removal of water from farming. The report also found that the targets legislated under the Basin Plan would have quite large socio-economic impacts in the Condamine and Balonne valleys if they were pursued. This is what the local communities have been saying for years, but they have not been listened to. Communities in the southern basin wonder why there was no study of the socioeconomic impacts in their area, particularly given they have borne the brunt of water recovery. Their expectation is that the economic impact will be even more severe than in northern communities.
Last week, the media reported on the frustration of the chairman of the Southern Riverina Irrigators, Graeme Pyle, who called on the government to take the blinkers off and act on the select committee inquiry's recommendations. Mr Pyle said:

Under the Basin Plan, there have been ongoing reductions in availability and affordability of productive water, so it is reasonable to assume the results of any social and economic study will not be pretty. They will show the plan for what it is … an economic disaster without evidence of environmental gains.

This goes to the crux of some of the key recommendations in the inquiry report: no more water buybacks; a full assessment of the social and economic impacts of the plan; and a cost-benefit analysis of the various options to adapt the management of the Lower Lakes and the Coorong. Hundreds of farming communities across four states are feeling the pain of the Basin Plan implementation. We are now seeing analysis confirming what those communities have been saying. It is time for the government to accept the recommendations of the select committee, which have been endorsed by many basin communities, so that further implementation of the plan has the support of the communities most affected.

Senator XENOPHON (South Australia) (12:50): I support the Water Legislation Amendment (Sustainable Diversions Limit Adjustment) Bill 2016, and I will outline the reasons why. Before I do so, I will give some background. Back in 2007, when I stood for election for the Senate and was elected, the southern states of Australia, in particular, were gripping by what was called the millennium drought, one of the most severe droughts we had seen for many generations. I spoke to so many farmers, so many environmentalists, who indicated just how awful it was in terms of rising salinity levels and a lack of ability to draw water out of the great Murray-Darling river system. Our farmers were in dire straits as a result of the deteriorating water levels and water quality levels. There was a need to manage the environmental flows better so that we could get a better outcome for agriculture as well.

Back then it was almost a case of musical chairs and pass the parcel, in that nobody wanted to take responsibility for the whole issue of water and maintaining the great Murray-Darling Basin from Queensland to New South Wales, ACT, Victoria and, of course, South Australia, where we are particularly vulnerable because we are at the end of the river system. The Lower Lakes are what many leading water economists and environmentalists, such as Professor Mike Young from the University of Adelaide, have described as the lungs of the river system. You need to ensure that the nutrients and salinity are flushed out through the Lower Lakes. That is critical for the health of the river system upstream as well.

I had an opportunity in early 2009 to negotiate with the then Rudd government to ensure that there was going to be an increase in water buybacks, to the tune of half a billion dollars, to improve environmental flows so our farmers would have a healthier river system. Unless we have a healthy river system, our farmers cannot rely on that river system. If you have rising salinity levels, if you do not do the right thing environmentally, you compromise the agricultural production of our great river system. I also managed to negotiate $200 million in stormwater harvesting, which was used in projects around the country because it is an efficient way of ensuring that you can access water. It is much cheaper than desalination plants and it makes a huge difference in terms of a good environmental outcome and saving water. I also negotiated a $200 million package for river communities that were at breaking point because of the drought. These were communities in Queensland, New South Wales, Victoria, South Australia and the ACT.
I think we did the right thing then. We should remember that the $10 billion package for water—that great program—was initiated by the Howard government because former Prime Minister Howard understood the importance of having a national plan instead of a state-by-state, piecemeal approach when it comes to the management of our great river system, the Murray-Darling, and the communities that rely on it in the Murray-Darling Basin.

So I support the Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016. This bill will help deliver on the 2012 decision by the basin ministers to enhance Basin Plan environmental and socio-economic outcomes through three key elements: firstly, adjusting sustainable diversion limits to offset the originally proposed water recovery target of 2,750 gigalitres by 2019; secondly, addressing physical and operational constraints on the use of environmental water; and, thirdly, recovering an additional 450 gigalitres of water for the environment by 2024 through so-called efficiency measures.

On the issue of efficiency measures: South Australia has had to, by virtue of drought since the 1960s, be more efficient and adopt water efficiency measures earlier than other states by virtue of the fact that we are vulnerable being at the tail end of this great river system. That is something I do not believe has ever been adequately taken into account in the formation of policy. This bill, agreed to by the Basin ministers in April this year, primarily addresses the first element—that is, to adjust sustainable diversion limits by giving states more time to develop projects to offset the need for water recovery. This is very important and could potentially allow diversion limits to be increased; notwithstanding that, you need to give them more time to transition. I see this as part of having a healthy river system so that our farmers can have a long-term, viable future in relation to their agricultural produce.

However, it is just as important that all jurisdictions maintain their efforts in the second and third elements of the Basin Plan implementation—that is, by addressing constraints and by recovering the extra 450 gigalitres by 2024. I support this bill with the expectation that New South Wales and Victoria, in particular, will honour their commitments around addressing constraints on the use of environmental water and the recovery of the extra 450 gigalitres. The constraints that Basin governments agreed would be addressed as part of the Basin Plan implementation are essentially a set of operating rules and structures that currently limit the delivery and timing of environmental flows. Addressing these constraints is vital for enabling additional areas of wetlands and flood plains to receive water when they really need it. Again, this is about getting the balance between the environment and agricultural production right because farmers cannot have a viable, agricultural production and economic model unless we have good quality water so that they can grow crops.

While addressing constraints, this will have significant environmental benefits. The potential constraint projects being considered by Basin governments also provide an opportunity to further offset the need for water recovery, which again would benefit irrigators, and that to me is very important. Those irrigators in the Riverland and in the lower part of the Murray lands in the Lower Lakes need our support. Just as importantly, constraints projects also have a potential to benefit regional communities and individual landholders by providing greater protection against both naturally occurring and managed higher flow events in key parts of the Murray-Darling Basin. So I urge the New South Wales and Victorian governments to continue working with their communities to realise the full potential of these
constraints projects for the benefit of Basin irrigators, affected communities and the environment.

In supporting the passage of this bill, I also wish to highlight the need for states to put forward sound water recovery offset projects in a timely manner, and it must be done in a way that gives good value for taxpayer money, as well as a good environmental benefit and, through it, a good benefit for our farmers. Constraints are one set of projects that can offset water recovery as well as deliver broader community and environmental health benefits. Projects such as the Menindee Lakes water-saving project is another type of activity that can offset water recovery by delivering evaporative water savings.

In relation to Menindee Lakes, it supplies water to Broken Hill. It is on the same time zone as South Australia, so many people in Broken Hill are much closer to Adelaide than they are to Sydney and there is a close affinity and bond between the people of Broken Hill and South Australians by virtue of geography and history. I have been asking questions in Senate estimates, going back eight years now, about the reason why it has taken so long for the New South Wales government, or rather governments since that time, to implement some sensible measures to deal with the massive evaporation in the lakes and to secure a high-quality potable water supply for the people of Broken Hill. I hope we will get a breakthrough on that sooner rather than later because the people of Broken Hill deserve better.

The Menindee Lakes water-saving project will significantly change how the River Murray is operated. To ensure its success, New South Wales is to engage the Australian, Victorian and South Australian governments as early as possible to make sure the project takes into account all jurisdictions—I emphasise 'all jurisdictions'—and the River Murray water requirements.

I support this bill. I believe this is the best we can do. I also consider that not having a national plan, not going ahead with this, will ultimately harm our irrigators and harm our farmers in the Murray-Darling Basin and all of those great communities that are in that basin. But, of course, it is reasonable, as always, where communities' livelihoods are at stake, where taxpayers' moneys are being expended at a significant level, to ensure a constant scrutiny and questioning. That is why, whilst I may disagree with Senator Leyonhjelm's conclusions in relation to the Murray-Darling Basin, I welcome that level of robust debate because it is a healthy thing in our democracy with respect to getting the best outcome for the great Murray-Darling river system.

Senator HANSON (Queensland) (13:00): I rise to support the Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016, which, in the words of the minister, amends the Murray-Darling Basin Plan to allow basin states to notify a second package of sustainable diversion limit adjustment measures.

Let me get straight to the point. If this means that our farmers get more water, One Nation unhesitatingly supports this bill. However, the fact that parliament needs to legislate to allow farmers to draw the water that they need to feed Australia out of the rivers raises the greater concern: just what has happened to water management in this country? The Labor-inspired Murray-Darling Plan is just the latest example of big government telling ordinary Australians what they can do on something as basic as water use. It is contrary to both the spirit and intent of our Australian Constitution and the Australian way of life. The relevant parts of the
Constitution are section 99, titled 'Commonwealth not to give preference', and section 100, which states in no uncertain terms:

The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

What emerged in section 100 was in effect a bill of rights for our farmers and for the residents of the towns along the Murray-Darling. It was never intended under the Constitution that the Commonwealth receive, and the Commonwealth did not receive, any other power—in particular any power over conservation and irrigation. Basically, politicians, including the Nationals, have given away these rights, which should belong to the people.

This is Canberra acting as a puppet of the United Nations and its various instruments, including Agenda 21. Under Agenda 21, section 18 states what they want to do with the Earth Summit that was brought in in 1992, which we became a signatory to with 176 other countries around the world. It was put out to people around the world to look at the privatisation of water. Under chapter 18 of that, the document that I read years ago stated that if you put a dam on your property of a certain size you will only capture about 10 percent of the water into that dam, and for anything else you would actually have to let it flow to the rivers or creeks. If not, you would be taxed on it. It was put in there to actually make sure that water would be privatised around the world. It would become a commodity. Therefore, our right to water would be taken away from us and put into the hands of international interests—those who were to make a lot of money out of it.

Then, I have to say, Agenda 21 has not been in our best interest. If you do not believe me, then go out onto the farms and into the rural areas of the nation, talk to the locals in the pubs and the townships of our country and realise that what I am saying touches the heartstrings across Australia.

Once again, big government is using a big stick to favour extreme environmental claims over the needs of working farms. The left-wing obsession with so-called sustainable development finds expression in Agenda 21's prosperity-denying principles. These, among other things, seek to deny the right of democratic nations to control and regulate their own water to maximise their food production and growth. What we are seeing happening in one state, in South Australia—Senator Xenophon was just here—is that now the state government wants to impose low-flow bypasses on farms and properties there, which is going to deny them the right to use water on their farms and properties—the right to have that water so they can grow their crops. Dams are being stopped from being put in. All I can see across Australia is the controlling of our water.

I also have a grave concern: why did the Howard government, in 2004, separate water from land, allowing people to come in here, buy up the water rights and deny the farming sector the right to that water? It is our right to that water. No government owns it. No-one owns it. Foreign interests should not own this. This is water for the people.

At times I have said that, if we are going to charge the man on the land for the water that is in his dams or deny him the right to expand his farms and to carry the water that will see him through in times of drought, the next thing that will be imposed on the people of Australia is that we will be taxed on the water that we catch in our water tanks. This may start in the farming sector around our country, but eventually every Australian will feel the effects of this
if they have a water tank. Over the years, since the time I was a young child, I have seen the rising costs of water in this country. That should never be happening.

What I am proposing is that governments have not looked after the water issues in this country. We have failed to put in enough dams to service the needs of the people. We have not provided that. We are actually shutting it down. We have to be smart. We keep increasing the population in this country, and we are not putting in the infrastructure to cater for this. That is why we must look after putting in more dams and allowing the farmers to have the water they need. We would not need this legislation so the farmers could come cap in hand saying, 'We can have a few more beggarly litres of water.' It should not be happening that way.

The farmers are the people of this land. They are the environmentalists. They are not going to destroy their livelihoods. They have come through generations of looking after the environment, and they are not going to destroy something. Unless we stand by them and protect them with water and with land, we are not going to have the farming sector in this country anymore. I see it constantly shut down. We are now bringing in imports of food, but what I can say is that I hear too often that the food imports are not up to the standard that we impose on our own farmers here. They have to come up to standards that we do not even put on the imports that come into Australia.

I will go back to the whole thing. In conclusion, Australia's national sovereignty is being undermined by the thousands of excessive UN treaties which promote green tape and are death to the best interests of Australia. If all the rivers and creeks that run across this land become subject to the laws of the UN, how long will it be before the rain collected in the tanks on the properties of our farmers will also become subject to Agenda 21 regulation and tax? How long before the UN dictates that we must pay a tax for the privilege of sunlight? Australia is its own country with its own Constitution and should not be dictated to by unrepresentative foreign organisations with agendas that are opposed to our best interests.

I support this bill because I think it is a start, but we have a long way to go. I will call on this parliament and our governments: please support the farming sector. They are struggling. I have just been out there. I have been through on two hay runs to take much-needed hay to farmers. We are not doing enough to support them. If we encourage them to put dams on their properties, they can drought-proof themselves to feed their stock and irrigate through times of drought. I thank you for your time.

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (13:10): In speaking to the Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016, can I say that the government is absolutely committed to the delivery of the Murray-Darling Basin Plan. Can I also acknowledge the bipartisan approach that was undertaken in establishing this plan in the first place. The 'one basin, one plan' mantra that followed the establishment of the negotiations when this plan was first put in place is a testament, I think, to how governments and oppositions in parliaments can work together to deliver the best possible outcome on something as critical as our water security.

Key to our ability to deliver this plan is recognising that it is not just environmental concerns and outcomes that need to be delivered; we also need to take into account the social and economic impacts of any changes through legislation or regulation. As you would be aware, Mr Acting Deputy President, I am an irrigator, and I can assure you that there is
nobody on the land in Australia that understands better the need for a healthy river environment than an irrigator. It is the basis of our sustainability. Without a healthy river system, we do not have an economy, and without an economy we do not have our river communities.

The SDL adjustment mechanism process is a fundamental part in our ability to deliver this triple-bottom-line outcome. It provides a mechanism by which environmental outcomes can also be tested for their efficiency. We focused on irrigation efficiencies in the initial commencement of the rollout of the plan, whether they be on-farm or off-farm efficiencies for the delivery of water for irrigation, stock and domestic, and other consumptive use purposes. But it is equally important that we use water for environmental purposes equally efficiently.

The Murray-Darling Basin Plan in 2012 set out the process for coordinated and sustainable management of this very important river system. It also set out the long-term-average sustainable diversion limits, and it included an adjustment mechanism to adjust those limits by up to five per cent. The adjustment mechanism provides for the amendment of the SDLs based on either supply measure projects that deliver the Basin Plan environmental outcomes with less environmental water or efficiency measure projects that recover more environmental water in ways that deliver neutral or beneficial social and economic outcomes.

This bill amends the Basin Plan to provide for a second opportunity to notify adjustment measures by 30 June 2017. It provides another opportunity for the basin states to develop new projects to allow the SDL to be adjusted—and beyond those that have already been notified as of June 2016. It provides opportunities to maximise social, economic and environmental outcomes of the Basin Plan by augmenting the potential SDL adjustment.

It also builds on the Australian government's commitment to sustainable agricultural production. As you would well know, Mr Acting Deputy President, water is an absolutely critical input to agriculture, and it is one of the key pillars of this government's platform that agriculture is a very important part of our economy. We have done other things through the implementation of the plan. We have applied a sense of adaptive management to the implementation of this plan, an example of which was the capping of water purchases as part of the return of water for this purpose to 1,500 gigalitres last year.

We have also looked at some other really exciting measures for our ability to deliver efficient environmental water. There are such initiatives as the other no-flow measures that are being currently considered, the most famous of which is the carp control measure, which we are hoping will clear the river of the toxic carp that have been introduced and, in the process of doing so, increase our native fish populations. Up until now, this has not been able to be considered as an adjustment mechanism. However, we have given the states the opportunity to consider this and other types of no-flow measures, which could add to the environmental outcomes with either no damage at all to the social and economic communities that rely on the river or possibly even providing additional benefits.

We intend to continue to work in partnership with the basin states. As you would be aware, Mr Acting Deputy President Back, the Basin Plan requires the support of all of the basin states for us to be able to make any changes in the delivery of the legislation and the regulations that sit with it. I also assure Senator Hanson that we are very well aware of the rights of irrigators and of people and the communities who live on the river. One of the fundamental rights that we absolutely understand are riparian rights—that is, the rights of
those people who live down river are equally entitled to expect that water will also flow past their properties and they will have access to it. This is not a case of those highest up the river get the best deal.

In concluding, I thank everybody—the opposition, the Nick Xenophon Team, the One Nation team, Senator Leyonhjelm and the other crossbenchers, and of course the Greens, who I am hoping will also be supporting this because of the importance of this delivering for the whole river community—for the support of this bill and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Back) (13:16): 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 RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (13:16): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Counter-Terrorism Legislation Amendment Bill (No. 1) 2016

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (13:17): I speak in support of the Counter-Terrorism Legislation Amendment (No. 1) Bill 2016 on behalf of the opposition. The Counter-Terrorism Legislation Amendment (No. 1) Bill is the latest in a series of national security bills. Previous reforms have included new and expanded offences, additional and broader powers for law enforcement and intelligence agencies, and new grounds on which dual nationals may lose their Australian citizenship. The bill implements a number of recommendations from the Council of Australian Governments' review of counter-terrorism legislation. The measures in this bill ensure that our police forces are equipped with a useful tool for preventing terrorist attacks—the control order regime.

Australia's national terror threat level is currently at 'probable', meaning that there is credible intelligence indicating individuals or groups have both the intent and the capability to conduct an attack. At the time of the bill's introduction to the Senate earlier this year, estimates indicated there were around 110 Australians fighting or engaged with terrorist groups in Iraq and Syria and 200 providing support or facilitation from Australia. This increase has meant that agencies are gaining experience with powers that have been available since 2005, but were rarely used or not used at all until recently.

Control orders are a useful tool for our police forces. They are reserved for serious cases and have been used very sparingly since first introduced into Australian law in 2005. As of February this year, just six had been issued. A court can issue a control order only if it will
substantially help prevent a terrorist attack, or if the person against whom an order is being made has trained or participated in training with a listed terrorist organisation, engaged in a hostile activity in a foreign country or been convicted of a terrorism related offence. Labor believes that our security agencies and national institutions should have the powers and resources they need to keep Australians safe from the threat of terrorism. Labor’s commitment to our security agencies and institutions extends to ensuring that resources are available to combat the threat of terrorism, and we will continue to support legislative updates to make sure we can meet future demands.

However, our bipartisan assistance to the government on matters of national security is never a blank cheque. Bipartisanship on national security means that we will support necessary and effective measures to address threats to our nation, but our commitment to bipartisanship does not mean we will support every measure the government proposes. We will advocate for improvements to those measures that we support in line with Labor’s values to ensure safety of the community. It is this approach of constructive bipartisanship that we have brought to bear in the debate on this bill. I want to be clear about this: much of the bill is uncontroversial, and we have supported those measures with which we agree. But we have also been critical about some aspects of the bill and have argued hard for improvements.

Labor has worked to improve this bill to get the balance right between giving our security agencies the tools that they need to respond to evolving threats and ensuring the rights of minors are safeguarded. That includes ensuring any young person subject to a control order has the right to be provided with a lawyer to advise and represent them. Accordingly, we will support the government amendment that has been circulated on sheet ZA417. We pursued improvements in the Parliamentary Joint Committee on Intelligence and Security, where Labor members and senators closely scrutinised the bill and heard evidence from security agencies and a range of experts and community groups. We achieved 20 substantial recommendations for improvements to the bill. In negotiations with the government we pursued these improvements on which we have achieved agreement.

To give context to the improvements to this bill achieved by Labor, it is useful to consider the scope of the bill and the original form in which the bill was first introduced into the Senate. The bill was first introduced into the 44th Parliament on 12 November 2015, and it lapsed on prorogation of the parliament before being debated in either house. It updates Australia’s counterterrorism legislation in a number of respects, including the extension of the control order scheme to cover minors as young as 14; improves protections for all minors subject to control order applications; introduces a new class of warrants to facilitate the monitoring of compliance with control order conditions; allows national security information not to be fully disclosed to a person who is the subject of a control order where necessary; and allows preventative detention orders to be issued to prevent not only a terrorist attack expected to take place within 14 days but also a terrorist attack that is capable of being carried out and could occur within 14 days. It also removes the ability of retired Family Court judges, as opposed to retired judges of the other federal courts, to issue preventative detention orders; and, finally, introduces a new offence of advocating genocide.

Upon introduction, it was immediately referred to the Parliamentary Joint Committee on Intelligence and Security for inquiry and report. The committee received submissions and held a public hearing in December 2015, tabling its report on 15 February 2016. The
committee made a number of recommendations to change the bill, subject to which the bill should be passed. The key recommendations included: mandating that a young person subject to a control order proceeding be provided with a lawyer; making clear that the best interests of a young person are a primary consideration in any control order proceeding; mandatory reporting to the parliament on the use of national security information in control order proceedings; and legislation for a scheme of special advocates to be introduced by the end of 2016 to ensure that the lawyers are able to advocate for the interests of a person in control order proceedings from which they have been excluded on national security grounds.

The key recommendations also included: improving reporting of the exercise of monitoring powers, including telecommunications interception and surveillance device control order warrants; improving drafting of the threshold conditions for preventative detention orders; and introducing a requirement that, in order to meet the threshold to be convicted of the proposed 'advocating genocide' offence, a person must be reckless as to whether another person might engage in genocide on the basis of their advocacy.

The proposal to lower the minimum age for control orders to 14 years of age raised significant concern for the public when it was formally announced by the government in October 2015. Organisations including the Australian Human Rights Commission and the Law Council of Australia expressed their concern in written submissions to the Parliamentary Joint Committee on Intelligence and Security during the public hearings. Those concerns were shared by the National Children's Commissioner, who also considered control orders have the potential to disrupt children's education and participation in community life, and argued it was preferable to work with communities to divert children from antisocial pathways.

However, Professor Greg Barton argued that control orders could play a legitimate role in diverting young people from a violent extremist path, but they could only be effective if used alongside community based solutions. He said:

Control orders are a temporary measure not a permanent solution, and if not used widely can cause more harm than good. Working with family and community, however, they may just make a vital difference.

Labor believe early intervention and community engagement, working in combination with strong and bipartisan counterterrorism legislation, are all key to preventing vulnerable young Australians being groomed into extremist ideology.

As was noted by ASIO Director-General Duncan Lewis in mid-2015:

We understand we can't arrest our way to success.

If there is indeed a silver bullet to solving the issue of radicalisation, it is in the area of social cohesion.

In her submission to the Parliamentary Joint Committee on Intelligence and Security, Ms Rabea Khan, vice-president of the Muslim Network New South Wales, explained the need to understand the context in which these laws are coming into play and the effects of growing social divisiveness on young people and the reasons for radicalisation. Programs that counter violent extremism need appropriate funding and cohesive narratives, and they need to provide viable alternatives to disenfranchised young Australians, who may be vulnerable to terrorist recruiters. Our agencies must work with families and communities in a number of ways to
resist the radicalisation of young people, and Labor accept that control orders are one tool which should be available to them where appropriate.

Obviously, these are very serious measures to impose on a person as young as 14, but, sadly, young people in our community are being targeted for recruitment by extremists. It is an unfortunate reality that people as young as 14 are being targeted for radicalisation by organisations like ISIS. The boy who killed New South Wales Police Force accountant Curtis Cheng in 2015, Farhad Jabar, was 15 years old. Another 15-year-old was charged with conspiracy to conduct an act in preparation for a terrorist act in 2015. The age of criminal responsibility under Australian federal law is generally set at 14 years of age. Labor recognise the need for our anti-terror laws to be periodically updated to keep up with evolving threats, but each change must be treated carefully, particularly where minors are impacted.

To ensure that the bill properly implements Australia's obligations under the United Nations Convention on the Rights of the Child, the Parliamentary Joint Committee on Intelligence and Security recommended that the bill required the best interests of the child to be a primary consideration. The bill includes this requirement and also explicitly provides that a young person has the right to legal representation in control order proceedings. Labor pushed for these amendments to strike a better balance between protecting the rights of young people and keeping all Australians safe.

This bill inserts a new offence into the Criminal Code, carrying a maximum seven-year prison sentence targeting persons who advocate genocide. This would be consistent with the United Nations Convention on the Prevention and Punishment of the Crime of Genocide; however, concerns were raised with the committee that this offence was drafted too broadly and could potentially limit discussion, debate and exploration of terrorism in the news and current affairs reported. Labor pushed for an amendment to insert the fault element of recklessness to the offence, and it is now in the bill.

The bill implements COAG's recommendation that the government give consideration to introducing a special advocate system for control order proceedings, reiterated by the Parliamentary Joint Committee on Intelligence and Security in November 2014 but not implemented in the 2015 bill. This bill now includes amendments to establish such a system in response to recommendations of the Independent National Security Legislation Monitor in January 2016 and the committee in February 2016.

Labor has approached this legislation responsibly. We have offered the government our bipartisan support for measures to ensure the safety and security of Australians and have engaged in constructive processes to ensure that the right balance is struck between this and accountability safeguards. Labor did not offer the government a blank cheque on this or any piece of legislation and we will never do so. We want to make sure that the bill operates as intended and actually serves to protect our security.

On the one hand, Australia is a free society and it must remain this way. We have worked hard to achieve this balance through the committee process and we have kept the need for appropriate safeguards in mind throughout negotiations. We will continue to work together with the government to ensure that our security agencies and national institutions have the powers and resources they need to keep Australians safe from the threat of terrorism.
Senator McKIM (Tasmania) (13:31): The Counter-Terrorism Legislation Amendment Bill (No. 1) 2016 is the latest in a long line of counterterrorism legislation that has been presented to the previous parliament and no doubt will continue to be presented to this parliament. This legislation replaces the 2015 bill that was tabled in November 2015 and lapsed on the prorogation of previous parliament on 17 April 2016. I will go into detail about a number of provisions in this bill, but it is worth noting that the government has circulated an amendment that implements a recommendation of the Parliamentary Joint Committee on Intelligence and Security relating to a young person's right to legal representation. Given that this bill will pass the Senate and given the unsurprising speech that we have just heard from Labor, I am comfortable placing on the record that we will support the amendment as it strengthens the protections afforded to young people subject to control orders. However, we will not be supporting this legislation through the Senate today.

It is also worth pointing out that the 2016 version of the bill is updated with recommendations from the PJCIS as well as recommendations from the Independent National Security Legislation Monitor. The most significant amendment contained in this bill relates to control orders. Control orders first appeared in 2005 when the Criminal Code Act 1995 was amended to give federal courts the power to make control orders in response to a request from the Australian Federal Police. The 2005 amendments were subject to a sunset clause after 10 years, but that was extended to 2018 by the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014.

The Australian control order regime is in broad terms based on the United Kingdom model, but, of course, one of the big differences between Australia and the United Kingdom in this context is that the UK must take into account their human rights act. There is, of course, disappointingly, no similar human rights act or bill of rights in Australia that would, potentially at least, depending on how it was framed, provide some fundamental protections against the ongoing and continual erosion of civil liberties in this country. It is worth pointing out that tens of thousands of Australians have fought, and in many cases died, to protect civil liberties in this country. Yet we, on a regular basis in this parliament, pass legislation that on any reasonable argument curtails civil liberties in this country without an adequate case being made by the government for that curtailment.

I want to be very clear: the fact that a 15-year-old person attacked Curtis Cheng is not of itself an argument to lower the age of people to which control orders can apply. That is no argument whatsoever. You should not, and never should, make laws based on the circumstances of an individual case. If we were going to do that, plenty of people senior in churches in this country would have had laws made based on things that have happened in churches in this country. I just offer that as one example of why you should never make laws based on individual circumstances.

The government has consistently failed to make the case for the ongoing erosion of civil liberties and human rights in Australia that we have seen particularly in the last 15 years, post those terrible attacks on America on 11 September 2001. That is why the Greens have consistently argued for a counterterrorism white paper—or a blue paper, if you want to call it that—to be prepared so that we can actually assess on a strategic and holistic basis whether or not this ongoing erosion of civil and human rights in this country in the name of counterterrorism is proportional, whether it is warranted and whether the government has
made the case. But the government will not do that. We have been calling for this for a while now, and the government will not do it, despite the fact that there has been a counterterrorism white paper in Australia in the past.

I make the point that no coalition or Labor government would move significantly in the area of defence without a white paper. But, because it suits both of the establishment parties in this place politically to be seen to be strong against terrorism, they are happy to move in the counterterrorism space without a holistic and strategic approach. There must be a white paper on counterterrorism. It ought to be prepared as a matter of urgency. It is essential that that white paper be a living document because it is true that the terrorism landscape in the world and therefore the counterterrorism landscape are very rapidly changing situations. So any white paper would need to be something that could evolve quickly to respond to changes in the global terrorism environment. My view, and the view of my party, is that the reason the government will not do a white paper on counterterrorism is that it knows that it cannot justify rationally and reasonably the massive erosion of human and civil liberties in this country that has occurred in the name of counterterrorism in the last 15 years.

This bill extends the existing control order regime to include young people over the age of 14. While the explanatory memorandum refers to 'young people', what we are really talking about here is children. Let us be clear about this: we are talking about imposing control orders on children. We are also talking about imposing control orders on children who have committed no crime. Once again we are seeing, in the context of this legislation and in the context of legislation to introduce postsentence detention regimes relating to people who have been convicted of certain terrorist offences, a quite frightening scenario in this country where the forces, or some of the forces, of our security agencies can be applied either to people who have committed no crime or, in the case of postsentence detention, on the basis that someone might commit a crime in the future.

The National Children's Commissioner at the Australian Human Rights Commission, Megan Mitchell, said this about the proposal to extend control orders to people over the age of 14:

The proposal to extend control orders to younger teens enlivens a raft of potential human and child rights issues that go to our basic beliefs and value systems. These include rights to liberty, freedom of association, speech and expression, movement, privacy, and to be treated with dignity and respect.

I go on to quote further from the National Children's Commissioner, Megan Mitchell. She said:

There is also a grave risk that a child's education will be disrupted at a critical time, along with their participation in prosocial aspects of community life. Fourteen is an age where it is easy to go off the rails, disengage, make bad associations and get in trouble. An early introduction of young people into the criminal justice system as a result of these measures would not be a good outcome for these young people or the community.

I dare say there are plenty of members of this chamber who can reflect on Megan Mitchell's view, that 14 is an age where it is easy to go off the rails and disengage, with an element of personal experience.

Control orders undoubtedly infringe rights to freedom of movement and freedom of association. They will subject a child to restrictions on their liberty without any charge or finding of criminal guilt by a court. It is also important to recognise that, while a control order
of itself does not authorise detention, the penalty for contravening a control order is five years imprisonment regardless of the age of the person. A trial order can restrict a person's movement by requiring that person to remain at specified premises between specified times—effectively a curfew. In addition, a person may be required to wear a tracking device, to restrict communication with specified people and to restrict access to telecommunications and technology.

In relation to control orders, the former Independent National Security Legislation Monitor, Mr Bret Walker QC, described the powers as 'not effective, not appropriate and not necessary'. He further noted:

… police should instead rely on their established powers to take action against suspected criminals through the traditional law enforcement approach of arrest, charge and prosecution.

The Australian Greens take no comfort at all from the government's assertion that control orders will only be invoked in limited circumstances. History is replete with powers being created for a specific purpose that, down the track, become normalised and used for a range of other purposes. The danger here is that control orders could become a new normal—and that, particularly, is true when you fit this piece of legislation into the ongoing and continuing erosion of civil and human rights in this country.

The Parliamentary Joint Committee on Human Rights has reported twice in relation to this legislation. It is worth pointing out that the 2016 version does differ slightly from the 2015 version of the legislation. I want to place on the record some of the matters reported by the Parliamentary Joint Committee on Human Rights. I will quote from Report 7 of 2016, dated 11 October 2016. The report makes it clear. It says:

The control orders regime, and the amendments to that regime proposed by the bill … limit a number of human rights, including:

- right to equality and non-discrimination;
- right to liberty;
- right to freedom of movement;
- right to a fair trial and the presumption of innocence;
- right to privacy;
- right to freedom of expression;
- right to freedom of association;
- right to the protection of the family;
- prohibition on torture and cruel, inhuman or degrading treatment;
- right to work; and
- right to social security and an adequate standard of living.

The proposed expansion of the control orders regime to children aged 14 and 15 years of age is also found by the Parliamentary Joint Committee on Human Rights to engage the obligation to consider the best interests of the child and a range of rights set out in the Convention on the Rights of the Child.

It is worth reading out some of the comments from the committee, because this committee has been established, at least in significant part, to allow parliaments to have an informed debate about legislation. Report No. 7 of this year, 2016, says:
1.280 The committee notes that proposed amendment to lower the age at which a person may be subject to a control order to 14 years engages and limits multiple human rights.

1.281 The committee observes that the previous human rights assessment of the 2015 bill considered that the proposed amendment was inconsistent with the obligation to consider the best interests of the child as a primary consideration and may enable the imposition of control orders in a manner incompatible with human rights.

1.282 Revised amendments address some of these concerns by providing that a court must, in determining whether each of the proposed obligations, prohibitions and restrictions under the control order are necessary and appropriate, consider the best interests of the child as a primary consideration and the safety and security of the community as a paramount consideration.

1.283 However, the preceding legal analysis states that this revision does not address all the concerns in relation to the human rights compatibility of the proposed amendments. The compatibility of the measure around control orders and the right of the child to be heard in judicial and administrative proceedings is also the subject of comment from the committee.

The committee found in its 2016 report:

1.287 The committee previously expressed in principle support for the recommendations of the PJCIS that the bill be amended to expressly provide that a young person has the right to legal representation in control order regimes and that the bill be amended to remove the role of the court-appointed advocate.

We acknowledge that improvements have been made in that context.

So, clearly, this bill engages and limits a number of fundamental human rights. It is the view of the Greens that the government has not made the case around the necessity of those limitations or, in fact, whether those limitations are proportionate.

I want to talk about the radicalisation of young people in this country. It is a matter of extreme concern, I am sure, to all of us in this place. But one of the reasons that some young people are becoming radicalised is that they have a feeling of being ostracised. I have to say that comments that have been made by coalition members in the past few years, along with comments by Senator Hanson, have contributed to that feeling of being ostracised, which in fact opens up more young people than would otherwise be the case to being radicalised.

I want to quote Keysar Trad, the President of the Australian Federation of Islamic Councils, who said in August this year that 'Pauline Hanson's outbursts are damaging to community relations'. He further stated:

The way she demonises Islam is very dangerous. I certainly believe that her comments radicalise people …

Those who actively recruit young people say, 'look what they're saying about you'.

In that context, I also wish to quote Mr Duncan Lewis, the head of ASIO, when I asked him in Senate estimates recently whether he would say that the threat to national security from radical anti-Islamic groups in Australia is growing. He said, 'Yes, off a very low base.'

I then asked him what public commentary around Islam being not welcome in Australia means for ASIO's job in fighting violent extremism. Mr Lewis said this:

I have made this point publicly in the past: we are, as an organisation, very dependent on engagement with the Islamic community. And, to the extent that there is commentary in the community about members of the Islamic faith being unwelcome here, the politics of that is one thing, but the practical
implication for us is that it can make engagement with the Islamic community more difficult and, ipso facto, that makes our job more difficult.

I want to reflect on that very briefly. ASIO's job of keeping Australia safe is made more difficult by the public comments of high profile anti-Islamic figures in this country. They are playing into the hands of the very people they purport to oppose. When you place that in the context of an ongoing attack on multiculturalism in this country that is encapsulated by those who wish to destroy or water down the integrity of section 18C of the Racial Discrimination Act, you have a situation where things that happen in this place are making ASIO's life more difficult and ultimately, at least potentially, making Australia a less safe place.

Senator XENOPHON (South Australia) (13:51): This Counter-Terrorism Legislation Amendment Bill (No. 1) 2016 is the latest in a long line of counterterrorism national security bills to be introduced into this parliament in the 15 years since the terrorist attacks of September 11, 2001.

Australia did not start with a blank slate of counterterrorism laws in 2001. The Australian Security Intelligence Organisation and the Australian Federal Police already had significant investigative powers. But in the subsequent decade and a half, successive governments and the parliament have repeatedly added to and elaborated on national security and counterterrorism laws. As I noted recently in speaking about another piece of legislation, since 2001 the parliament has passed more than 70 different bills dealing with terrorism and, more broadly, with national security issues. The exact number depends a bit on questions of definition; but the overall volume of new law is clear.

Much of that legislation was debated and enacted during the life of the Howard government. However, since I came into the Senate in July 2008, eight years ago, some 16 counterterrorism related bills have been introduced into the parliament, including those presently before the Senate. We now have a very extensive and complex set of counterterrorism laws. These laws are of great significance to national security and community safety as well as to the rights, liberties and privacy of all Australians.

I echo the remarks of former Senator John Faulkner, former Special Minister of State, Minister for Defence and Leader of the Opposition in the Senate. He said that 'with increased powers come increased responsibility to scrutinise those powers'. I could not agree with him more. Although at times there have been negotiations and compromises for specific provisions, the vast bulk of this legislation has enjoyed strong bipartisan support from the coalition and Labor, whether either is government or in opposition. Dissenting voices have been heard mainly on the Senate crossbenches and among some of the Independent MPs in the other place.

But today we have another counterterrorism bill. It is not entirely new. This bill is comprised largely of measures that were included in the 2015 bill that was referred to the Parliamentary Joint Committee on Intelligence and Security, the PJCIS, but lapsed in the prorogation of the 44th Parliament. The proposed legislation has now been amended by the government to reflect recommendations of the PJCIS. The legislation also includes new measures recommended by the Independent National Security Legislation Monitor, an office the Attorney-General was keen to abolish in the last parliament, but which was fortunately reprieved. In introducing the original bill in 2015, the Attorney-General said that the proposed legislative changes:
… reflect lessons learned from recent counterterrorism investigations and operational activity. He made a similar statement in introducing the new bill last month.

Learning from experience is important. The record of our intelligence and security agencies in countering terrorism over the past 15 years is one of considerable success. They have exercised the considerable investigative powers available to them. Although the terrorist threat in Australia has not been at the levels it has in some other countries, it is significant; serious threats and plots have been detected and thwarted, and many innocent lives saved. Our intelligence and security agencies have demonstrated considerable professionalism, but, like all government agencies, they are far from infallible.

There have also been some very significant missteps: the case of Dr Mohammed Haneef, involving the provision of incorrect and misleading information from British police counterterrorism investigators to the Australian Federal Police, which, in turn, failed to assess that information properly. A review by the Inspector-General of Intelligence and Security in the case of Mamdouh Habib found that the Australian Security Intelligence Organisation repeatedly failed to properly document key decisions, including dealings with foreign security and intelligence agencies. Senior officers subsequently claimed to have little or no recollection of key events.

There have been instances where agencies have failed to provide appropriate information to the IGIS, and at least one case where an agency—the Australian Secret Intelligence Service—intentionally sought to mislead the IGIS. We are presently awaiting the findings of the New South Wales coronial inquiry into matters relating to Man Haron Monis and the Martin Place siege of December 2014, and the subsequent tragic deaths of two innocent people. Some of the evidence presented to the inquiry clearly raises serious concerns about the investigative and analytical capabilities of ASIO and the AFP, as well as the operational response of the New South Wales police. Our intelligence and security agencies already have very extensive powers and resources but are not infallible, and for that reason there needs to be very careful scrutiny, not only of their operational performance but of all proposals to modify, increase or otherwise change their powers and responsibilities.

The legislation before the Senate contains many provisions of considerable complexity. Many proposed changes relate to control orders, including—notably—lowering the minimum age at which a control order may be imposed from 16 to 14 years of age. Regrettably, this appears both necessary and appropriate, with the accompanying safeguards, given the trend towards radicalisation of small numbers of young people and their consequent potential involvement in terrorist activity.

I want to focus on two parts of the bill that are of continuing concern and worthy of particular scrutiny. The first of these concerns is the handling of national security information in control order proceedings. As senators are aware, the existing legislation concerning control orders allows the police to seek control orders that impose significant restrictions on the movement and activities of persons who are judged to pose a significant risk of involvement in terrorist activities but who have not necessarily been charged with any actual crime. In effect, the imposition of a control order can amount to a form of house arrest.

The bill will allow courts to consider information that is not disclosed to a person subject to a control order or to their legal representative for security grounds in control order proceedings, and will introduce a system of special advocates to represent the interests of
those people in proceedings from which they and their legal representatives have been excluded. The special advocates scheme is a new measure that has been introduced in response to concerns about the procedural fairness of the original scheme proposed in the previous 2015 bill.

The Attorney-General set out the government's explanation for these proposed arrangements in his second reading speech, in which he said:

With the increased tempo of counter-terrorism operations, it is sometimes necessary for our law enforcement agencies to take action earlier to protect community safety. To prevent death or serious harm, agencies may need to act before a full brief of evidence can be developed.

Let me emphasise: that is action 'before a full brief of evidence can be developed'. The Attorney-General went on to say:

… agencies will need to place a greater reliance on information from intelligence partners and sensitive sources.

The changes introduced in this Bill will provide greater protection to national security information that is considered in control order proceedings. This is vital in order to maintain critical intelligence partnerships and to protect sensitive capabilities.

The Senate should carefully consider what is involved here. Our courts have long handled national security information, but this is a regime that envisages court decisions to impose control orders—in effect a form of house arrest—will be taken entirely in secret, with the person affected, and their legal representatives, completely excluded from the proceedings.

The PRESIDENT: Thank you, Senator Xenophon. You will be in continuation when debate resumes. It being 2 pm, we move to questions without notice.

QUESTIONS WITHOUT NOTICE

Day, Mr Bob, AO

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (13:59): My question is to the Minister for Finance, Senator Cormann. My question relates to matters not covered by his so-called very comprehensive statement to the Senate yesterday. I refer to ASIC reports that show the director, secretary and sole shareholder of Fullarton Investments Pty Ltd, both at the time the 77 Fullarton Road property was transferred to it from Bob Day's company and when the Commonwealth entered into a lease at the property, was Debra Kim Smith, the wife of former Senator Day's long-term business partner. Given that the connection between former Senator Day and Fullarton Investments could have been ascertained by a basic ASIC search, isn't it clear the government failed to do even the most basic of due diligence?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:00): Relevant searches were done by the Department of Finance at the appropriate time. These are now all matters that will have to be considered by the High Court. It will be a matter for the High Court to determine what the constitutional question is on the issues that have arisen since the 1 December execution of the lease in relation to the 77 Fullarton Road office.

The PRESIDENT: Senator Gallagher, a supplementary question.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:01): The minister's department knew Mr Day previously owned the
property, so a basic ASIC search would have revealed his relationship with Fullarton Investments. And given that former Senator Day was even using the email address BobDay@77Fullarton.com.au, isn't it clear that the government chose to turn a blind eye?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:01): No, that is not clear. The other thing that is not clear is the constitutional position. With all due respect to Senator Gallagher, she is making an assumption on what the finding of the High Court will be in the matter, and that is, of course, very presumptuous indeed.

The PRESIDENT: Final supplementary question, Senator Gallagher.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:02): Given the government entered into a quarter-of-a-million-dollar lease at Mr Day's request, failed to do the basic due diligence on the arrangement, and was either negligent or turned a blind eye to former Senator Day's ongoing financial interest, isn't it clear that the government was doing all it could to keep its most reliable crossbencher happy?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:02): The answer to that question is no. Of course, the thing that Senator Gallagher is completely ignoring is that, as a result of decisions that the government made, not a single dollar in rent was paid. At the time of executing the lease, the advice available to the government was that the Department of Finance—which conducted relevant searches—was not concerned about an ongoing interest base of then Senator Day in the 77 Fullarton Road property. When subsequent information emerged which suggested that there may be a link, we made a decision, under the circumstances, not to pay any rent. As such, it was understood at the time that there were no issues in relation to section 44 of the Constitution. Subsequently, the government received legal advice, namely on 27 October, that in the opinion of eminent counsel Mr Jackson QC the lease at the time of the breach—(Time expired)

National Security

Senator REYNOLDS (Western Australia) (14:03): My question is to the Minister representing the Prime Minister, the Attorney-General, Senator Brandis. Can the Attorney-General please advise the Senate why it is so important to have bipartisanship on Australia's border protection arrangements?

Senator Kim Carr: Why don't you try a bit harder?

Opposition senators interjecting—

The PRESIDENT: Order! Order on my left.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:04): I thought the opposition would regard border protection as a serious issue—apparently not. Thank you very much indeed, Senator Reynolds; that is a very important question. And the simple answer to your question is this: because we cannot send confused signals to people smugglers.

Until now, the Australian Labor Party has been prepared to extend bipartisanship. In the case of many of them it has been with great reluctance, I know, but, nevertheless, hitherto the Australian Labor Party has been prepared to—
Senator Kim Carr: It’s a bridge too far!

Senator BRANDIS: Come in spinner, Senator Carr; come in spinner.

Senator Kim Carr interjecting—

Senator BRANDIS: I think you are revealing too much of your own motives here.

Senator Kim Carr interjecting—

Senator BRANDIS: You see, today the government introduced a bill to further strengthen—

The PRESIDENT: Order! A point of order, Senator Reynolds?

Senator Reynolds: I cannot actually, from here, hear his answer over Senator Carr.

Honourable senators interjecting—

The PRESIDENT: Order—on my left; on both sides. I remind all senators that it is disorderly to interject, and I also need to hear the answers as well as the questions. Attorney-General, you have the call.

Senator BRANDIS: This morning, the government introduced a bill to amend the Migration Act, to prevent illegal maritime arrivals taken to a regional processing centre from obtaining an Australian visa of any kind. We hoped that the Australian Labor Party would see the wisdom of supporting this measure, because it sends yet another strong signal to the people smugglers that they do not have a product to sell—that they cannot assure their clientele of a migration outcome to Australia. But unfortunately, I believe, this morning, the Australian Labor Party has decided to break bipartisanship on this issue, to send confused signals to the people smugglers. But the people smugglers know one thing for certain, and that is: for as long as the coalition is in power, they will not have a product to sell; Australia’s borders will remain secure. Unfortunately, we cannot say that about the Australian Labor Party.

The PRESIDENT: Senator Reynolds, a supplementary question.

Senator REYNOLDS (Western Australia) (14:06): How will Labor’s decision today to oppose necessary changes to our border protection regime impact on Australia’s security?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:06): Senator Reynolds, I know that you, more than most people in this chamber, from your distinguished career prior to coming into the Senate, understand these issues well. So you will understand that, when there are 14,000 people, we assess, waiting in Indonesia to get on a boat to come to Australia, it is absolutely vital that none of those people be given the hope that they could, one day or another, even in the distant future, secure a resettlement in Australia. What this legislation has done is to ensure that that is not possible. Operation Sovereign Borders has successfully halted criminal people smuggling. Unfortunately, because of the position the Australian Labor Party takes, Australia does not present a unified face to the world, but, Senator Reynolds, this government does.

The PRESIDENT: Senator Reynolds, a final supplementary question.
Senator REYNOLDS (Western Australia) (14:07): I want to ask the Attorney-General: what messages does Labor's decision today send to people smugglers? What does it tell the people smugglers? What are the consequences of the messages?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:08): I will tell you the message it sends to people smugglers. It sends the message to people smugglers that if, one day in the future, there were ever to be another Labor government, they would be back in business because the Labor Party is not prepared to take the strong decisions that this government has had the spine to take to do everything necessary to deprive the people smugglers of a product to sell. Could I remind you, Mr President, that we have now had 835 days without a boat arrival. Since this government was elected, no-one has died at sea. Every one of the 2,000 children who were in detention as a result of the Labor Party's policies at the time that we came into power have been released, and 17 detention centres have been closed. That would all be lost if Labor came back to office.

Day, Mr Bob, AO

Senator GALLACHER (South Australia) (14:09): My question is to the Minister for Finance, Senator Cormann. My question goes to matters not covered by his so-called very comprehensive statement to the Senate yesterday. I refer to the letter from the minister to Senator Day dated 7 January 2016 in which he agreed to provide an additional six months' rent for the office at 77 Fullarton Road. Why did the minister agree to pay rent from 1 July 2015, outside the terms of the lease signed less than six weeks earlier, which included a rent-free payment to 14 August 2016?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:09): Senator Gallacher has actually misled the Senate. The question that he asked is precisely dealt with in my note, and I encourage him to read the five paragraphs following on from 'in terms of my approach from that time', which directly answer that question.

The PRESIDENT: Senator Gallacher, a supplementary question.

Senator GALLACHER (South Australia) (14:10): Given that former Senator Day was seeking payment for rent outside the terms of the lease, and the senator was personally pursuing the payment of rent, how can the minister expect the Senate to believe the minister did not consider former Senator Day to have a financial interest?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:10): Again, these matters were dealt with in detail in my comprehensive note. Firstly, when I came into the position on 29 December 2015, a lease was in place with a commencement date of 1 July 2015. I made the judgement based on the paragraphs that I have already referred the senator to: that subject to satisfactory evidence that rental payments had been made by then Senator Day, as he claimed in his letter to me he had been making, I was prepared to provide these rental payments. But of course no rental payments were made because no evidence was provided. You have to bear in mind the Commonwealth does have a responsibility to provide elected senators with an electorate office by 1 July 2015. Then Senator Day had been in office for a year. He had not taken up
the offices of then former Senator Farrell a year earlier, so it was my view that if he had—

(Time expired)

The PRESIDENT: Senator Gallacher, a final supplementary question.

Senator GALLACHER (South Australia) (14:11): For my final supplementary question, I refer the minister to question time yesterday, where he revealed he became aware of former Senator Day's vendor financing arrangement with Fullarton Investments in February 2016. Given the minister failed to take appropriate action prior to the 2 July election, isn't it clear the government was doing all it could to keep its most reliable crossbencher happy?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:12): The answer to that question is no. Again, I would encourage the senator to read my comprehensive note to the Senate yesterday in more detail. Even after that information had been made available to the department, the department advised me explicitly that it was open to me to pay rent in relation to that particular office. At no point, at that stage or subsequently, did I have advice, in the context of the information about vendor financing arrangements, that rent could not be paid. Of course ultimately, when further information came to light—and some of it has been raised by Labor senators over the last two days—we made a conscious and deliberate decision not to pay rent, which in our judgement meant that we avoided any conflict with section 44 of the Constitution. Of course, that is a question that will now have to be settled by the High Court, because eminent legal opinion received on 27 October suggests otherwise.

Asylum Seekers

Senator McKIM (Tasmania) (14:13): Mr President, my question is to the Minister representing the Prime Minister, Senator Brandis. Attorney, your government wants to further punish people who have been found to be genuine refugees by implementing a lifetime ban on them ever coming to Australia. I note that there is still no solution for the people who are languishing on Manus Island and Nauru because of your government's cruel and failed policy. I also note that at least 30 boats have been intercepted or turned back, on your own figures, since your government came to power in 2013. Isn't this latest so-called plan an admission that your much-vaunted Operation Sovereign Borders has failed?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:14): Senator McKim, not a single boat, not a single people-smuggling venture, has succeeded since the coalition government began Operation Sovereign Borders in late 2013. Not a single vessel has come to Australia's shores since Operation Sovereign Borders began. In the previous 5½ years there were 800. That is not a single boat in the last three years, and 800 in the previous 5½ years. Senator McKim, I regard that as a successful policy.

In the previous 5½ years, prior to the election of the coalition government in 2013, there were at least 1,200 people—men, women and children—who drowned at sea, and those are only the ones we know about. There was an uncountable number. There could have been many more, but at least 1,200 we know about drowned at sea. Since Operation Sovereign Borders, not one person has drowned at sea, so I regard that as a successful policy, too. When the coalition government was elected we found that there were almost 2,000 children in detention on the Australian mainland—almost 2,000—and today there is not one, so I regard
that as a successful policy too. And I regard as a successful policy the fact that, as a result of Operation Sovereign Borders, we have been able to close 17 detention centres.

You ask about people on Manus and Nauru. Might I remind you, Senator McKim, although you already know this, that every last one of them was put there by the Labor government of Mr Kevin Rudd.

The PRESIDENT: Senator McKim, a supplementary question.

Senator O'Sullivan interjecting—

The PRESIDENT: Senator O'Sullivan! It is not your turn.

Senator McKIM (Tasmania) (14:16): Attorney, has Papua New Guinea asked Australia to resettle genuine refugees from Manus Island as revealed by the Papua New Guinea foreign minister to Radio New Zealand yesterday, and what exactly is your government doing to close the illegal detention centre on Manus Island and the detention centre on Nauru, where people are being tortured in Australia's name?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): First of all, Senator McKim, I reject absolutely and with absolute contempt your suggestion that Australia tortures people. That is disgusting, and I might remind you, Senator McKim, that, when the issue of the offshore processing system was tested in the High Court at the end of last year, the High Court ruled—not as a matter of political controversy but as a matter of fact and a matter of law—that Australia did not operate the Nauru detention centre. That is the law. That is what the High Court has said.

Senator McKim: Mr President, I raise a point of order on relevance. What the Attorney has done is set up a straw man here, and then he is furiously knocking it down. But, in fact, the question was very clear: has Papua New Guinea asked Australia to resettle genuine refugees, as publicly stated by the PNG foreign minister yesterday, and what is the Australian government doing to resettle refugees from Manus Island and Nauru? The question did not contain an assertion that Australia was torturing anybody.

The PRESIDENT: Thank you, Senator McKim. Your question did have a serious implication which Senator Brandis also addressed, so he was relevant to that portion of the question. Senator Brandis has been in order.

Senator BRANDIS: As to the statement by the foreign minister from New Guinea, I have not seen it, so I will not be commenting on statements attributed to someone by you that I have not seen.

The PRESIDENT: Senator McKim, a final supplementary question.

Senator McKIM (Tasmania) (14:18): Attorney, isn't it the case that your amendments to the Migration Act may compromise any negotiations your government is having with other countries to accept people from Manus Island and Nauru because of the risk that other governments do not wish to create two classes of citizens in their country?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:18): Senator McKim, I accept neither the premise of your question nor its conclusion.
Registered Organisations

Senator HUME (Victoria) (14:19): My question is to the Minister for Employment, Senator Cash. Can the minister inform the Senate of events that highlight the need for enhanced governance and accountability rules for registered organisations?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:19): I thank Senator Hume for the question and, disappointingly, I can. Senators will be aware over many, many years now of numerous examples of rorts and rip-offs of hardworking union members. Perhaps the most egregious examples are, of course, in the Health Services Union. Former secretary Craig Thomson took $300,000 of members' money. Why? For his own campaign to enter parliament and for personal indulgences including using prostitutes. Between Craig Thomson, Kathy Jackson and former national president Michael Williamson, HSU members were cheated out of more than $2.3 million. Based on reports in the papers of late, they are not the only HSU officials who have benefited from their members' money for their own purposes. Of course, it has not gone unnoticed in this chamber that Craig Thomson is not the only former HSU official having serious questions to answer who has come into the parliament.

Disappointingly, there have also been notorious rorts by union officials in other unions. I am sure senators will be horrified to know that in the TWU two officials bought themselves American utes—F350s—at $150,000 each for their own personal use. MWU officials used hardworking union members' money on holidays, concert tickets, sporting tickets and even utilising a dating website.

But what about Bill Shorten taking a secret donation from his former union—$40,000 to fund his political campaign, conveniently not disclosed until just before the royal commission was about to question him?

The PRESIDENT: I remind senators to refer to members in the other place by their correct names or titles. Senator Hume, a supplementary question?

Senator HUME (Victoria) (14:21): Can the minister inform the Senate how the government's reforms will benefit union members?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:21): Yes, I can because, as we on this side know, the victims of this financial impropriety and breaches of trust are honest, hardworking union members. In the case of the rorts by the Health Services Union we are talking about money that comes from nurses, aged-care and disability workers, hospital cleaners and others who themselves pay around $600 a year in their annual fees to be represented by the union officials. Instead what has occurred is they have been ripped off. In terms of the government's response, our registered organisations bill will ensure that both union and employer organisations are subject to a similar level of transparency and accountability as companies. It will establish a proper regulator. It will ensure more thorough reporting and disclosure and, for those who break the law—and there are many of them—appropriate penalties.

The PRESIDENT: Senator Hume, a final supplementary question.

Senator HUME (Victoria) (14:22): Can the minister inform the Senate of the consequences of inaction?
Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:22): I have listed a lot of what has occurred. One of the issues this parliament faces is clearly that the laws that are currently in place have done nothing and continue to allow these types of rorts and rip-offs to occur. When you talk about registered organisations, approximately 47 unions and 63 employer organisations have an annual revenue of approximately $1.5 billion and have ownership and control of assets worth $2.5 billion. They represent around two million members. These members deserve to know that their union or employer group is acting ethically, honestly and in their best interests, not for personal gratification. We know there is a problem, and it is this side of the chamber that is looking to solve that problem.

Education Funding

Senator CAMERON (New South Wales) (14:23): My question is to the Minister for Education and Training, Senator Birmingham. I refer to a Department of Education and Training meeting brief regarding Senator Day’s request for funding for the North East Vocational College for his so-called ‘student builder pilot’. Can the minister confirm that Senator Day sought $1.4 million in funding for the pilot?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:24): I will happily check the brief that Senator Cameron is referring to as to what Senator Day at some stage may have requested in relation to proposals. I know full well, and Senator Cameron knows full well, that ultimately a grant was awarded in accordance with the guidelines that were established for the innovative apprenticeship pilot program. A grant was awarded that was negotiated along terms that set milestone payments for the North East Vocational College to deliver this innovative apprenticeship pilot.

The reason the government is having a look at innovative models for apprenticeship delivery and wants to support growth in our apprenticeship system is to deal with the collapse in apprenticeship commencement numbers that occurred shortly before we came to office. To enlighten the Senate, in the year to the end of June 2012 there were 376,000 commencements of apprenticeships in Australia. But in the year to June 2013 that had dropped to 233,000—a decline of 38 per cent in apprenticeship numbers.

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

Senator Cameron: This is on relevance. There was one question asked, and that was: could the minister confirm that Senator Day sought $1.4 million from that minister sitting across the table? He seems to have forgotten it.

The PRESIDENT: Senator Cameron, you have made your point of order. There is no point of order. The minister answered the question at the beginning of his answer and he is adding to his answer. Minister, you have the call.

Senator BIRMINGHAM: Thank you, Mr President. I was giving context for Senator Cameron, who seems to have forgotten that policy decisions taken in 2012 by the previous government saw a 38 per cent decline in apprenticeship commencements in Australia—a decline we are still feeling the effect of today as those apprenticeship numbers flow through the system. That is why our government has sought to act in terms of trying to look at ways to recover apprenticeship numbers, has backed the idea that there might be alternative innovative models for delivery—
Senator Cameron: You were involved in a crooked deal! You are a crook, an absolute crook!

Senator BIRMINGHAM: and is supporting a number of such pilot programs which will be properly evaluated, which are subject to proper guidelines and which I hope will provide some lessons that might boost apprenticeship numbers again into the future.

The PRESIDENT: Senator O'Sullivan, I think I know what you are going to ask. I can deal with the matter.

Senator O'Sullivan: I am in your hands.

The PRESIDENT: Senator Cameron, you need to withdraw the remark concerning Senator Birmingham.

Senator Cameron: I withdraw.

The PRESIDENT: Thank you, Senator Cameron. Minister, had you concluded your answer?

Senator BIRMINGHAM: Yes.

The PRESIDENT: A supplementary question, Senator Cameron?

Senator CAMERON (New South Wales) (14:27): Can the minister confirm that even his hand-picked advisory group led by Liberal Party MPs recommended against piloting alternative models of apprenticeship delivery such as Senator Day's student builder pilot? Can the minister explain why his junior minister, contrary to the advice of the advisory group, granted over $2 million to the North East Vocational College?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:28): Obviously, Senator Cameron did not read terribly closely the report that was released by Assistant Minister Andrews. If he got his way through to recommendation 18 he would find it says:
The Australian Government, working in partnership with industry bodies and state and territory governments, explore and pilot validation arrangements which could increase adoption of alternative apprenticeship delivery arrangements. This should include evaluation that provides evidence and practical insights into what makes models successful.

That is precisely what we are doing.

The PRESIDENT: Senator Cameron, a final supplementary question?

Senator CAMERON (New South Wales) (14:28): What discussions did the minister have with Minister Hartsuyker and former Senator Day prior to the granting of over $2 million to the North East Vocational College?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:29): As is already publicly known, then Senator Day—like any member of this parliament—advocated for projects, policies and ideas that he thought were worthwhile. That indeed is the job and the right of anybody in this place. Mr Day, whom I am willing to bet has employed far more apprentices in his life than anybody over there ever has, had a passion for apprenticeships. Mr Day had a passion for vocational education and training, and Mr Day wanted to see a recovery in the apprenticeship numbers that collapsed and plummeted as a result of the policy measures of those opposite. So it is no surprise that Mr Day advocated in an area of his policy interest. It is also important to remember that Mr Day's role in the North
East Vocational College was unpaid, giving voluntary contribution to a not-for-profit training body that has provided many apprenticeship and training opportunities to young South Australians. *(Time expired)*

Honourable senators interjecting—

**The PRESIDENT:** Order on both sides! Order on my left! Can we cease the conversations across the chamber.

**Australia-Singapore Comprehensive Strategic Partnership**

**Senator IAN MACDONALD** (Queensland) (14:30): My question is to the Minister for Defence. I ask the minister if she could please update the Senate on the recent community engagement in Central and North Queensland in relation to the comprehensive strategic partnership agreements between Australia and the Singaporean government.

**Senator PAYNE** (New South Wales—Minister for Defence) (14:31): I thank Senator Macdonald for his continuing interest in this area of Defence activity in North Queensland. I advised the Senate of the signing of the memorandum of understanding concerning military training and training area development in Australia in the last sitting week. Last week, with my colleague the federal member for Capricornia, I had a valuable visit to Rockhampton with Michelle Landry. We met with local government and business leaders to discuss the very significant opportunities stemming from the Singapore military training agreement under the Australia-Singapore Comprehensive Strategic Partnership. This is an agreement which will see Singapore invest up to $1 billion in the Rockhampton region for the development of the Shoalwater Bay training area between 2016 and 2026.

Last week we held a forum, which over 100 business leaders from the local community attended, where I emphasise that priority will, in fact, be given to local businesses in support of the phases of both the development of the training area and the training activities themselves. The provision to prioritise local business is contained in the MOU and will ensure that the benefits of this investment flow through to the local community, boosting both jobs and growth into the future.

I had also accompanied my colleague the Singaporean Minister of Defence, Dr Ng, to the Townsville community immediately after the MOU was signed. We received a briefing on plans to accommodate the increased training activity at the Townsville field training area, and we met with Townsville business and local leaders to discuss those benefits and the implementation of those key initiatives. We discussed the opportunities for construction, for supply, for maintenance and for tourism and the potential in the retail and hospitality sectors over what is a 25-year agreement. The government is very committed to continuing to work with both Queensland communities throughout the implementation of this historic training agreement to build on the strong links that have already been established between Singapore and Australia.

**The PRESIDENT:** Senate Macdonald, your supplementary question.

**Senator IAN MACDONALD** (Queensland) (14:33): I thank the minister for that good news answer. Could the minister now, perhaps, tell the Senate about the potential expansion of the high-range training area in Townsville and the Shoalwater Bay training area in Rockhampton, and how that expansion will benefit both the Singapore Armed Forces and, indeed, the Australian armed forces?
Senator PAYNE (New South Wales—Minister for Defence) (14:33): Indeed, a key element of the agreement is upgrading the training areas near both Townsville and Rockhampton, which will potentially include the expansion of each training area. This expansion will also enable the Australian Defence Force to conduct complex training activities. Implementing this initiative will also give our servicemen and servicewomen access to better training facilities and training options, growing our own capability.

I understand that any potential expansion of the training area does interest local communities, so I am ensuring that Defence adopts a proactive and transparent process. Defence will be directly contacting landowners and will continue to conduct extensive engagement and consultation. Defence will finalise its land acquisition strategy for government consideration in 2017. In the first instance, Defence will look to purchase land on the open market. All land acquired under this initiative will be owned by the Australian government.

The PRESIDENT: Senator Macdonald, final supplementary question.

Senator IAN MACDONALD (Queensland) (14:34): Again, thanks, Minister, and thanks for your efforts in Central and North Queensland. Minister, could you perhaps now tell us of the next steps in the planning and implementation of the agreement between the two countries.

Senator PAYNE (New South Wales—Minister for Defence) (14:34): This is a very important aspect of Defence's engagement which began with community groups and stakeholders in October, and we will continue to strengthen these important relationships over the coming weeks, months and years ahead. A community liaison officer will be appointed and based locally in Queensland to provide businesses and the community with a local contact as the initiative progresses.

The scale of investment by Singapore in our defence training areas is substantial. We heard Prime Minister Lee say that he wants it to be state of the art. The detailed business planning for facilities development will occur early in 2017, concurrent with a master planning activity for both sites. That will include a socioeconomic study and environmental impact assessments. Defence will provide an initial business case to government in 2017 on the upgrades, and construction will commence in 2019.

We will continue to work closely with all stakeholders to implement this very important initiative that will have significant long-term benefits for the ADF, the Singapore Armed Forces and the people of Central and North Queensland.

Child Welfare

Senator HINCH (Victoria) (14:36): My question is to the Attorney-General. During the rejected plebiscite debate yesterday, I called for the government to spend the $160 million or $200 million set aside for the plebiscite campaign on a royal commission. Is the government willing to consider a royal commission into Australia's child welfare agencies, foster care and Family Court systems?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:36): Senator Hinch, I listened with care and with respect to the contribution you made to the debate on the plebiscite and the second reading last night, and I note what you say. Of course, the allocation of those funds
that will now be unspent is not a matter for me; it is really a matter for my friend the Minister for Finance, Senator Cormann. But I listened with care to what you had to say, Senator Hinch, and I will take into account your views.

The PRESIDENT: Senator Hinch, a supplementary question.

Senator HINCH (Victoria) (14:37): We keep hearing horror stories of two underresourced courts, the Family Court and the Federal Circuit Court, and backlogs inside them having huge emotional and financial impacts on struggling families. What are you doing to fix that problem?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:37): In fact, I had a meeting as recently as last week with the Chief Judge of the Federal Circuit Court, Chief Judge Pascoe. The government has made some recent appointments to his court and will be announcing new appointments in coming weeks. As well, the government has been actively pursuing the issue of law reform in the family law system. For example, in October, I released the Family Law Council's final report on families with complex needs and the intersection of the family law and child protection systems. I think this goes really to your primary question, Senator Hinch. As you know, there is a very important overlap between the child protection system—most of which almost invariably is run by the state and territory governments—and the family law system, which operates under Commonwealth law. There are cases the facts of which—(Time expired)

The PRESIDENT: Senator Hinch, your final supplementary question.

Senator HINCH (Victoria) (14:38): A 2014 Productivity Commission report into access to justice arrangements recommended that $200 million was urgently needed to fill service gaps. Why hasn't this funding been provided?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:38): I am aware of the Productivity Commission's recommendation, and can I tell you some of the measures that the Australian government has recently undertaken. In 2016-17—in other words, in this budget year—we will provide over $162 million to the Family Relationships Services Program, which funds a variety of organisations and services to assist Australian families during and after separation and divorce. Last year's budget included an additional $22.5 million injection over the forward estimates into the federal courts and reforms to their administration, and those reforms commenced on 1 July this year. Those reforms were designed to place the courts on a more sustainable funding footing and to ensure more of the courts' resources were directed towards services to litigants, particularly in family law. Senator Hinch, as we both know, this is a demand-driven system, but we look, as well as additional outlays—(Time expired)

Vocational Education and Training

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (14:39): My question is to the Minister for Education and Training, Senator Birmingham. I refer to the minister's response to question on notice 108 given on 14 October, regarding the Apprenticeship Training-alternative delivery pilots program, in which he said: 'I have not met with MBA, NECA or North East Vocational College about the program.' Does the minister stand by his answer?
Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:40): Indeed, I stand by that answer. I also went on, as I recall, in that answer to indicate that I had met as then Assistant Minister for Education and Training, with responsibility for vocational education, with all of the entities in question. However, the program in question under which such grants were provided was a program that was not established until after I had ceased to be the Assistant Minister for Education and Training.

Honourable senators interjecting—

The PRESIDENT: Order on both sides. Senator Farrell.

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (14:41): Thank you for that protection, Mr President. I refer to a document obtained under freedom of information which shows the minister met with former Senator Day on 1 June 2015. Can the minister confirm that the meeting was to provide Senator Day an opportunity to present his proposed student builder pilot, later funded under the Apprenticeship Training-alternative delivery pilots program?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:41): As I confirmed to the Senate in response to Senator Cameron before, then Senator Day certainly was a passionate advocate of policies in relation to apprenticeships. He was known to advocate inside this chamber in relation to apprenticeship and vocational education policies. Indeed, in meeting with me as the then minister responsible for vocational education and training, then Senator Day certainly raised matters of vocational education apprenticeship policies with me and his ideas for how he thought those policies could be improved in the future, as indeed many senators and members did and continue to and, I would expect, always would and should with ministers.

The PRESIDENT: Senator Farrell, a final supplementary question.

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (14:42): Given that former Senator Day is a longstanding director of the North East Vocational College and that Senator Day took the minister to the college on or around 4 May 2015, the department's FOI release shows that Senator Day presented to the minister on the program on 1 June 2015 and a grant was made in May 2016 to the college for even more than Senator Day had asked for. When will the minister correct the record? (Time expired)

The PRESIDENT: Senator Farrell, I will invite the minister to respond in any way he sees to your comments. Minister.

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:43): There is no record that needs to be corrected. Again, as I emphasised, the alternative delivery pilot program was not established until after I ceased to be the Assistant Minister for Education and Training. So, clearly, no meetings about that program would have been had. That is not to say that people had not presented ideas during that time. And yes, indeed, I visited the North East Vocational College, just as last week Senator Farrell's factional ally, the South Australian Labor Treasurer, Tom Koutsantonis, visited the North East Vocational College. Just last week, Mr Koutsantonis was visiting the North East Vocational College—a reputable, credible training provider that had the South Australian Labor Treasurer there seeing the training opportunities that they are providing to young South Australians—the
opportunities for apprenticeships. They will be able to provide greater apprenticeship opportunities.

_Senator Wong interjecting—_

_Senator BIRMINGHAM:_ Obviously, Senator Wong does not care about apprenticeship opportunities. They will be able to provide greater apprenticeship opportunities to more young South Australians in the future, and I hope they will provide for even more beyond that. *(Time expired)*

**Beef Industry**

_Senator O'SULLIVAN_ (Queensland) (14:44): My question is to the very capable Minister for Resources and Northern Australia, Senator Canavan. Will the minister please inform the Senate what the government is doing to support the beef industry in Australia and the benefits this brings to Northern Australia?

_Senator CANAVAN_ (Queensland—Minister for Resources and Northern Australia) (14:44): I thank Senator O'Sullivan for his question, and recognise his great passion and determination to improve the lot of the 70,000 beef producers in this country. It is a passion that the government shares with Senator O'Sullivan. It is something that we are proud of: delivering in some part a better past few years for our beef sector than was there before we came to government.

Prices, of course, have more than doubled in these past few years. That is because of better weather and strong demand, but it is also because the government has been focused on opening up market access for our beef sector—signing new free trade agreements and actually opening live cattle markets, including nine around the world now that we can export our cattle to. That has underpinned strong growth in beef prices.

But we also must focus not just on the price that our producers can achieve but also on their costs, and make sure that we reduce their costs as much as we can as well as they compete in world markets. That is why we are investing in roads for our beef sector—a specific package that builds on the Menzies government beef roads package back in the 1960s and 1970s. I think that the good senator actually worked on some of those roads back in the 1970s. It has taken the full cycle now, if you like, and we are now investing in beef roads across the country.

A couple of weeks ago we announced $100 million of investment in beef roads through Northern Australia, including the $6 million or so for the Clermont Alpha Road; another $6 million for the Burke Developmental Road near Chillagoe, up in the cape, in Senator Macdonald's territory up there; $4 million or so for the Gregory Developmental Road, south of Charters Towers; $4 million out at Boulia for the Boulia Developmental Road—I know that Senator O'Sullivan gets out there a lot; and also funding in the Northern Territory for the Barkly Stock Route, with $10 million and $12½ million for the Great Northern Highway in northern Western Australia.

These are great investments that will help our beef sector, and may help this country make more money for all Australians.

_The PRESIDENT:_ Senator O'Sullivan, a supplementary question?
Senator O'SULLIVAN (Queensland) (14:46): It is a most exciting time. Can the minister please explain how the government is ensuring that the funding will benefit the beef industry?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:46): Of course I would like to have more money to invest in beef roads, but these are tight budget times. We have put aside a significant investment here and, therefore, we have been seeking to maximise the benefit that that spending can have for our beef industry. We have done so by ensuring that this is very much a grassroots-driven system. We have had three roundtables across Northern Australia, including at Kununurra, in Darwin and in Rockhampton. More than 150 people attended to provide their input from the beef sector about what the important roads were for the government to invest in.

We have also invested in a very new, innovative and exciting CSIRO tool, the TraNSIT tool, which effectively now maps cattle movements right across the country over time and lets the CSIRO provide us with evidence about if we invest in a certain road or remove a certain bottleneck how much per head the industry will save. Those arrangements have ensured that we have good decisions with this money, and it is a great model for future investments in our road network.

The PRESIDENT: Senator O'Sullivan, a final supplementary question?

Senator O'SULLIVAN (Queensland) (14:47): Can the minister please outline what this upgrade will mean for Northern Australia?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:48): These investments will deliver a stronger beef sector, but they will also deliver safer roads and better animal welfare outcomes. If I could just focus on one of the investments near where I live, around Rockhampton: we will make an investment that will allow type 1 trucks to go through to the meatworks at Rockhampton. This means that trucks will no longer have to be decoupled at Gracemere, which will save the industry two hours, but, perhaps more importantly, it will be safer.

A couple of years ago, tragically, a young individual was killed cross-loading cattle at Gracemere; that will no longer have to happen, thanks to the investments that this government is making. That is why Ian Wild, the president of the Livestock and Rural Transporters Association of Queensland, says, 'It means our drivers will not have to cross-load cattle or decouple at Gracemere to get into the meatworks. They can go direct, which is an animal welfare thing, and this means they are on the vehicle for a shorter period of time in the yards and registered before anything else happens.'

These are great investments from a government which is getting on with the job of developing the north.

International Development Assistance

Senator MOORE (Queensland) (14:49): My question is to the Minister for International Development and the Pacific, Senator Fierravanti-Wells. I refer to reports—

Government senators interjecting—

Senator MOORE: I was trying to find Senator Day's name in the question, but it is not there!
I refer to reports that funding for current HIV and reproductive health grants in Papua New Guinea will conclude in 2017. Can the minister confirm the government's intention to discontinue funding for these grants?

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (14:49): I thank Senator Moore for the question. The Australian government remains committed to helping Papua New Guinea manage its health challenges, including its response to HIV. We are increasing our focus on assisting the government of PNG to sustainably deliver health and HIV services using its own resources and systems. We are supporting the government of PNG to develop its new HIV strategy and we are also working with other funding partners to support PNG to deliver HIV services. We are in the process of changing how we provide Australian aid to meet current and emerging health challenges and to ensure our funding remains effective. There will be new investments, including funding for NGOs, which will commence in 2017-18 and NGOs will remain key partners for health and HIV programs.

Senator Moore, there has been some misinformation that was put into the press and this has caused some consternation as far as some of the NGOs have been concerned. It has been raised directly with us.

The PRESIDENT: Order! Senator Cameron, a point of order?

Senator Cameron: Yes, a point of order on relevance. The question was: is it the government's intention to discontinue funding of these grants? We have 28 seconds left, Mr President. I would ask you to draw the minister's attention to the question.

The PRESIDENT: Thank you, Senator Cameron. The question was asking about confirmation concerning the continuation of funding. I have been listening. The minister has actually indicated a lot of funding that will be continuing and has just started to highlight misinformation in the media. I take it the minister is directly relevant.

Senator FIERRAVANTI-WELLS: Thank you. As I was saying, the Australian government does remain committed to helping PNG. There are health challenges. There are serious health challenges and we have been assisting the government of PNG to build its health systems and most especially in detecting and responding to health threats such as tuberculosis, HIV and other matters in PNG.

The PRESIDENT: Thank you, Minister. Senator Moore, a supplementary question.

Senator MOORE (Queensland) (14:52): Thank you, Minister. I am still not clear about the grants. I refer to statements made by the Australian High Commissioner in Papua New Guinea to the media, saying 'new arrangements will be put in place'. Can you give us some information about what these new arrangements are? And what funding has the government provided?

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (14:52): Senator Moore, the current arrangements will end on 30 June next year. We are in discussions with the government of Papua New Guinea to put a new framework in place. We are having discussions with the government of Papua New Guinea in relation to how that will work. Our intention is to assist the government of Papua New Guinea to deliver the necessary services. So, as far as this is concerned, it is not an issue of funding; it is an issue of new arrangements. In due course we will be releasing details in
relation to that, but we are discussing these matters with relevant people, including, most especially, the government of Papua New Guinea.

The PRESIDENT: Thank you, Minister. Senator Moore, a final supplementary question.

Senator MOORE (Queensland) (14:53): Thank you, Minister. How does the government propose to protect the approximately 10,000 people living with HIV in Papua New Guinea who will be impacted by the discussions around the new arrangements or the discussions around cuts to the program?

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (14:53): The nongovernment organisations that are delivering services will remain key partners for this program. It is important that the Papua New Guinean government do take responsibility for delivering services. We have aid partnership agreements with the government of Papua New Guinea—we give aid of approximately $600 million—but it is important that the government of Papua New Guinea do also take their fair share of responsibility. As I have indicated, Senator Moore, we are in discussions in relation to what that new framework will be. We are cognisant of the services that are currently being delivered and we want to make sure that the same standard of delivery continues.

Media Ownership

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (14:54): My question is to the Minister for Communications, Senator Fifield. Can the minister outline the importance of reforms to Australia's media laws and what support exists for these changes?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:55): I thank Senator Smith for his strong and ongoing interest in the viability of Australia's media industry. It is indeed good that there is legislation before the parliament that seeks to reform the media laws. This would be the most significant media reform in a generation. The aim, quite simply, is to abolish redundant regulations and to unshackle Australia's media industry so that it can better compete with global players.

I am very pleased to say that there is strong support for this change. Greg Hywood, CEO of Fairfax Media, told the recent Senate inquiry that current media laws are:

… a disincentive to investment in the Australian media and a severe brake on our ability to compete against global competition.

Paul Anderson, the chief executive of Network Ten, said:

… it is blindingly obvious that these pre-internet era laws are now achieving the opposite of what they were intended to do. They are now working against a strong, viable and diverse media sector, and they must go.

The chief executives of Prime Media, WIN Television and Southern Cross Austereo recently wrote in an opinion piece:

Surely, the evidence is clear. The case has been made. We doubt there is a politician in Canberra who wants to say they presided over an outdated regulatory regime that held back regional media.

In fact, nearly every witness that appeared before the recent Senate inquiry, including two out of the three academics called by the Labor Party to give evidence, supported the government's
legislation. These reforms are necessary. We want to secure a strong, vibrant, diverse Australian media. I am pleased that there is such strong support for change.

**The PRESIDENT:** Senator Smith, a supplementary question?

**Senator SMITH** (Western Australia—Deputy Government Whip in the Senate) (14:57): Is the minister aware of any threats to reforms of Australia's media laws?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:57): I am. There are no prizes for guessing. The threat is of course the Australian Labor Party. But yesterday, after months of Labor dithering and Labor obfuscation, the opposition finally admitted that they are too weak and too timid to tackle media reform in Australia. It is curious that in the Labor Party's dissenting report they labelled the government's reform as 'piecemeal' and 'narrow'. So you will be surprised, Mr President, to know what Labor's alternative approach is. It is in fact to do less than the government is proposing.

Labor want to keep our media laws stuck in the 1980s. But I have some news for the Australian Labor Party. I have a few facts that might have escaped them. The first is that Kylie Minogue no longer lives on Ramsay Street. The second is that the internet does exist. It is very important that our media laws reflect the second of these facts. *(Time expired)*

**The PRESIDENT:** Senator Smith, a final supplementary question?

**Senator SMITH** (Western Australia—Deputy Government Whip in the Senate) (14:58): What would be the consequences if Australia's media laws are not reformed?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:58): The consequences would not be good for Australia's media industry. Let me quote from Network Ten, who have been appalled by Labor's ignorance. They said:

… the two out of three rule stifles ability to access much needed scale and capital.

We can't understand how that is not of great concern when Australian jobs and an Australian voice in news and local content are at stake …

Prime Media have said:

… the Labor Party talks about wanting an evidence-based approach, but it seems they have ignored irrefutable evidence … that this reform is important to secure our future …

For the aspiring alternative government of Australia, it should be a very straightforward matter to embrace the need to bring our media laws up to date to make sure they reflect the world that we live in and so that Australian media companies can be unshackled and compete with global players.

**Robb, Hon. Andrew, AO**

**Senator McCarthy** (Northern Territory) (14:59): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to former member Mr Andrew Robb and his appointment to the Chinese owned Landbridge Group less than seven months after stepping down as Minister for Trade and Investment. Given the Landbridge Group has cited Mr Robb's influence as a leading factor in his appointment, has the Prime Minister sought to clarify what role this new appointment will take and whether this represents a conflict with his previous role as a government minister?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:00): The short answer to your question is: no, it does not. Might I remind you, Senator McCarthy—I do not think you served in the parliament when Mr Robb was the Minister for Trade and Investment—that Mr Robb was an outstanding Minister for Trade and Investment and one of, if not, I daresay, the greatest ministers for trade Australia has ever seen and is widely acknowledged as having been so, including by some on your side of politics. It was Mr Robb, after all, who presided over the signing of not one, not two, but three historic free trade agreements with South Korea, Japan and China—all of which eluded the previous Labor government, which pursued those agreements with no success over six years.

Mr Robb is now pursuing his postministerial career, and it is up to Mr Robb, just as it is up to all former ministers, to ensure that it is compliant with ministerial standards. I am completely satisfied that Mr Robb is a man of integrity, he is a man of honour, he was an exemplary minister and he is having an exemplary postministerial career.

I might remind you, Senator McCarthy, that Mr Robb is not the first former minister to have had a successful postministerial career. Former Labor trade minister Craig Emerson started up his own Asian regional consultancy business even before he had left the parliament.

Government senators interjecting—

The PRESIDENT: Order on my right!

Senator BRANDIS: So be careful, Senator McCarthy, what you wish for. We are entirely satisfied that Mr Robb is upholding the ministerial standards of conduct in his postministerial career. The same cannot be said for Dr Craig Emerson.

The PRESIDENT: Senator McCarthy, a supplementary question?

Senator McCARTHY (Northern Territory) (15:02): I refer to the Prime Minister's own statement of ministerial standards which prohibits former ministers lobbying, advocating or conducting business meetings with members of the government for an 18-month period after ceasing to be a minister. What action has the Prime Minister taken to assure himself that no meetings have taken place between Mr Robb and any member of the government?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:02): As I have said to you, Senator McCarthy, in my answer to your primary question: the government are satisfied that Mr Robb is adhering to the ministerial standards. The government do rely on the integrity of Mr Robb, and we are very confident in doing so.

Senator Wong: Mr President, I rise on a point of order on relevance. The question related to what action the Prime Minister has taken. So whatever the senator thinks about Mr Robb is really very interesting, but that is not the question. We did not ask about his integrity. We asked what action the Prime Minister is taking to satisfy himself that the statement of ministerial standards, which prohibits lobbying, has been complied with. They are the Prime Minister's standards. What action has he taken to ensure they have been complied with? It is a very simple question.

The PRESIDENT: Thank you, Senator Wong. The minister is only 15 seconds into his answer.
Senator BRANDIS: Senator McCarthy, if you wish to suggest that there has been some noncompliance by Mr Robb with the ministerial standards, please do so. But please do not seek to besmirch by innuendo an honourable man.

The PRESIDENT: Point of order, Senator Wong?

Senator Wong: It is the same point. We are simply asking a question. The only person talking about 'besmirching' is this minister, this senator, this so-called leader. The question is: how is Mr Turnbull ensuring that there has been compliance with his own statement of ministerial standards? Why is that such a difficult question to answer?

The PRESIDENT: Thank you, Senator Wong. I will draw to the attention of the Attorney-General the nature of the question.

Senator BRANDIS: Senator McCarthy, in the absence of any evidence to suggest in any respect that there has not been compliance, I am not even aware what it is you are pointing to. Do you suggest that Mr Robb has not been compliant? If you want to suggest that, please do, but please give us the particulars of your allegation.

The PRESIDENT: Senator McCarthy, a final supplementary question?

Senator McCARTHY (Northern Territory) (15:04): How can the Prime Minister assure the Australian public that this is not a clear breach of these ministerial standards given he only learned about it two months after it occurred and Mr Robb deemed him unworthy of being notified?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:05): Again, by innuendo you are trying to smear an honourable man's reputation. You point to nothing in your primary question or your supplementary question to suggest that Mr Robb has not been compliant. If you have any evidence whatever to bring to the chamber that Mr Robb has not been compliant with any obligation in the pursuit of his post-ministerial career, then please present it; but if you have not—

The PRESIDENT: Senator Cameron, a point of order?

Senator Cameron: Mr President, Senator Brandis should address his remarks to the chair. He should not harangue and bully a fellow senator in the way he is attempting to do now.

Government senators interjecting—

The PRESIDENT: Order! Senators on my right, your behaviour is not becoming. In relation to the point of order, I do take note that a number of senators do speak directly to senators across the chamber. That is disorderly—you are correct—but I dismiss the rest of your point of order.

Senator BRANDIS: Through you, Mr President: Senator Cameron, after his inglorious career in the trade union movement, would know all there is to know about being a bully and a thug. Mr President, through you to Senator McCarthy—

Honourable senators interjecting—

The PRESIDENT: Order! Can we all come to order on both sides, particularly on my right. Senator Cameron, you have a further point of order?
Senator Cameron: The point of order is that the senator has accused me of being a bully and a thug. He should withdraw.

The PRESIDENT: I was listening very closely, Senator Cameron, and the Attorney-General did not accuse you of the actions that you have just depicted. So there is no point of order. As I said, I was listening very carefully, Senator Cameron.

Senator Cameron: On the same point of order, Mr President: I would ask you to have a look at the Hansard. It was pretty noisy and you may not have heard exactly what he said. So I would ask you to have a look at Hansard and come back to us on that.

Government senators interjecting—

The PRESIDENT: Order on my right! You are not assisting on my right—

An opposition senator interjecting—

The PRESIDENT: and my left. The Attorney-General was speaking clearly into the microphone. I will review Hansard, and if I need to come back to the chamber, I will. Attorney-General, you have 19 seconds in which to complete your answer.

Senator BRANDIS: Mr President, through you to Senator McCarthy: you have pointed to no single fact, circumstance or even grounded suspicion that Mr Andrew Robb is not entirely in compliance with the ministerial code of conduct. If you have an allegation to make, make it; if not, you should not raise this issue. Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Education Funding

Vocational Education and Training

Senator CAMERON (New South Wales) (15:09): I move:

That the Senate take note of the answers given by the Minister for Education and Training (Senator Birmingham) to questions asked by Senators Cameron and Farrell relating to the provision of funds to the North East Vocational College.

I have never heard such a hapless defence of the rorting of public funds by any government as the pathetic defence put up by Senator Birmingham today. He is a minister who went to the North East Vocational College with Senator Day in May 2015. He met with Senator Day in June 2015 and received a presentation from Senator Day on his so-called alternative apprenticeship models. He then set up an advisory group and used that advisory group through the next minister, Minister Hartsuyker, to provide $1.84 million and GST on top of that—over $2 million of public funds—to Senator Day's pet project, the North East Vocational College.

Why was that done? That was done because former Senator Day provided many services to the coalition. It was a payment for services rendered to the coalition. It was a payment because Senator Day, at that time, was a reliable and consistent vote for the government. That is why a request for $1.4 million from Senator Day resulted in this minister and his government providing over $2 million to Senator Day's pet project— that is, to take employment rights and a contract of training away from apprentices in South Australia, because that is what the result of this is. It is not an alternative apprenticeship. These young people who will be undertaking this so-called training in the North East Vocational College...
under the guise of an alternative apprenticeship will never be classified as a tradesperson. It does not meet the law of the land. It does not meet what is required to be a tradesperson. What Senator Day was seeking to do was to have these young people engaged as students, so they would be paid no money from an employer. They would be forced to rely on VET FEE-HELP and student loans. This was the magical so-called program that was going to deliver benefits to the apprenticeship system. It was not even about a proper apprenticeship. This was simply a rort. This was a project put in place to award former Senator Day for his loyalty to the coalition government. That is what this was about. It was a reward for loyalty.

For Senator Birmingham to sit there and tell us that he may have met Senator Day is an absolute contempt of this place. All you have to do is go to the departmental advice to Mr Hartsuyker, the then minister, where it says, 'Senator Day presented his proposal to the former Assistant Minister for Education and Training, Senator the Hon. Simon Birmingham, on 1 June 2015 and subsequently presented to the Apprenticeships Reform Advisory Group on 14 September.' There were no ifs or buts. The minister should have been honest. The minister should have been up-front and accepted that he did meet Senator Day, but what he did—

Senator Brandis: The senator is reflecting on the minister. The senator said the minister should have been honest. There is a plain assertion the minister is being dishonest. That is unparliamentary. It must be withdrawn.

The ACTING DEPUTY PRESIDENT (Senator Lines): I did not hear the comment, but I would ask Senator Cameron, if he made the comment, to perhaps think about rephrasing.

Senator CAMERON: If it assists the Senate I will do that. Senator Day was getting special benefits from the coalition for his fealty to the coalition, for doing everything the coalition wanted him to do. Senator Day and Senator Birmingham were in this up to their necks. This was a misuse of public money. This was an unacceptable operation and this should be clearly looked at further, because this is a complete misuse of public money to make sure a vote was received. (Time expired)

Senator PATERSON (Victoria) (15:14): I had a real sense of deja vu when I was sitting here during question time today listening to the questions asked by those opposite, and I had to check the date just to make sure that we had not been transported back three weeks ago when the Senate last sat and those opposite pursued a very similar line of questioning on an unrelated but obviously to them very important matter. That matter was, of course, the Solicitor-General. They asked question after question, day after day, but I note upon return to the Senate this week that they have lost their interest in that matter and they are no longer taking it up.

I hope that in a few weeks time they look back at their questions on this matter in a similar light and they move on, because what they have demonstrated is a total lack of interest in the policy issues that affect the lives of the Australian people. They have demonstrated a total obsession with their ideas—their fantasies—of scandals that need to be pursued at the expense of real policy issues that actually affect the lives of Australian people.

I would have thought that someone such as Senator Cameron, himself a former union official, who now in his new life is a self-appointed spokesperson for working people, would actually be interested in the policy merits of this issue, in apprenticeships and in what this government is trying to do to fix the absolute disaster that was left to it by the former
government and the quartering of apprenticeship numbers across the country, but no. All that Senator Cameron appeared to be interested in doing was slurring the education minister, slurring former senator Bob Day and making two very serious accusations, which I think should be dealt with.

The first part of his accusation—or, certainly implied by his comments—was that this government is engaging in a practice of buying the votes of crossbench senators with taxpayers' money. That is a serious accusation, which he has absolutely failed to back up and absolutely failed to demonstrate is true. The second thing which he engaged in was an attempt to suggest that former Senator Day is someone who is able to be bought by taxpayers' money to a training organisation. That is a very unfair and unjust slur.

I have had the pleasure of knowing former Senator Day briefly in this role, as we briefly overlapped in the Senate, and I also knew him in both of our previous lives prior to being senators. All that I can say about former Senator Day is that in all my personal dealings with him I have found him to be an honourable person, an upstanding person, an honest person, a person who tries his best. He has obviously fallen on hard times with his business, and that is a sad thing. That is something that all of us should be sad about—not just for him and his workers and his customers but because of the distinguished contribution he had been making to the Senate prior to that. I think he is a loss to this place. But those opposite are only interested in smear and innuendo without much evidence to back it up.

Why don't we turn to the actual policy issue at hand here—the actual substance of the issue of apprenticeships. The previous government cut $1.2 billion in apprenticeship incentives in government, and that led to the single largest drop in apprenticeships on record. Perhaps it is not a surprise then that they are not so interested in talking about the policy merits but instead are pursuing a strategy of smear and innuendo.

Senator Birmingham established and commissioned the Apprenticeships Reform Advisory Group to consider a range of issues, including incentives, pre-apprenticeships and alternative models. The advisory group made 22 recommendations, including to explore and pilot alternative apprenticeship delivery arrangements. The government addressed this recommendation by providing $9.2 million under the apprenticeships training alternative delivery pilots initiative. The Australian government is funding five projects under the pilots. The pilots are being delivered by Master Builders Australia, the National Electrical and Communications Association, the North East Vocational College, the Australian Industry Group and PricewaterhouseCoopers.

The pilots will test the training models, which will provide alternative skills development options for both industry and those undertaking the training. The Turnbull government wants to support industry efforts to explore new arrangements and examine and test potential regulatory or administrative barriers to innovative, industry-led apprenticeship training practices, something we have to do due to the failure of the former government.

I end my remarks by awarding a gold star to Senator Moore, who was able to ask a policy question today in Senate question time, and I encourage those opposite to come back tomorrow with some more substantive matters.

Senator CHISHOLM (Queensland) (15:19): Today we saw more obfuscation and obstruction in relation to this whole sordid Bob Day affair. From what we have seen over the
last two days and in media reports leading up to this week, it is quite clear that the Abbott-
Turnbull government has let nothing get in the way of securing Bob Day's support for its
antiworker agenda. The Leader of the Government in the Senate is not at this stage front and
centre of this discussion, but the performances of Senator Cormann and Senator Birmingham
in the Senate have been less than satisfactory. In my contribution to the address-in-reply I
compared Senator Brandis and some of his efforts in recent times to Donald Trump and what
we are seeing in America. At the moment, Senator Brandis is the ball and chain around
Malcolm Turnbull. Senator Brandis can no longer carry that on. At some stage, we are going
to see the Prime Minister act in regard to Senator Brandis's role in this matter and also to his
role in regard to the Solicitor-General matter.

Senator Birmingham, the Minister for Education and Training, clearly has not given
satisfactory answers today to the questions that have been asked about his conduct. We have
to ask ourselves why that is. It is absolutely clear and well known that Senator Day was the
most reliable vote for the coalition on their agenda. We know that those opposite want to
bring in changes to the workplace laws, in relation to the ABCC. We get lectures about how
important that is. But we still have not seen the legislation. It has still not come before the
chamber. Why is that the case? Why were they working so feverishly to keep Bob Day in this
chamber?

Serious questions were asked of Senator Birmingham today as to how the government
came to fund a training college that Senator Day was the director of, to the tune of $2 million.
They were not adequately answered. Senator Birmingham actually toured the North East
Vocational College in May 2015, but in estimates last month completely forgot that Senator
Day was there with him. That is despite the fact that Senator Day subsequently met with the
minister a month later to push his case further. At estimates it was also revealed that the
department knew about Senator Day's involvement in the organisation and had told the
minister about that involvement. Yet Senator Birmingham still gave the college over $2
million in taxpayers' funds, while Senator Day's businesses were going down the gurgler.
Senator Birmingham failed to answer questions about these issues today. He also failed to
answer questions regarding the role of Mr Hartsuyker in this matter. It is outrageous that the
government has aided and abetted Senator Day over the last couple of months in relation to
this issue.

Senator Cormann was, at that stage, Acting Special Minister of State. His so-called
comprehensive statement left a lot to be desired in relation to the spelling out of his role in
this matter. Again, today, he failed to answer the questions that were put to him. Senator
Cormann revealed yesterday that shortly after he had been sworn into the job, on 29
December last year, Senator Day emailed him about whether the Commonwealth would be
paying rent for his office. Senator Day was ready and willing to make that happen. He
wrote back to the senator agreeing to provide an extra six months of rental back payments for
the property. That was until, it seems, the Department of Finance put the brakes on the matter,
and a simple search found that the bank account details were linked to Senator Day. That was
in March, some three months before an election was due, but the government raised no
concerns about Senator Day's ability to stand in the election campaign.

What makes matters worse for this government is that it really should have seen this
coming. It should not have been blinded by their need to secure Senator Day's vote for its
antiworker agenda. The coalition would have known a lot about 77 Fullarton Road. It is the same building that Senator Bernardi's Conservative Leadership Foundation was based in. Maybe Senator Bernardi smelled a rat that Senator Cormann didn't, because he vacated the premises last year. It is beyond ridiculous that the government has let this go this far. Senator Day was even using the email address 'bobday@77fullarton.com.au' in his direct emails to ministers. It is beyond ridiculous that the government could not see this.

Time expired

Senator HUME (Victoria) (15:24): May I first express my disappointment at the quality, the tone and the intent of the questions of those opposite today. I realise that I am new to this place, but—

Senator Gallacher interjecting—

Senator HUME: Senator Gallacher's question was one of those, Madam Deputy Speaker. I realise that I am new to this place, but I really had hoped to learn my statecraft not only from those on my own side of the chamber but also from the wisdom and experience of those opposite. I have been sadly disappointed. You can only imagine my disappointment at the questions of those opposite today. There are so many important issues to address in this place—so much going on that matters to the lives of ordinary Australians and that matters—

Senator Gallacher interjecting—

Senator HUME: That matters to your constituents: so much that affects their everyday lives. Yet the opposition continues to pursue a line of questioning that has already been comprehensively dealt with by Senator Ryan, Special Minister of State; that has been comprehensively dealt with by Senator Cormann, Minister for Finance; and that has been methodically addressed and transparently presented to this chamber just 24 hours ago. And today the issue of the North East Vocational College and the alternative apprentice pilot was comprehensively dealt with by Senator Birmingham.

There is no doubt that we have been presented with complex legal and constitutional issues by Senator Day and, indeed, there is no definitive body of jurisprudence on section 44(v), so I will give the opposition the benefit of the doubt. Because this is such a complex legal and constitutional issue, it is perhaps no wonder that those opposite continue to ask questions that have already been comprehensively answered by the Special Minister of State and the Minister for Finance.

They were unequivocal in their remarks. The government has taken every step to explore this matter, to seek further facts and then to take the appropriate steps to bring these matters to the appropriate body for consideration. The Special Minister of State appropriately sought and received legal advice—and the advice was comprehensive, but it was not determinative. Indeed, in this case the Special Minister of State cannot determine whether there has been a breach of the Constitution. The ultimate answer will not come from the Special Minister of State, nor will it come from the Minister for Finance, despite the persistent questioning of those opposite.

The ultimate answer in this case will not come from the government. Indeed, the ultimate answer in this case will not come from the Senate. This is a matter for the court to decide. The government moved a motion in the Senate to refer the election of the former Senator Bob Day to the High Court to determine whether there has in fact been a breach of section 44(v) of the Constitution, and that motion passed unanimously. As this matter has now been referred to the
High Court it is important that we respect the process, and it would be highly, highly inappropriate for any person to pre-empt their decision in this complex legal and constitutional matter. So it is time to move on. It is time to move on to the important matters of state.

My frustration lies with an opposition that will not talk about those matters. Why is it that the opposition is not talking about the Enterprise Tax Plan? Why is it that they are not talking about why it is important to reduce company tax rates to create jobs and growth opportunities? Why is it that they are not talking about superannuation reform? These are the issues of the day. These are the issues that are in the newspapers, that we talk about at doorstops and that are going on in the other place. Why are they not talking about this here?

Why are they not talking about mental health, an issue that is the scourge of our society? There are no questions about those things here. It is simply political game-playing. Why are they not talking about Northern Australia infrastructure and all the opportunities that present themselves there? Why are they not talking about the working holiday-makers tax plan that we have spent so much effort getting just right to be fair for all Australians, and to assist our regional and rural industries and tourism industries? And why are they not talking about the ABCC and registered organisations bills, which are so important to the progress and productivity of our country? (Time expired)

Senator GALLACHER (South Australia) (15:30): I will attempt to answer a couple of those questions posed by Senator Hume. The simple facts are that, based on eminent advice given to the government, Senator Day's qualification to be a senator has been referred to the High Court based on whether or not he had a pecuniary interest in a facility. Anybody who has been elected to the Senate will know that, when you get elected, you get offered an office. They say: 'There's an office. It's been leased. Move into it.' I have been in Senator Farrell's old office, eminently fitted out and eminently suited for the work of a senator—but not for Senator Day. Senator Day says, 'No, I'm not going there. I refuse to go there' for whatever reasons he trotted out. This is why we are talking about it now. It is because of the actions of several special ministers of state in conceding to Senator Day's position that he is not moving into an office. There are other senators on this side of the chamber and on that side of the chamber who did not want to move into a particular facility, but, in order to make sure taxpayers' money was effectively used, they did. They waited until the lease expired or till an arrangement was made and then moved.

We are talking about the Hon. Simon Birmingham's position in all this, and I think it is worth putting on the record why it is worth following up another aspect of Senator Day's activity: his pursuit of this grant for this vocational training college. We know from a cursory examination of the media that the $1.84 million handed to the college chaired for a decade by Senator Day equates to $90,000 for each of the 20 construction apprentices involved in a four-year trial of Mr Day's pet project. The equivalent certificate IV in construction and building at TAFE costs just $30,000 per student. There is a huge disconnect there. The other providers of TAFE certificate IV are only charging $30,000 per student, and Mr Day's college was handed the same sum as the two industry bodies, Master Builders Australia and the National Electrical and Communications Association, who promised to train hundreds of apprentices.

So it is not that we are reinventing the wheel here; we are questioning the actions of authorised ministers in the government: special ministers of state Ronaldson, Ryan and
Cormann and Senator Birmingham in respect of his role in granting this very generous provision to Senator Day—almost three times the industry standard in cost for a lot fewer students. These are legitimate questions for debate in this place. I totally reject Senator Paterson and Senator Hume's assertion that we are on the wrong track here. This is about probity. This is about taxpayers' money. This is about due diligence and governance. As Shakespeare said, there is something rotten in Denmark. There is something rotten on that side. They have not acted with due diligence, governance and probity in respect of Senator Day's office and they have not acted with due diligence and probity in respect of granting his pet project an extreme amount of money equivalent to that given to the Master Builders and the electricians, who train hundreds of apprentices, at more than twice or even three times the cost. That does not look good on their resume. It has happened on their watch.

Senator Cameron has been very vigorous in saying that they got paid for that, that Senator Day voted for them all the time. I do not know if that is the case, but you are entitled to ask the question. You are entitled to join the dots. He was able to get away with a situation which no senator that I know has been able to get away with: refusing to move into a taxpayer funded office. He has then had a project which has been funded at double the cost of the industry standard for not as many people. You are entitled to ask those ministers on the other side questions about this behaviour. They have all got sworn statements and they have something to explain. It will continue. (Time expired)

Question agreed to.

Asylum Seekers

Senator McKIM (Tasmania) (15:35): I move:

That the Senate take note of the answers given by the Attorney-General, Senator Brandis, to a question without notice relating to asylum seeker policy.

We found out today why it is called 'question time', not 'answer time'. It is simply not good enough for the Attorney to refuse to answer reasonable and legitimate questions about the absolute disarray that is this government's border policy as it relates to people seeking asylum in Australia.

I want to go to a couple of matters. Firstly, the Attorney refused to engage in any way on statements made by the Papua New Guinean foreign minister yesterday. I want to put very clearly on the record what Mr Rimbink Pato, the foreign minister of Papua New Guinea, said yesterday, which has been reported by Radio New Zealand and others. The Radio New Zealand story starts like this:

Papua New Guinea's foreign minister has appealed for international help in resettling—

Australia's—

refugees held on Manus Island.

It goes on to say:

PNG's government says the Manus Refugee Processing Centre is undergoing the final phases of shutting down according to Supreme Court orders.

I will leave the quote there to make sure that this chamber understands the seriousness of the matter. The Manus Island detention centre is, according to the PNG government, in 'the final phases of shutting down'. The question to the government remains: what is your plan, if
indeed you have one, to deal with the many hundreds of people who are currently on Manus Island, the overwhelming majority of whom have been found to be genuine refugees?

Foreign minister Pato said that so far 583 asylum seekers have been determined to be refugees, and I understand that the assessment is ongoing for others. He went on to say that the vast majority of them do not want to settle in Papua New Guinea. The story contains the following quote from Mr Pato:

… we're faced with a stalemate, and therefore we're asking the international community, of course we're asking Australia as well, because it's really Australia's problem that we have shared under the arrangement with the Commonwealth …

We have a situation where, according to the PNG government, Manus Island is in the final phases of closing down in accordance with a decision of the Papua New Guinean Supreme Court; we have that government's foreign minister describing the situation as 'a stalemate'; and we have the government of Australia, in the person of the Attorney-General, Senator Brandis, refusing even to engage on the issue.

This government has a shameful record of cruelty and failure in its treatment of asylum seekers, and it has hit a new low, because in a desperate attempt to reabsorb votes from One Nation the government is trying to create new punishments against people who have broken no laws whatsoever. It is an escalation of a cynical race to the bottom which sees our fellow human beings again being used as a tool for seeking domestic political advantage. These are our fellow humans who have reached out a hand to our country to ask for our help. This government in the main, with lock-step support from Labor, kicks them in the teeth, and has done so time after time, while they ask for our help.

We know, as the UNHCR has made plain, that the proposal the government is currently flagging runs contrary to international law and our obligations under the refugee convention. It is worth pointing out that this government's policies are in absolute disarray. They are an abject failure at the humanitarian level, with people facing almost certain harm because of conditions we have created. The widespread abuse that this government tries to cover up is all at massive human and financial cost.

Question agreed to.

NOTICES
Presentation

Senator Siewert to move:

That there be laid on the table by the Minister representing the Minister for Social Services, on 16 November 2016, all information (including documents and statistics) used in the preparation of the report entitled Cashless Debit Card Trial Progress Report, authored by the Department of Social Services and released publicly on 31 October 2016.

Senator Brandis to move:

That the following bill be introduced: A Bill for an Act to amend the law relating to telecommunications, and for related purposes. Telecommunications and Other Legislation Amendment Bill 2016.

Senators Xenophon and Carr to move:

That—
(a) the Senate notes that:
   (i) the SEA 1000 Future Submarine project, a project that aims to deliver Australia a regionally superior future submarine capability, is likely to be the most expensive and complex project ever undertaken by the Commonwealth of Australia,
   (ii) failures that occur in complex projects are often attributed to decisions made in the commencement phase of the project, and
   (iii) there is an accepted need for transparency in Government contracts; and
(b) there be laid on the table by the Minister for Defence, by the start of business on 24 November 2016, the Design and Mobilisation Contract signed between the Commonwealth of Australia and DCNS on 30 September 2016.

_Senators Xenophon, Griff and Kakoschke-Moore_ to move:

That the following matters be referred to the Standing Committee of Privileges for inquiry and report by 14 August 2017:

(a) the implications of the use of intrusive powers by law enforcement and intelligence agencies, including in relation to electronic surveillance and metadata domestic preservation orders, on the privileges and immunities of members of Parliament;

(b) whether current oversight and reporting regimes on the use of intrusive powers are adequate to protect the capacity of members of Parliament to carry out their functions, including whether the requirements of parliamentary privilege are sufficiently acknowledged;

(c) the need for specific protocols to be developed on any or all of the following matters:
   (i) access by law enforcement or intelligence agencies to information held by parliamentary departments or departments of state (or portfolio agencies) in relation to members of Parliament or their staff,
   (ii) access in accordance with the provisions of the _Telecommunications (Interception and Access) Act 1979_ by law enforcement or intelligence agencies to metadata or other electronic material in relation to members of Parliament or their staff, held by carriers or carriage service providers, and
   (iii) activities of intelligence agencies in relation to members of Parliament or their staff (with reference to the agreement between the Speaker of the New Zealand House of Representatives and the New Zealand Security Intelligence Service); and

(d) and any related matters.

_Senator Gallagher_ to move:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 10 am, as follows:

(a) Thursday, 10 November 2016;

(b) Thursday, 24 November 2016, followed by a public meeting; and

(c) Thursday, 1 December 2016.

_Senator Back_ to move:

That the Joint Standing Committee on Migration be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 10 am, as follows:

(a) Wednesday, 23 November 2016; and

(b) Wednesday, 30 November 2016.

_Senator Fifield_ to move:
That consideration of the business before the Senate on Wednesday, 9 November 2016, be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Kitching to make her first speech without any question before the chair.

**Senator Burston** to move:
That the Senate—
(a) notes that:
   (i) the rules committee of the High Court has failed to comply with its own rules in relation to the issue of process in the name of the Queen, and
   (ii) in a response to the Attorney-General, following a question from Senator Culleton, the High Court has acknowledged its error; and
(b) calls on the Government to table in the Senate the response from the High Court to allow the Senate to determine whether the rules committee has complied with the provisions of the *High Court Act 1979*.

**Senator Rice** to move:
That the Senate recognises the work of the Welcome to Eltham community campaign in Victoria, which has strongly demonstrated the values of generosity and inclusion in their efforts to welcome 120 Syrian refugees who will be resettled in the area in the coming weeks.

**Senators Leyonhjelm, Hanson and Burston** to move:
That the Senate—
(a) notes former Senator Day, in his 35 years as a builder:
   (i) built over 10,000 homes,
   (ii) directly employed over 1,000 people and indirectly over 5,000 trade contractors,
   (iii) donated millions to charities, becoming known in Adelaide as "the man who gives away houses" because of all the houses he built for charity groups,
   (iv) sponsored hundreds of sporting clubs, individuals and community groups,
   (v) was appointed an officer of the Order of Australia in 2003 for services to the housing industry and to social welfare, particularly housing the homeless, and to the community,
   (vi) later in 2003, was awarded the Centenary of Federation medal for service to housing and charity, and
   (vii) in 2005, was awarded the inaugural Pride of Australia medal for 'Community Spirit' for restoring the village of Houghton and creating the Soldiers Memorial Walk and Remembrance Wall;
(b) notes, in relation to the failure of former Senator Day's business that:
   (i) all homes under construction are covered by Home Owners warranty insurance, which means any costs to complete the homes will be covered by insurance, not taxpayers,
   (ii) many suppliers and trade contractors have credit insurance which will cover much of their losses, and
   (iii) former Senator Day has always agreed to sign personal guarantees, which means he will lose his house as a consequence of the failure of his business;
   (c) congratulates former Senator Day on his commitment to assisting those who have been impacted by the company's closure; and
   (d) thanks him for his service in the Senate.

**Senators Duniam and Bushby** to move:
That the Senate—

(a) acknowledges the importance of the aquaculture industry to the State of Tasmania, which is an important source of employment and economic activity in regional Tasmania, employing 5,200 people;

(b) expresses support for the aquaculture industry which is a world-leading and sustainable industry, adding to the state's premium brand; and

(c) calls on all political parties to support this vital industry which is important, not only for Tasmania, but the entire nation.

COMMITTEES

Environment and Communications Legislation Committee

Reporting Date

The Clerk: Notifications of extensions of time for committees to report have been lodged in respect of the following:

Environment and Communications Legislation Committee—Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015—extended from 30 November 2016 to 8 February 2017

BUDGET

Consideration by Estimates Committees

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:41): I move:

That the Senate—

(1) That estimates hearings by legislation committees for 2017 be scheduled as follows:

**2016-17 additional estimates:**

Monday, 27 February and Tuesday, 28 February (Group A)

Wednesday, 1 March and Thursday, 2 March (Group B).

**2017-18 Budget estimates:**

Monday, 22 May to Thursday, 25 May, and, if required, Friday, 26 May (Group A)

Monday, 29 May to Thursday, 1 June, and, if required, Friday, 2 June (Group B)

Monday, 30 October and Tuesday, 31 October (supplementary hearings—Group A)

Wednesday, 1 November and Thursday, 2 November (supplementary hearings—Group B).

(2) That pursuant to the orders of the Senate of 26 August 2008, cross portfolio estimates hearings on Indigenous matters be scheduled for Friday, 3 March, Friday, 26 May and Friday, 20 October 2017, but not restricted to these days.

(3) That the committees consider the proposed expenditure in accordance with the allocation of departments and agencies to committees agreed to by the Senate.

(4) That committees meet in the following groups:

**Group A:**

Environment and Communications

Finance and Public Administration

Legal and Constitutional Affairs

Rural and Regional Affairs and Transport
Group B:
Community Affairs
Economics
Education and Employment
Foreign Affairs, Defence and Trade.

(5) That the committees report to the Senate on the following dates:
   (a) Tuesday, 28 March 2017 in respect of the 2016-17 additional estimates; and
   (b) Tuesday, 20 June 2017 in respect of the 2017-18 Budget estimates.

Question agreed to.

DOCUMENTS
North East Vocational College
Order for the Production of Documents

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (15:42): At the request of Senator Cameron, I move:

That there be laid on the table by the Minister for Education and Training, no later than the end of question time on 10 November 2016, all documents containing information pertaining to the following matters:
   (a) the visit by the then Assistant Minister for Education and Training, Senator Birmingham, to the premises of North East Vocational College at St Agnes, South Australia on or about 4 May 2015;
   (b) the meeting held between the then Assistant Minister for Education and Training, Senator Birmingham, and former Senator Day on 1 June 2015 in relation to a proposal for a 'Student Builder' pilot program to be located at North East Vocational College;
   (c) the meeting held between the then Minister for Vocational Education and Skills, the Honourable Luke Hartsuyker MP, and former Senator Day on 14 October 2015 in relation to a proposal for a 'Student Builder' pilot program to be located at North East Vocational College;
   (d) grants of $2,025,320 made under the Apprenticeship Training - Alternative Delivery Pilots Program to Master Builders Australia, National Electrical Communications Association and North East Development Agency trading as North East Vocational College;
   (e) business plans, project proposals, funding contracts, deeds and related documents pertaining to the grants referred to in paragraph (d) above; and
   (f) the Recommendation Report of the Apprenticeships Reform Advisory Group (ARAG), including all appendices to the report, meeting papers and minutes of meetings of the ARAG.

Question agreed to.

COMMITTEES
Public Accounts and Audit Committee
Meeting

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:42): At the request of Senator Smith, I move:

That the Joint Committee of Public Accounts and Audit be authorised to hold public meetings during the sittings of the Senate, from 9.30 am, as follows:
   (a) Wednesday, 23 November 2016; and
MOTIONS
Political Donations

Senator RHIANNON (New South Wales) (15:43): I seek leave to amend general business notice of motion No. 97 standing in my name for today relating to political donations, before asking that it be taken as a formal motion.

Leave granted.

Senator RHIANNON: I move the motion as amended:

That the Senate—

(a) notes that:

(i) since 2013-14, former Senator Day has donated over $500 000 and forgiven a loan of $1.47 million to Family First,

(ii) an independent auditor's report in 2013 found Home Australia Group's liabilities exceeded its assets by nearly $31 million, and

(iii) over 200 customers have been left with unfinished homes; and

(b) calls on the Family First Party to return all money received from Mr Day and his companies so that money can be used to pay creditors.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:44): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The government understands that the matters about the Home Australia Group are being looked at by administrators. The government does not propose to become involved in the mechanics of these matters but will respect the process involved. Political donations are again being looked at by the Joint Standing Committee on Electoral Matters, and the government does not propose to pre-empt the committee's findings.

The PRESIDENT: Thank you, Senator McGrath. Senator Gallagher.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (15:44): The opposition—

The PRESIDENT: Are you seeking leave, Senator Gallagher?

Senator GALLAGHER: Sorry, I am. I am slowly seeking leave to speak slowly for one minute.

The PRESIDENT: Leave is granted for one minute.

Senator GALLAGHER: While we oppose this motion, we most certainly agree with its intent. Australian families have been hurt by Bob Day's dodgy business dealings. They have been hurt by his vote in this place as he voted against workers and the most vulnerable in our community, and they have been hurt by a government that sought to shelter Mr Day in exchange for his vote. From a grant for a vote, to an office for a vote, this government has done all it can to keep Mr Day in this place. I am confident that, now this matter has been referred to the High Court, these families and small businesses will have their opportunity for...
justice. It is a shame that this government failed to act on Mr Day, leaving families and small businesses in the lurch.

The PRESIDENT: The question is that the notice of motion No. 97 moved by Senator Rhiannon be agreed to.

The Senate divided. [15:50]

(The President—Senator Parry)

| Ayes | .................13 |
| Noes | .................42 |
| Majority | ...............29 |

AYES

Di Natale, R
Hanson-Young, SC
Kakoschke-Moore, S
McKim, NJ
Rice, J
Waters, LJ
Xenophon, N

Griff, S
Hinch, D
Lambie, J
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

NOES

Back, CJ
Bushby, DC
Carr, KJ
Chisholm, A
Dodson, P
Farrell, D
Fifield, MP
Gallagher, KR
Ketter, CR
Leyonhjelm, DE
McAllister, J
McGrath, J
Moore, CM
O'Neil, DM
Parry, S
Polley, H
Reynolds, L
Ruston, A
Smith, D
Urquhart, AE (teller)
Williams, JR

Burston, B
Cameron, DN
Cash, MC
Culleton, RN
Duniam, J
Fierravanti-Wells, C
Gallacher, AM
Hume, J
Kitching, K
Macdonald, ID
McCarthy, M
McKenzie, B
Nash, F
O'Sullivan, B
Paterson, J
Pratt, LC
Roberts, M
Seselja, Z
Sterle, G
Watt, M
Wong, P

Question negatived.

BUSINESS

Rearrangement

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:53): by leave—At the request of members of the crossbench, I move:
That general business notice of motion No. 98, standing in my name, be listed as a matter of general business tomorrow.

I thank the Senate and I apologise to the government. I did not have an opportunity in the break to speak to them directly about it.

Question agreed to.

**MATTERS OF PUBLIC IMPORTANCE**

**Asylum Seekers**

**The PRESIDENT** (15:54): I inform the Senate that at 8.30 am this morning, Senators Gallagher and Siewert each submitted a letter in accordance with standing order 75, proposing a matter of public importance. The question of which proposal would be submitted to the Senate was determined by lot. As a result, I inform the Senate that the following letter has been received from Senator Siewert:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

The brutal detention of refugees on Manus Island and Nauru, and the government’s cynical effort to amend the Migration Act to bar them from ever entering Australia.

Is the proposal supported?

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

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

**Senator McKIM** (Tasmania) (15:55): It is worth starting this contribution with a clear statement of fact: the government’s so-called border protection policies have failed in every conceivable way. This is a government that have a policy framework in extreme disarray. Firstly, they have failed in human terms—the basic test.

**Senator Bushby interjecting**—

**Senator McKIM**: The basic test, Senator Bushby—they have failed in human terms, because they rely on the deliberate mistreatment of men, women and children in Australia’s detention centre network. Make no mistake: people have died at their own hand as a result of this government's policy and the neglect of this government. Others have been badly injured and there is a toll, as yet unrevealed, specifically in terms of those who have been left traumatised and mentally scarred, no doubt in many cases for life, because of this government's policy. So the cost in human terms has been absolutely massive. Remember, Amnesty International, an extremely well-regarded non-political international organisation, has found that what is happening to people on Nauru fits the internationally accepted definition of torture. What do we get from the government in response to that allegation? We get a blanket denial, with no engagement at all on the detail of what constitutes torture, on the detail of what we are doing to these poor children, women and men on Nauru. It is effectively a government that is putting its fingers in its ears and saying, 'La, la, la,' every time something is said that it disagrees with.
There is still no solution for the people on Manus Island and Nauru. The Papua New Guinean foreign minister said just yesterday that the Manus refugee processing centre is undergoing final phases of shutting down. If it is in the final phases of shutting down, as the Papua New Guinean government is saying publicly, what is going to happen to those poor people who are incarcerated there in Australia's name? What is going to happen to them? The answer from the government is deafening silence. We know from public statements made by Australian ministers that the Australian government is in negotiation with other countries to try to find a resettlement option for the people on Manus Island and Nauru when the only reasonable settlement option is staring them in the face: bring those people, our fellow human beings, back to Australia so that we can look after them properly in line with our moral obligation to them and in line with our international obligations under instruments such as the refugee convention.

We have seen sad tale after sad tale. The Nauru files made it abundantly clear that we have seen widespread violence and abuse, including sexual abuse, against men, children and women who have sought Australia's protection. They reach out a hand, asking us to look after them, to help them, and we kick them in the face. We subject them to arbitrary imprisonment and we expose them to conditions of torture.

The Nauru files also made clear the deliberate under-reporting and downplaying of serious incidents on Nauru. As the landmark Island of despair report from Amnesty International recently made clear, what is happening on Nauru is torture and it is Australia's responsibility. For the Attorney to come here and to quote a High Court case, as he did earlier today, that found that Australia is not responsible for what is happening on Nauru simply ignores reality. We are funding every single dollar of expenditure on Nauru. Every single dollar of expenditure on the detention centre on Nauru is being funded by the Australian taxpayer. What the government is doing is outsourcing cruelty and torture. That is what our government is doing.

The framework is also in disarray because we are witnessing contractor after contractor abandoning offshore detention in absolute droves because they know that they are suffering extreme reputational damage by being associated with such cruel and draconian conditions. We have seen Wilson Security and Broadspectrum pull out of providing services on Manus and on Nauru after strong public campaigns against them. So we are seeing contractor after contractor voting with their feet and saying that they do not want their company associated with what is going on on Manus and on Nauru due to the reputational damage they are suffering.

The policy has also been a failure in pure financial terms, so it is not just the massive human cost that we are dealing with here. In pure dollar terms, the cost of Operation Sovereign Borders has blown out to almost $10 billion in the last three years. The Australia National Audit Office found that the department was not following government procedure in issuing tenders, which has resulted in massive overspends. It also found that Australia's policy framework is costing well over half a million dollars—in fact, $573,000—per detainee per year. This is a government that spent the last few years warning Australia that we had a budget crisis. Well, if we have a budget crisis, why on earth would they implement a policy regime that has cost well over half a million dollars per person per year to detail people on Manus and on Nauru.
At the core of this government's policy is an overwhelming desire for secrecy because the government simply does not want the rest of the world to know what is being done in our name. That is why section 42 of the Border Force Act imposes terms of imprisonment for up to two years for people who blow the whistle on what is going on on Manus Island and on Nauru. How instructive that, in fact, that provision has recently been overturned for doctors because a group of doctors had a High Court case coming up.

But, if it is good enough to remove the gag from doctors, what about teachers, nurses and the many other categories of support workers who operate on Manus and on Nauru. They still remain caught by section 42 of the Border Force Act. They still face a term of imprisonment for up to two years if they speak publicly about what they have witnessed in those places. This is a commitment to secrecy almost unparalleled in recent Australian history. This is a government that knows that it ought to be ashamed of what it is doing and a government that has a commitment to secrecy that is, quite frankly, disgusting and disgraceful.

One day the truth will come out. The full truth of the horrors of this regime and this policy framework will come out. There will be a truth and reconciliation style process. Mark my words; one day in the future, and I do not know when it will be, an Australian Prime Minister will stand up in this parliament and apologise for what is being done today and what has been done over the last few years. Yes, that will be a great day and, yes, that is a necessary thing to occur, but this is happening today. The solution is obvious: engage with our regional partners and come up with a cooperative policy framework that has reasonable times for assessing people's claims for asylum and their claims for refugee status and ensure that those time frames are followed. It is not the situation now, where you front up in Kuala Lumpur at the UNHCR office and get told to come back in three years time for your first appointment. We need a comprehensive policy solution. It can only be delivered on a regional basis—that is, Australia working collaboratively with other countries in our region. Yes, we should contribute financially to it. We can do that by closing the camps and bringing the people who are in those camps here to Australia, and save the $3 billion a year plus that it is currently costing us to run those camps.

This is a policy failure, because although the mantra of this government is, 'The boats have stopped,' in fact we know that they have not—on the government's own admission. This government and the previous government under Tony Abbott have, on their own figures, turned back or intercepted 30 boats since Operation Sovereign Borders started three years ago. They are running at about one a month, on the government's own figures. They are just the ones they are admitting to. They are the ones that we know have been turned back and intercepted. So, when the Attorney gets up and says, 'No people have died at sea,' it is a claim he cannot reasonably make because that claim would rely on the government knowing exactly when boats set off to sea. We know that they do not know that, because many of those boats have nearly made it to Australia before they have been turned back or intercepted. I ask the government: how many people have died between their boats setting out to sea and the government first becoming aware of them? The answer, of course, is that the government do not know. None of us know. To assert that no-one has died at sea is a falsehood. The government cannot reasonably make that claim.

What of the ones that we do turn back? We are turning back people to die somewhere else. We are turning back people to face arbitrary detention, arbitrary imprisonment, torture and
potentially death. This idea that no-one is dying under this government's policy is quite simply untrue. The government cannot possibly make that claim.

So we have a military-like shroud of secrecy that has been thrown over this government's nonsensical, ineffective, inconsistent policy framework, where the best they can do is say 'no comment' on operational matters because that is the phrase they use to keep the Australian people in the dark about what is going on. Make no mistake, a Prime Minister will apologise for what is happening today in the future. That will be a necessary step in the healing that this country needs to undergo to get over the cruel and inhumane policies of today.

**Senator PATERSON** (Victoria) (16:10): I welcome the opportunity to participate in this debate today, and I thank the Greens and Senator McKim for moving this motion. It is funny, in a way, that the government is very happy to talk about this issue and the Greens are very happy to talk about this issue and the Greens are very happy to talk about this issue. We are happy to talk about this issue because we have a record that we are proud of—and I will come to that in a moment. The Greens are happy to talk about this issue because they have a very sincere and deeply held belief on this issue—I do not share it and I think it is a bit strange—and they have been prosecuting their point of view on this issue consistently for many years. What I have left out there is the Labor Party. Interestingly, on the day on which they finally resolved their position on this issue and declared their hand—that the they would be opposing the proposed legislation by Minister Dutton—they did not ask a single question in question time in the Senate today about this issue. It fell to Senator McKim to ask a question on behalf of the Greens. It fell to Senator Reynolds to ask a question about it on behalf of the government.

Those opposite showed a curious lack of interest in this issue—although I am looking forward to Senator Carr's contribution to the debate shortly. Personally, I do not think Senator Carr has a great deal to be proud of. Senator Carr was part of a government which at the encouragement of, in part, the Greens presided over one of the greatest public policy failures in the 21st century. I think there will be an apology by a future Australian Prime Minister, as Senator McKim said, but it will not be for the strong border protection policies that this government has implemented, nor the strong border protection policies that John Howard and his government implemented, both of which saved lives; it will in fact be the border protection—or lack thereof—policies that prevailed between 2007 and 2013 which wreaked a trail of human havoc and misery for six years, for which those opposite have still not been held responsible but should bear great shame.

This is their record. In 2007, when they came to government, they were warned: 'Do not weaken John Howard's successful, strong border protection policies. If you do, there will be serious consequences.' Opposition leaders Nelson, Turnbull and Abbott all pleaded with various iterations of that government to not water down and weaken John Howard's successful border protection policies. They did not follow that advice. They ignored that advice. And the result of ignoring that advice was that, over six years, 50,000 illegal maritime arrivals came on 800 boats. Over 8,000 children were placed into detention. We know of at least 1,200 deaths that occurred at sea—although there may have been more. There was an $11 billion blowout in the border protection budget and there were 17 new detention centres opened.

I remember, in the dying days of the Howard government, the great criticism made of the detention centres in operation. They were many fewer than the number that had to be opened
and operated under the Labor government under former prime ministers Kevin Rudd and Julia Gillard. I remember all the criticisms of the harsh conditions in detention centres. By the end of the Howard government—and again under this government—there were no people experiencing those conditions. But, under the former Labor government, 8,000 children alone experienced those conditions.

By contrast, this government has a very proud record of recognising the problem created by our predecessors, acting to fix that problem and having success in doing so. Under our watch, there have been no deaths at sea. That is despite the fact that, when we were in opposition, we were warned that if we implemented a policy of boat turn-backs, tough border protection policies—temporary protection visas and other measures—there would be deaths at sea and human carnage from that. We were warned not just that it was wrong and not just that it would not work but that it was illegal and immoral. But we proceeded with our policy and it has been a stunning success. There have now been 835 days without a boat arrival. All the children who were put in detention by the previous Labor government are now out of detention. The 17 detention centres that were opened under their watch have now been closed, and our humanitarian intake is to be increased from 13,750 to 18,750 by 2018-19.

I have to borrow a phrase from one of my distinguished colleagues, Senator Abetz, who, commenting recently on Kevin Rudd's opinion piece on this issue, said that it was very much reminiscent of an arsonist returning to a fire and giving a lecture to the firefighters about how to fight that fire. Sadly, we have seen, with the decision taken by the opposition today, that they too are arsonists coming back to lecture firefighters.

In 2013, members opposite were part of a government that ran an expensive, lavish taxpayer-funded advertising campaign. It featured grainy writing; it featured photos of boats; it was translated into many languages; it was published here in Australia and overseas; and it said, 'If you come here by boat, you will never be settled in Australia.' This government and Peter Dutton are trying to put into effect that promise, made in 2013 by Kevin Rudd and those opposite.

There are two options here for those opposite. One is to admit that they were insincere in 2013, that they did not really believe it. They were just pretending to be tough on border protection because they knew there would be political consequences if they did not, and because they were aware of their failings while in government. The other option is that they have changed their minds since. That is fair and reasonable, because we do all change our minds. But if they have changed their minds, they should admit it and should explain why Bill Shorten's promise, made prior to this election, that he would be a carbon copy of the coalition when it comes to border protection, was also false. Their record on this issue is nothing to be proud of. By contrast, we in the coalition can be very proud of our great success in this policy area.

Senator KIM CARR (Victoria) (16:17): It is great to be here and to follow Senator Paterson and his remarks. I am not surprised that he is quoting Senator Abetz, because they are bedfellows in many ways. It strikes me that this government has demonstrated that its measures to impose a lifetime ban on entry to Australia for asylum seekers who arrive by boat are crazy and desperate politics. It is crazy because the ban would even exclude people who have been assessed as genuine refugees and have been settled in a third country who then seek to make temporary visits to Australia on business or as tourists. It is desperate because it is a
measure of just how far this government is prepared to go to win over the xenophobes of One Nation. And it is a measure of the obsequious capitulation of this Prime Minister to the very hard right elements of Senator Paterson's type within the Liberal Party and the National Party, in a desperate attempt to stay afloat in what is a drowning government. The implication of this measure has not been lost on One Nation. Senator Hanson and Senator Roberts have both crowed about the assertion that they are in fact responsible for this government's measures.

This bill, proposed by this government, is in fact very broad in its sweep. It would permanently exclude from Australia, in all circumstances, anyone who is over the age of 18 when they are taken to Manus or Nauru—that is, anyone taken after 19 July 2013. It may well be that these people are still in an offshore centre. It may well be that they are in a detention centre in Australia. It may well be that they are in community detention in Australia. It may well be that they are people who have voluntarily resolved to return to their country of origin. They may well be people who have resettled in a third country.

This measure, that this government announced, would affect 3,000 people. It is a blanket exclusion, and the very idea of it is so ridiculous, if anyone actually thought about it for any length of time at all. We would see a person excluded who is a refugee who was settled in another country and wishes to come to this country as a tourist. And that may well be in 10 or 20 years time. That in itself is sufficiently ludicrous, I would have thought.

Just think about this for a moment. Are we talking about a surgeon who might want to come here to attend a medical conference? Are we talking about a person who came to Australia as a refugee, was resettled in another country and who ends up winning a Nobel Prize? What would happen to those folks? Of course we might even have a person who has been a refugee, settles in another country and ends up being the Prime Minister of another country! Under these measures, they would be excluded. The government says, 'Yes, but there is this "ministerial discretion."' How ludicrous would it be if a prominent person, a prominent citizen of another country, cannot visit this country on a temporary visa because they had once sought refugee protection in this country and arrived by boat? If they arrived by plane, of course they would not be affected. That measure would not apply. They would have to rely upon the good graces of a future politician, in this case a minister, to show the appropriate discretion in those circumstances.

Labor have made it perfectly clear: we support the offshore processing of people who do arrive by boat. And while we do say that those persons should not settle in this country, it is a very different measure to propose that they should never visit Australia. Of course the attempts to verbal Labor with regard to this know very few limits. What we are seeing in this circumstance is just how far this government is prepared to go to try to wedge Labor. We know that this is a proposition that flies in the face of common humanity. Labor have always said, 'Yes, we want offshore processing', but we have made it very clear that it cannot be on the basis of indefinite detention. We never ever have said that the conditions of confinement in themselves should be a deterrent for people seeking to apply for refugee status in this country. But that is exactly what has happened under this government: the very conditions on Nauru and Manus have been used by this government as a deterrent in itself.

The inhumanity of that proposition has drawn worldwide protest. And this measure that the government is proposing now goes even further, because it demonstrates that in these circumstances there is no depth to which this government will not sink to when it comes to
the question of seeking to actually force people into a position of demonising refugees. This is irrespective of the international implications of this measure. It has been made perfectly clear that Labor would not support breaches of international law. And we have a situation where the UNHCR regional representatives in Canberra have made some comments on this matter. What we are raising are very serious concerns: Australia is a signatory to the Refugee Convention, and in article 31 it states:

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country.

Professor Ben Saul, the Challis Professor of International Law at the University of Sydney, has raised very serious concerns about the government's approach in terms of its potential breaches of Australia's international law obligation. He argues that this measure breaches article 31 of the Refugee Convention as well as Australia's family reunion obligations under article 17 and article 23 of the International Covenant on Civil and Political Rights.

This is a situation where the government is quite prepared to verbal its opponents, is quite prepared to say and do anything to try to justify its actions. And what we know is that under these circumstances it is constantly engaged in a downward spiral of brutality when it comes to the question of asylum seekers. We demean ourselves as a country when we allow that type of behaviour to go unchallenged. We simply cannot allow people to be abused in our name in that way. That is why the Labor Party were very keen to participate in the Senate inquiry into the reports of abuse on Nauru. And we have sought to ensure that our offshore facilities are subject to proper independent oversight, because we want to make sure that we do not have a circumstance where our international reputation as a compassionate society is actually brought into question.

This government argues that this is now a matter of national security. Is there any limit to the hyperbole that we are going to be subjected to on these questions? We have seen a government that has offered no rational and certainly no consistent explanation for why these measures are necessary. That is why we are left with the conclusion that this is a government that is desperate to find yet another example to divide the community. This is another example of the way in which it seeks to demonise refugees no matter what the circumstances of their departure from other countries have been or the conditions under which they are held. Instead of paying proper attention to finding alternative sites for people to take up residence in another country, this is a government that is now seeking to use this as a device to delude the Australian people about its actual intentions here.

We have on Nauru a situation where thousands of people have been left completely without hope of future engagement and without the prospect that they are entitled to have of saying that the people who are detaining them—the legal fiction is that it is the government of Nauru, but the reality is that it is the actions of this government—have obligations to ensure they are treated humbly and that their conditions are not in themselves part of any deterrent regime. This government has an obligation to ensure that there are third-party settlement arrangements put in place.

The government is deluding itself if it thinks there is widespread support in the Australian community for these types of demeaning measures. My office has been subjected to quite a large amount of correspondence and a number of complaints on this matter. I have not seen
anything quite like it from such a wide group of people who are genuinely concerned that this is a bridge far too far.

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (16:27): I rise to speak on the issue of the brutal detention of refugees on Nauru and Manus and the government's cynical amendments to try to prevent permanent settlement of boat people seeking asylum on our shores. This whole proposal to ban people seeking asylum for their entire lives from visiting Australia makes me think of a quote from Martin Luther King, in that it would be 'adding a deeper darkness into a night already devoid of stars'. He went on to say:

Darkness cannot drive out of darkness; only light can do that. Hate cannot drive out hate; only love can do that.

This government wants Australians to be hateful, heartless and cruel. It wants us to be afraid. It wants us to be scared of the 'other'. It wants us to somehow turn a blind eye to the very expensive torture that is happening in our name just off our shores, funded by our taxpayer dollars—$3 billion a year out of our budget. That is what this government spends on locking up women, men and children who have fled circumstances that many of us will never have to face simply because they want their families safe and they want to be able to live their lives and contribute to society in a way where they are not threatened with death, torture or persecution. They simply want to be able to have a safe life and contribute. This government wants us to be afraid of those people. It tells us that we need to lock them up, make sure that nobody whistle blows and tells us what is happening in those detention centres and allow them to be subject to abuse, even sexual abuse, including even children, and that somehow that will make us safer.

I do not think anybody buys that. The reason I say that is that there have been some very heartening examples recently in Queensland which I want to share with the chamber where people have stood up to that cruel rhetoric that is sheer nonsense and have said: 'No. That is not who we are. We are welcoming. We are strong. We are stronger in our diversity, and we are safer when we are kind to people than when we demonise them.' The example I am thinking of and have spoken on in this chamber before is the staff and workers at the Lady Cilento Children's Hospital. When Baby Asha came into their care from Nauru, they nursed her and her mother back to health. They then refused to release Baby Asha back into the arms of the government that would have deported her back to Nauru. They kept her in the care of the hospital until such time as the government agreed not to deport that child. They stared down the fear and the demonising that this government wants us all to accept. They stared that down and they won. On that day—as on other days, but on that day in particular—I was so proud to be a Queenslander and I was so proud of those people for taking a stand for all of us and letting the government know that we can be stronger and kinder and safer if we simply do not demonise other human beings who are coming to our shores seeking refuge.

We had a great win that day, and perhaps there was some cause for hope. Sadly, that cause for hope has been dashed because this government has found a new low. I did not think it was possible that we could sink to further lows in this debate and this country's treatment of people seeking asylum, but this government has managed it. Whether or not they are pandering to the racism and bigotry of the new One Nation party in this place or whether they have always been as cruel and heartless as this, they have now found a new low in that they
want to deprive people, some of whom have already been settled here in Australia, of ever staying here permanently, or even of ever visiting.

The sheer nonsense in that approach is just ridiculous. What is particularly important now is that we do not see bipartisan support for this new low. Sadly, we have seen bipartisan support for offshore detention. We have seen the boats turned back—the deaths are still happening, just not in our waters. We have seen $3 billion every year spent on holding people in prisonlike conditions where they are tortured and abused. We cannot see bipartisan support for this new low.

I would urge the Labor Party not just to allow people to come as tourists in the future—yes, of course, it is the very least they should support—but to block this proposal by the government for a ban on permanent resettlement of refugees and asylum seekers who have spent time on Manus or Nauru. If we do not see that commitment from the Labor Party then it will truly be a black day in this country's history, and it will be a day that does not reflect the warm hearts of so many Australians, and Queenslanders in particular, who want a different approach that actually welcomes and strengthens our community.

**Senator REYNOLDS** (Western Australia) (16:32): I too rise to speak in relation to this matter of public importance. There are no easy solutions in dealing with the scourge of people smuggling, and no-one in this place has a monopoly on compassion. I believe that the most compassionate—indeed the only—option is to put and keep people smugglers out of business and to worry not about future tourists in 30 years but about the 14,000 people waiting to our north who want to come here by boat, to stop them from drowning. That to me is by far and away the most compassionate course of action, preventing deaths now and not worrying about tourists in 20, 30 or 40 years time.

Often in this place we do not give enough consideration to the real-world implications of the words we use in this chamber. Those opposite often talk about the impacts of the words that others use, but very rarely do they stop to think about the implication of their own words on others that serve our nation, including the words that they have uttered in this chamber today and the wording of this motion itself.

So I want to start off by paying tribute to and acknowledging the work of our thousands of men and women who protect our borders, whether they be public servants or whether they be men and women in border protection or defence uniforms. Their service in protecting us all is crucial and invaluable, yet they are often subject to unkind, hateful and demoralising vilification by those opposite. Rarely do those opposite stop to consider the impact that their words have on the people who serve our nation.

But it is not only the words of those opposite but also their policies. If you put people smugglers back in business, the 14,000 waiting in Indonesia will start to board boats again—and some will die of horrific deaths. We must consider not only the impact of those who lose their lives and those who survive and are permanently traumatised but the impact on our personnel who have to deal with the dead bodies and with the traumatised survivors? I do not think any of you there have had to fish out of the water the dead body of someone who has drowned making that trip.

Let me share with you the personal perspectives of those who have to pick up the mess of the policies of those opposite. Mr Pezzullo, the Secretary of the Department of Immigration
and Border Protection, shared with us at estimates last month some of the implications of the loss of control of our borders on his men and women. He said this:

The immediate crisis … which involved, regrettably, an almost daily encounter with death, has passed into some historical memory, particularly for those officers of the then Customs and Border Protection Service and the Royal Australian Navy who variously had to attend some of these very gruesome scenes … there is ongoing trauma and post-traumatic stress associated with those events …

He also said:

Let me give voice to those members of my staff … They do not get to speak to you. But let me convey their sentiment. They get on with their job. They hear the claims. Some of them find those claims so traumatic that they ask to be reassigned to other roles. The majority carry on with great resilience and they go about their work with great dignity.

That is despite the often-proved unsubstantiated allegations of torture and waterboarding that our men and women are supposed to have committed, which they clearly did not. Mr Pezzullo also said:

… we reject utterly any suggestion that we are involved in organised and systemic torture, abuse, the running of concentration camps, the running of Nazi-like programs. They are rejected utterly. They get repeated all the time—

By those opposite—

sometimes by way of references to other reports. And all of those accusations and aspersions are rejected utterly.

He said that there have been reports that both he and the Commissioner of Border Force have had to deal with where part of the internal impact on their own staff translates to their families and their children at schools. Bullying comments made on Facebook postings are sometimes of a very personal and direct nature. This is as a direct result of the vilification of their staff—

their men and women—by those opposite, including what we have just heard in this chamber today.

The Acting Commissioner of Australian Border Force also shared his thoughts on the consequences for his men and women in uniform:

… the men and women of the Australian Border Force, including the public servants and the officers, bring with them to work Australian values. That was a direct reference to the issue you raise. We do not recruit people on the basis of Nazism, fascism or anything else. We recruit people on the basis of their adherence to good values, integrity. They are incredibly committed. They do a very difficult job. But the mission—

That is, of serving all Australians—

is under their skin. But, yes, when you hear comments like that, of course it hurts people. But I can assure you I am very proud of our people.

Not often do we hear that or bother to talk about it in this place. Senator McKim heard those words from the acting commissioner and the secretary. I hope those opposite have had an opportunity to reflect on the power of their own words to hurt, particularly now that we have this highly inflammatory matter of public importance on the Notice Paper. Our men and women will see this. They will read this. Their children and their families will read and see this, and believe that their parents are evil. Their friends at school will continue to bully and taunt them that their parents are evil. Shame on you. (Time expired)
Senator POLLEY (Tasmania) (16:39): It is always interesting to follow on from those opposite when it comes to bashing refugees. Just when you thought this government could not lurch any further to the right, they go and smash it out of the park. Whenever the polls get worse for the Turnbull government, what does Mr Turnbull do? He goes to border protection or national security. That is what he does each and every time. Hold onto your hats, because Mr Turnbull is again willing to compromise on his principles. In fact, I should correct myself. I do not think Mr Turnbull has any principles anymore. 'Whatever it takes' is Mr Turnbull's new mantra. Quite frankly, it is a very sad day when the Prime Minister of this country is willing to go this far.

Let me be clear regarding this important issue from the outset: Labor has made clear our commitment to offshore processing and regional resettlement, combined with the policy of turning back boats to ensure people smugglers are denied their trade in exploiting vulnerable people. We have also made clear our view that we have a special obligation to ensure those most vulnerable people are not subjected to any further harm or violence. Labor will never put people smugglers back in business. Despite what those people on that side say, I will make it very clear: Labor will never put people smugglers back into business.

The government has had three years to secure durable and credible third-country resettlement options for refugees living in Australian funded offshore detention centres on Manus Island and Nauru, but they have failed to announce any arrangements and are desperate to distract from that fact. That is what was behind this thought bubble that Malcolm Turnbull pulled out of the air last Sunday. Labor is one with the government when it comes to protecting our borders and shutting down the people-smuggling trade; that is very clear. But let us consider this life ban. It is ridiculous, for example, to suggest that a former genuine refugee who becomes a citizen in either the US or Canada will be banned for a lifetime from entering Australia under tourism or business visas in the next 20, 30 or 40 years time. It is absurd and it just reflects the desperation of this Prime Minister.

This legislation is designed for one purpose only, and that is to distract from Dutton's and Turnbull's complete failure to secure permanent third-country resettlement arrangements and get people out of Nauru. It is this government's failure, and that was the motivation behind this absurd policy bubble that was grabbed out of the air. This is government is so desperate. It has a desperate Prime Minister leading it, trying to shift the focus from his government that is dysfunctional and in complete chaos. This government fails to recognise the proud history of migration to this country. Refugees have gone on to achieve amazing things in their adopted country—people like Frank Lowy or those doctors that work at the Launceston General Hospital or at the Royal Hobart Hospital. Right around this country refugees who have come to this country have contributed greatly to the country that we are today, and we should be proud of that. We have a proud history to defend. But this government is responsible for this and says it is okay because ministerial discretion could apply in certain visa circumstances.

Let us be clear: it would be up to the minister of the day to use his or her discretion to allow a former refugee who has made an outstanding contribution to wherever they have been relocated. If they wanted to come out here to a conference as a visiting doctor, they would not be able to unless they got ministerial approval. This is such ad hoc, absurd, dysfunctional rhetoric from this government that goes from one crisis to another. They have no plan. They
have no vision. As I said in my speech yesterday, this is a Prime Minister who had a plan to become Prime Minister. Yes, he succeeded in becoming the Prime Minister, but he will go down in history as one of the worst Prime Ministers this country has ever seen.

We cannot possibly trust Mr Dutton to make decisions in the national interest. Heaven forbid! To think that some people are counting numbers for him to take over from Malcolm Turnbull is quite absurd. It is nearly as bad as this policy and this legislation that they want to put in. This is a minister who is completely incompetent. Frankly, I do not know how he has been able to retain the confidence of the Prime Minister. But I really do know how he has been able to manage that: he needs his numbers to keep his job.

There are many problems with an indefinite ban on refugees. For example, as I said, it could be a doctor coming out to a medical conference. It could be an elite athlete who wants to come out to compete at the Commonwealth Games. But, no, that may not necessarily happen. We are supposed to trust this government or a future government, whoever that may be, to allow that in the future.

If former refugees already have family who have been able to migrate and live in this country, they would not even be able to visit their family. So firstly, according to this legislation, a surgeon or a doctor visiting to attend a medical conference would not be able to re-enter or come to Australia. If you are an elite athlete who happens to be a refugee currently on Manus Island and you relocate to Canada, the US or anywhere else, you would not be able to come to this country. If you have family already living here, you would not be able to come to this country. This is absurd.

We know that whenever this government is in trouble—as it appears to be every single day with its chaos and with the shambolic, dysfunctional government that it has proven to be—then what does it do? Either it goes for border protection as an issue or it goes to refugees. What it has done here is quite ludicrous.

Rather than playing petty politics, muddying the waters about rumoured third-country deals and doing One Nation's bidding, the government should be focusing on securing third-country resettlement options. This government should be focused on getting refugees off Manus Island and Nauru. People have been held in indefinite detention for too long because this government has failed to secure viable alternative countries to resettle these refugees in.

As part of the public discussion this week, the government have repeatedly claimed that this legislation is needed to secure third-country resettlement options. But they have provided no credible evidence that any of these agreements are pending. We are not even sure—one minister says one thing and the Prime Minister says something else. Then you have another minister with a completely different view on what this legislation is going to be. But when this policy was first released by the desperate Prime Minister of this country—the Liberal Prime Minister of this country—not only was I shocked, and my family, but so were my neighbours. I have been inundated in my office with emails and phone calls from people who say that this is just a bridge too far. That is what I came out with on the Sunday when this was announced. I thought I was hearing things. How could a desperate government be so foolish as to want to take this step—a bridge too far?

Now, I have supported the Labor Party's decision to back the government when it comes to turning back the boats. I understand that, and we certainly do not want people smugglers back
in business. But colleagues in this chamber and, I know, the people in my community—Tasmanians—are right behind me when I say that this is a bridge too far. Enough is enough.

I know that every senator in this place and, I am sure, every House of Representatives member in the other place, would be inundated with phone calls and emails as well. But I know that—

**Senator Ian Macdonald:** Only from GetUp!

**Senator POLLEY:** Yes, I can always rely on Senator Macdonald to come in and start blustering. What he will do is start rewriting history, as he normally does. And he is very good at personal insults, but the facts speak for themselves: we have a very strong history of supporting refugees in this country. They make a valuable contribution. We should not condemn those refugees to a lifetime ban simply because this government is so incompetent.

They go from one disaster to the other. Malcolm Turnbull picks one bubble out after another, and what we need to do is just burst those bubbles once and for all.

**The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson):** Senator Williams, a point of order?

**Senator Williams:** It is quite common for Senator Polley to refer to those in the other place not by their correct titles but just by their Christian names and surnames. I ask you to remind her to refer to those in the other place with respect—and to remember that, because I am sick of taking points of order on this very issue with Senator Polley.

**The ACTING DEPUTY PRESIDENT:** Thank you, Senator Williams. Senator Polley, your time is up!

**Senator IAN MACDONALD (Queensland) (16:48):** I am not quite sure which planet Senator Polley lives on or comes from, but clearly it is not the same planet as most other Australians. Whilst I am disappointed that the Labor Party has breached the bipartisan nature of our border security today, I guess that from a political point of view it probably suits us well, because most Australians totally and strongly support the government’s position and actions to stop the uncontrolled entry across our borders by many people who are not refugees but simply people expecting and wanting a better economic life.

I will go through a few statistics just to put this argument in perspective. Under the Howard government, the influx of refugees across our borders had stopped and the number of people in detention, including children, was very low. In fact, I think there were no children in detention at the end of the Howard government. The Labor government came along and opened the borders up to everybody and anybody. Whether you were a refugee or just someone who wanted a better life, it was: ‘Come to Australia.’ They were welcomed by the Labor Party. They probably signed a lot of them up in their branches when they arrived. What I can never understand about the Labor Party and the Greens is that, because Australia’s very generous refugee intake is a fixed number, every time someone jumped the queue it meant that genuine refugees living in squalid refugee camps right around the world had to wait another year for their chance to get to the promised land. The Labor Party seemed to be keen to help those very wealthy people who could afford the airfare from wherever they came from to Malaysia and Indonesia. A husband, wife and several children were all paying for airfares. When these people got there they then paid the people smugglers $15,000 a head. These are not poor refugees. These are not the sort of people waiting in the squalid camps that the
UNHCR has to run around the world. These people were jumping the queue. And not only were they jumping the queue; but many of them were putting their own lives at risk. We were aware of the fact that the 1,200-odd bodies recovered were of those who drowned on the way here. We do not know how many other thousands of people drowned in attempting to illegally get across Australia's borders.

Australia has nothing to be ashamed of as far as refugees are concerned, and certainly the coalition government has a very proud record. For years, we have taken approximately 13,000 to 14,000 genuine refugees—people who follow the rules, who apply to the UNHCR to come to Australia. We have houses for them. We have jobs for them. We plan our social security because we know they are coming. Just recently, the coalition government increased that number—I do not have the exact number on me—to about 17,000 to 18,000. In addition to that—

Senator Polley interjecting—

Senator IAN MACDONALD: and we heard Senator Polley with her old 'desperate PM', 'desperate government'; she keeps saying it. Senator Polley, just because you are saying it does not make it true. There is no desperation in the government. The coalition government actually increased the intake of genuine refugees by an additional 12,000 people—something the Labor Party never did. These people are genuine refugees, who actually do the right thing and take their turn. For some reason, the Labor Party and the Greens seem to fancy the wealthy people who can fly from their country of origin to Malaysia or Indonesia and pay people smugglers $15,000.

The whole Manus and Nauru issue has been debated to death. We have had about four, five or six Senate committees inquiring into it. We get the same old people making the same old submissions, trying to get their mates into the country—out of the queue, out of the system. The Legal and Constitutional Affairs References Committee, which is holding yet another inquiry into this issue, recently had the gall to approach the President about the committee visiting Manus and Nauru. I do not know what the President has done, whether he has dealt with the matter or not. I know that Senator Reynolds and I, two government members of the committee, were totally opposed to it. Do you realise, Mr Acting Deputy President, that it would take, according to my investigation, something like $40,000 and plus, plus, plus—because that is just for airfares alone—to get the committee up to those places. I am sure the taxpayers of Australia would rather their taxpayer dollars be spent on things other than having this committee doing a jaunt up to Nauru and Manus. And for what? Any evidence that is legally useful in Senate committees can be got from sitting in a committee room here in Australia. I think this just demonstrates the weird approach the Greens and the Labor Party have to this whole situation. This new legislation is not the subject of this debate—but Senator Polley talked of nothing else. It will come before the parliament and it is destined to say to people: 'Don't bother leaving your homeland. If you are a genuine refugee do it via the appropriate places, but if you are not a genuine refugee do not bother. Apply via the normal migration situation and entry level.'

Most of these people are not refugees. They are wealthy people who want a better life—and I do not blame them for that. But it just makes the real situation intolerable. Genuine refugees wait longer in squalid camps thanks to the Labor Party—(Time expired)
The following orders of the day relating to government documents were considered:

Army and Air Force Canteen Service (AFCANS)—Report for 2015-16.


Migration Act 1958—Section 486O—Assessment of detention arrangements—


Royal Australian Navy Central Canteens Board (Navy Canteens)—Report for 2015-16.

On behalf of the Chair of the Parliamentary Joint Committee on Intelligence and Security, I present reports of the committee and a corrigendum, as listed at item 13 on today's Order of Business and move:

That the Senate take note of the reports.

I am pleased to present the committee's reports on the Criminal Code relisting of six terrorist organisations and the declaration of Islamic State as a terrorist organisation under the Australian Citizenship Act 2007. These reports fulfil the committee's statutory obligations to review the listing and relisting of terrorist organisations under the Criminal Code and the declaration of terrorist organisations under the Citizenship Act. For each of the six Criminal Code relistings, which include some of the world's most notorious organisations, including al-Qaeda, Jabhat al-Nusra and Jemaah Islamiyah, the committee was satisfied that appropriate processes had been followed and that the organisations continue to meet the criteria to be defined as terrorist organisations.

The declaration of Islamic State as a terrorist organisation under the Australia Citizenship Act 2007 was the first of its kind to be reviewed by the committee. The effect of the declaration is that a person aged 14 years or older who is a national or citizen of another country loses their Australian citizenship if they engage in certain conduct on behalf of Islamic State. The committee was satisfied that appropriate processes had been followed and agreed that Islamic State is a terrorist organisation that is opposed to Australia's interests, values, democratic beliefs, rights and liberties, so that if a person were to fight for or be in the service of Islamic State the person would be acting inconsistently with their allegiance to Australia. I am presenting these reports at a time of sustained threat to the security of our community from people who seek to achieve their goals through violent means.

I note that the committee's advisory report on the Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016 was presented out of session last week. The legislation reviewed in these reports demonstrates the need for continued vigilance and the importance of updating Australia's counterterrorism framework to protect the Australian community. I commend the reports to the Senate and seek leave to continue my remarks.

Leave granted.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (17:00): I am also seeking to comment on the Criminal Code Amendment (High Risk Terrorist Offenders) Bill report that was tabled out of session. Is it appropriate that I do that now?

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Certainly.

Senator McALLISTER: Thank you. Labor senators, of course, will have more to say on this issue when the bill comes before the Senate. Today I want to take the opportunity to
speak to the process that the parliamentary joint committee went through in reviewing the bill. In particular, I would like to highlight some of the issues that Labor members were focused on through the committee process.

Labor supports the intent of this bill. We acknowledge the threat that terrorism poses for Australians and our responsibility to curtail this risk. We also acknowledge the extraordinary nature of the provisions that this bill seeks to establish. Our concern has been to ensure that proper scrutiny was applied to the provisions of this bill, and as always we seek to strike the appropriate balance.

The ACTING DEPUTY PRESIDENT: I am advised that you are actually speaking to a report that will come up a fraction later.

Senator McALLISTER: I did seek advice, but thank you. I am happy to defer my remarks until later.

Joint Standing Committee on Treaties
Report

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (17:01): On behalf of Senator Fawcett, I present the 163rd report of the Joint Standing Committee on Treaties: Paris Agreement, Kyoto Protocol—Doha amendment, and move:

That the Senate take note of the report.

I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—

Mr President today I present the Joint Standing Committee on Treaties' Report 163 which contains the Committee's review of the Paris Agreement and the Doha amendment to the Kyoto Protocol. The Committee considered the two treaty actions together as Australia's obligations under both are closely related.

The Paris Agreement and the Kyoto Protocol are part of the ongoing implementation of the United Nations Framework Convention on Climate Change which came into force in 1994. The Kyoto Protocol 'operationalised' the Convention. The Paris Agreement builds on the Convention and broadens the coverage of international climate action beyond the industrialised countries.

Mr President, the Paris Agreement has received overwhelming support both internationally and here in Australia. The world has acted swiftly. The Agreement was adopted in December 2015 and has already received the approval of the 55 countries covering 55 per cent of the world's greenhouse gas emissions required to bring it into force. It came into force last Friday, 4 November 2016. The speed with which this has happened is unprecedented in the recent history of international agreements.

We found that, in Australia, the Agreement has been welcomed as a positive step forward Mr President. It supports collective action on an issue that is of global concern. The Agreement provides an inclusive, common framework, sets clear goals and establishes a realistic process and pathway to move forward.

Mr President, the Agreement aims to strengthen the global response to climate change by setting a global goal to hold the increase in global average temperature to well below 2 degrees Celsius and to attempt to limit the increase to 1.5 degrees Celsius. In support of this aim, Australia has committed to reducing emissions by 26 to 28 per cent below 2005 levels of greenhouse emissions by 2030.
Mr President, questions were raised regarding the ability of Australia's current climate change policy framework to meet this commitment. For example, the Business Council of Australia considers that, to date, there has been a lack of coordination and consistency with broader energy policy. Witnesses emphasised the need for a stable, scalable framework with general political support so that we can provide confidence to stakeholders going forward.

The Committee sees the intended review of Australia's climate change policy framework in 2017 as an early opportunity to address some of these concerns as we start preparing the groundwork for Australia's future targets.

Mr President, despite the concerns a range of opportunities were identified for Australia as the world transitions to a global low-carbon economy. Australia has considerable expertise in responding to extreme weather events and this will be in demand. We have a rich supply of the mineral resources required for the manufacture and development of renewable technology. And, of course, we have abundant renewable power resources with our sun, wind and hydro power.

Mr President, the transition to the low-carbon economy that we are facing will require careful planning if all Australians are to reap these benefits. Australia is both a user and exporter of carbon intensive commodities and we have to find practical solutions to the social and economic challenges facing us.

Mr President, Australia has an excellent track record in meeting its commitments in similar situations. We met our commitments under the Kyoto Protocol and we are expected to meet our target under the second commitment period for that treaty.

The next Conference of the Parties to the Convention is being held in Marrakech this week. At that meeting decisions will be made regarding the implementation of the Paris Agreement including the development of its rulebook and the provision of climate finance to developing countries to help them adapt to changing conditions. Australia is committed to providing at least $1 billion over five years from our existing aid budget to climate finance.

Mr President, it is important that Australia can come to the table in Marrakech with clear evidence of its commitment to, and support of, the Paris Agreement. We need to have a say in the development of the implementation framework.

Mr President, the Committee supports Australia's ratification of the two treaty actions in this report and recommends that binding treaty action be taken.

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

Question agreed to.

Finance and Public Administration References Committee Report

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (17:02): I present the report of the Finance and Public Administration References Committee on domestic violence and gender inequality together with the documents presented to the committee.

Ordered that the report be printed.

Legal and Constitutional Affairs References Committee Report

Senator PRATT (Western Australia) (17:03): I present the report of the Legal and Constitutional Affairs References Committee on the consultations prior to the making of
 directions concerning opinions of the Solicitor-General, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator PRATT:** I move:

That the Senate take note of the report.

It gives me no pleasure to affirm to the Senate chamber today that this inquiry has clearly demonstrated the unfitness of the Attorney-General to hold his high office and to affirm that he has misled the Senate with his statement in the explanatory memorandum to the Legal Services Directions and in answers to questions that he has 'consulted' the Solicitor-General.

The A-G's claims to have consulted the Solicitor-General are so obviously misleading that they defy logic and show a complete disregard for any sense of proper process. This is not a finding I make lightly. It is formed after looking very carefully at the evidence provided to the committee.

The evidence also demonstrates that the failure to consult has had a serious impact on the confidence that we should have as a nation in the rule of law. The evidence further demonstrates that the failure to consult means that the Attorney-General was not in fact informed that the instrument that he implemented was wrong in law. As the committee has shown, the A-G has tried to use a completely fanciful definition of 'consultation' when interpreting the requirements of section 17 of the Legislation Act 2003. Senator Brandis himself in evidence said to the committee:

Let me address, or get to the heart of, what appears to be the real issue being considered by this committee, which is the question of what constitutes consultation for the purposes of section 17 of the Legislation Act ... The issue underlying this committee's inquiry boils down to a difference of opinion about the meaning of a word.

Senator Brandis provided a definition of 'consultation' to the committee. He said:

> When I use the word 'consult' what I mean is to confer about, deliberate upon, debate, discuss ... a matter. When one consults someone, one asks their advice, seeks their counsel, has recourse to that person for instruction, guidance or professional advice. That is what I mean when I use the word 'consult' and it is clearly what my department considered the word meant when they drafted the explanatory statement. These are not some sort of idiosyncratic understandings of the word. They are ... the way the word is defined by the Oxford English Dictionary ...

Indeed, Senator Brandis handed to us in the committee his definition. I note that the definition handed to the committee included 'a person deliberating with himself'. Perhaps that is what the Attorney-General had in mind. However, Senator Brandis said very explicitly not merely that he had consulted but that he had consulted the Solicitor-General. It is clear that at no stage with respect to the Solicitor-General did the A-G ask the Solicitor-General's advice, seek his council or utilise recourse to the Solicitor-General for instruction, guidance or professional advice with respect to the new legal services direction. The facts speak for themselves. Let me briefly outline them.

The A-G argues that he undertook appropriate consultation at a meeting in November 2015 when considering suggestions on a draft guidance note. However, section 17 of the Legislation Act refers to consultation in relation to a proposed instrument. There was no proposed instrument at that point in time. Neither the Australian Government Solicitor nor the
Secretary of the Attorney-General's Department made any reference to a new legal services direction in any record of that meeting. On 12 April, the Solicitor-General's office, on behalf of the Solicitor-General, made an inquiry of the Attorney-General's Department asking for updates on guidance note 11. That same day the department replied saying they would follow up with the A-G's office, but that they would not be able to respond immediately.

In giving evidence, Mr Iain Anderson, Deputy Secretary of the Attorney-General's Department, said they were aware of the new direction on 20 April 2016, and on 27 April and 28 April the department and the Office of Parliamentary Counsel liaised on the content of the draft direction. On 29 April the Solicitor-General's office again emailed the department inquiring about an update on guidance note 11. The department did not advise the Solicitor-General about the work undertaken, instead advising:

I understand the AG is writing directly to the SG about this.

We know from evidence that the Attorney-General substituted the guidance note to become the new legal services direction, but the fact is there was no liaison on either matter, despite the Solicitor-General's active inquiry. The first time the Solicitor-General was advised about the direction was when it was issued on 4 May 2016.

It is clear from the evidence provided by both the Solicitor-General and the Attorney-General that the Solicitor-General was not consulted on the direction, he was afforded no opportunity to comment on the specific content of the proposed direction and he was not informed of its development, or any intent to develop it. The Senate must take account of these facts, just as the committee has, when considering the ramifications of this report. In fact, as the committee highlights, it brings to mind the quote by Lord Atkin in the case of Liversidge v Anderson, where he says:

I know of only one authority which might justify the suggested method of construction. 'When I use a word,' Humpty Dumpty said, in rather a scornful tone, 'it means just what I choose it to mean, neither more nor less'.

That is a quote, of course, from Alice in Wonderland. The report also says:

For the statement that the 'Attorney-General has consulted the Solicitor-General' to be true, the Attorney-General would have needed, at a minimum, to have advised the Solicitor-General of his intention to introduce a new instrument and provide him an opportunity to comment on its content.

He has therefore made what are very clearly false and misleading statements to this place.

I am not going to have time to go into the very clear undermining of the rule of law that arises from this legal services direction, but what I can say is that because of the failure to consult the Solicitor-General was deprived of an opportunity to highlight the ramifications of the instrument that was introduced, which are significant indeed, because they are 'a radical change in how Solicitors-General have acted since 1964 under the Law Officers Act'. That in fact means that the instrument itself is wrong in law. Indeed, what is also included in the instrument is the fact that the Solicitor-General is required to go through the Attorney-General before giving any advice. That is the nature of the substantive change and it has significant ramifications for the rule of law in our country, because the office of the Solicitor-General should be an independent one.

So in tabling this report today I affirm our recommendations:
That the Senate disallow the amendment to the Direction or the Attorney-General withdraw it immediately, and that the Guidance Note be revised accordingly.

... ... ...

That the Attorney-General provide, within three sitting days, an explanation to the Senate responding to the matters raised in this report.

... ... ...

That the Senate censure the Attorney-General for misleading the parliament and failing to discharge his duties as Attorney-General appropriately.

Senator IAN MACDONALD (Queensland) (17:12): This report is another sad part of an unfortunate history of the Senate Legal and Constitutional Affairs References Committee, which is now renowned for the inappropriateness of its inquiries and investigations. Nobody takes any notice of anything the majority of the committee ever reports on, because the references are always political references. They have nothing to do with the good order and management of the country, the economy or the nation. They are always a political witch-hunt, and regrettably this inquiry into the Legal Services Amendment (Solicitor-General Opinions) Direction 2016 by this unfortunate committee is the same. I have expressed concern before that the Senate committee system, which used to have a good reputation for producing quality reports that really assisted the nation, is now bogged down in a continual witch-hunt, where the three Labor members and the Greens member of the committee outvote the two government members. They do what they like. The committee is not a committee of the parliament or of the Senate. It is a committee of the Labor Party and the Greens, wasting Senate resources on political witch-hunts which go absolutely nowhere.

The only report worth reading is the one put in by Senator Reynolds and me as the government members on the committee. It sets out in detail, for those who might be interested, why the recommendations of the Labor and Greens senators were so inappropriate and just a political exercise. I am not going to go through that in detail. It is there for anyone to read. If you want to understand the real significance of this whole issue, read the coalition senators' report.

In the few minutes left to me I want to make some broader observations. The Solicitor-General resigned his post on 24 October, during the course of this inquiry, and I think that says something in itself. Coalition members commend the Solicitor-General for taking this decision because, in our view and the view of any reasonable observer, the Solicitor-General's position had become untenable and his resignation was an unavoidable consequence of the public inquiry. The Labor Party and the Greens set up this inquiry for no other reason than to attack Senator Brandis, but what happened? Thanks to the Labor Party and the Greens, a man who has devoted much of his life to public service was forced to resign—a man who the Labor Party, I might say, appointed to his position in the dying days of the Rudd-Gillard-Rudd government. You could almost say that, rather than getting Senator Brandis as they tried to do, they got their own man and he did the only thing that was open to him: he resigned from his position.

The evidence showed that the Solicitor-General had made a couple of what I will euphemistically say were unfortunate decisions. As a lawyer, he knows that it is not appropriate for him to tell the world about who he is giving advice to and what he is giving advice about, but the Solicitor-General, as is clearly shown in the Hansard evidence and as
we highlight in our report, on three occasions told the world that he had given advice to someone on a certain matter. Any lawyer knows you do not do that. He did not seek the permission of his clients—in one case the Prime Minister, in other cases the Attorney-General—to expose the fact that he had given advice. The first I knew that the Solicitor-General had given some advice on the position of senators—and I was a bit worried when I read this because I thought it might have been something to do with me—was when he exposed to the world that he had given advice to the government on the qualifications of senators. I did not know what that was a few weeks ago. I suspect I know now what it was all about. It is inappropriate for any lawyer to disclose that he has given advice on any particular matter. He told the world that the Prime Minister had asked him for advice. That is not the role of the Solicitor-General. The Solicitor-General is a senior public servant and should abide by the rules of his job and the normal rules of the legal profession. The Solicitor-General said, in a weak excuse, 'I only mentioned the Prime Minister because the Prime Minister mentioned it in the other chamber two days ago.' Unfortunately for the Solicitor-General, he had released that information a week before, when he put in his written submission, which he knew—or should have known—would be made public. Not only did he err but he then tried to cover up that error with the weak excuse that the Prime Minister had himself alerted the world to the fact that he had sought advice. But the Prime Minister only did that a week or so after the Solicitor-General had made it public.

There is another unfortunate aspect to the Solicitor-General's tenure. During the caretaker period, to which, as we all know, very careful rules apply, the Solicitor-General of his own accord had a conversation with the shadow Attorney-General, Mr Dreyfus, about matters that were occurring in the government. That is a no-no. Any basic student of the caretaker period would know that you do not do that or, if it is a matter of urgency that you do do that, the first thing you do is report that to the department or to the Attorney-General. Unfortunately the former Solicitor-General, Mr Gleeson, had a conversation with Mr Dreyfus and did not report it. He did not speak about it either to the department or to the Attorney-General, and that just does not happen within the Public Service. In fact, it was only when he was questioned at this hearing about whether he had ever spoken to the opposition when he held the position of Solicitor-General to the government that he admitted that he had actually spoken to a member of the Labor Party opposition during the caretaker period, and that in itself is inexcusable.

On the issue, the Solicitor-General seemed to think that, as the second law officer, he was the decision-maker. It is quite clear that the decision-maker on these issues is the person who is accountable to parliament and through parliament to the people of Australia—not a statutory office holder who has a fixed term of office and is accountable to no-one except the Attorney-General.

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT: Order on my left!

Senator IAN MACDONALD: Thank you, Mr Acting Deputy President. The Labor Party do not like this. They realise they have made a huge mistake. They went out to get Senator Brandis and they ended up getting their own man. The Solicitor-General seemed to think that he gave advice to the Attorney-General and to other ministers, and he seemed to think that, simply because he had given the advice, it should have been taken. He thought his advice was sacrosanct. He did not think the Attorney, who is quite a brilliant legal mind himself, might
say: 'Well, I'm not quite sure about that legal opinion. I might get a legal opinion from a QC in the private profession—one who has a reputation for excellence,' which the Solicitor-General may or may not have had. But the Solicitor-General seemed to think that, because he gave advice, that was it and the Attorney-General had to not only accept it but also act on it. So I think the Solicitor-General did the right thing in resigning. He obviously realised he had made mistakes, and he did the only thing open to him.

Opposition senators interjecting—

Senator IAN MACDONALD: As for the question of Senator Brandis telling the chamber—and unfortunately I only have 20 seconds—

The ACTING DEPUTY PRESIDENT: Senator Scullion, on a point of order?

Senator Scullion: We have listened in silence to several statements that would have brought your attention to the standing orders. Generally the convention is we let that go through to the speaker. But we listened to them in silence, so I wonder if you could ask the other side to provide the same courtesy.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Scullion. I repeat that interjections are disorderly and the senator is entitled to be heard in silence.

Senator IAN MACDONALD: Senator Brandis did consult. The evidence is there showing the consultation on both the guidance note and the direction, which are in exactly the same words. The department actually gave advice to the minister that he had, in fact, consulted in accordance with the act. (Time expired)

Senator WATT (Queensland) (17:23): I would also like to speak on the tabling of the Legal and Constitutional Affairs References Committee's report detailing the committee's findings from its inquiry into the consultation prior to the making of directions concerning the opinions of the Solicitor-General. And what a sordid tale it is, with yet again the lead actor in another drama involving the Turnbull government being the Attorney-General, George Brandis. Of course the Attorney-General, we all know, has form in misleading this parliament. There was the terrible misleading of parliament that occurred by him in relation to the tragic events at the Lindt cafe. This is the man who has already been sanctioned by this Senate over his failure to protect the President of the Human Rights Commission, Gillian Triggs, and I expect that we will continue to see more bombardment of Gillian Triggs by this government and this Attorney-General in coming weeks. Not only that, but this is the Attorney-General who engineered appointment after appointment of Liberal Party mates, donors, staffers and failed candidates to the Administrative Appeals Tribunal.

So this Attorney-General has form, and now his actions have resulted in the resignation of Australia's Solicitor-General—the foremost legal mind when it comes to Australian public and constitutional law—Justin Gleeson SC. As I said, he is one of Australia's foremost legal minds. This is a man who has represented the Australian people with distinction in the International Court of Justice. He led the charge for Australia, along with former Attorney-General Mark Dreyfus, to stop Japanese whaling near Australian waters. Mr Gleeson has represented the Australian government as Solicitor-General in dozens of complex constitutional cases before the High Court of Australia. Unfortunately, due to the actions of this Attorney-General and this government, we no longer have Mr Gleeson serving in that role—and advice to this government will be much the poorer for it.
The committee heard evidence from a number of people—from the Attorney-General and the Solicitor-General, from two former solicitors-general, from a number of independent experts on the relationship between governments and the Solicitor-General, and from other witnesses as well. That evidence allowed the committee to draw three very clear conclusions: firstly, the direction that was issued by the Attorney-General to constrain the ability of the Solicitor-General to provide independent legal advice was inappropriate, improper and probably invalid; secondly, the Attorney-General did not in fact consult the Solicitor-General on the content of the direction as he was required to do by law; and, thirdly, the Attorney-General misled the Senate again by repeatedly and falsely claiming that he did consult the Solicitor-General.

As a result of these conclusions, we have recommended that the Attorney-General withdraw the direction or that it be disallowed by the Senate in due course. It is not a common action for the Senate to disallow a regulation or an instrument issued by a minister, and the fact that the committee is recommending this demonstrates the seriousness of the Attorney-General's mishandling of this matter and his improper conduct in dealing with the former Solicitor-General.

Turning to each of those three conclusions: firstly, the committee determined that the direction is improper, inappropriate and invalid. One of the things that have been lost at times over this inquiry is exactly why it is so crucial that we have an independent Solicitor-General. Recently the Australian Lawyers Alliance, one of the peak bodies representing lawyers in this country, issued a statement saying:

There is a compelling public interest in having the Solicitor-General as an independent statutory counsel to government. A core purpose of the position is to provide frank and fearless advice to government. Senator Brandis' actions flagrantly ignore this, and bring discredit on his position as Attorney-General. This Attorney-General has lost the confidence of many members of his own profession—the legal profession—who are represented by that body.

Why exactly does it matter that we have an independent Solicitor-General? This is something that lawyers are concerned about and it is something that many academics are concerned about. But why does it matter to the average person in the street? I will give you a couple of examples of why it really does matter that we have an independent Solicitor-General. Just imagine, as is occurring right now, that the Electoral Commissioner needs to seek advice from the Solicitor-General about the legality of a particular member of parliament remaining in this parliament. What would ordinarily happen is that the Electoral Commissioner would be free to go and get that advice independently from the Solicitor-General and get the very best advice on whether a member of parliament is fit to remain in this parliament. That kind of advice takes on particular importance when you have a situation like we do at the moment—a government with a bare majority that is desperate to hold onto every single vote it possibly can have. The effect of this direction that has been issued by the Attorney-General is that, if it is to pass, then the Governor-General, the Prime Minister, any minister, any departmental head or any statutory official—like the Electoral Commissioner—would need to seek the Attorney-General's permission before seeking advice from the Solicitor-General. Do we really believe that this Attorney-General, with his record of misleading this chamber and treating independent statutory officials extremely unfairly and making their positions untenable, would agree to an Electoral Commissioner coming forward...
and saying they want to get advice from the Solicitor-General about whether a particular member is fit to remain in parliament? I do not think so.

I will give you a second example. This election was a very tight one; there was a distinct possibility that we could have had a hung parliament. In that kind of situation, it may well be the case that the Governor-General of the day wants to seek the Solicitor-General's opinion on how the Governor-General should deal with the parliament—who the Governor-General should ask to form a government.

Again, as a result of this direction, the Governor-General of this country, our head of state, would need to go to the Attorney-General and get the Attorney-General's permission to go and seek that independent legal advice from the Solicitor-General. This is a disgrace. Do we really think that this Attorney-General, of all people, would give the tick to the Governor-General seeking that kind of legal advice when this Attorney-General does not seem to like the advice that is sometimes provided to him? This direction throws the independence of the Solicitor-General out the door, and it is an absolute disgrace.

That was the first conclusion reached by the committee. The second was that the Attorney-General had failed to consult the Solicitor-General. That was the main function of this committee. That need to consult the Solicitor-General arises under section 17 of the Legislation Act. Essentially it says that if a rule maker, who in this instance was the Attorney-General, proposes to make a rule, then they need to consult the people who would be directly affected by that instrument. There is no-one who would be more directly affected by this direction than the Solicitor-General himself. It was very clear under section 17 of the Legislation Act that the Attorney-General was required to consult him.

It is not surprising therefore, that when the explanatory note was provided to go along with that direction it claimed that the Solicitor-General was consulted. Again, the Attorney-General has repeated that statement—that the Solicitor-General was consulted—on a number of occasions to this chamber. Unfortunately for the Attorney-General, though, the evidence that was heard by the committee does not back him up. The Attorney-General relies on a meeting that was held in his office on 30 November 2015. Over and over again we have heard the Attorney-General say that he consulted the Solicitor-General at this meeting on 30 November 2015. The problem for the Attorney-General is that there were other people who were present at that meeting and not one of them has come forward to back up what the Attorney-General is saying.

The Solicitor-General was obviously smart enough to keep a record of that meeting and to circulate it to the other people who attended that meeting. The Solicitor-General set out every item that was discussed at that meeting and—what do you know?—there was no mention of the direction. Why was that? It is because it was not discussed. That meeting record was sent to the other attendees at that meeting, who included the former Australian Government Solicitor and the secretary of the Attorney-General's own department. They were asked to provide feedback on that meeting record to add anything that was omitted, or anything at all, and both of them came back agreeing with that meeting record. Not one of those people, including the Australian Government Solicitor or the secretary of the Attorney-General's own department, believed that this direction was raised at the meeting that the Attorney-General relies on when he argues that this consultation occurred.
We had evidence from the deputy secretary of that department saying that the department was not aware of the direction until 20 April 2016. How could the Attorney-General have consulted the Solicitor-General in November 2015 when his own department did not know about this direction for five more months? Eventually in evidence to the committee the Attorney-General did acknowledge that the first time the Solicitor-General was advised about the direction was when it was issued on 4 May 2016. Again, how could he have consulted in November 2015 when the Solicitor-General did not know about it for months?

So it is no surprise that the committee reached the view that the Attorney-General did not consult. He has compounded his error by misleading the parliament. He has to resign. He has to withdraw his direction. He has to go. (Time expired)

**Senator McKIM** (Tasmania) (17:33): This has been a sad and sorry saga since day one. The Australian Greens, through my representation on this committee, listened very carefully to the evidence provided to the committee by the then Solicitor-General, Mr Gleeson. We listened very carefully to the evidence of a number of other witnesses, including the Attorney-General, Senator Brandis. We have come to the conclusion that, in fact, Senator Brandis did not consult with the Solicitor-General on the legal services direction that currently sits on the table in the Senate. Of course, having formed the view that there was no consultation undertaken, we therefore have to form the view that the Attorney has in fact misled the Senate, because in the explanatory memorandum that accompanied the direction the Attorney claimed that he had consulted with the Solicitor-General. The Solicitor-General's evidence was abundantly clear. He does not believe that he was consulted. So we have the Attorney-General saying he was consulted but we have the Solicitor-General saying that he was not consulted.

When we tried to tease out what this all meant, it became clear to us that in fact the Attorney-General is placing a construction on the word 'consulted' that is not a reasonable construction of that word. The only evidence that the Attorney was able to offer the committee to back up his assertion that he had actually consulted the Solicitor-General was one series of contemporaneous notes taken by one of his advisers in which the initials 'LSD' were written. Those initials stand, we believe—reasonably so—for 'legal services direction'. That was the only evidence that the Attorney was able to provide.

I want to say something clear about consultation. What we believe a reasonable consultation would entail is far more than simply floating a thought bubble or a comment lacking in context at a meeting that mentions the ultimate end, which as it turned out was the Attorney's tabling of the legal services direction in the Senate. Mr Gleeson does not believe he was consulted. On a reasonable construction of the word 'consulted' he was not. Therefore the Attorney has, in the view of the Australian Greens, misled the Senate by claiming that he was consulted.

In the brief time I have today I want to cover another couple of matters that this report has exposed: firstly, the Attorney-General's penchant for shopping around for politically convenient legal advice. This was revealed in part by a letter from the then Solicitor-General, Mr Gleeson, to the Attorney dated 12 November 2015. Reading that letter, it is abundantly clear that the Solicitor-General has concerns about the fact that he was actually not being consulted on important constitutional matters, including the constitutionality or otherwise of particular pieces of legislation or particular proposals that the government was considering.
Of the two examples he gave, one related to citizenship legislation—a proposal to suspend or revoke a person's Australian citizenship—and the other one was a proposal that related to marriage equality. Both of those matters were the subject of constitutional advice from the Australian Government Solicitor. I do not make any negative observation about the capacity of the Australian Government Solicitor's office to offer constitutional advice, but I do make the point that when the government ends up in the High Court debating the constitutionality or otherwise of something it has done, it is the Solicitor-General who is the counsel to government. It is the Solicitor-General, or his office, that will be appearing for the government in relation to those matters. So if you are going to take constitutional advice you should take it from your counsel: the second law officer in this country, the Solicitor-General.

We have concerns that the Attorney was shopping around for politically convenient legal advice. It is worth making the point that the government have done it again on the amendment bill to the Migration Act that has been tabled today in the other place. In fact, it is clear they have sought advice from the Australian Government Solicitor and the private bar but they have not yet publicly said that they sought advice from the Solicitor-General on that bill. They have not yet publicly said that, so that is a question for the Attorney.

There are issues around the rule of law here and Professor Appleby's evidence to the committee. There are issues around the effect of the legal services direction, which in the view of Dr Gavan Griffith QC, a former Solicitor-General, effects 'the practical destruction of the independent office of the second law officer' and leads to 'perceptions as to the integrity of the continuing office'. Dr Griffith concluded that remark by saying, 'The uncomfortable image of a dog on a lead comes to mind.'

One other matter that has been exposed by this committee report is the significant variance in the copies of the same letter that were provided to the committee by the Solicitor-General and by the Attorney-General. When you look at the two different copies of the letter, the difference is the amount of each letter that was redacted under a claim of legal professional privilege. It is very instructive that the Attorney has redacted far more of this letter than has the Solicitor-General. This brings to mind issues around claims of public interest immunity that are brought to this place by government ministers.

It is worth noting that on 48 occasions the Abbott and Turnbull governments have refused to provide to the Senate documents that have been demanded by the Senate. Claims of public interest immunity by this government are rife, and the Greens believe that this is a matter that needs further examination by this house of the Australian parliament. We believe it is of such importance that there ought to be a select committee created by this Senate to have a look at the many claims of public interest immunity that have been made by this government and assess whether or not they are reasonable claims.

We will, in the very near future, be getting in touch with the Manager of Government Business in the Senate and other representatives of government and the crossbench to discuss this issue. We want to do it collaboratively and constructively. It is time for the Senate to stand up and be counted, because we are arguably being treated with contempt by the government.

It is worth pointing out that parliament is sovereign over executive government. It is not the other way round. You can only form a government if you can cobble together a majority on the floor of the House of Representatives. That is the way our Westminster system works.
The parliament remains sovereign. If the parliament demands information, the government should allow its claims of public interest immunity to be thoroughly tested.

We believe we need to look back over those 48 times where the Abbott and Turnbull governments have refused to provide documents demanded by this Senate and assess whether in fact the claims of public interest immunity were reasonable and valid. This needs to be done holistically; it needs to be done carefully, because, of course, there may well be information in those documents that the government has refused to provide that is legitimately subject to the claim of public interest immunity.

We think this needs a closer look. We think the government is developing a culture of noncompliance with orders for the production of documents by the Senate, and we believe the government is, arguably, wilfully obstructing the powers of the Senate, and that would be a most serious matter. All of those issues have been raised by this inquiry.

Finally, I want to say that the character assassination under parliamentary privilege of the former Solicitor-General, Mr Gleeson, that was conducted by Senator Macdonald was an absolute disgrace. It was one of the worst uses of cowards castle I have ever seen in my life—

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Senator McKim, your time has expired. Are you seeking leave to continue your remarks?

Senator McKIM: Yes.

Leave granted.

Senator O'SULLIVAN (Queensland) (17:43): I rise to make a contribution to this debate with respect to the report on the consultations prior to the making of directions concerning opinions of the Solicitor-General. Firstly let me start perhaps on an area to which I had not necessarily intended to devote much time. I too have an interest in these claims of public interest immunity. It may be of interest to the previous speaker that I had a situation where Professor Triggs made not one, not two but three claims of public interest immunity. It was a pure estimates matter. We were showing interest in how she and her commission had spent our money. We were investigating what, to the rest of the world, seemed prima facie to be quite frivolous matters.

It may be of interest to you that I was unable to secure the support of one of your colleagues in the committee meeting to challenge the claim that had been made by the good professor. It did not matter. We had some very sound legal advice. In fact, our colleagues from the Labor Party were contemplating supporting a rejection of the public interest immunity claim that had been made, in the interests of transparency and providing the information to the committee that it required, but your colleague was the one who resisted, very energetically, against having the public interest immunity claim determined as having not been valid.

Senator Williams: Who was that colleague?

Senator O'SULLIVAN: I am not in the business of that. The colleague is not in the Senate any longer. I participated in an examination of the Solicitor-General. I have been, along with Senator Macdonald, the subject of some public commentary in relation to our examination. I do not speak for Senator Macdonald; I speak purely for myself. My examination of Mr Gleeson was initially directed at trying to clear up this perception that he had become politically active in the question that was before the Senate. As time went on, the
evidence revealed that Mr Gleeson had engaged in behaviour that prima facie was very political.

You will not agree with me, Senator Pratt. You did not agree with me on the day, through you, Mr Acting Deputy President. As an officer of the Crown, the second law officer, it has been forgotten by many of you, works and has a responsibility in the relationship with the first law officer. It does not matter who is in government—whether it is the Labor Party, the coalition or, as anticipated in about 300 years time, a Greens government—that government has to have the confidence in its officers and within their relationships that those officers are not engaging in political activity.

I cannot in good conscience separate the behaviour of Professor Triggs, over a long period of time, and Mr Gleeson. Neither of these people, I suspect, can take the defence that they did not understand what they were doing. I suspect they are very intelligent. They are very well educated people. They do not have the defence that, as my old boss in the police used to say, 'It's not that he didn't know. It's that he didn't know he didn't know, is his defence.' In this case neither of these very senior legal professionals are able to take the case.

When the government was in caretaker mode it is politically an acutely sensitive time—it is the time everyone is shopping to get an edge. For both of these very senior officers of the Crown to have conversations with the opposition and the shadow Attorney—anybody who did not realise that that had a certain political volatility about it simply is not thinking. Even if in having done that their silence in not advising—in this case the second law officer advising the first law officer that he had engaged in a conversation with the shadow Attorney-General on a matter of great volatility—is deliberate concealment on his part in this case.

Senator Pratt: They were in caretaker mode. There was no such obligation.

Senator O'SULLIVAN: I know that this does not sit comfortably with you. I know that when we sit down and lay these things out deliberately and carefully it becomes very uncomfortable for you because of what you would prefer to think. Imagine a world where the senior officers of a government of the day could do what they liked and could engage in conversations with whomever they liked and where confidential information passed between officers of the government and the opposition. Given the nature of how our parliament operates, you do not think that would be a problem? I know that that became the norm under Labor governments. In fact, I think it contributed significantly to bringing you down. You guys do not even do it through the concealed method. You wait until someone wants to run a three-part documentary and then you play yourself. You actually get an old phone so that conversation took place three years ago. I will tell you what we are not going to do that: we are not going to take a lecture off you guys about what standards need to be met by senior officers of the Crown, who are paid pretty significant money to get on and do the business of the Commonwealth.

Let us come down to the question at the heart of this issue. This is to do with two documents. It is the tale of two documents. You had a guidance note and then a legal services direction. These two things bore a relationship to each other. Admittedly, there is an argument that one carried more weight than the other. One was more prescriptive in the sense of how one had to react to it.

An opposition senator interjecting—
Senator O'SULLIVAN: Hold on. Listen: I rarely do this, but I sat here quietly while you spoke. So I would appreciate it, through you, Mr Acting Deputy President—

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Senator O'Sullivan, please direct your comments through the chair.

Senator O'SULLIVAN: Through you, Mr Acting Deputy President, you might ask him to sit quietly. I know that I am really on the money when I start to get the interjections, so the more you interject the louder I will get, but I will get my message through. We have two documents here that bear a relationship to each other. There is no challenge on the part of Mr Gleeson and, in fact, there is no challenge on the part of the Attorney-General that discussions took place. There was engagement between the Attorney's office and Mr Gleeson's office. There was engagement between the Attorney's office and his department. There was engagement between the department and Mr Gleeson. All that is out in evidence. I do not think anybody is disputing that. We have a guidance note that was developed in a discussion. There are minutes to show that the legal services direction had at least been in the conversation. You can challenge, if you will, the detail provided by whoever took the minutes on the day. We can have that discussion on another day. Statements have been made in this place that these things were discussed. At the end of the day, Mr Gleeson made input to one of the documents, where that input and other input is reflected in the second document. I have to tell you that I had a couple of hundred staff before I came into this place. If I had run my business the way we run this parliament, I would have been broke by Tuesday lunchtime—seriously. I would have known by Monday afternoon that I was going broke on Tuesday.

An opposition senator interjecting—

Senator O'SULLIVAN: I will take that interjection reflecting on Mr Day. He would buy and sell 100 of you on any given day, and he is a much better man than most of you. So, coming back to the question—(Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (17:54): I seek leave to continue my remarks in relation to this discussion on the tabling of this report.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade References Committee
Government Response to Report

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:54): I present two government responses to committee reports as listed at item 13 on today's Order of Business. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

Australian Government response to the Senate Standing Committee on Foreign Affairs, Defence and Trade report: Capability of Defence's Physical Science and Engineering Workforce
November 2016

Recommendation 1
The committee recommends that the Department of Defence commit to maintaining its physical science and engineering workforce capabilities in key areas to allow it to be both a 'smart buyer' and a technically proficient owner of materiel.

Government response
Agree

The Department of Defence is committed to maintaining its physical science and engineering (PSE) workforce capabilities and ensuring it meets contemporary and future needs in providing Defence capability. As identified by the committee, work in understanding and planning our workforce in a 'smart buyer' context is under way through implementation of the First Principles Review.

As outlined in the 2016 Defence White Paper, Defence will develop a ten year Strategic Workforce Plan in 2016, which will provide the broad direction, supporting policies and workforce planning and management practices that will enable Defence to secure a highly capable workforce. The Plan will include initiatives to ensure Defence can attract and retain physical science and engineering workforce capabilities in key areas to allow it to be both a 'smart buyer' and a technically proficient owner of materiel.

A skills census is being conducted to identify skills and capability gaps across all job families, which will inform Defence's strategy for ongoing professional development of its PSE workforce.

Recommendation 2

The committee recommends that the Department of Defence create a role, with appropriate subject matter expertise, analogous to the Director General of Technical Airworthiness, as a regulator to assess the competencies required for specific procurement and sustainment positions and the suitability of candidates to meet those competencies.

Government response
Agree

Defence has created a Chief Systems Engineer position (Senior Executive Service Band 1), within the Capability Acquisition and Sustainment Group, which has engineering and technical workforce responsibilities. The new Chief Systems Engineer, in conjunction with the Defence Technical Regulatory Authorities (e.g. Director General of Technical Airworthiness), will assess the required technical competencies of the Defence PSE workforce. Defence Technical Regulatory Authorities and the Chief Systems Engineer will work together to enable the Defence workforce to meet the prescribed technical competencies for specific roles within the new Capability Life Cycle.

Recommendation 3

That Defence take a strategic approach to the professional development of its PSE workforce as part of the Defence Industry Capability Plan.

Government response
Agree

Professional development of the Defence PSE workforce is a priority and is recognised in the Defence Strategic Workforce Plan to be completed in the second half of 2016. Defence is also developing Group and Job Family specific workforce plans that will specify learning and development needs for the PSE workforce. Using the Australian Qualifications Framework and other independent peak PSE bodies as a basis, Defence has partnered with industry and academia to develop a comprehensive professionalisation program to address priority needs in the PSE workforce and to ensure Defence and Industry best practice are aligned. An integral part of this approach is for the promotion of industry recognition through membership and certification by professional bodies.
A skills census is being conducted of current levels of PSE skills in Defence's PSE workforce. The skills census will assist in identifying skills and capability gaps and will inform Defence's strategy for ongoing professional development of its PSE workforce.

Defence, in collaboration with the Centre for Defence Industry Capability, is developing a Defence Industrial Capability Plan. The Plan, to be released by the second quarter of 2017, will profile the skills, technologies, infrastructure and capacity of Australian industry to meet the high priority capability needs of Defence. The plan will be dynamic to continually match the movement in industry capability and capacity with the priorities of Defence.

Consultation with industry in developing the Plan and the Defence skills assessment will help shape the future skilling initiatives for Defence and industry workforces.

Also, Defence project proposals to the Defence Investment Committee will give consideration to the critical skills and capability of Defence's workforce and the involvement of Australian industry.

Together these measures provide a holistic approach to professional development in what will be an increasingly integrated workforce of uniformed personnel, public servants and private industry.

**Recommendation 4**
That Defence undertake an assessment of workforce models to encourage more flexible and attractive arrangements for its critical PSE workforce.

**Government response**
Agree

Through the 2016 Defence White Paper, Defence will be investing $5 million over the next decade to the implementation of flexible, competitive offers for critical science, technology, engineering and mathematics and intelligence occupations, which will examine flexible employment models.

As part of the workforce plans described in response to Recommendation 3, a workforce analysis will be undertaken to identify the issues that may limit Defence's ability to secure the PSE workforce required in the future. Where appropriate, the workforce plans will identify attraction and retention initiatives for the PSE workforce.

**Recommendation 5**
That the Government clarify that the Defence Science and Technology Group (DSTG) will not be integrated into the Capability Sustainment and Acquisition Group.

**Government response**
Noted

Recommendation 2.17 of the 2015 First Principles Review recommended that "the Defence Science and Technology Group become part of the Capability Acquisition and Sustainment Group". The government did not agree to this recommendation and directed that it be considered again and advice provided as part of the annual update to the government on the progress of implementation of the First Principles Review. The first annual update is being prepared by Defence.

**Recommendation 6**
That Defence ensure that the roles and responsibilities of DSTG are directed to its areas of competence, rather than to technical risk assessments.

**Government response**
Disagree

Technical risk assessments are an important component of capability development. The core of a technical risk assessment is the identification of the risk that novel technologies, which are required to realise the desired capability, cannot be developed in the time available. The realisation of this risk has been recognised as a major cause of schedule delays and cost increases, and underpinned the
recommendations of the Kinnaird review of Defence Procurement in 2003 when the framework for technical risk assessment and certification was established.

The requirement for technical risk assessments was confirmed by the 2012 Senate Standing Committee Foreign Affairs, Defence and Trade Inquiry into Procurement Procedures for Defence Capital Projects. In their submission to this inquiry, the Department of Finance cited the Defence Science and Technology Group technical risk assessment as a major point of reference for their advice to government. Technical risk assessments also form part of the advice that Defence provides to government.

Assessment of this risk requires an understanding of the state of development of a technology, and of the difficulties in further maturing that technology. The technical risk assessment also considers the difficulties in integrating systems and sub-systems to deliver capability, and identifies measures that can assist in the treatment of those risks. Technical risk assessments are aligned and well-matched to the competency of staff within the Defence Science and Technology Group, who have deep experience in developing novel technologies. The methodology that Defence Science and Technology Group uses in undertaking technical risk assessments has been favourably reviewed by both the United States Department of Defense and the United Kingdom Ministry of Defence.

Analysis of the 2014—2015 Defence Science and Technology Program showed that 32% of Defence Science and Technology Group effort is focussed on support to existing defence capabilities; 31% on support to new planned defence capability; 24% for forward looking research, including client-sponsored and strategic research; and 13% is for support to ad-hoc requests to support current ADF operations, national security (non-military) and other advice to government. In contrast, analysis of the effort used to develop technical risk assessments in a twelve-month period showed that this was less than 1.5% of the effort of Defence Science and Technology Group personnel who directly contribute to the science and technology programs.

Recommendation 7
That Defence, in establishing the Defence Innovation Hub and Next Generation Technology Fund, review the obstacles to public research agencies, academia and industry personnel participating in research and development initiatives.

Government response
Agree-in-Principle

The key obstacles for participation of the academic and industry sector in the Defence innovation initiatives have been well explored during development of the 2016 Defence White Paper and the Defence Industry Policy Statement, which underpin the establishment of the Defence Innovation Hub and Next Generation Technology Fund.

Defence recognises the need for more strategic engagement with the national innovation system and this is a clearly stated goal of both the National Innovation and Science Agenda and the Defence Industry Policy Statement. Defence has developed innovation engagement mechanisms that will implement the Defence Industry Policy Statement. These mechanisms have been progressively announced and implemented since February 2016 with three key examples being:

- Defence Science Partnerships that are now recognised around Australia as an efficient and effective mechanism of engaging the university research sector;
- Fourteen Industry Alliances have been established to facilitate collaborative activities with large defence primes; and
- Partnerships Week with industry and academia was successfully held in June 2016.
Australian Government response to the Foreign Affairs, Defence and Trade References Committee report: Delivery and effectiveness of Australia's bilateral aid program in Papua New Guinea

November 2016

The Australian Government welcomes the Committee's report and thanks the Committee members for their contribution.

Papua New Guinea (PNG) remains a high priority for the Australian Government. Australia's aid program in PNG is Australia's largest single aid investment globally. The Australian Government places a high priority on working in partnership with PNG in the planning and delivery of aid. In March 2016, PNG and Australia signed the PNG-Australia Aid Partnership Arrangement 2016-2017 (Aid Partnership) which reflects agreed priorities for the delivery of effective and efficient aid. The Aid Partnership recognises that reducing poverty and pursuing sustainable economic growth in PNG is in both countries' national interests.

The Australian aid program is implemented in accordance with the Aid Partnership. This sets out mutually agreed priorities and commitments for PNG and Australia to work towards improved development outcomes for all Papua New Guineans. The Aid Partnership aligns with PNG's strategy document, Vision 2050, and will be revisited ahead of the 25th PNG-Australia Ministerial Forum in 2017 to ensure that mutually agreed priority areas continue to be the focus of Australia's support, and align with PNG's development priorities. Specific commitments are also outlined by the Joint Understanding between Australia and Papua New Guinea on further bilateral cooperation on health, education and law and order (2013).

The 2014 PNG Aid Assessment, A new direction for Australian aid in PNG: refocusing Australian aid to help unlock PNG's economic potential (Aid Assessment), considered ways in which Australia's aid program could more closely align with both governments' priorities and better assess mutual performance. This includes options to better address key constraints to economic growth and equitable development in PNG. The recommendations of the Aid Assessment were agreed by the Australian and PNG Governments in 2014 and represent a strategic shift in Australia's approach to aid in PNG. Consistent with the directions set out in Australian aid: promoting prosperity, reducing poverty, enhancing stability (Australia's Aid Policy), the outcomes of the Aid Assessment are guiding where and how Australian aid is spent in PNG, in alignment with Vision 2050.

The Australian Government welcomes the Committee's recommendations and notes issues raised through many of the recommendations were addressed in the Department of Foreign Affairs and Trade’s (DFAT) submission and in the appearance before the Committee by the Department's senior officials in November 2015. For further information on the PNG aid program, agreed objectives and performance benchmarks, the Aid Program Performance Report is accessible on the DFAT website.

Committee Recommendations

Recommendation 1

3.78 The committee recommends that the Australian Government reverse funding cuts made to the Papua New Guinea aid budget as part of a broader commitment to progressively increase Australia's official development assistance to 0.5 per cent of gross national income (GNI) by 2024-25.

The Australian Government notes this recommendation. Australia will provide an estimated total of $3.828 billion in official development assistance (ODA) in 2016-17 but will not commit to a prescriptive, time-bound aid target as a percentage of GNI until the domestic economy is back on sustainable footing and Australia is fiscally strong enough to support this aspiration. The Australian Government remains committed to working with the PNG Government to ensure that appropriate
funding flows to the most effective programs and will continue to focus on priorities outlined in Australia's Aid Policy and the Aid Partnership.

Total ODA to the Pacific including PNG has not been reduced despite reductions elsewhere in the ODA program. This reflects the Australian Government's continuing commitment to the Pacific region and to development in PNG. ODA to PNG in 2015-16 was a budget estimate outcome of $549.8 million and in 2016-17 is a budget estimate of $558.5 million.

Recommendation 2

3.79 The committee recommends that the Australian Government reassess the priorities of the aid program in the context of the PNG Government's recent budgetary cuts to education, health and infrastructure.

The Australian Government notes this recommendation. Australia and PNG regularly review the aid program through consultations at ministerial and official levels. Most recently, Australia and PNG jointly agreed the aid program priorities in the Aid Partnership, signed on 3 March 2016. The priorities identified through the Aid Partnership are health, education, law and justice, transport and governance.

Recommendation 3

3.83 The committee recommends that the objectives of the Australian aid program to Papua New Guinea explicitly include inclusive and equitable outcomes in development.

The Australian Government notes this recommendation. The Aid Partnership establishes "sustained and inclusive economic growth" and "reducing poverty" as overarching agreed priorities for development cooperation. The Aid Partnership, together with Australia's Aid Investment Plan Papua New Guinea 2015-16 to 2017-18, are among the strategic frameworks for the delivery of Australia's aid to PNG. Through these frameworks, and in line with the recommendations of the Aid Assessment and the objectives of the Economic Cooperation Treaty, Australia's aid objectives are to promote effective governance, economic growth and human development. A focus on diversifying the economic base provides opportunities for broad participation in the economy. Through each of these three interlinked objectives the Australian Government seeks to ensure assistance supports sustainable economic growth and equitable development outcomes.

Recommendation 4

3.84 The committee recommends that the key policy documents of the Australian aid program to Papua New Guinea articulate how development objectives align with the Sustainable Development Goals.

The Australian Government notes this recommendation. As with the Millennium Development Goals, Australia has been closely involved in the development of the Sustainable Development Goals (SDGs). DFAT is actively examining its policies, programs and reporting systems to determine what changes to make to better align with, and capitalise on, opportunities emerging from the 2030 Agenda for Sustainable Development (which include the SDGs and the Addis Ababa Action Agenda on Financing for Development).

Recommendation 5

3.85 The committee recommends that the Australian aid program to Papua New Guinea include increased support for non-government organisations, civil society and churches delivering assistance to rural and remote communities.

The Australian Government notes this recommendation. Australia will continue to work with non-governmental organisations (NGOs), civil society and churches to deliver assistance to rural and remote communities.
communities. The choice of partner for any particular activity will reflect the area of identified priority and a judgement as to which partner can best deliver the service required.

Recommendation 6
3.88 The committee recommends that the Australian Government conduct an assessment of the impact of the closure of the Manus Island Regional Processing Centre on development activities.

The Australian Government notes this recommendation. The Australian aid program is regularly assessed in conjunction with the PNG Government to ensure it is delivering results and is appropriately targeted. Any future development activities in Manus Province will be delivered in accordance with the PNG Government's development priorities as articulated in the Aid Partnership dialogue and the PNG Aid Investment Plan.

Recommendation 7
3.90 The committee recommends that the Australian Government examine an expanded program to link institutions in Australia and Papua New Guinea for the purpose of capacity building.

The Australian Government agrees with this recommendation. Australia continues to increase linkages between Australian and Papua New Guinean institutions to build capacity through a range of programs, including the Pacific Leadership and Governance Precinct. The Precinct commits approximately $91.6 million over five years to help meet PNG's priority of developing a new generation of ethical public servants by delivering short- and long-term executive level courses. Through Australian and PNG public service inter-agency twinning arrangements, the Australian Government is maintaining linkages between government entities. For example, there is ongoing cooperation between: the Australian Electoral Commission and the PNG Electoral Commission; the Australia Bureau of Statistics and the PNG National Statistics Office; the Australian Public Service Commission and the PNG Institute of Public Administration; the Australian Tax Office and the PNG Internal Revenue Office; and the National Gallery of Australia, the Australian War Memorial and the National Museum of Australia and the PNG National Museum and Art Gallery. Building institutional partnerships to increase capacity development is a priority across the program, and the Australian Government will continue to identify further opportunities to do so.

Recommendation 8
3.92 The committee recommends the Australian Government assess how cross-border initiatives with Papua New Guinea and Indonesia could contribute to the objectives of Australia's aid program.

The Australian Government notes this recommendation. The priorities of Australia's aid programs in Indonesia and PNG are directed according to Australia's cooperative partnerships with each country. Where Indonesia and PNG agree on cross-border initiatives that align with Australia's shared development priorities, Australia is willing to assess and discuss how the aid program could contribute to those initiatives.

Recommendation 9
4.74 The committee recommends that the Australian Government's Governance Facility include a social accountability program to support local communities in Papua New Guinea demand better services.

The Australian Government agrees with this recommendation, noting action is already underway through the recently established PNG Governance Facility (PGF). The PGF's design will support communities, civil society and church groups to achieve development outcomes and improved
transparency and accountability of service delivery in select geographical regions. Australia and PNG have agreed that support delivered through the PGF will include a focus on social accountability programs.

**Recommendation 10**

4.79 The committee recommends that the Australian Government increase:

- its support for measures to prevent the spread of tuberculosis in the Western Province of Papua New Guinea; and

- funding for the development of new treatments for tuberculosis suitable for development countries.

The Australian Government agrees addressing tuberculosis (TB) in PNG should be a priority for the aid program. Australia continues to cooperate with the PNG Government to ensure all committed funds are delivered in support of joint work to address TB. Australia is also encouraging others to become more involved, including the World Health Organization (WHO) and the World Bank. Australia continues to encourage the PNG Government to prioritise and coordinate full and adequate funding for the TB response through both appropriate use of its own resources, and seeking additional sources of support.

The Australian Government recognises the need for new products to support TB response efforts, in particular, combatting the development of drug resistant TB (DR-TB) strains and subsequent circulation of these strains in the community. The National Health and Medical Research Centre (NHMRC) supports a wide spectrum of TB response efforts—from basic science, clinical medicine, health services and public health research. NHMRC funded over $32.6m in TB research over 2006-15.

The Australian Government is providing $30 million over three years (2014-15 to 2016-17) to support Product Development Partnerships, which are innovative public-private partnerships co-investing in the development of new drugs and diagnostic tests suitable for low resource health settings. This includes $10 million to the TB Alliance to develop new TB treatment, and $10 million to the Foundation for Innovative New Diagnostics to develop diagnostic tools for diseases including TB.

**Recommendation 11**

4.81 The committee recommends the Australian Government prioritise a new program to reduce childhood malnutrition and stunting in Papua New Guinea and track childhood malnutrition and stunting as a human development performance benchmark of the Australian aid program.

The Australian Government notes this recommendation. Priorities in the Australian aid program in PNG are agreed with the PNG Government. Australia supports cost-effective interventions to address nutrition across the aid program. These include investments in health, agriculture, education, and water, sanitation and hygiene. As part of these, Australian ODA funds programs with a specific focus on nutrition, such as support for breastfeeding, therapeutic feeding and nutrition policies and regulations. Future programming for nutrition will be determined in line with annual budgets and resourcing.

**Recommendation 12**

4.83 The committee recommends that the Australian Government increase the support for the training of primary school educators in Papua New Guinea.

The Australian Government notes this recommendation. Through the Aid Partnership, Australian aid is aligned with PNG and Australian priorities to ensure the aid program focuses on 'enhancing human development', with improved education as a priority. Australia's aid program is providing infrastructure to support teachers in PNG—both at teacher training institutions and teacher houses in schools. In 2015-16, the Australian aid program supported 40 elementary teacher trainers to graduate with a Bachelor of Early Childhood from the Queensland University of Technology and 81 elementary and primary teachers to join PNG's basic education sector through Australia Awards PNG scholarships.
The PNG Government is continuing with education reform to address access issues, quality of teaching, and financing and management of institutions. The Australian Government is currently developing a five year sector investment plan which will guide Australia's future support to PNG to implement reforms in the education sector. Noting that Australian aid provides eight per cent of PNG's national education budget, this sector plan will look to leverage other donors to work in education, identify where Australian aid can make the most difference, and take into account sustainability of investments in education reform. Assessing lessons learned from the current investments in teacher education will factor into future sector planning.

**Recommendation 13**

4.85 The committee recommends that the Australian Government investigate options to coordinate and support aid programs focused on cultural change in gender inequality and gender based violence.

The Australian Government agrees with this recommendation. The Australian Government already delivers assistance through the regional Pacific Women Shaping Pacific Development program which focusses on increasing women's voice in decision-making, leadership and peace-building; women's economic empowerment; and ending violence against women and girls. As part of this program, the Australian Government works closely with PNG's Department for Community Development and Religion to coordinate assistance including through regular gender forums with development partners. The Australian Government is highly cognisant of the need, and benefit, of working with partners to lead an effectively coordinated response, both within and outside of gender equality programs in PNG. For example, the PNG-Australia Policing Partnership (PNG-APP) supports specialist police within Family and Sexual Violence Units, and the Royal Papua New Guinea Constabulary in the development of equal opportunity policies.

**Recommendation 14**

5.51 The committee recommends that the Australian Government, in supporting economic growth and public sector partnerships in Papua New Guinea through the aid program, ensures and demonstrates that:

- there is an appropriate focus on micro-businesses, small to medium enterprises and the agricultural sector; and
- locally affected communities are consulted and involved in the development of programs.

The Australian Government agrees with this recommendation. The private sector is at the heart of the aid program and aims to enhance economic growth, create jobs and reduce poverty. By 2017, Australia will be directing 30 per cent of the aid program in PNG to fund initiatives focused on private sector and aid for trade initiatives. The Australian Government continues to engage with micro businesses and small-medium enterprises (SMEs). For example, Australia is working with microfinance institutions to provide financial literacy that has reached over 90,000 people, resulting in over K26 million (approximately $11 million) in loans to micro and small enterprises to grow their business. All of the Australian Government's private sector investments will involve consultation with relevant stakeholders to ensure relevance of programs through design and implementation.

**Recommendation 15**

5.53 The committee recommends that the Australian Government support:

- an increasing number of Papua New Guineans accessing the Seasonal Workers Program;
- the request of the Papua New Guinea Government to expand the Seasonal Workers Program to other relevant sectors;
- an investigation of remittance costs between Papua New Guinea from Australia.
The Australian Government notes this recommendation. The Australian Government is committed to supporting PNG increase its participation in the Seasonal Worker Programme (SWP). DFAT established the Labour Mobility Assistance Program ($5.8 million over two years) in July 2015 to improve development outcomes for participating countries. On 18 June 2015, the Australian Government announced an expansion of the SWP to the broader agriculture industry and accommodation sector in specific locations on an ongoing basis. The expansion also removed the cap on the number of participating workers and involves a trial of the programme in the tourism industry in Northern Australia. The Australian Government will consider the demand for seasonal labour in other relevant sectors on an ongoing basis.

The Australian Government is already investigating remittance costs to PNG. This includes consideration of recommendations of a study on technological and innovative solutions to facilitate remittances from Australia to countries in our region, including PNG. The Australian Government has encouraged Australian banks operating in the Pacific to lower remittance costs. In the case of PNG, Westpac announced on 18 May 2016 that it has cut fees for in-branch transactions to $10 and provided a preferential exchange rate for both in-branch and internet transactions.

Recommendation 16
5.56 The committee recommends that the Australian Government:

- target increasing infrastructure aid funding on transport and road infrastructure in Papua New Guinea; and

- support efforts to develop public private partnerships to invest in transport and road infrastructure.

The Australian Government notes this recommendation. The Australian Government will continue to provide support to PNG's transport sector through the PNG-Australia Transport Sector Support Program, which is now in its second phase and valued at up to $400 million. Business has an important role to play in PNG's transport sector. While PNG enacted enabling legislation for public-private partnerships (PPP) in 2014, viable opportunities are constrained due to pressure on PNG's economy and a challenging operating environment. The Australian aid program is working alongside the Asian Development Bank and International Finance Corporation to support PNG in the development of its regulatory framework and a PPP project pipeline.

Recommendation 17
6.37 The committee recommends the Australian Government target illegal activities undertaken in Australia which are linked to corruption in Papua New Guinea.

The Australian Government agrees with this recommendation. The Australian Government is taking action to ensure that Australia is not a safe haven for the proceeds of crime, including corruption, from PNG. Australian agencies including Attorney-General's Department (AGD), Australian Federal Police (AFP) and Australian Transaction Reports and Analysis Centre (AUSTRAC) collaborate to protect the Australian financial system against illicit financial flows from overseas and work cooperatively with PNG authorities to recover proceeds of crime and combat corruption.

Under the current PNG Combating Corruption program, AGD and AUSTRAC have undertaken a number of visits to PNG to provide peer-to-peer mentoring and training to their PNG counterparts, conducted three interagency training workshops for officials from seven PNG government agencies,
and provided regular advice and support to PNG counterparts. With Australian Government support, PNG has passed a suite of anti-money laundering, counter-terrorist financing and proceeds of crime laws, and in June 2016, PNG was removed from the Financial Action Taskforce's ongoing global anti-money laundering/counter-terrorist financing compliance process (the 'grey list'). AGD and AUSTRAC are now assisting PNG to effectively implement reforms to its anti-money laundering, counter-terrorist financing and proceeds of crime laws and build PNG's institutional capacity to detect and respond to money laundering matters.

Recommendation 18

6.40 The committee recommends that the Australian Government:

- continue to support research activities which promote the effectiveness of the aid program to Papua New Guinea; and
- ensure that this research is considered in decisions made regarding the aid program to Papua New Guinea.

The Australian Government agrees with this recommendation and will continue to support research activities relating to the aid program. The Australian Government funds practical development research in PNG to help identify solutions to complex issues and better target programs. For example, the PNG Governance Facility is establishing a governance knowledge and research platform to inform and support the development of public policy, through research, analysis and the creation and dissemination of knowledge and evidence.

Through the $320 million regional Pacific Women Shaping Pacific Development program, Australia is funding research into the relationship between women's economic empowerment and violence against women in PNG and Solomon Islands. The research is examining how to empower women economically and improve their livelihood security without compromising their safety. Results from the research will be used to inform a wide range of activities in PNG and throughout the region, including financial inclusion and private sector programs, and initiatives which aim to end violence against women and girls.

Dissenting report by Coalition Senators—recommendations

Recommendation 1

1.30 That the Australian Government continues to recognise and support the important role played by the churches, NGOs, and other civil society organisations working in PNG.

Recommendation 2

1.31 That the Australian Government continues to encourage the building of new partnerships between these organisations and the PNG Government and seeks to build local capacity to tackle development challenges.

The Australian Government agrees with these recommendations. Australia will continue to encourage partnerships between churches, NGOs, other civil society organisations, the private sector and the PNG Government to address development challenges.

Recommendation 3

1.32 That the Government continues to fund cooperative efforts such as the partnership between Youth with a Mission (YWAM) medical ships organisation, the Australian Government and PNG Government entities in the effective delivery of health care and medical training services in remote and isolated regions of PNG.
The Australian Government agrees with this recommendation. The Australian Government will continue to pursue efficient and effective ways to fund development activities in PNG. This includes cooperative efforts where Australian funding is able to leverage improved outcomes through funding from other donors and financiers, including the PNG Government. Decisions to provide funding to partners, including YWAM, will be made based on review of their performance and achievement of agreed objectives.

**Additional comments by Australian Greens**

**Recommendation 1**

1.30 That Australia progressively increases its aid funding to reach a target of 0.7 per cent GNI by 2024-25.

The Australian Government notes this recommendation. Australia will provide an estimated total of $3.828 billion in ODA in 2016-17 but will not commit to a prescriptive, time-bound aid target as a percentage of GNI until the domestic economy is back on sustainable footing and Australia is fiscally strong enough to support this aspiration. The Australian Government remains committed to working with the PNG Government to ensure that appropriate funding flows to the most effective programs and will continue to focus on priorities outlined in Australia's Aid Policy and the Aid Partnership.

**Recommendation 2**

1.31 That Australia's aid program realigns itself to the Sustainable Development Goals as its priority framework.

The Australian Government notes this recommendation. As with the Millennium Development Goals, Australia has been closely involved in the development of the Sustainable Development Goals (SDGs). Australia is actively examining its policies, programs and reporting systems to determine what changes to make to better align with, and capitalise on, opportunities emerging from the 2030 Agenda for Sustainable Development (which includes the SDGs and the Addis Ababa Action Agenda on Financing for Development).

**Recommendation 3**

1.32 That the Australian Government increases its aid funding to Papua New Guinea, prioritising access to health, education and basic services.

The Australian Government notes this recommendation. Total ODA to the Pacific including PNG has not been reduced. This reflects the continuing commitment Australia has to development in PNG and recognises the specific challenges it faces. Australia's aid program focuses on improving the health and education systems as agreed with the PNG Government. Australia will continue to support investments that improve health and education outcomes in PNG. Future programming amounts will be determined in line with annual budgets and resourcing and as mutually agreed with the PNG Government.

**Recommendation 4**

1.33 That Australia's funded aid projects in PNG are informed by advice from experienced and respected NGO aid organisations, but largely driven by local communities.

The Australian Government notes this recommendation. The Australian Government and the PNG Government draw on the expertise of NGOs and local communities in the design and implementation of aid programs. The Australian Government works closely with both local and international NGOs through the Australian NGO Cooperation Program and youth programs in urban and rural PNG. The Australian and PNG governments are also working with church partners through the Church Partnership Program, which reaches remote communities. Through these programs, local communities are consulted, with information fed back into planning and design processes. The choice of partner for any
particular activity will reflect the area of identified priority and an assessment of which partner is best able to deliver development outcomes.

**Recommendation 5**

1.34 That the Australian government makes transparent the details of where it is spending its aid funding in PNG, the intended outcomes, and measured progress against those outcomes.

The Australian Government agrees with this recommendation. Australia is committed to high standards of aid program transparency and accountability. Information on the PNG aid program is published on the DFAT website, including policies, plans, results, evaluations and research.

The Aid Program Performance Report reports on agreed objectives under the Aid Partnership, and identifies and rates the progress of the program against benchmarks and the management responses to risks.

Australia is a member of the voluntary International Aid Transparency Initiative. Since March 2014, Australia has published aid information on a quarterly basis to the Initiative's aid registry, in accordance with the Initiative's Common Standard. Australia provides information on all its aid investments to the registry as well as additional comprehensive information on the DFAT website.

1  http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Aid_in_PNG
7  http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Aid_in_PNG/Submissions

**Senator SCULLION:** I move:

That the Senate take not of the documents.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Finance and Public Administration References Committee Report**

**Senator WATERS** (Queensland—Co-Deputy Leader of the Australian Greens) (17:55): I seek leave to move a motion in relation to a committee report which was, I understand, tabled but not spoken to. I just ask leave for that to be listed for consideration on Thursday. I was detained and not able to be in the chamber. I will not have a vast amount of comments but, as
I understand, the chair did not make any remarks either, and I would not mind there being something on the record about the work of this Senate committee. So I ask for it to be listed for consideration on Thursday.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Could we just get the exact report you are referring to.

Senator WATERS: Yes. It is the Finance and Public Administration References Committee report Domestic violence and gender inequality.

Leave granted.

Senator WATERS: I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Consideration

The following committee reports and government responses were considered:

Economics References Committee—Non-conforming building products—Interim report, dated 18 October 2016. Motion to take note of report moved by Senator Bilyk. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.


Membership

The ACTING DEPUTY PRESIDENT (Senator Gallacher) (17:57):

The President has received letters requesting changes in the membership of committees.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:57): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation and References Committees—

Appointed—Participating member: Senator Kitching

Economics Legislation and References Committees—

Appointed—Participating member: Senator Kitching

Education and Employment Legislation and References Committees—

Discharged—Senator O'Neil

Appointed—

Senator Kitching

Participating member: Senator O'Neil
Environment and Communications Legislation Committee—
Appointed—
Substitute member: Senator Paterson to replace Senator Hume for the consideration of the 2016-17 supplementary Budget estimates on 18 November 2016
Participating member: Senator Kitching

Environment and Communications References Committee—
Appointed—
Substitute member: Senator Gallacher to replace Senator Dastyari for the committee’s inquiry into oil or gas production in the Great Australian Bight
Participating members: Senators Dastyari and Kitching

Finance and Public Administration Legislation and References Committees—
Discharged—Senator Farrell
Appointed—
Senator Kitching
Participating member: Senator Farrell

Foreign Affairs, Defence and Trade Legislation Committee—
Appointed—Participating member: Senator Kitching

Foreign Affairs, Defence and Trade References Committee—
Discharged—Senator Dastyari
Appointed—
Senator Kitching
Participating member: Senator Dastyari

Foreign Affairs, Defence and Trade—Joint Standing Committee—
Appointed—Senator Ketter

Legal and Constitutional Affairs Legislation and References Committees—
Appointed—Participating member: Senator Kitching

Rural and Regional Affairs and Transport Legislation and References Committees—
Appointed—Participating member: Senator Kitching

Treaties—Joint Standing Committee—
Discharged—Senator Farrell
Appointed—Senator Dastyari.
Question agreed to.

BILLS

Narcotic Drugs Legislation Amendment Bill 2016
Narcotic Drugs (Licence Charges) Bill 2016

First Reading

Bills received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:58): I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:58): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

NARCOTIC DRUGS LEGISLATION AMENDMENT BILL

The Narcotic Drugs Legislation Amendment Bill contains amendments to protect the integrity of the medicinal cannabis scheme. Cannabis is a crop of significant interest to criminal elements and preventing infiltration of organised crime into the legitimate medicinal cannabis industry must be a priority for the Commonwealth.

As members will well remember, the Narcotic Drugs Act was amended earlier this year to create a regime to allow for the first time the cultivation of cannabis in Australia for the purposes of providing access by Australians to medicinal cannabis. As I said at the time, it is important that we have an effective national licensing system to enable a sustainable supply of safe medicinal cannabis product to Australian patients in the future.

An important element of such a system is ensuring that only those who are ‘fit and proper’ can be granted a licence. The Narcotic Drugs Legislation Amendment Bill contains additional amendments to the Narcotic Drugs Act to protect sensitive law enforcement information used in making licensing decisions so that infiltration by criminal elements into the medicinal cannabis scheme can be prevented.

It is critical to ensure that participants in the medicinal cannabis scheme are of good character and repute. This is an important part of the anti-diversion controls for the scheme and allows the Commonwealth to comply with our obligations under the United Nations Single Convention on Narcotic Drugs, 1961.

The Commonwealth is working with law enforcement agencies from all jurisdictions to put in place arrangements for the sharing of information around the suitability of licence applicants. The Commonwealth accepts that there are limitations to what types of information can be shared through such arrangements, but remains committed to protecting the integrity of the scheme.

The primary purpose of the Narcotic Drugs Legislation Amendment Bill is to put in place protection for information provided by law enforcement agencies used in decision making under the Act. These protections prevent the disclosure of 'sensitive law enforcement information', the improper release of which could have the effect of disrupting criminal investigations, revealing law enforcement intelligence gathering and investigative techniques or exposing the lives of people involved in criminal investigations to risk. Leaks of this type of information can have serious implications for the effectiveness of our law enforcement agencies and so it is in the public interest to prevent this from occurring.

The provisions in the Bill prevent the release of sensitive law enforcement information to the applicant, their lawyers and to the public at large when decisions are being made on whether to grant or revoke licences. The Bill also carries protections against release of this information during related Tribunal and court proceedings. The Bill creates offences with harsh penalties for revealing sensitive law enforcement information, except within some very narrow confines including, for instance, where it
is necessary to allow its use for the proper administration of the Narcotic Drugs Act licensing provisions.

The Bill also includes provisions to allow the Secretary to refuse to grant a licence where the applicant has provided false or misleading information; to provide for the making of standards and guidelines to support the detailed elements of the scheme; to allow for the revocation of licences and permits where applicable standards are not met, and to allow for the supply of cannabis seeds grown in the course of medicinal cannabis research to be supplied to other cultivator licence holders for further propagation purposes.

In February this year, this Parliament supported the introduction of the legislation to enable the legal cultivation of cannabis for medicinal purposes, in order to supply Australian patients and to comply with our international obligations under the Single Convention on Narcotic Drugs. These amendments are necessary so that licences are only issued to persons who will work to meet these objectives. The risk of criminal elements diverting precious medicine to illicit uses is too great – this would be detrimental to the patients who would benefit from the availability of medicinal cannabis and would mean that the Government sanctioned system would be creating another public health risk.

Without this Bill, law enforcement agencies around the country will be reluctant to engage with the Commonwealth in providing the necessary information to manage these risks. These agencies understand and support the need for this cultivation scheme; but they rightly can only participate fully, if doing so will not compromise their own activities.

The cannabis cultivation and production licensing scheme commenced on 30 October 2016. It was intended that these amendments commence at the same time to ensure that scheme endorsed by the Parliament in February can operate effectively. A slight delay in the commencement of these amendments should not adversely affect the operation of the framework. However, any prolonged delay could adversely affect the protection of any sensitive information held or obtained by the Secretary of the Department of Health, or law enforcement agencies may not be willing to provide such information.

NARCOTIC DRUGS (LICENCE CHARGES) BILL 2016

There is no existing medicinal cannabis industry as cannabis is currently an illegal narcotic drug. Allowing for the creation and existence of a legitimate industry provides a benefit to that industry by opening a new market for commercial cultivation, manufacture and sale of medicinal cannabis products.

It is appropriate to seek to recover the direct costs that government incurs in regulating the medicinal cannabis industry through both direct fee recovery and through the imposition of levies.

Direct fee recovery for services specific to a holder of a licence for cultivation, production or manufacture will be implemented by way of regulations made under the Narcotic Drugs Act 1967. The imposition of charges, typically on an annual basis, to capture the indirect costs associated with regulating this industry do, however, require separate legislation, thus the Narcotic Drugs (Licence Charges) Bill.

Charges (or levies) under this Bill include those where costs cannot otherwise reasonably be assigned directly to a particular licence holder. For example, the annual charges will fund risk based inspections across industry. While direct fees will be applied for standard and regular inspections of cannabis cultivation and production facilities (such as those required to provide an initial licence), risk based inspections are typically unannounced and will vary in frequency. They are designed to target licence holders where there are concerns over their compliance with licence conditions, regulations or the legislation.

Through this, all licensees participating in the new cannabis cultivation industry will benefit, as the Department of Health is able to ensure that none gain an advantage that might otherwise eventuate if a company were about to breach the strict conditions placed on its licence; conditions designed to ensure
that Australia prevents the diversion of cannabis to illicit purposes and fulfils its obligations under the Single Convention on Narcotic Drugs, 1961.

This Bill establishes the legal authority to develop regulations that will contain the actual proposed charges. The scheme for the cultivation and production of cannabis for medicinal purposes commenced on 30 October 2016 – it is important that the Government is able to communicate on the full regulatory costs of this scheme as soon as possible in order to allow potential applicants to plan their businesses and complete their applications.

Debate adjourned.

**Offshore Petroleum and Greenhouse Gas Storage Amendment (Petroleum Pools and Other Measures) Bill 2016**

**Register of Foreign Ownership of Agricultural Land Amendment (Water) Bill 2016**

**First Reading**

Bills received from the House of Representatives.

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:59): These bills are being introduced together. After debate on the second reading has been adjourned I shall move a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

**Second Reading**

**Senator SCULLION** (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (18:00): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

SECOND READING SPEECH ON THE INTRODUCTION OF THE OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (PETROLEUM POOLS AND OTHER MEASURES) BILL 2016

This Bill contains important measures making amendments to the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGS Act).

The first measure is in response to a lack of functionality in section 54 of the OPGGS Act, which provides for apportionment of petroleum for revenue purposes between Commonwealth and State/Territory jurisdictions. Section 54 applies where a petroleum pool straddles a jurisdictional boundary, and the relevant Commonwealth and State titles on either side of the boundary are held by the same titleholder.

Petroleum in the seabed and subsoil tends to migrate towards an area of lower pressure, most commonly a producing well, so once production commences in either the Commonwealth or State/Territory jurisdiction, petroleum may move from one jurisdiction into another. Section 54 of the
OPGGS Act is intended to ensure that the respective proportions of petroleum in each jurisdiction are determined before any such migration takes place.

Section 54 provides for the proportion of petroleum that is taken to be recovered on each side of the boundary to be determined by agreement between the titleholder, the Joint Authority and the responsible State Minister. The purpose of the apportionment is to provide certainty for the titleholder and government parties, into the future, as to the revenue regimes that will apply to the petroleum once it is recovered. In the case of a titleholder whose resource straddles a Commonwealth-State boundary, an up-front apportionment between jurisdictional tax and royalty regimes may be a key factor in the titleholder's commercial decision whether to commit to further investment in the project at that point in time.

This was the case with the Browse Joint Venture's decision in 2015 to proceed to the next stage of investment in the Torosa gas field, a very large resource that has the potential to be significant for both the national and Western Australian economies. The apportionment agreement that was negotiated prior to the making of that investment decision cannot come into force until the amendments now proposed are made to section 54 of the OPGGS Act.

Currently, section 54 contemplates that an apportionment agreement relates to a single discrete pool that straddles a boundary. However, this assumes that there is a greater level of knowledge about the particular pool than is often available at the early stages of a project, which is when section 54 agreements are negotiated. As section 54 currently stands, if it subsequently became apparent that the area specified in the apportionment agreement in fact contained multiple petroleum pools, as may be the case when fuller technical information is obtained during the development of the resource, the apportionment agreement would fail. This would negate revenue certainty for both Commonwealth and State governments and commercial certainty for the titleholder. Yet the number of pools involved is not necessarily of any great significance. What matters is that an area of potential migration of petroleum across a boundary is the subject of an agreed apportionment.

The amendments in this Bill will therefore expand section 54 to ensure the ongoing validity of apportionment agreements if it becomes apparent that an agreement relates to an area which in fact contains multiple petroleum pools, rather than a single pool. The amendments also enable the making of a section 54 agreement about a specified part of the seabed that contains a common pool, but where connectivity between jurisdictions is not necessarily confined to the pool. This will ensure greater certainty and flexibility in relation to the development of an apportionment agreement, to support investment decisions. The amendment will apply equally to existing and future agreements.

While these amendments have been prompted by the need to give legal efficacy to the Torosa agreement, they are not limited to the circumstances of that agreement. In the Torosa case, the apportionment followed a change in the maritime boundary between Commonwealth waters and Western Australian coastal and inshore waters. Similar boundary changes are in progress in other offshore areas. These also may result in blocks containing petroleum deposits becoming wholly or partly located in a different jurisdiction and an apportionment agreement may then be required.

This measure underscores this Government's ongoing commitment to investment in the Torosa gas field and the offshore petroleum sector more broadly, and to the facilitation of sufficient certainty in relation to apportionment agreements developed in the future.

Australia's upstream petroleum sector is experiencing significant investment through several new LNG projects which have recently commenced production and further projects under construction which are due to come online over the next year or two.

These new projects combined represent around $200 billion in capital investment and will deliver significant economic and employment benefits over their multi-decade lives.

They will see Australia's LNG exports more than triple from 25 million tonnes per annum in 2014-15 to around 75.2 mtpa in 2020-21 making Australia the world's largest LNG exporter.
Beyond this, intensifying competition, project cost pressures and uncertain market conditions will have implications for further investment in new projects, like the proposed Browse project to which this Bill relates.

The Australian Government is working with industry on a range of reforms and other measures to ensure the ongoing competitiveness of Australia's oil and gas sector in an increasingly global market.

It is critical that the appropriate legislative and regulatory frameworks are in place. This provides a level of certainty and removes any undue impediments to support the significant and long lived investments which characterise Australia's oil and gas sector.

This underlines the importance of this Bill to future investment.

This Bill also makes amendments to ensure there is a clear regulation-making power to support regulations that provide for the refund and remittal of environment plan levies in certain circumstances. The environment plan levy, imposed by the Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003 (Levies Act), allows cost-recovery of environment-related regulatory functions undertaken by the national offshore petroleum regulator, the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). To ensure effective cost-recovery, as well as fair and equitable application of the levy to titleholders, the Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Regulations 2004 (Levies Regulations) provide for the refund and remittal of amounts of the levy in certain circumstances. NOPSEMA has been refunding and remitting amounts of environment plan levies on this basis.

This Bill will insert a regulation-making power in the OPGGS Act to ensure there is a clear legal basis for the regulations to provide for the refund and remittal of environment plan levies. Retrospective commencement of the amendments will ensure the validity of refunds of amounts of environment plan levies previously given to titleholders in good faith and in accordance with the Levies Regulations.

A further amendment made by this Bill will clarify that regulations may provide for remittal and refund of safety case levies imposed in relation to offshore petroleum facilities under the Levies Act. Currently, the relevant regulation-making power in the OPGGS Act refers only to remittal of safety case levies which can potentially be interpreted in a narrow way. This amendment will provide clarity and fully deliver on policy intent of the Australian Government that the offshore industry is not paying levies for regulatory services that it is not receiving.

I commend this Bill to the Chamber.

REGISTER OF FOREIGN OWNERSHIP OF AGRICULTURAL LAND AMENDMENT (WATER) BILL 2016
SECOND READING SPEECH

This Bill delivers on the Coalition Government's commitment to establish a national register of foreign interests in Australian water entitlements.

This Bill, the Register of Foreign Ownership of Agricultural Land Amendment (Water) Bill 2016, amends the Register of Foreign Ownership of Agricultural Land Act 2015 to require foreign persons to register certain water entitlements and rights with the Australian Taxation Office.

The Bill builds on the significant reforms the Government undertook last year to modernise and strengthen Australia's foreign investment framework. Those reforms represented the most significant overhaul of the Foreign Acquisitions and Takeovers Act 1975 since its introduction 40 years ago.

As a large, resource-rich country with relatively high demand for capital, Australia has relied on foreign investment to meet the shortfall of domestic savings against domestic investment needs for over two centuries.

Foreign investment has enabled Australians to enjoy higher rates of economic growth, employment and a higher standard of living than could have been achieved from domestic savings alone.
Foreign investment has other benefits beyond injecting new capital. By bringing in new businesses with connections in different markets, it opens up additional export opportunities, boosting our overall export performance.

While acknowledging the value and contribution of foreign investment to our national prosperity, it is important to strike a balance between maintaining an attractive and welcoming environment for foreign capital on the one hand, and maintaining community confidence in the foreign investment regime.

Australians must have confidence that there are clear rules that protect the national interest and that these rules are being enforced.

That is why our Government has acted to strengthen the controls we place on foreign investment and are following through with improved enforcement to pursue those who break the rules.

As part of last year’s reforms, the Government introduced the Foreign Ownership of Agricultural Land Register. This was in response to increasing community concerns about the level of foreign investment in Australia's agricultural sector.

The Agricultural Land Register and the first report, which I announced the release of last month, has for the first time given the Government and community a picture of the overall levels of foreign ownership of Australian agricultural land.

Similar to the Agricultural Land Register, the proposed Water Register will provide, for the first time, a comprehensive and reliable picture of the level of foreign investment in Australian water entitlements which meet the definition of registrable water entitlement or contractual water right.

The Bill requires that from 1 July 2017, foreign persons who hold certain water entitlements and rights must notify the ATO of their existing holdings and any subsequent acquisitions. The Government will be able to establish a baseline picture of the level of foreign ownership as well as monitor changing trends over time.

The Bill requires the Commissioner of Taxation to administer the Register and provide a report for tabling in Parliament each year. The report on the Water Register will contain aggregated data about the water entitlements and rights that are foreign-owned by volume, state and territory, water source and country of investor.

The Commissioner of Taxation is also required to publish aggregated statistical information derived from the Water Register on a website, to provide to the Australian people an understanding for the first time of the foreign interests in Australia’s water entitlements.

Regardless of the debate about what level of foreign ownership is ideal, the benefit of the Water Register will be to provide greater transparency and understanding of the actual levels of foreign ownership in water.

Full details of the measure are contained in the explanatory memorandum.

Debate adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Joint Standing Committee on Treaties

Joint Standing Committee on Northern Australia

Membership

Message received from the House of Representatives informing the Senate of changes in membership of the following committees: Joint Standing Committee on Treaties and Joint Standing Committee on Northern Australia.
I move:

That the Senate adopt the recommendations of the first report of 2016 of the Procedure Committee, relating to ministerial statements and caring for infants.

I want to go through a couple of the key elements of the report. First is that the first recommendation is to adopt the temporary orders on ministerial statements as a permanent standing order. That has been working really well in practice, and the committee certainly believes it enhances the right of senators to hold ministers to account, and so we, the committee, recommend that we adopt that. And, if adopted, it will certainly add to the accountability toolkit.

The second recommendation is a recognition that the Senate as a workplace is changing and it also picks up the fact that many of our senators are now of a younger age and from time to time will have extended parental leave responsibilities, and so what the committee is proposing is that the standing order 175 be amended to allow senators briefly to care for infants in the chamber at the discretion of the President. And, provided that proceedings are not disrupted, this provision would allow for infants—would add to the current provision where we have previously enabled infants to be breastfed in the chamber and adds to the caring component of an infant. And so we believe as a committee this is likely to be used in very rare circumstances where parents have no other option but to bring an infant in with them. So the example would be that they may come in briefly for a division.

And of course, as I mentioned, we have younger senators being elected, and it will provide some flexibility in circumstances where the committee also concluded that any system of a proxy rather than bringing an infant in would be unconstitutional and therefore was not a feasible alternative. But of course we understand that parliaments are changing workplaces. They are also traditional workplaces, and some senators may feel uncomfortable about the proposed change, and others may wonder how it will work in practice. And so my suggestion is that we, obviously, apply common sense, which we have managed to do as a Senate for a very long time, and we will develop our practices over time. And certainly I think it would be useful if we would develop guidance notes for chairs, and I would propose that we work with the President and the temporary chairs to develop what we consider to be a consistent and sensible approach. Certainly at our meeting a couple of weeks ago the temporary chairs felt that they were working well as a group and that we were able to be consistent in our practice. Parliaments have their own cultures and traditions, and we would hope that we could implement this change and accommodate everyone in the Senate.

We think we can be sensible, and that we can maintain the dignity and reputation of the Senate as a workplace of the national legislature. If for any reason there are issues with the new rules, the Procedure Committee can also be asked to look at those and to test the strength of those rules. I commend the recommendations to the Senate.

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (18:05): I rise to make a brief contribution on that part of the Procedure Committee's report which relates to the caring for infants. Can I just start by praising the Procedure Committee for
considering this issue. I wrote to the committee earlier this year and asked for this to be put on their agenda. I am very pleased that we have now seen the result today, whereby we are updating our standing orders such that new parents, be they mums or dads, can now briefly have care of their infant in the chamber. Obviously, this would be when there is no better option available—it is not like the chamber is really fun for kids. We can now briefly have that option, at the discretion of the President, of course, when no disturbance is caused.

I want to thank the Procedure Committee for bringing this chamber closer to the 21st century. I will note that we are still sadly a little out of step with the House. The reason I raised this issue earlier in February was that the Senate has had a long tradition of allowing breastfeeding in the chamber, a tradition that I strongly support, but not all of our state parliaments share those good pro-bonding pro-female rules. We have had that long tradition, but earlier this year the House actually updated their rules to be even more family-friendly than us here in the red chamber.

Clearly, there is a bit of rivalry between the two chambers. I thought it unfair that members in that place be allowed to have care of an infant while the Senate was still restricted to the rules that we must be breastfeeding our infant at the time. Hence the suggestion that we modernise those rules. Again, I congratulate the Procedure Committee for looking at this rule. But I do note that I thought it was a little disappointing that we saw fit to put some fetters on that rule, such that it was a discretionary decision of the President, that it was only for a brief time and that it was only where no disturbance was caused. I am sure that those parameters will be adhered to, but I thought it was perhaps a little disappointing that they needed to be spelled out, given that the House rules were a bit more generous in that regard and said simply that a member may have care of an infant in the chamber.

But the 21st century is here, and we are slowly getting closer to it in this chamber. I instigated this process before I fell pregnant. So it was not motivated by self-interest; it was motivated by a desire to make sure that this place is more family-friendly so that we can get more young women representing their states here in this chamber.

We are not doing so well in terms of gender representation. Overall, the parliament is at about 30 per cent female, and here in the Senate we are quite close to that as well. It is better than it was, but it is not quite as good as it needs to be. This parliament has gone backwards with the recent loss of some female senators on the government side who were then replaced by men. So we are actually heading backwards in this most recent term of parliament. We need to arrest that and turn it around.

Part of the reason we need to do that—

Senator Urquhart: The government, not us.

Senator WATERS: Yes, they are the government. You guys are not there yet. You will have to do better to get there. Good luck. Where was I? We are getting there in terms of gender representation but we still have a long way to go. This is one step along the way.

I want to say that this is an important change. It is important to make sure that parliament is considered a viable option for young women as a career choice. It should not be something they think they have to delay until after their child-rearing years.

Importantly, I want to stress that this change will also be able to be used by male members of parliament who have infants. We know that the gender workforce participation of women
is lower than that of men. We know there is a huge gender pay gap and we also know that women do far more unpaid labour than men. Part of the way we change all of that and get better equity in the workforce for women is by men stepping up and doing more of that unpaid labour in the home—and child care, whether it is in the home or the workplace.

The importance, I thought, of this amendment is that it allows both new mothers and new fathers who are in parliament to have care of their infant. That helps break down those rigid stereotypes that say it is up to the woman to stay home and look after the children. It is those kinds of outdated notions that we need to challenge. We need to make our workplaces more flexible, allow fathers to have that wonderful bonding time with their children as well, which will enable women to do more in the workplace as we share those tasks at home more equally.

This is a really pleasing development. I thank everyone involved. I want to acknowledge that the House still has better rules than we do. Hopefully, over time we can revisit this and make sure that senators are not disadvantaged in comparison with members of parliament. But whilst we are setting an example here for other workplaces, clearly we need family friendly and flexible workplace arrangements for all workplaces, not just for parliaments. If we are truly to have gender equality and truly to address the gender pay gap, we need to make sure that all workplaces have flexible working arrangements available to parents, be they men or women, and we need to make sure that we have affordable and accessible child care, something that we sadly still do not have in this country. We need to make sure that the gender pay gap is eliminated. There is no need for a gender pay gap. And we need to make sure that there is a better distribution of unpaid work between men and women.

I will finish by saying that this is an issue that is obviously very close to my heart. It is an issue that has arisen for the Greens before. I pay tribute to Senator Hanson-Young, who faced the brunt of the standing orders several years ago with her young daughter, who was brought into the chamber when the bells rang unexpectedly and there was no other childcare option. I understand that Senator Hanson-Young's daughter was sitting quietly and not distracting anyone, but because that was in breach of the standing orders—I think it was then senator Barnaby Joyce who took it upon himself to be the champion of the standing orders—it saw Cora being dragged out of the chamber. I am pleased to see that we can move on from that ridiculous situation and that we now have some standing orders which will allow fathers or mothers who are senators to bring their infants into the chamber briefly at the discretion of the President when clearly there is no better childcare alternative.

I will conclude my remarks by saying thank you to all involved. We still have a lot of work to do, but this is an important step in making our workplace more gender representative and in attracting more young women into parliament. We still have a lot to do in other workplaces and, indeed, in the representation of members in this place, as well.

**Senator Hanson-Young** (South Australia) (18:12): I rise to briefly add my comments to the report of the Procedure Committee. I am the senator who has experienced the consequences of bringing an infant into the chamber. It was in 2008 that my young daughter, Cora, was here for a division on a Thursday afternoon, sitting quietly, until she was asked to be removed. Those of you who were here at the time would remember what a kerfuffle it caused. I tell the story often at dinner parties, and my daughter says: 'Stop, mum! Stop! One day I want to be able to go back into that chamber and feel welcomed.' I think that now we
have changed these rules I might put her here in the advisers box the next time she is in Canberra and she can see that things do move on.

Cora is the symbol in my life of how this place needs to become more family friendly if we are to encourage more young women into politics. I acknowledge that these rules, as accepted by the Procedure Committee and therefore by this chamber, are very similar to the changes that were advocated for following the incident with my daughter by former senator Bob Brown. I thank him for his leadership on this issue. He was there for me on the day. He stood by me every step of the way throughout the debate. He proudly refers to that incident with Cora as 'the incident with the little stranger'. I think that a lot of respect and remembrance of his leadership, particularly of encouraging young women into this place and the consequences for families across the board, should be recognised as we pass this report here today. Thank you.

Question agreed to.

BILLS

Counter-Terrorism Legislation Amendment Bill (No. 1) 2016

Second Reading

Consideration resumed of the motion:
That this bill be now read a second time.

Senator XENOPHON (South Australia) (18:15): I continue my remarks on the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016.

Moreover, the evidence presented may well be derived solely from information provided by foreign intelligence agencies, without our own security and intelligence having completed their own investigations or analysis. No doubt the government is thinking of the need to act quickly in response to intelligence, especially highly classified communications or signals intelligence obtained from Australia's primary intelligence partners, the so-called 'Five Eyes' of the United States, the United Kingdom, Canada and New Zealand. There may well be cases where urgent action is required. It is also the case, however, that signals intelligence often requires careful analysis, understanding of context and, frequently, extensive additional research.

Moreover, intelligence from foreign sources is not only from our Five Eyes partners. Australia's intelligence agencies have broad liaison relationships, including with some foreign intelligence and security services, some of whom have reputations that are, at best, mixed. The government keeps the details of those relationships highly classified, but it is not unreasonable to consider the possibility that a person might be subject to an application for a control order on the basis of information not from the British Security Service or the US Central Intelligence Agency, but from, for instance, the Jordanian General Intelligence Directorate or Pakistan's notorious Inter-Services Intelligence. The potential for injustice similar to that involved in the Haneef case is clear. However, we will never know the story because the whole process will be secret.

More broadly, the implementation of this regime—the arguments and decisions for imposing control orders—will be a further step in the development of a body of secret legal opinion and precedent. Courts will take secret decisions on the basis of secret information;
precedents will be set. Secret courts and secret law are never a desirable development. Senators should be very clear in their understanding of what is proposed here.

While the Law Council of Australia has welcomed the inclusion of the special advocate scheme as a measure that will mitigate the procedural unfairness identified in the original bill—and I welcome it—it has also recommended an immediate review by the Parliamentary Joint Committee on Intelligence and Security. I note that there are no crossbenchers on that committee.

There are certainly very significant issues raised by these provisions of the bill. To take but one example in relation to legal professional privilege in communications between the special advocate and the person subject to a control order: the court will be responsible for on-forwarding communications between the special advocate and the party, with a responsibility to ensure that such communications do not prejudice national security. Significantly, there is provision for the court to consult with the Attorney-General or his or her representative in determining whether a communication may prejudice national security. The Attorney-General and his representatives will thus be privy to communications between the special advocates and persons subject to a control order. Significantly, while special advocates will be appointed by the courts, it is the executive that will prescribe by regulation the requirements a person must meet in order to be appointed as a special advocate.

The Attorney-General has acknowledged that while the bill creates the architecture for a special advocate role:

… some time will be needed for the supporting regulations and administrative arrangements to be established for the regime to work.

Given the obvious importance of the special advocate role in what is proposed, it would be much better if these arrangements were incorporated within the bill and the entire proposal subject to further parliamentary committee scrutiny. These are matters that ought quite reasonably to be asked of the Attorney in the committee stage.

The other provisions I wish to focus on now are those relating to the secrecy provisions of section 35P of the Australian Security Intelligence Organisation Act 1979, which implement the government's response to recommendations made by the Independent National Security Legislation Monitor. Schedule 18 broadly implements the recommendations made by the Independent National Security Legislation Monitor in his report on section 35P of the ASIO Act, which was a scathing report on section 35P.

That report arose from the previous failure of the parliament and the Parliamentary Joint Committee on Intelligence Services in considering the government's original proposals for draconian secrecy provisions relating to the conduct of special intelligence operations by ASIO. I voted against those provisions. They were something the joint committee said ought to be passed, and they were passed by the parliament. But that change was subsequently referred to the Independent National Security Legislation Monitor, the Hon. Roger Giles AO QC, a former Federal Court judge and eminent lawyer and jurist. Quite frankly, I am sad to see him go. He has retired or resigned from that position.

Professor Clinton Fernandes, a former army intelligence officer, now a professor of the University of New South Wales at the Australian Defence Force Academy, and I made a joint submission to that inquiry. No other members of parliament made a submission at that time.
Our main concern was the chilling effect that the new law would have on scrutiny of ASIO's operations, especially through media reporting. After conducting his inquiry, Mr Giles observed that section 35P:

... creates uncertainty as to what may be published about the activities of ASIO without fear of prosecution. The so-called chilling effect of that uncertainty is exacerbated because it also applies in relation to disclosures made to editors for the purpose of discussion before publication.

Mr Giles went on to say:

Journalists are prohibited from publishing anywhere at any time any information relating to an SIO, regardless of whether it has any, or any continuing, operational significance and even if it discloses reprehensible conduct by ASIO insiders.

That is quite chilling. The underlying issues were summed up by the INSLM as follows:

The basic problem with section 35P is that it does not distinguish between journalists and others (outsiders) and ASIO insiders. The application in this manner of broad secrecy prohibitions to outsiders is not satisfactorily justified, including by precedents in Australia or elsewhere.

Mr Giles also made this point:

Section 35P is arguably invalid on the basis that it infringes the constitutional protection of freedom of political communication. Section 35P is also arguably inconsistent with article 19 of the International Covenant on Civil and Political Rights and so not in accordance with Australia's international obligations.

The fact that that legislation got a tick of approval from the PJCIS and enjoyed bipartisan support from the coalition government and the Labor opposition tells me that parliamentary scrutiny of new counterterrorism and national security legislation needs to be much more rigorous and robust.

We now have before us the government's effort to put things right on the basis of recommendations made by the INSLM, Mr Giles. These amendments aim to introduce new protections to section 35P by establishing two separate offence regimes, with one regime to apply to persons who came to the knowledge or into the possession of the relevant information in their capacity as an entrusted person and a separate regime for outsiders. Under these new regimes the disclosure of information made by members of the community, except those who received information in their capacity as an entrusted person, will only constitute an offence if the information will endanger the health or safety of a person or prejudice the effective conduct of a special intelligence operation. The amendments will also establish a defence of prior publication available only to persons who did not receive the relevant information in their capacity as an entrusted person. This bill reflects the INSLM's view that it is appropriate to retain disclosure offences, and that the special intelligence operation scheme is both necessary and proportionate.

The government argues that its agreement to implement all of the INSLM's recommendations regarding section 35P demonstrates its commitment to ensuring that we are achieving 'the right balance between the public interest and our national security requirements'. I agree that the amendments within the present bill are an improvement on the provisions of section 35P that were previously passed by the parliament. However, I do make the point that they are measures of considerable complexity and some ambiguity. Some significant stakeholders have certainly expressed the view that the INSLM's recommendations, and by implication the provisions of this bill, do not go far enough to
provide certainty to journalists and others to know what information may be published without exposure to criminal liability or to protect journalists and whistleblowers who might seek to disclose allegations of wrongdoing in the course of a special intelligence operation. These are matters that I hope to raise with the Attorney in the committee stage. For example Paul Murphy, CEO of the Media, Entertainment and Arts Alliance, stated:

The Monitor’s report, while welcome, has not changed the fundamental intent of section 35P which is to intimidate whistleblowers and journalists.

These amendments are certainly worthy of further close and critical scrutiny, if not by the PJCIS then by the Senate Legal and Constitutional Affairs Legislation Committee. That would certainly allow media organisations, journalists, legal experts and other interested parties to make detailed submissions in relation to the precise amendments that are before the Senate now.

There are many other complex and potentially controversial provisions within this bill. While some have been reviewed by the PJCIS, others have not. If we are serious about the balance between security and accountability, between secrecy and scrutiny of our intelligence legislation, there needs to be further debate and review. This is a duty that the parliament, and especially the Senate, needs to commit itself to with every new piece of counterterrorism and national security legislation. With each of these bills we are asked to strike the right balance. With each of them we are asked to trade off hard-won rights and long-established principles in favour of public safety and security. I do not think anyone doubts the importance of public safety. The threat of terrorism is real and persistent, but that does not diminish our responsibility to look at every measure with objectivity, scepticism and a determination to not lightly deviate from fundamental principles upon which our legal system and democracy rest.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:26): As my colleague Senator Nick McKim has already indicated, the Greens will be strongly opposing the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016, just as we have strongly opposed most of the erosions of basic freedoms that have been pushed through this parliament and previous parliaments over the course of the last 15 years. One of the most noxious elements of the current bill is that it purports to extend the operation of control orders to children as young as 14. For the people who may be listening, control orders are the instruments which allow a court to make an order, on the evidence of the Federal Police, that severely restricts the movement and the freedoms of an individual.

There has been much debate about control orders in the past. The former Independent National Security Legislation Monitor, Bret Walker SC, said that there is no need at all for control orders—that is, control orders serve no purpose. Mr Walker pointed out that existing provisions are more than sufficient to achieve the purpose of keeping the community safe from possible acts of terrorism and other violence—that is, his belief was that the same could be achieved through existing provisions, existing laws. If there is any evidence that would justify the restriction of somebody's freedom on the basis that they are planning to commit an act of violence, then that person should be placed under conditions of bail or, indeed, remanded in custody. That is our view and that it is consistent with the view of Bret Walker SC.

Senator Xenophon just referred to the current Independent National Security Legislation Monitor, Mr Roger Gyles QC, who was a former Court of Appeal judge in New South Wales.
He was also of the view that much stricter safeguards in relation to control orders are warranted. He has made it very clear that, if control orders are to exist, we need much stricter safeguards. So here we have two fine minds, two esteemed legal professionals, who have made it very clear that they see no case for expanding control orders and yet here we are in this parliament, after almost 15 years of legislation that has opposed very basic freedoms, with a government proposing to apply control orders to 14-year-old children. The Attorney-General's claim is that this measure is necessary because adults are now using 14- and 15-year-old children to get around the control order regime as it already applies to adults, but of course using that logic begs the question: what happens when this bill passes and adults work out that they can do what they were doing previously using 12- and 13-year-old children to get around control orders, or perhaps younger children? Should we apply them to 10-year-olds or eight-year-olds? Are we then to look forward to yet another bill in the future which extends control orders to children barely out of primary school?

In its submission to the inquiry of the Parliamentary Joint Committee on Intelligence and Security into the previous version of this bill, the Australian Human Rights Commission—and we do have respect for the Australian Human Rights Commission, unlike some others in this place—said:

The Commission is not aware of what evidence there is to support these claims—that is, about lowering the age for control orders—

... However, they are, on their own, insufficient to demonstrate that allowing control orders to be granted for children between 14 and 15 would be necessary and proportionate …

It is a view that was echoed by a number of other organisations in their submissions to the same inquiry. We had the Muslim Legal Network's submission, which again said that on their own they are insufficient to demonstrate that allowing control orders to be granted for children between 14 and 15 would be necessary and proportionate.

The unfortunate reality is that this parliament has waved through far too many restrictions on basic freedoms and individual liberties. If we reflect on how a control order works in practice, we can see just how profound the impact is with the restrictions of individuals. Suspects who are subject to control orders might need to wear tracking devices. They might face curfews. They might be restricted from using phones and from communicating with particular people. They might be restricted from using the internet. All of this is in the face of suspects sometimes being denied knowing what the evidence is against them. They may not in fact be facing any criminal charge. These are people who are rounded up and sometimes not told what evidence the police may have against them. They may not be facing any criminal charge, yet they are faced with significant restrictions on individual liberties. Of course, any breach of a control order carries a maximum penalty of five years imprisonment. You have to ask yourself: at what point does a democracy look less like a democracy and more like a police state?

I was having an interesting conversation with some members of the Muslim community, and a young man who migrated to Australia from the former Yugoslavia spoke about the nation that he knew and that he grew up in and how slowly the country he grew up in and loved changed with further restrictions on individual liberties and went from being a democracy to essentially a police state. His view was that many of these changes happen
incrementally and chip away over time and, at some point, the nation you once knew becomes
unrecognisable.

We have seen over the past 15 years an incremental chipping away at our basic freedoms
and liberties. I say 'incremental' for most of these changes, but occasionally there are
extraordinary leaps and the changes are significant. It is for that reason that Australia is now
commonly recognised amongst developed countries as having some of the most restrictive
anti-terrorism legislation in the democratic world.

I have said this on a number of occasions, as have many others: you do not remove
freedom in order to protect it. That is not how you protect individual freedom. Removing
freedom is not the way to protect it. You cannot protect liberty by locating more of it behind a
police line. We have to remember that if you are fighting a real threat—and, of course, we
acknowledge that there are significant threats—you do not do it by becoming more like the
threat that you are facing. Of course we should be taking sensible, evidence based actions to
prevent acts of terrorism and violence—no question. We understand that the threat is real. But
the key here is that the response must be both sensible and evidence based. It needs to be
proportionate and measured.

The tendency, sadly, of this parliament has been to simply sign off on more and more
restrictions on individual freedoms, often on the vague justification of national security. It is a
great shame that there has not been a full and frank debate in this place about what we are
giving up. There has not been the scrutiny that is required of this sort of legislation, largely
because we have seen both a government and an opposition that are too afraid of being seen
as soft on terrorism to ensure that we have scrutiny of legislation that removes some of the
most basic individual freedoms and liberties. Yes, there is an issue that needs to be addressed.
We are seeing young people being radicalised and we are seeing people who are engaged in
violent activities. Often they are groomed through the internet, sometimes via a particular
self-proclaimed religious leader. They are recruited into a hateful ideology, the ideology of
ISIS and many other extreme groups. We know that these are toxic ideologies and of course
we should be doing everything in our power to prevent their reach to our young people. But
people who work in this area, who are experts in the field of youth radicalisation and this
extremist ideology, say time and time again that the very worst thing that the Australian state
can do is to buy into the logic of fear, division and marginalisation. Unfortunately, that is
what bills such as this one do. Again, let's remember what part of this legislation seeks to
achieve. A 14-year-old child can be rounded up, locked up and have their freedoms restricted,
all without charge, and for a breach face imprisonment for five years. It is social cohesion—
not division, not demonisation and control and, more and more, not just surveillance of
particular individuals—that is going to help keep our community safe.

We should acknowledge that it is Australia's very successful and quite unique model of
multiculturalism—our celebration of cultural differences within our diverse Australian
nation—which represents our greatest strength and our real protection from some of the acts
that we have seen in other parts of the world. People of different cultures working together,
going to school together, learning from each other, building trust within communities and
creating families together are Australia's true strength and our best defence against this
poisonous ideology. The most toxic effect of this bill and other, similar bills is that they do
the opposite. They drive more fear and more division within our community. All you have to
do is spend five minutes talking to members of the community who practise the Muslim faith to know exactly how they are feeling. They feel that they have been isolated, marginalised and demonised and they see division being sewn within their community.

Let's be clear about the impact of this legislation—I accept that it is not the intention but it is the consequence. Again, speaking to members of the Muslim community, when you hear young people say, 'We are afraid of putting deep roots into our community because we worry that at some point in the future we will have the authorities knocking on our door,' you know just how deep that fear is. Let's not beat around the bush here. There are some communities in Australia who will cop the brunt of this country's ever-expanding national security enterprise. As I said, I do not think that is the intention of the government or indeed the opposition when they put up and vote for bills like this, but everyone of us who votes in this chamber must be aware of the implications of our vote: that we are making our community less safe rather than more safe. Regardless of what we intend, we have to be aware that when we support bills like this we are ensuring that particular minority communities in Australia will be targeted even more, and that does not support our efforts at enhancing social cohesion.

It is for those reasons that the Greens are voting against this bill. We do want to keep our communities safe, but we do not believe this is the vehicle to do that. We do not agree that there is a basis for this legislation. We are deeply concerned at the continual erosion of our basic freedoms and liberties, because, when we give up those freedoms and liberties, those people with whom we are fighting—they win. We believe that ultimately this legislation will drive a deeper wedge between members of the community who are concerned about the impacts of terrorism and those members of the community who will be targeted by this legislation. We understand that Australia's diversity is our great strength. We understand that people of different cultures coming together, working together is how we combat some of the threats that Australia faces.

The Greens will be voting against the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016 and we urge the government and, indeed, the Labor Party to rethink their position on this bill.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (18:41): I rise to speak in favour of the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016. This bill was first introduced into the last parliament in November 2015 and was immediately referred, of course, to the Parliamentary Joint Committee on Intelligence and Security. The joint committee held public hearings and received submissions in December 2015 before reporting in February 2016, and the parliament was, of course, prorogued before either house had a chance to consider the bill.

Before turning to the specific provisions of the bill I wanted to take a moment to discuss the importance of this oversight process provided by the parliamentary joint committee and to touch on Labor's approach to security legislation in general. Since the September 11 attacks in 2001, the Australian parliament has debated and enacted 65 pieces of anti-terrorism legislation. Taken together, they constitute substantial changes to the architecture of Australia's security legislation framework. These changes have been made in the face of emerging and serious threats to our national security. These threats are not abstract and they are not distant. Australians have been affected by terror plots both at home and abroad, and
the work of our law enforcement and security agencies has prevented Australians from being affected by many more.

Earlier this year we understood that there were more than 100 Australians fighting or engaged with terrorist groups in Iraq and Syria and many more providing support or facilitation from Australia. Australia's national terror threat is currently set at 'probable'. This means there is credible intelligence indicating that individuals or groups have both the intent and the capability to conduct an attack. It is incumbent upon us to respond properly to this threat. As a parliament we have no more important responsibility than to do what is appropriate and necessary in protecting the safety of the Australian people. However, we will not meet this demand that is made of us by simply voting in favour of security legislation in the form in which the government initially proposes it. Parliament must endeavour to find a balance between protecting the safety of our community on the one hand and maintaining the values and the freedoms of our community on the other. The Parliamentary Joint Committee on Intelligence and Security plays an important role in finding this balance.

I was not a member of the joint committee when it considered the present bill, but it is worth turning to what the chair of the joint committee said in the other place when tabling the report on the bill. He said:

I commend the bipartisanship of the committee, but 'bipartisanship' should not be taken to mean that we all sit there and agree with each other on every matter that we have discussed. I can say without breaching any provisions of the Intelligence Services Act that on many occasions there has been much robust conversation with respect to that, but that is the job of our committee—a committee behind closed doors that operates on behalf of the Australian people.

Indeed, in my short time on the committee this has been my experience. As a party, Labor seek to approach security legislation from the position of bipartisanship. We believe that our national security apparatus must be properly equipped to protect Australians from terrorism and this means providing security agencies and institutions with the resources and powers that they need to do this. It is, however, worth repeating what Senator Collins said earlier in the debate today:

...our bipartisan assistance to the government on matters of national security is never a blank cheque. Bipartisanship on national security means that we will support necessary and effective measures to address threats to our nation ...

The converse is also true. Ultimately, as a parliament we abrogate our responsibilities if we knowingly support measures that burden people's rights but are not necessary or effective in addressing threats to our nation. The oversight provided by the Parliamentary Joint Committee on Intelligence and Security is an important bulwark against this, and, for reasons I will go on to explain later in the speech, the present bill provides an example of how the joint committee can work together to make sure that security legislation is more appropriate, more properly targeted and more proportional.

As I noted before, however, the Australian parliament has debated and enacted 65 pieces of anti-terrorism legislation since 2001, and with each additional piece of security legislation we are providing greater and further powers to our national security agencies and institutions. Our agencies cannot function properly without the trust and confidence of the public, and nor should they be allowed to. Reliable, effective external oversight is essential in ensuring this. As the powers of the national security agencies grow, so too does the importance of oversight.
This is not something that can be left to the courts. A judicial system of course plays an important role in policing the boundaries of executive activity; however, Australians would not, and should not, be satisfied with merely knowing that there is an absence of illegality in the cases that happen to come before the courts. Parliament also plays an important role in ensuring that legislation is appropriate and proportionate.

This is not enough, however. Australians deserve to know that their national security agencies and institutions are effectively, efficiently and appropriately serving the purpose for which they were created, and the joint committee is the forum in the parliament that is best placed to do this job. I quote again from the tabling speech in the other place by the Chair of the PJCIS:

Fundamentally I think the Australian people need this committee to have the capacity to inquire more diligently and more thoroughly into matters that it should be tasked to look at. That would include, potentially, the capacity for the committee to have self-referencing power …

It is for this reason that I commend to this chamber the Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015, which is sponsored by Senator Wong. As noted in the second reading speech for that bill:

The maintenance of public security in the current security environment does require enhanced powers for the agencies charged with this responsibility. However, the protection of our hard-won democratic freedoms equally demands enhanced oversight of the exercise of these powers.

The PJCIS Amendment Bill 2015 provides for enhanced oversight by, amongst other things, removing the constraints on membership of the committee and allowing greater flexibility in determining PJCIS membership; providing for the PJCIS to conduct own-motion inquiries after consultation with the responsible minister; authorising the Independent National Security Legislation Monitor to provide the PJCIS with a copy of any report on a matter referred to it by the committee; requiring the Inspector-General of Intelligence and Security to give the PJCIS a copy of any report provided to the Prime Minister or a minister within three months; giving the PJCIS the function of conducting pre-sunset reviews of legislation that contain sunset provisions; and adding the Independent National Security Legislation Monitor and the national security adviser to officers who are able to be consulted by the PJCIS. This is a good bill that will provide necessary and appropriate powers to an important parliamentary body.

I will now return to the bill before us, and I thank the chamber for their indulgence. As I mentioned earlier, the bill provides an example of how the joint committee works in a bipartisan way to make sure that security legislation is more appropriate, more properly targeted and more proportional. The bill that is before the chamber now is not the same as the bill that was introduced in the last parliament. The 2015 bill was referred to the joint committee immediately upon being introduced, and the committee received 17 submissions. The committee made 21 recommendations, subject to which it recommended that the bill be passed. These recommendations have resulted in improvements to the bill which is now before the chamber.

The bill extends the control order regime to young offenders. The committee made a number of recommendations about these provisions. The committee recommended that the bill require the best interest of the child to be a primary consideration. This ensures that the bill is consistent with Australia's obligations under the United Nations Convention on the Rights of the Child. The bill now contains provisions to this effect. The committee also
recommended that the bill be amended to expressly provide that a young person has the right to legal representation in control order proceedings. The bill now contains provisions to this effect. As Senator Collins said earlier in this debate, Labor pushed for these amendments in order to make sure that the legislation properly balanced the rights of young people who are the subject of control order proceedings with the safety of the Australian community as a whole.

The committee also made recommendations about the creation of a new offence of 'advocating genocide.' The creation of this offence is in line with the United Nations Convention on the Prevention and Punishment of the Crime of Genocide. The joint committee recommended that a fault element of 'recklessness' be included as there were concerns raised by submitters that the offence was drafted too broadly. Specifically, submitters raised concerns that the offence as drafted could have the unintended consequence of limiting reporting of terrorism. The 2016 bill now includes the fault element as recommended.

As Senator Collins set out, there are a number of other recommendations made by the committee, which Labor has pushed to have as amendments incorporated into the bill. Our commitment to bipartisanship does not mean that we offer the government a blank cheque on security legislation—nor, for that matter, do the government's own parliamentarians. In this case, as in many others, the Parliamentary Joint Committee on Security and Intelligence provides an important mechanism for the parliament as a whole to provide proper scrutiny of security legislation, and to make sure it operates as intended and protects our community without unnecessarily burdening individuals. I hope in due course that we will have another opportunity in this place to further consider Senator Wong's private member's bill to enhance the committee's ability to perform this oversight function.

Senator LEYONHJELM (New South Wales) (18:52): I oppose this bill—the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016—because it significantly, permanently and unjustifiably expands the power of the Commonwealth government to hold people without charge.

The Commonwealth government introduced preventative detention orders in 2005 to authorise the holding of a person without charge for 48 hours. The power can be used in two circumstances. First, the power can be used if detention is reasonably necessary to preserve evidence of a terrorist act that occurred in the last 28 days. Second, the power can be used if detention is reasonably necessary to substantially assist in preventing a terrorist act, on the proviso that the terrorist act 'is imminent and is expected to occur, in any event, at some time in the next 14 days'. The wisdom of allowing preventative detention orders in this second circumstance is debatable, given that authorities have significant power to engage in surveillance, authorities with a skerrick of evidence can detain people by charging them, and detention without charge is a violation of a fundamental right.

But at least this preventative detention is detention—it can only occur on the proviso that a terrorist act is imminent and is expected to occur. Unfortunately, the government now wants to get rid of this proviso. In its place, the government will simply require that relevant officers 'suspect on reasonable grounds that a terrorist act is capable of being carried out and could occur within the next 14 days'. Note the replacement of 'is' with 'suspect'. I can suspect that someone is out to get me, but that does not mean there is someone out to get me. Note also the replacement of the word 'imminent' with 'could'. The difference between these words is as
stark as the difference between winning the lottery and merely buying a lotto ticket. If you win the lottery, a massive boost to your wealth is imminent. If you merely buy a lotto ticket then it is indeed the case that a massive boost to your wealth could occur, but it is far from likely and definitely not certain.

The government has not explained why it needs a power to detain people without charge when a terrorist act is not imminent. Instead it has the gall to say that its bill is merely clarifying the law rather than changing it. We should see the pattern here. First, the scaremongers persuade the parliament to enact preventative detention powers by citing all the qualifications and limitations on those powers. Then, with each amendment, these qualifications and limitations get pared back—all in the name of clarification. There is little public sympathy for people who could find themselves in preventative detention, because it is common to assume that police would only ever choose to detain bad guys and would never make mistakes about who is a bad guy and who is not. So when the police asked for beefed up preventative detention powers I can understand why the coalition agreed, and Labor has not resisted. But it is a dereliction of their duty to the public nonetheless.

There are many other retrograde provisions in this bill. The bill ramps up search and surveillance powers used against people who are subject to a control order and denies them access to the information that put them under a control order in the first place. The bill effectively bans computer games that are said to promote terrorism, even though there is no evidence that playing a game makes someone act out the game. The bill makes it easier to get a search warrant and delay telling the property owner about the search. The bill bans the advocacy of genocide. That hurts our ability to identify people with genocidal views and to rebut those views—and inciting genocide is already a crime. So, sadly, once again I oppose the government's counterterrorism legislation and, once again, I find myself in a minority with the Greens. Will the government please give me a break?

Even when the government introduces a good provision it does so in a half-hearted fashion—for instance, this bill amends section 35P of the ASIO Act to reduce penalties for outsiders like journalists who disclose information about special intelligence operations where the information does not endanger health or safety or prejudice an operation. The Independent National Security Legislation Monitor was asked to review 35P, and he recommended this reduction. The reduction is a good thing and is something I called for when 35P was first debated two years ago, but the Senate was full of deaf ears. They were yes-men and yes-women when the government introduced the lengthy penalties, and, as no-one is objecting to this bill's lessening of the penalties, they are clearly yes-men and yes-women now.

The reduction in penalties is a good thing, but it is half-arsed. The offences in 35P for disclosing information about ASIO's special intelligence operations were based on offences for disclosing information about the AFP's controlled operations. Now the government is reducing penalties for journalists when it comes to disclosures about the AFP's controlled operations. The logic of penalties for journalists being lower than penalties for insiders is the same whether we are talking about ASIO or the AFP.

But the government is a logic-free zone when it comes to civil liberties and national security. Logically, this bill should be substantially altered, if passed at all. We deserve better.
My constructive proposal is to make the coercive aspects subject to a sunset clause of 10 years. In other words, unless re-enacted, they will lapse automatically in 10 years. That will give the government, Labor and the law enforcement agencies plenty of time to determine, objectively rather than anecdotally, whether this constant chipping away at our liberty is actually making us safer and whether, just as we were told there would always be reds under our beds, claims that the threat of Islamic terrorism will be always with us. I am dubious about whether we need this law, but I am certain that we do not need it on the books permanently.

Senator HANSON (Queensland) (19:00): I rise in support of the Counter-Terrorism Legislation Amendment Bill (No. 1) 2016, and I will explain why. Yes, it is a shame that 14-year-olds may be dragged before the courts on charges of terrorism and it is a shame what may happen to them, but that is the way of life and that is what has happened to our country. Many Australians are very concerned about terrorism and live in fear. Just recently a poll was taken where 49 per cent of Australians said they wished for a ban on further Muslim immigration to this country, and, of that 49 per cent, 47 per cent based that view on the fact that Muslims do not integrate. Senator Di Natale made a comment here earlier about Muslims saying how they feel marginalised and demonised and that they are afraid. I think the majority of Australians feel very afraid, because we are now seeing terrorism on our streets. People live in fear. I here from many people who say that they are afraid to go on trains or to shopping centres or sporting venues; they are in fear. We need to address this, and I do believe that we need to act with very hard leadership and say that we are not going to allow this to happen on our streets.

We talk about control orders and tracking devices. There are now over 500 Australians who are under surveillance, and the authorities are having trouble tracking them. Why is that so? Why do we have so many people like that here? These people have not come here to Australia for the right reasons. They are here to push their own agenda, their own beliefs. Senator Di Natale says that we are a multicultural nation—and, yes, we are. People have come here from different parts of this world. They have migrated to Australia for a new way of life—to leave behind terror and their way of life for a better way of life. I think that is wonderful, because Australia has been based on all the different cultures that have come here. But what has happened now is that people are coming here not to assimilate, not to integrate, not be one of us, not to abide by our culture, our laws or our way of life. They do not have respect for us. Some carry with them a hatred towards us—and that can never be accepted or allowed to happen.

It is a shame that people as young as 14 years of age could be affected by this legislation—but it is justified. Otherwise, what do we say to the family of Curtis Cheng, who was shot dead by a 15-year-old? What do we tell his family? We are now finding that younger and younger people are wanting to commit these crimes. We cannot allow that to happen. They are not children. They are people with their own beliefs and determinations. They are not a child anymore. People have to start being responsible for their actions, no matter what their age, especially when an Australian's life—I do not care how many there are; even one—may be taken by someone who does not believe in our culture or our way of life and who bears us hate in their heart—and I hate to see it.
You talk about multiculturalism and how Muslims feel offended, demonised and marginalised. When the grand mufti of Australia, Ibrahim Abu Mohammed, wrote a letter warning that to criticise even a gay hating imam is to risk inciting terrorist attacks against us, was he pulled up? Did anyone say he should not be saying that? What about his support of Sheikh Shady?

In his online sermons he attacked Jews, called on God to help destroy the enemies, declared that the punishment for adulterers is stoning to death, damned Christian parties as worshippers of Satan, declared that the Australian government is oppressing Muslims and accused gays of spreading diseases through evil actions that bring evil outcomes to our society. What does Senator Di Natale have to say about that—or does he defend that?

No hatred should be accepted from anyone in this country. We are all Australians trying to live in this country in peace and harmony together. That is what I purport and that is what I will stand strongly for. We must take strong actions against these people—anyone, regardless of whether they have a religious or cultural background that opposes our way of life, must be dealt with harshly. Many other countries around the world are now feeling that—and they are attending to the problems in their own country by having these people deported. If these people are not happy in our country then please go back where you came from or go and find another country that suits your beliefs.

I have a duty to the people of Australia to ensure that they feel safe on our streets. I do not want Australia to become like other countries around the world. We talk about people's civil liberties and their rights. Their rights start with them. The majority of Australians are not under the law, they do not have tracking devices and they are not in our court system—because they abide by our laws. We have to send a clear message to other people that we are not going to accept it. That is why I support the government's legislation on this and send a clear message to those who wish to come here and disrupt our way of life.

I will be moving an amendment to this bill. The legislation states that these people will be given free legal aid. Our legal aid system is under enormous stress at the moment. I know of people in the Family Court who cannot get legal aid—they are fighting for their rights—and many who do not get it are suiciding, taking their own life. In Australia, there is no reference in any of the eligibility or assessment criteria documentation that says an applicant for legal aid in criminal matters must be an Australian citizen. I believe they should be. It is the taxpayers who are paying for this, and I think legal aid should be available to Australian citizens or permanent residents. Under our legal aid system if another person supports you, provides financial support to you or can be reasonably expected to provide you with financial help, then the means test will take this person's income and assets into account. My amendment to this bill would add: 'And there is evidence that at least one parent or guardian of the person has the means to appoint a lawyer to act for that person'. That means if a parent or guardian of that child between 14 and 17 can afford to pay for the legal costs, so they should; it is not up to the Australian taxpayer. Let's treat them exactly the same as we treat anyone else who applies for legal aid in this country. I will be moving that amendment to the bill.

There is a lot more to be said on this. As I have said, let's look at this fairly. I take into account what Senator Leyonhjelm said about this: we should have a sunset clause. The days and times are changing rapidly. Maybe we need to look at immigration—who we actually
bring into Australia—as I have always said. Let's address the problem before it gets out of hand. I hear time and time again that our authorities are stretched to the limit. I hear that there is a probable attack and a possible attack. That is what we are told. We need to make sure that our country is safe, and if these people, even as young as 14, want to go out there and try to commit a crime against us and this nation, they will certainly receive the wrath of the law as far as I am concerned. Thank you.

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (19:10): I thank honourable senators for their contributions. I thank in particular the Australian Labor Party for their support for this measure and Senator Hanson for One Nation's support for the measure. Can I, by the way, clarify a matter that you just raised, Senator Hanson? The national terrorism alert level is 'probable' at the moment. It has been at that level or the equivalent level since September 2014. Last year we changed the nomenclature to make the expression of the alert level a little more clear. It used to be 'high', and 'high' was defined as 'a terrorism event was assessed to be likely'. Now at the same level the descriptor is not 'possible' but 'probable'.

I thank honourable Senators for their contributions to the debate and I will turn in a moment, as time permits, to responding to certain observations that have fallen from some crossbench senators. The bill provides significant measures to address the ongoing terrorism threat in Australia. The measures were developed in response to lessons learned from recent counterterrorism operations, and the bill is informed by a number of independent and parliamentary committee reports, including the report of the Parliamentary Joint Committee on Intelligence and Security on the 2015 bill of the same name, which lapsed when the parliament was dissolved earlier in the year. To give even fuller effect to the recommendations of the PJCIS, I will be moving a government amendment to the bill regarding legal representation for young persons in control order proceedings.

The government has worked closely with the states and territories on these reforms and will continue to do so as part of our comprehensive reform agenda to strengthen Australia's national security and counterterrorism legislation. Importantly, the bill includes measures that will modernise the control order regime, including reducing the minimum age for which a control order can be imposed on a person from 16 years to 14 years or older but introducing a new safeguards regime for minors; creating targeted regimes to facilitate the monitoring of individuals subject to control orders through physical search, telecommunications interception and surveillance device powers; and providing greater protection to sensitive information in control order proceedings.

The bill will also criminalise the advocacy of genocide, which, as I said in the second reading speech, is the incitement to murder an entire population, not an exercise in free speech. These are important measures in preventing terrorism and the spread of extremism in Australia. They are supported by a robust countering violent extremism—or CVE—program which focuses on prevention as our first defence against terrorism. Our program works with communities to address the underlying factors that, unfortunately, make violent extremism appealing to some individuals, particularly young people. It includes adopting new methods to counter the spread and allure of extremist propaganda online and makes sure that our families, communities and institutions like schools and workplaces have the knowledge and tools to respond to radicalisation.
Changing an individual's circumstances, behaviour and feelings is hard. While there is evidence that these programs are working, we know that there will be cases where they will not succeed, and we are in the relatively early days of developing the body of knowledge and understanding of what works in CVE and what works less well. That is why we need to ensure that our law enforcement and intelligence agencies have the powers that they need to respond when a situation escalates.

The bill also reflects the government's decision to implement in full all of the Independent National Security Legislation Monitor's recommendations in his report on section 35P of the ASIO Act. The government understands the importance of maintaining public awareness of and confidence in the activities of our security agencies. This and other measures in this bill provide further demonstration of the government's commitment to ensuring that we are achieving the right balance between the needs of national security and the great principles of the rule of law in a free society.

In the time available to me before the adjournment, let me briefly respond to some of the points that I understand have been made from the crossbench. It has been said by Senator McKim that the Greens will oppose the bill because it restricts civil liberties. There is always a trade-off between appropriate protection of the community and the protection of civil liberties. This bill, which is hedged by even more extensive safeguards than we have known before, achieves that balance. 'Civil liberties' cannot be used intelligently as a mantra or a slogan. You have to identify, in the case of each particular measure, why the trade-off is wrong. It is my job both to protect civil liberties and to protect national security, and every day of my life I grapple with the task of ensuring we get the balance right. In performing that task, I am advised not merely by those who advise the government but by the parliament, particularly through its committees, like the PJCIS, the fruit of whose work this bill in large measure is.

Senator McKim, I am told that you said the fact that a 15-year-old attacked Curtis Cheng is no argument for lowering the age of control orders. That is an extraordinary proposition. There have been two lethal terrorist attacks on Australian soil since September 2014. One was by Man Haron Monis at Martin Place, and the other was on Curtis Cheng. One of the two attacks was committed by a 15-year-old. If you do not think that that demonstrates that people younger than the age of 15 are susceptible to radicalisation and the blandishments of those who would entice them down a self-destructive path of violence and, in the case of the late Mr Curtis Cheng, murder, I do not know where you learned your logic from, Senator McKim. One of the two lethal attacks was committed by a 15-year-old, and I can tell you, having in my role as the Attorney to review cases and issue warrants on a regular basis, that it is not at all uncommon—in fact, sadly it is very common—to see at-risk people below the age of 16. To meet your objection, Senator McKim, about the need to balance these measures with appropriate protections of civil liberties, we have introduced a whole new regime, which did not exist in the previous legislation, to protect minors who are the subject of control orders.

I agree with Senator Xenophon's observations that careful scrutiny of agencies and powers is essential. As Senator Xenophon knows, we have that. We have a very elaborate architecture of protection through the parliament; through statutory offices like the Independent National Security Legislation Monitor and the Inspector-General of Intelligence and Security; and through accountability measures within policing and national security agencies themselves.
had the benefit of meeting the Attorney General of Canada this afternoon, and we were discussing the ways in which our respective countries address this very problem. I can assure you, Senator, that Australia leads the world not merely in protecting our people but in protecting our liberties through the careful and thorough architecture of oversight mechanisms and accountability mechanisms which are built into the legislation.

Senator Leyonhjelm, I note your opposition to the changes. It reflects your principled libertarian stand, which I acknowledge and respect. But, nevertheless, might I gently chide you: when one has to deal with the real consequences and the real problem of keeping communities safe, a purist libertarian policy position will not always meet the occasion. It just will not. So, as I said to Senator McKim, what we have striven to do is to be as sparing as possible in invasions of civil liberties and only invade civil liberties to the extent absolutely necessary to protect our community. I look forward to the debate in the committee stage of the bill. I commend the bill to the Senate.

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

The Senate divided. [19:24]

(The Acting Deputy President—Senator Sterle)

Ayes ......................45
Noes ......................9
Majority..................36

AYES

Back, CJ
Bushby, DC
Carr, KJ
Chisholm, A
Dodson, P
Farrell, D
Fierravanti-Wells, C
Gallacher, AM
Griff, S
Hinch, D
Kakoschke-Moore, S
Kitche, K
Macdonald, ID
McAllister, J
McKenzie, B
Nash, F
Paterson, J
Pratt, LC
Roberts, M
Scullion, NG
Sterle, G
Watt, M
Xenophon, N

NOES

Di Natale, R
Hanson-Young, SC
Question agreed to.
Bill read a second time.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Sterle) (19:27): It being past 7:20 pm, I propose the question:
That the Senate now do adjourn.

Seafood Labelling

Senator McCarthy (Northern Territory) (19:27): I would like to speak about the visit I had recently in the Northern Territory with the Seafood Council. I met with Katherine Winchester and Rob Fish from the Northern Territory Seafood Council, who have been working quite passionately in support of the industry.

The ACTING DEPUTY PRESIDENT: Excuse me, Senator McCarthy. I know it is exciting that there is the opportunity for people to now leave the chamber and go home, but I would ask to hear Senator McCarthy's contribution in silence. Thank you, Senators.

Senator McCarthy: It is very exciting, what I have to say.

A government senator interjecting—

Senator McCarthy: It is about the Northern Territory, the best territory here in this country, and I urge all senators to visit and do some fishing. There are great barramundi up my way—

Senator Scullion interjecting—

Senator McCarthy: as my fellow senator from the Northern Territory would know. I had the chance to meet with Katherine Winchester and Rob Fish and talk about some of the issues that concern the NT Seafood Council. There is an increasing demand for seafood in Australia and there is certainly a strong push, not just from the Northern Territory Seafood Council but from business owners and consumers, to have greater transparency of labelling requirements for imported seafood. The NT Seafood Council reports that Australians eat 200,000 tonnes of seafood per year and this trend continues to rise. With an increase in demand comes an increase in jobs in the seafood industry and investment. The Australian prawn industry is planning to increase its production by 50 per cent for the Australian market. This expansion across the Northern Territory, Far North Queensland and Western Australia is projected to create 1,700 jobs.

The country-of-origin labelling gives the consumer the opportunity to make informed decisions about their seafood consumption. According to the Label My Fish campaign, most Australians do not know that about 72 per cent of the seafood we eat is imported. They do not know this because it is not labelled. There is no requirement to indicate the country of origin
of seafood sold for immediate consumption, so consumers lack easy access to information that would enable them to make informed decisions about what seafood to purchase.

The Northern Territory Seafood Council has also highlighted the impact this more transparent labelling will have on business. In 2008 the previous Northern Territory Labor government introduced country-of-origin labelling for cooked and pre-prepared seafood. According to the Seafood Council, this labelling has resulted in an increase of the consumption of seafood in NT restaurants. Darwin business owner Jason Hanna owns four restaurants in Darwin. He has told the Northern Territory Seafood Council that customers want to know where the product they have ordered comes from. They want to know if it is local or if it is imported. The Fisheries Research and Development Corporation project reports tracking the impacts on seafood consumption at dining venues arising from the Northern Territory's seafood-labelling laws showed that one business owner reported a 20 per cent increase in seafood sales after the country-of-origin labelling was introduced.

Transparent labelling also benefits Australian producers, and the market becomes an even playing field. The country-of-origin labelling in the Northern Territory has resulted in the retail sector reporting the biggest selling fish are now the Australian red snapper and Australian-grown red snapper.

I would certainly urge all states and territories to protect our industry and to grow our own. We saw today in recent media reports what is happening in Victoria, with the possible threat to at least 1,000 jobs there in terms of SPC and their negotiation with Woolworths. I certainly encourage the big corporates to look at the local grown companies around Australia. Support our industries. Make sure that we have jobs for all Australians.

Norfolk Island

Senator HANSON (Queensland) (19:32): Last month, at the request of the local community, I travelled to Norfolk Island at my own expense. Over a busy four days I met with business groups including the Chamber of Commerce and the Accommodation and Tourism Association. I sat down with the council of elders and I was joined by dozens of primary producers and fishermen. I heard from pensioners, schoolchildren and the non-Australian citizens who have called the island home for decades. I attended community gatherings and addressed a public meeting of more than 300 people. I also heard from the Norfolk Island People for Democracy, who, with the assistance of leading human rights lawyer Geoffrey Robertson QC, have taken the community's fight to the United Nations.

What I heard was alarming. The Norfolk Island people are overwhelmingly opposed to the Australian government's decision to abolish their parliament, overturn local laws and forcibly take over—without compensation—public assets such as their school, hospital and radio station. I was shown letters, petitions and requests sent to successive ministers, prime ministers and even the Governor-General, all of which have been ignored and disregarded. Business groups spoke of being prevented from meeting with the Minister for Local Government and Territories, Fiona Nash, during her only visit to the island since taking on the portfolio. I was told how the island had lost revenue sources, such as by the abolition of the GST, the closure of the postal service and a ban on the issuing of Norfolk Island stamps. I heard how the Australian government had collected millions in royalties from the island's exclusive economic zone while prohibiting Norfolk Island from having its own commercial fishing industry.
Perhaps most shocking were the reports regarding the Australian government's appointed administrator, Gary Hardgrave. Despite having no experience in administration or governance, Mr Hardgrave took control of the island's management following the parliament's axing. Since then he has shown contempt for the local population, making arbitrary decisions without consultation. I was provided with documents outlining serious allegations against him. These include that contracts have been awarded without tenders, that he intervened to have less qualified people awarded jobs and that he has been responsible for the waste of millions of dollars of taxpayers' money.

Also clear was that Mr Hardgrave has misled the Australian parliament. His false statements were used to justify government changes against the will of the Norfolk Island people. His claims that a substantial majority of Norfolk Islanders support the changes and that the community overwhelmingly wanted the island's legislative assembly abolished are clearly untrue. A referendum on the island last year showed that two-thirds of voters were opposed to the loss of self-governance. My own experience suggests that that number has only grown.

Mr Hardgrave also used the Commonwealth takeover of the island's radio station to impose a ban on political free speech, including any criticism of his actions. As a reward, Mr Hardgrave received an $83,000 pay rise this year. His total remuneration package is now almost $300,000. He also gets to live rent-free in a Georgian mansion overlooking pristine Emily Bay, with a staff of taxpayer-funded cooks, cleaners and groundskeepers.

Considering the current issues facing One Nation at the moment, people may be wondering why Pauline Hanson, a senator from Queensland, is concerning herself with these issues facing Norfolk Island. I have always stood up for people and their right to protect their homes, their country, their heritage and their integrity. For 160 years, the people of Norfolk Island have shown a toughness, determination, work ethic and passion that the Australian government should be looking at for inspiration, not trying to wipe out. For three decades, until the global financial crisis struck, their legislative assembly was well able to fund local, state and federal services without budget deficits. Watching schoolchildren speak the native Norfolk tongue and perform traditional Tahitian dances, and hearing the passion as they sing their national anthem and raise the Norfolk Island flag, it is impossible not to be inspired by their plight. Their unique history, traditions, language and culture should be celebrated, not trampled by our bureaucrats and politicians 2,000 miles away in Canberra.

That is why— (Time expired)

Community Legal Centres

Senator KETTER (Queensland) (19:37): Tonight I rise to support the campaign being run by the National Association of Community Legal Centres to fund equal justice in Australia.

As has been pointed out by the NACLC, there is a crisis in legal assistance in this country. I am indebted to Ms Louise Skidmore, who is the Principal Solicitor of Pine Rivers Community Legal Centre, for raising this issue with me and for coming to my electorate office a few months ago to talk to me about the impact in my local area of the funding cliff which community legal centres are going to experience from 1 July next year as a result of the heartless action of this government.
Ms Skidmore pointed out to me that in our local area there is currently an unmet need by the most vulnerable members of our community, for whom it is essential to access legal advice early on. We have heard, and we understand, that Queensland’s community legal centres turn away over 58,000 people. The top three reasons why people access community legal centres are for domestic or family violence, homelessness and family law issues. Over 15 per cent of people coming to a centre are of Aboriginal and/or Torres Strait Islander descent, and more than a quarter of the people attending community legal centres advise that they have a disability.

Each day in my area of Pine Rivers we know that seven Pine Rivers residents are reaching out for free legal help, but only three receive the help that they need. The other four are often returning to violent homes and facing possible homelessness or family law issues. Ms Skidmore raised this issue with me, and as a result of that and the assistance of Mr Dreyfus, the shadow Attorney-General, we convened a meeting of community legal centres in Queensland to raise awareness of this issue and to support the campaign of the National Association of Community Legal Centres.

I am very pleased that I was able to spend some time in Queensland dealing with this issue and raising the plight of community legal centres in local media outlets. I thank Giselle Negri in Cairns for taking me through some of the very disturbing statistics in relation to the Cairns Community Legal Centre. In 2015-16, that centre turned away from its door 1,185 people who were seeking assistance. In Rockhampton I am indebted to Flora Wellington, the senior legal officer, for taking me through some of the concerns that they have. The CLC in Rockhampton is a great facility and provide great assistance to people in the Gladstone area, as well. They also have started to turn away clients due to their not being able to afford to have more solicitors. I went also to Maroochydore, where I spoke with Julian Porter of the Sunshine Coast community legal centre, who runs an amazing centre with about a hundred volunteers providing an incredible service to the Sunshine Coast area. What I heard in each of the community legal centres is that if we experience the funding cliff which is before us in each of these places there is likely to be a loss of legal staff in those centres, which will be diminution of the already stretched services which are trying to meet the needs of people in the area.

We know that, in relation to access to justice, funding community legal centres is the right thing to do. Some people would be surprised to know that the Productivity Commission has come out very strongly in support of the work of community legal centres. It says that assistance from CLCs can prevent or reduce the escalation of legal problems, which in turn can mean reduced costs for the justice system and lower costs to other taxpayer funded services in areas such as health, housing and social security payments. This is an area where the government needs to review what it is doing.

The savage cuts facing our community legal centres are entirely the fault of the Abbott-Turnbull government. The idea that we can remove funding from community legal centres and still have them operate is a fallacy. We cannot afford to have such an important frontline service close. Our legal system is complex, but we need to fund it. We must fund equal justice.
Child Sexual Abuse

Senator HINCH (Victoria) (19:42): I rise to talk about a God-fearing college in sunny Queensland. It boasts on its website that it provides a 'Christ centred education' through a 'dynamic and transparent Christian faith'. One of its values is to 'care for and respect all members of our community'. The school is Redlands College, in Brisbane's Wellington Point.

One of the community members whom the principal and board of Redlands have been showing care and respect for is convicted paedophile Jonathan Sims. He was a year 2 teacher at Redlands who groomed a young male student and sexually abused him for several years. When police were alerted—Sims was charged last year—the popular teacher took long service leave. It seems the Church of Christ school was very happy for parents and students to believe then that he was on leave and to believe it now, even though Jonathan Sims was spending that long service leave behind bars, in jail. I guess that is where the care and respect kicks in, even for a child molesting teacher—the ultimate betrayer of trust.

It is true that the school board did write to the Queensland College of Teachers to have his teaching licence suspended, which did happen. But when a concerned parent wrote to the school principal to confirm the story and to ask whether there had been a cover-up of what had been going on, he received a series of letters from the school board chairman, Jamie Ware. The parent was worried that Sim, who will be released from prison early next year and, I am told, plans to return to the Moreton Bay area to live, is still regarded fondly by lots of the students. Maybe that is because many of them still do not know why Sims, their teacher, went away, why he went on long service leave and why it seems the school was keen to perpetuate that idea. Maybe they did not want to ruin their image.

My informant tells me that he told the school principal that he planned to tell other parents the truth. So what happened then? Well, the school board chairman, Jamie Ware, warned him to consult a lawyer and then threatened to report him to the privacy commissioner. In his last letter, Ware said:

This latest correspondence (as with your previous communications) is being kept on file for future use by our solicitors should your spurious claims against the board (about a 2015 child protection matter properly addressed by police under criminal laws processes) still persist.

And he said:

The board will no longer respond to your communications.

Surely, if a teacher is charged, convicted and jailed for the prolonged sexual abuse of a student, that school has a duty to inform parents who that teacher is, what he has been doing and why he has taken long service leave, and maybe alert them in case there are other victims as well—and there probably were.

How do you think that victim and his family feel knowing that the teacher is returning to that area after his 'long service leave'? It gives a whole new meaning to 'suffer little children'.

Rural and Regional Education Services

Senator O'SULLIVAN (Queensland) (19:46): Before I deliver my speech, which I intend to read in part so as not to conflict with the standing orders, I need to recognise the fact that this speech was written by a young intern in my office, the granddaughter of a family in the Barcaldine and Longreach district who were very well respected graziers in the sixties and the seventies. I put a challenge to her that I wanted her to write a speech acknowledging the
importance of education for our isolated children. She interviewed me, and this is the result of her work. Her name is Zoe. Zoe starts by saying: Henry Lawson wrote it best when he said women are the backbone of the Australian bush. Lawson wrote that women were the backbone and the heart of rural Australia, keeping their farms going, their families together and their communities alive.

From my travels around rural Australia, engaging with agricultural communities, I have been fortunate to share company with countless of these tough and resilient rural women. These mothers, wives, business operators and community leaders face a daily battle to keep the family unit progressing, often against significant hurdles. Never are these difficulties more apparent than when families struggle to provide their children with an appropriate and continuous education.

To give some perspective of the difficulties these bush women confront, I want to tell the story of one of the many women who I have been able to meet as a senator. She is a mother residing in the small Western Queensland community of Stonehenge. For those who have not been to this corner of my state, Stonehenge is the very definition of a one-horse town—a very proud one-horse town, I might say. There is little more than a school, a pub, an information centre and a general store. The township has a population of about 30 people.

On the day that I met this mother, she told me that the drought had stripped the family of their savings and earnings, forcing her husband to accept work interstate, which left her to continue operating the family property alone. They could also no longer afford to send their children to boarding school either, and so they had been forced to bring them back to the property. Now, on a daily basis, this mother is forced to make impossible decisions that no city dweller can truly comprehend. Simply to ensure her children receive an education, she is forced to drive a round trip of 300 kilometres five days a week from the family farm to the Stonehenge primary school. With no school bus run in the district, each school morning she leaves the family beef property and drives 150 kilometres with her children to the tiny school in Stonehenge. Once she reaches the school, she then decides whether to wait in town all day or drive the 150 kilometres back to the property. With her husband working interstate and the couple unable to afford to employ a stockman or farm labourer, the family property is placed under increasing pressure as they struggle to keep their heads above water.

It is important to reiterate that this family is just one of the many living in rural and remote Australia that are being forced to make the tough decision to split up the family, remove children from boarding schools or entirely relocate to town in order to access education for their children. These are all drastic measures to reduce educational expenses, not to mention the negative impacts on the family unit and the wider rural community.

Even with the breaking of the drought across much of my state of Queensland following unprecedented winter rainfall, we still confront families that have almost completely destocked only to find they now have bountiful feed on the ground but cannot afford to restock their properties. Without a reliable income, many rural families are still facing difficulty affording the necessities of life, including a decent education for their children. Every Australian child has a right to education. Our future generation, our future leaders of this country, need to have access to appropriate educational services. Families residing in geographically isolated areas of Australia all have an equal right to access appropriate education as their urban cousins. Governments have an obligation to make sure that the right
to a comprehensive, easily accessible education service is available to all Australian children, parents and families, regardless of where they might live. Rural and remote families are not second-class citizens and they do not deserve a second-class education.

When I speak about the resilient rural women who keep our bush communities alive, there is perhaps none stronger than those in the Isolated Children's Parents' Association. The ICPA has represented families living in rural and remote regions of Australia since 1971 and is dedicated to ensuring that all students from these areas have equity of access to a continuing and appropriate education. The ICPA understands the need for rural and remote families to be able to provide an education for their children while continuing to reside and work in rural and remote regions. The ICPA Federal Council was hard at work once again last sitting conducting meetings with members and senators in this building. This group of women have worked hard to gain the respect of many of my colleagues in parliament and it is allowing us to work together to deliver sound public policy for rural families.

One of the most challenging issues the ICPA has confronted for many years has been the amount of financial assistance they receive compared with the cost of boarding school education. With the drought having delivered a devastating impact on the finances of these communities, governments need to clearly understand that rural families have been left struggling. Combined boarding and tuition fees in my home state of Queensland are approximately $30,000 per student, and this cost increases at a rate of six to seven per cent per annum. Unfortunately, in the past the assistance allowance has not increased at the same rate as the boarding fees. From my very first meeting as a senator with the ICPA council, the growing disparity between government financial assistance for isolated children and the actual cost of boarding schools across Australia was identified as a real concern. I am pleased to report that the government has taken some very strong measures in this space.

During the election campaign the Deputy Prime Minister, Barnaby Joyce, stood before the National Press Club and announced that $44.7 million would be provided to increase assistance for isolated children. This will provide immediate financial relief for 1,150 of the most financially vulnerable children and their families. The federal government is now also working closely with groups such as ICPA to determine where the remaining funding allocation could best assist the 4,572 students living in rural and remote Australia who currently receive the Isolated Children Scheme boarding allowance. Combined with an independent review into the policy settings for rural and remote education, it is clear the government has taken real steps towards building positive change in the educational opportunities delivered for these young Australians. While some of my opponents may label me as an old-fashioned agrarian socialist—I did not know she put that in there—I pledge to continue to take action against any economic and social disparity that weakens rural Australia. I will continue to make clear my intention to support public policy that ensures rural communities are given equal opportunity to city electorates, particularly with regard to fundamental issues such as education.

No Australian family should be forced to travel 300 kilometres per day to take their children to school, nor should families be split or relocated just so that children can access proper education services. I will continue to be a staunch advocate for the Isolated Children's Parents' Association to ensure that we continue to address the funding gap between government assistance and school boarding costs. I will continue to promote education
equality alongside the Isolated Children's Parents' Association to ensure the educational
development of rural students is not disadvantaged and that their educational opportunities are
not compromised.

Middle East

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (19:54): I rise today
to raise the issue of the devastating conflict in the Israeli occupied territories of the West Bank
and Gaza Strip. I wish to impress the absolute urgency of finding a peaceful outcome to a
conflict that has now spanned generations. Last year we saw a sharp rise in killings and
injuries as a result of the ongoing hostilities. Human Rights Watch reported that 17 Israeli
civilians were killed and 87 injured last year. This is tragic. At the same time, 11,953
Palestinian citizens were injured and 127 Palestinians lost their lives. That was in the same
time frame. That is also tragic.

While international media interest in the region has subsided a little, the situation in the
West Bank and Gaza Strip has deteriorated recently. I have spoken about this issue a number
of times in this place, and I reject the legality of building of Israeli settlements on the West
Bank. Settlement building in the occupied territories is a roadblock to peace. It can only serve
to escalate tensions and undermine progress towards a two-state solution. I back Labor's calls
for Israel to cease all such settlement expansion to support renewed negotiations towards
peace.

I have also spoken here about the plight of the Palestinian people, who have been denied
their fundamental right to statehood, subjected to mass violence and left displaced in their
own land with little hope for the future. But today I would like to consider some of the most
tragic casualties of this brutal struggle—and that is the children. Palestinian children have also
been left stateless, helpless and facing a violent and unstable future. They are innocent victims
who deal with daily violence. Many know nothing but the military occupation in which they
live. They have seen members of their families lose their jobs as Israeli-imposed restrictions
on movement have hit trade and the local economy.

Unemployment in Palestine now sits at almost 27 per cent and, at 42 per cent, youth
unemployment is much worse. With figures like this, young Palestinians know that their own
chances of finding work are not good. It is easy to understand how this grim reality can breed
a pervasive environment of hopelessness and helplessness. Even the basic things that we take
for granted are interminably challenging for young Palestinians. Military checkpoints and
mobility restrictions have created huge issues of access to schools, health care and even water.

And, of course, there is the ever-present violence. In 2012 the United Nations Committee
on the Rights of the Child criticised Israel for its bombing attacks on Palestinians in the Gaza
Strip, stating:

Destruction of homes and damage to schools, streets and other public facilities gravely affect children

They called this:

... gross violations of the Convention on the Rights of the Child, its Optional Protocol on the
involvement of children in armed conflict and international humanitarian law.

In 2013 the same committee again raised the impacts of the bitter conflict on children, saying
it was:
… highly concerned yet again by the fact that the children of both camps involved in the conflict continue to be killed or wounded, and the children living in the Palestinian-occupied territory represent a disproportionate number of these victims.

Sadly, the violence continues. Many young people continue to be injured in the Palestinian-Israeli conflict. Some have even paid the price of their lives.

On 20 April this year, the Secretary-General of the United Nations released the UN’s annual report on children and armed conflict. In examining the brutal statistics of the casualties of the region in 2015, it confirmed that the situation is not improving. We learnt that 25 male and five female Palestinian children were killed last year. Twenty-seven of these deaths occurred in the West Bank. This is almost double the toll from 2014. All 27 of these deaths of Palestinian children were attributed to Israeli forces or settlers. The Secretary-General described the case of a 17-year-old Palestinian girl who, after being stopped at a checkpoint in Hebron, was searched and then shot five times. Of course, there are young Israelis who have also been injured by Palestinians—13, in fact. In the same time, 1,735 injuries have been sustained by Palestinian children.

I was particularly horrified when I learnt that Palestinian children are being arrested and held in Israeli prisons. In 2015 in East Jerusalem 860 Palestinian children were arrested, including 136 aged between seven and 11. The Israel Prison Service reports that the monthly average number of children held in Israeli custody increased by 15 per cent from 2014. A report by the Defence for Children International Palestine last month said:

Israel has the dubious distinction of being the only country in the world that systematically prosecutes between 500 and 700 children in military courts each year that lack fundamental fair trial rights.

Sadly, we have also seen Israel return to administrative detention of children, which had not been used since 2011. This means that a child can be detained without charge or trial, a breach of fundamental democratic principles.

The hopelessness and desperation of life for a Palestinian child is unimaginable—it is an experience that in Australia we cannot begin to understand—and those who have not been physically hurt will by no means escape the trauma of growing up in a war zone. We know that the psychological scars of this sort of experience run deep. Clinical professor of psychiatry, Dr Jessica Gannon, has estimated that close to 99 per cent of children in Gaza have been personally exposed to extreme violence against family members. Many have seen those that they love killed in front of them. The United Nations Relief and Works Agency, which assists Palestinian refugees, found a 20 per cent increase in post-traumatic stress disorder amongst children in Gaza after the 2012 war. This tragic and overwhelming burden on an entire people is even more pronounced when you consider the disproportionate number of young people in the community. In fact, almost 45 per cent of Palestinians are yet to reach their 14th birthday—that is a lot of vulnerable people growing up in an enormously damaging environment.

In June this year 20 members of the United States Congress became so dismayed at the appalling conditions for Palestinian children that they co-signed a letter urging President Obama to appoint a special envoy for Palestinian children to ensure that the US government prioritises Palestinian children's rights. I would like to share a few words from this letter, which reads:
This enormous youth cohort represents another generation of Palestinian children growing up under Israeli military occupation with very few opportunities to improve their lives.

These children live under the constant fear of arrest, detention, and violence at the hand of the Israeli military, as well as the threat of recruitment or conscription into armed groups. We view this as an unimaginably difficult and at time hopeless environment for children that only fuels the conflict.

Israel has been a signatory to the Convention on the Rights of the Child since it was ratified in 1991. This is one of the most widely approved and ratified human rights treaties in history. The convention is designed to recognise the right of every child to grow socially, mentally and physically to the best of their potential, to participate in decisions that affect their future and to freely express their opinion. Clearly these standards are not being met in the tragic circumstances that young Palestinians endure every day. They are having their present stolen and their futures forever tainted. Their physical and emotional scars will last a lifetime. Israel has a responsibility to abide by this convention not only in Israel but also in the occupied Palestinian territory.

### Indigenous Affairs

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (20:03): I rise tonight to speak on the *Cashless debit card trial progress report*, which was released on the final day of last month, 31 October 2016. I would like to point out that in the most recent estimates I asked the Department of Social Services about a so-called confidential report that had been quoted in the media on the progress of the trial sites. I asked about this report because over the course of the last few months we have seen the Minister for Human Services, Mr Tudge, repeatedly drip-feed mostly anecdotal feedback to the media as a means of promoting the cashless welfare card trials. Then he started quoting some figures. Mostly his spin on the figures was, of course, around the positive side of the card. When I asked the department to table the results—this was during estimates—that the minister and others had been quoting, including in the Press Club, they were unable to provide those results. They said they did not have the results on them. When I asked about whether there was a confidential report, they said, 'No, there was not a confidential report,' and they were unable to provide the detailed figures the minister had been quoting. The department took on notice to look at what information was available. However, a week and a half later the department suddenly released the progress report that supposedly outlines the progress on the card. I found the turnaround of this report remarkably quick, considering the department was not able to provide any details and in fact said during estimates that there was no report. I am astonished that a week and a half later they could suddenly come up with a report and have it published. I must admit this appears to be very convenient and raises a very big red flag.

The report is basically not worth the paper it is written on. It contains a combination of very premature analysis of very early data, small datasets, ad hoc datasets and unreliable anecdotal feedback. It does not take in any other current programs in place or external factors that may influence some of those data sets. The report does not produce credible or substantive evidence that the card is working. For example, one of the many failures of the report is that in a small dataset in the Kununurra trial, where the WA police reported 29 assaults for April 2016 and a rise to 59 assaults in September. I note that for this statistic there is no comparison with previous, unlike other statistics in the report. These assaults are attributed to an influx of tourists. Some people could just as well say, 'Well, the card isn't
working,’ but, of course, it is too early. The dataset is quite small and we suggest it needs a proper analysis. In using this excuse when it suits them, the government is acknowledging that in some instances there are external factors that may result in the indicators that they are seeing, but they only do that in certain circumstances.

Another example of external factors and wider context is the previous data that indicates that gambling in Ceduna, or in the region in which Ceduna is in, has been on a downward trend for the last five years. Given that the cashless welfare card recipients comprise only 30 per cent of the population in the area, it is impossible to isolate this group and draw genuine evidence about the correlation between the card and gambling, particularly when the data is about the use of pokies, not just in Ceduna but in other regional towns where the trial is, in fact, not being rolled out.

External factors that might influence measurable indicators is something that I have mentioned repeatedly since the trials were legislated last year. I have also repeatedly said that the government should be funding services in a similar trial site that does not have the cashless welfare card so you can isolate, or are more likely to be able to isolate, the potential impact of the card. The government refused to do this, and so we will not know whether some of these improvements, if they are genuine improvements over the long term, can be contributed to the card or to the wraparound services that are being injected into the trial communities.

I read in the report that the admissions to the Wyndham Sobering-up Centre dropped 36 per cent compared to the previous year, which, you have got to say, is good news. But if you flick three pages forward in the report you see that there is an injection of drug and alcohol support workers, youth and family support services, an adult rehab program and an alcohol and other drugs brokerage fund. That is good news. Those are the sorts of services that the community needs, but how do we know whether it was the card that was responsible for the decrease or those excellent services that should have always been provided to that community?

This is money well spent, and I do support the government providing these services. But, as I said, we will not know whether it is these services that are producing that current decline, bearing in mind this is very early data. The government has created a so-called trial where it is nearly impossible to genuinely measure the success of the card, because there is nothing to compare it to in terms of those services. In saying this, I can 100 per cent predict that the government will attribute the success to the card no matter what. That is obvious from the selective use of data that is contained in this report.

The government has done nothing but use anecdotal feedback. It has also used anecdotal feedback to suggest that the trial is successful. Unsurprisingly, a lot of this anecdotal evidence was also included in the report. They have been continually rolling this out for a couple of months. The report is clearly a political puff piece when anecdotal ‘evidence’ includes a line from the extremely pro cashless welfare card Mayor of Ceduna saying that the card ‘is the best thing that has ever happened.’ How could you include this sort of comment in a genuine progress report?

According to the report, ‘promising anecdotal evidence’ in Kununurra and Wyndham includes ‘people not buying playing cards’. For goodness sake! Then, of course, in small print down the bottom, the report says:

… All anecdotal statements are individual opinions or unverified—
unverified!—

data sets. The underlying cause of each claim has not been independently verified, tested for statistical significance, or placed within its wider context.

Yes, that is exactly right. It is anecdotal evidence that has not been provided in the wider context, yet the minister and the government rolls it out as evidence that the card is working. On top of this the anecdotal data does not match up with the datasets. It is a debacle. In fact, when you looked at the Northern Territory intervention and talked to people about whether things were better or not, some people said, 'Yeah, they are better', but, when you looked at the data, the data showed that things were not better. So the anecdotal evidence is not being backed up by the datasets.

Obviously the report has not looked at some of the police figures that are available for South Australia, and I urge the minister to look at some of those police reports. I am not saying this should be used to evaluate this card's success or not, just as the government should not be using the data that they are collecting at the moment to talk about the success of the card and use it out of context without looking at the external factors. But perhaps the minister should look at the data from the South Australian police report that shows in the Eyre Western LSA an increase in criminal activity from the previous year. This includes robberies and related offences, up 82 per cent; aggravated sexual assault, up five per cent; and serious residential criminal trespass, up 44 per cent. That is not mentioned in the so-called progress report—although some of the graphs in the progress report do show a slight dip straight after the card came in, but those stats are going right back up again. This is not an appropriate way to report on a very serious trial that the government is carrying out.

We do not support the trial—I have that on record well and truly—but if the government was very genuine about this so-called system, they would not be doing this sort of anecdotal rollout of talking to somebody when they happen to run into somebody in the street, or misuse datasets, or misquote datasets and use them out of context without actually putting in the results of the external factors. There is quite a bit of evidence from other measures like this that have been successful at the beginning and then, of course, as people got around them, they dropped off. That is what is going to happen here.

Medicare

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (20:14): Once again I rise to speak about an issue that the government is mucking up, playing up again and causing confusion about—and that issue is Medicare. Seriously, every time I rise to speak about Medicare issues it seems like we are watching an episode of 'Malcolm in a Muddle'. Really, I quite despair, to tell you the truth.

Ever since the election the government has done everything they can to prove Labor's accurate description that this is a government opposed to Medicare and to universal health care. They just cannot help but attack the universal health-care system that the Australian people hold so dear. Those on the opposite side of this chamber really should be ashamed. They should hang their heads in shame!

Tonight, I would like to raise a number of examples of this government's attacks on universal public health care, and I will start with the Medicare rebate freeze. Recently, in Senate supplementary estimates, the health department confirmed that the six-year freeze on
Medicare rebates was a decision taken by the Turnbull government, contradicting the Prime Minister and his hapless health minister, who have repeatedly tried to blame their Medicare freeze on the former Labor government.

Following questions, the health department told Senate estimates that only the coalition government is to blame. When the deputy secretary of the department was asked:

When were the GP rebates last indexed? By which government and in which year?

health department deputy secretary, Andrew Stuart, replied:

Fees for GP attendances were last indexed on 1 July 2014 and so the first indexation date that was missed would have been 1 July 2015.

So there we have it: GP rebates were last indexed in July 2014, as the last Labor government had budgeted. So the six-year freeze on Medicare rebates is entirely—entirely!—of this government's making.

The federal government has frozen the Medicare rebate at $37.05, and doctors and their patients are facing no increase in Medicare rebates until 2020. Even Tony Abbott and Peter Dutton increased Medicare fees—something this Prime Minister and this health minister may never do, given their plans to freeze Medicare rebates beyond the next election.

This freeze is flowing through to patients and harming them. Doctors have been advised to set their recommended fees for a standard visit to $78 from 1 November 2016. Australian Medical Association vice president Stephen Parnis said that the body would recommend doctors raise the cost to $78 for a standard visit under 20 minutes, a $2 increase that will not be accounted for by the Medicare rebate. Doctors have felt this is necessary because they are being squashed by the government. AMA vice president Dr Bartone said:

Already there is significant damage being done to the ability of practices to continue to provide that quality medical care, and every day that freeze remains in place is another day that puts quality medical care firmly and more succinctly out of the reach …

The effect of this increase is of particular concern to doctors in rural and regional areas, like my home state of Tasmania. Rural doctors have to expect the unexpected, and often deal with complex health matters that city doctors can refer to a nearby hospital or to a specialist. Unfortunately, there are many people in our community who simply cannot afford such an increase, and while we continuously hear from the government about the rising costs of health and medical services we do not hear enough about the unique and divergent challenges of health professionals working in rural and remote Australia.

The increase puts more pressure on GPs to abandon bulk-billing and to add a patient copayment, which would have a disastrous impact on people already struggling—especially in remote communities. Given that the government has frozen the Medicare rebate until 2020, the new doctors' fees will mean that from 1 November anyone who is not bulk-billed will pay even more to see their GP. Either way, more people can expect an additional cost to see their GP, contradicting the Prime Minister's solemn pre-election promise that no Australian will pay more to see the doctor as a result of his ongoing Medicare freeze. I remind people that on 1 July 2016 Mr Turnbull told Channel 7 that patients absolutely—absolutely!—would not pay more because of the freeze. An immediate end to the Medicare rebate freeze, which has been called for by both the Australian College of Rural and Remote Medicine and by the Rural Doctors Association of Australia, would relieve much of the pressure.
Yet another issue of concern is the debacle the government has made regarding rents for pathology services co-located with GP offices. As people may recall, those opposite made a deal with Pathology Australia before the election to regulate the rent of pathology service providers that are co-located with general practitioners. Unfortunately, this policy will have significant impact on general practitioners.

AMA President Michael Gannon has written to the Minister for Health, Ms Ley, outlining his concerns and calling for a change of course. He said: 'These practices are small businesses that have negotiated leases in good faith with the much larger pathology providers. They have made business decisions based on projected rental streams, including investment in infrastructure and staffing. For many practices feeling the impact of the current Medicare indexation freeze, this source of rental income has helped to keep them viable.' The AMA estimates the government's policy will rip up to $150 million from general practice each year. That is $150 million that will be passed onto their patients through higher fees or lower rates of bulk-billing. This is a disappointing outcome for our health system and shows that this government has no interest in acting for the good of Australian patients. The government has acted in its own short-term political interests and not for the good of the nation.

Another area that the government has dropped the ball on is vaccinations. There are serious questions around the Turnbull government's decision to dump an initiative designed to improve vaccination rates in young people. The Turnbull government is axing the Australian Schools Vaccination Register despite the legislation already being passed and at the same time quietly announcing a possible plan to scrap the year 7 whooping cough booster. This government knows it has an appalling record on health and is desperate to hide from it. This register is critical to making sure we have the information we need to improve vaccination rates in young people. Australia's vaccination programs are too important to be treated with such contempt by a government that cannot be bothered standing up and explaining the changes to parents. The health department said that the register was important to improve vaccination rates in young people. Now the government is dumping it—only two months before it was due to start. It is appalling that the Turnbull government think they can get away with quietly scrapping it on a Friday afternoon—something they are quite fond of doing as it is a slow news time. Parents and the community are owed a clear explanation of how the government will improve vaccination rates without this important data.

It has been reported in the media that the Turnbull government is preparing to dump the booster dose of whooping cough vaccine given to children in the first year of high school as rates of the disease nearly double. Whooping cough is a terrible disease and it is entirely preventable with the vaccine. As reported by news.com.au the removal of the vaccine boost has come even though the US and Australian studies show the effectiveness of the new acellular whooping cough vaccines wears off quickly, with only three or four out of 10 people fully protected four years after vaccination. The number of whooping cough cases has almost doubled in the last four years, with 14,392 cases recorded in the year to date. This is a government that does not care about the health of all Australians. This is a government that is asking doctors and other health providers to do more and more with less than less—and patients are paying the price.

I want to turn to the outcomes from an incident that happened earlier this year under former minister Stuart Robert, who sought to shut down the local Medicare office in Kingston, in
Hobart, near my electorate office. Due to intense pressure from the local community, and with the support of the member for Franklin, Julie Collins MP, and me, the government backflipped on that and collocated the Medicare-Centrelink office with Service Tasmania. The minister responsible for the office gave a promise that the services offered would be maintained after the collocation. Unfortunately, many people have complained to us about the lack of staff, access, service and privacy in the new location. So Ms Collins and I recently announced a survey—and I encourage any Kingborough or Huon Valley locals with concerns about the collocated Medicare-Centrelink office to come into our electorate offices and have your say through the survey. It is an opportunity to gather feedback about how the new office is operating so we can hold the minister and the Turnbull government to their commitment.

Labor cares about the health of all Tasmanians and Australians. In the recent election campaign, Labor committed to reversing cuts to Medicare bulk-billing incentives for pathology and diagnostic imaging, price hikes to PBS medicines— (Time expired)

Intersex Day of Solidarity

Senator RICE (Victoria) (20:24): Today is Intersex Day of Solidarity. It is a day for us to reflect on the issues faced by people across the world with intersex variations and to recognise the important work being done by the intersex support groups, including Organisation Intersex International Australia. This week we celebrated the defeat of the divisive and unnecessary marriage equality plebiscite as a win for common sense, justice and equality. But marriage equality is just one discrimination that is being faced by lesbian, gay, bisexual, transgender and intersex Australians. There are many other challenges to human rights that LGBTIQ Australians face here.

'Intersex' is the often overlooked letter I in the LGBTI acronym, and it tends to be far less understood and discussed than the L, G, B and T. While the broader community's understanding and support for lesbian, gay, bisexual, transgender and queer individuals is growing, many Australian still do not understand what it means to be intersex and the kinds of issues and challenges faced by intersex people.

Anyone who watched the Rio Olympics this year would have followed the story of South African athlete Caster Semenya, who competed in the women's 800-metre race. We do not know if Caster is intersex. All the media stories about her are speculation or based on unverified and unverifiable leaked information. The race was the subject of intense media scrutiny, but not for the reasons that might usually lead up to a competitive race. Despite Semenya competing with the body that she was born with—as a woman, which is how she identifies and how she was assigned at birth—Semenya was the subject of humiliating coverage centring on her biological features.

Beyond the sporting arena, coverage of the sensitive and complex issues faced by people with intersex status is scarce, and the lived experiences of intersex people in relation to discrimination are only now being properly documented. Intersex people are born with sex characteristics, such as genitals or chromosome patterns, that do not fit typical definitions of male and female. 'Intersex' is an umbrella term used for describing a wide range of natural bodily variations. In some cases, intersex traits are visible at birth, while in others they are not apparent until puberty. Some chromosomal intersex variations might not be physically apparent at all.
Being intersex is not about sexual orientation or gender identity and expression. It is a question of biological variation, and people with intersex variation have the same diversity of sexual orientations and gender identities as those in the broader community. About 1.7 per cent of the population is estimated to be intersex, which is about the same percentage as redheads, who make up one to two per cent of the population. So, if you have met a redhead, you have almost certainly met an intersex person as well.

The Interface Project was founded in 2012, and it recently shared the story of a man called Jim Ambrose who was born in 1976 with what he terms 'genitals that frightened my parents and caregivers'. With one Y chromosome, one X chromosome and ambiguous genitalia, the doctors decided it would be easier to eliminate tissue than to add tissue, so they surgically removed the organ and it was decided that the baby would be raised as a girl, named Kristi. Ambrose only discovered at the age of 18, when he obtained his medical records, what had happened. He had been sterilised at birth and had never been told.

Sadly, stories like Jim Ambrose's are all too familiar in the Australian context. Involuntary surgery commonly occurs with parental consent shortly after birth, on the advice of doctors. The question asked tends to be: 'What gender should we assign to the newborn baby and how can we surgically reinforce that assignment?' Instead, we should be questioning whether to invasively and irreversibly perform the surgery at all. While doctors and parents are undoubtably motivated by their belief that they are acting in the best interests of the child by its conforming to a fixed gender classification, premature medical intervention has potential lifetime ramifications on the mental health of intersex individuals and threatens to compromise the individual's rights to bodily autonomy, integrity and dignity.

In raising children today most of us pride ourselves on moving away from old-fashioned gender stereotypes. We encourage our girls to play football, to learn maths and physics and to aspire to be Prime Minister and we allow space for our boys to be sensitive and to play with dolls. We agree that gender norms are mostly social constructs and embrace the idiosyncratic differences exhibited by more feminine males and more masculine females. Yet even still we are reluctant to believe that bodies likewise do not conform to strict binaries. Intersex people are not trying to make a point on this score. They are not trying to push the boundaries of social behaviour by acting more feminine or masculine. They were simply born with bodies that do not correspond with society's norms for male or female bodies.

So how can we explain to these children that for some illogical reason certain beliefs and taboos dissolve slower than others? How can we tell them that our constant striving for what is normal means that we are willing to harm and maim our children simply because they are born differently? Jim Ambrose speaks to parents, doctors, teachers and all of society in his videos when he says, 'Your comfort level is less important in the grand scheme of things than your kids' right to choose for themselves their life path, what they want to do with their own body.' Watching Ambrose's videos is heartbreaking. Bodies should not be stigmatised, and the rights of people with intersex variations must be upheld. These individuals deserve bodily integrity, including personal consent to medical or surgical interventions, and in the case of children medical intervention should wherever possible be deferred until the child is able to give full and informed consent.

While equality and freedom from discrimination are fundamental rights that belong to all people irrespective of sexual orientation, gender identity or physical sex characteristics, the
reality is that there are inadequate federal laws that specifically prohibit discrimination on these grounds. Our laws are weaker here than they are for race discrimination, sex discrimination, disability discrimination or age discrimination. On international Intersex Solidarity Day we should not be debating conservative ideologues and their obsession with watering down our racial hate laws; we should be talking about how we can strengthen the human rights protections of our intersex children, family and friends.

In concluding I would like to share a quote from Bonnie Hart, who is the President of the Androgen Insensitivity Syndrome Support Group Australia. They say: 'If you know an intersex person, they are a survivor and a warrior of a battle you may not even know is happening. The battleground is the mind—our own and the social collective. Stigma is the weapon, the blunt object that others bludgeon us with and that we often turn onto ourselves. The white flag is awareness. The only truce is that of self-love, mutual respect and the banishment of ignorance.'

While intersex people may often be the overlooked 'T' in 'LGBTIQ', the Greens are going to continue to fight to ensure that the medical, legal and public policy frameworks affecting people with intersex variations are made in consultation with intersex people and that we prioritise a human rights based agenda for reform.

Building and Construction Industry

Senator LINES (Western Australia—Deputy President and Chair of Committees) (20:34):
Tonight I want to talk about the real issues in the building and construction industry across Australia—not the nonsense and ideological hatred of trade unions that we hear from the government but the real issues backed up by statistics and reports. I want to focus particularly on my home state of Western Australia. Coincidently, it is also the home state of the Minister for Employment. From what Minister Cash says—what her focus is and, indeed, what the Turnbull government’s focus is—it would seem that they are certainly not across the real issues in the Western Australian building and construction industry—and that goes for the rest of the country.

Just today it was reported in the West Australian that we in Western Australia are headed for a future skills shortage, as there has been a massive drop in the number of new apprentices being taken on in the industry. Industry experts are reporting that apprenticeship levels are at an all-time low and that the drop in the take-up rate is as high as 80 per cent. Industry groups such as the Housing Industry Association and the union, the CFMEU, were quoted in the West Australian as saying that they:
… fear the State will not have enough tradespeople in a few years when the economy picks up.

The industry is calling on both the federal and state governments to boost the training effort. Today in question time, what did we hear from the government? Let's blame Labor for a drop in the number of apprenticeships. But guess what? This is happening right now in Western Australia under the your watch, yet the government tries to pretend that apprenticeship numbers have gone up. Employers in Western Australia are calling on the government to do more. They predict those skills shortages will hit in around three years time, yet this government prefers to continue to live in its parallel universe. Despite Minister Cash coming from the same state as me, from Western Australia, it seems that she is completely unaware of
what is front and centre in the West Australian newspaper today about this appalling drop in apprenticeship rates that has happened under her watch.

What we also see in the building and construction industry across the country is the high use of temporary visa workers. Just a few weeks ago, at the ABC site in St Georges Terrace, a young German backpacker fell to her death. There are 300 workers on that site and about 250 of them are temporary visa holders. They are employed through labour hire companies and they are employed on substandard rates of pay. Perhaps it was just a coincidence that at Senate estimates I put the minister and the Fair Work Ombudsman on the spot when I asked them when was the last time they had visited that site. Guess what? Around 15 inspectors visited that site last week. They asked those temporary visa workers, who are mainly backpackers, to come and talk to them. There is something wrong at that site and it starts with no decent long-term employment being created there, a drop in apprenticeships and the use of temporary visa workers. That is the situation not just on that site but on many sites in Western Australia, particularly in the CBD.

In another West Australian piece on 27 October, it was reported that construction prices in Western Australia had fallen—that is, they had gone down. Let there be no mistake here: they had dropped. It was cheaper to build in Western Australia. Ironically, on the same day of that report, Minister Cash was pursuing her propaganda for the reintroduction of the ABCC on the grounds that construction costs would increase. In the West Australian we had a piece of journalism quoting the Master Builders Association, the CFMEU and others saying that construction costs were dropping, but in an op-ed piece the Minister Cash was saying that we need the ABCC because construction prices were going up. Both cannot be right. The piece that I am talking about was by written by journalist Dylan Caporn. He cited a range of experts, including labour market economist Charles Maulvey, who said the market for building and construction tradies was 'subdued'. I am sure that Charles Maulvey is well known to Minister Cash. He went on to say:

Tradies are in a much weaker position in the market than they were a year ago—once again, under this government's watch.

The building and construction market has slowed in the past 18 months, but has slowed more in the past six months.

Yet a few pages further on in The West Australian there is Senator Cash's op-ed piece saying, 'We've got to have the ABCC, because we need this increased productivity to bring down costs in the construction industry.' Mr Maulvey went on to conclude:

That's putting significant pressure on tradesmen's wages.

The same piece by Dylan Caporn said:

Master Builders Association executive director Michael McLean—a friend of the Turnbull government, I would have thought—said there was evidence tradies' wages had fallen by 25 per cent but it was not across the entire industry.

Mr McLean stated further:

Bricklayers … and wet trades have declined over the past 12 months.

The Tradie Price Index found building and construction prices fell to $59.27 an hour, down from $74 in the previous year.
By contrast, in her op-ed piece Minister Cash cites unnamed ‘others’. The West Australian's journalistic piece cites three significant players in the industry, but Minister Cash cites unnamed ‘others’ in her op ed piece claiming there is a 30 per cent increase in building costs without the ABCC. Someone has got it wrong. Further claims were made without facts or figures that these costs of 30 per cent—completely unjustified, from an unnamed source—were then borne for higher infrastructure costs. Minister Cash is not alone there. Even the Prime Minister, Mr Turnbull, gets into the act. He said:

Re-establishing the ABCC will boost economic growth and generate more jobs in the building and construction industry.

Once again, no evidence, no facts and no figures. It is what we have come to expect from this government, who ignore anything which resembles facts and figures in favour of their own imagined and made-up rhetoric—made up to suit their ideological agenda, or what we have come to expect under the Prime Minister, Mr Turnbull: whatever it takes to appease the right-wing rump of the LNP.

The facts are that in Western Australia there is growing unemployment, and women are one of the fastest growing areas of unemployment in Western Australia. Again, this is not anything you will hear from Minister Cash. What we know is that whenever the government is in trouble or the polls are looking grim, which has almost been the entire time of the Turnbull government, they get into a bit of union bashing. We saw that today in question time. Never mind the referral to the High Court of the activities of Senator Day, who has left at least 200 homeowners across Australia without anywhere to go. Some of those homeowners even relied on Senator Day to ensure that their future home was protected by insurance. Well, guess what: even he failed to take that insurance out. So many of those homeowners do not have a home and they do not have insurance to cover them against the shonky operations that we have seen come out of Senator Day's building companies. But the government pretend that is all hunky-dory. They ignore the rental agreement that was in place on his premises and the gift of the amount of training money for the training college. Tragically, workplace deaths continue in Western Australia too—all ignored by the Turnbull government.

**Australian Defence Force**

**Senator LAMBIE** (Tasmania) (20:44): Previously, in the 44th parliament, the Senate voted to support my motion to establish a special investigation. The investigation focused on alleged human rights abuses including torture, sexual assault, abuse and sexual denigration during the Australian Army's training of our special forces soldiers. I ask that all senators in the next couple of days once again support the re-establishment of this inquiry through a vote for the motion of which I have given notice.

Over the next 20 minutes I will detail new evidence from Defence whistleblowers and official written replies from the Army which strengthen the need for this independent inquiry.

In order to jog the memory of this chamber but especially for the new crossbench senators, who will hear these disclosures for the first time, I will begin by reading part of my previously successful notice of motion in the 44th Parliament. It concludes:

1. SAS member Trooper Evan Donaldson alleges that during Australian Military RTI training he was assaulted, bound, blindfolded, denied food, water, sleep, stripped naked, tortured with loud sounds,
sexually assaulted and these activities or their effects - were recorded on official Australian Defence video footage.

And therefore this Senate calls on the government to establish a select Senate committee to view and examine, under special circumstances …

… which protect operational security and the wellbeing of our special forces —

… all Australian Government electronic recordings of Resistance to Interrogation Training activities— with the purpose of establishing whether crimes, misconduct, abuse of office and/or breaches of international conventions or human rights have been committed and covered up by members of Australia's defence or other government departments.

Before I present new facts which strengthen the need for my inquiry, I must make a brief comment about SAS member Trooper Evan Donaldson. Evan and his family have been treated appallingly by the Australian Army. They are going through hell right now. It is likely that senior members of the Australian Army have behaved in a criminal manner in order to deliberately cause harm to Trooper Donaldson and his family. I once again urge the PM and the Minister for Defence to fix this injustice immediately.

For most Australians, an Army training course which begins with a surprise, brutally violent capture of Australian Special Forces soldiers or others at work by a gang of unknown, balaclava clad assailants who then bind and blindfold them, strip them naked, deny them food, water and sleep and then subject them to sexual denigration by both men and women, which sometimes progresses to sexual assault and torture, is a plot for a Hollywood movie or belongs to a group who love conspiracy theories. However, the Australian Army's own replies to my questions on notice indicate that conduct-after-capture courses or resistance-to-interrogation training programs have existed in the Australian Army for decades. The Chief of the Army, Lieutenant General Campbell, has disclosed in writing that up to present day:

Army has conducted 33 Conduct After Capture 72-96 hour practical activities since 2001.

The management of and conduct on these courses must be independently examined by a Senate committee. At this point, it is important to note that a Senate committee will be able to see exactly what has happened because the Army admit to videotaping all of these courses.

In relation to the numbers of soldiers on these resistance-to-interrogation courses, Lieutenant General Campbell has disclosed in writing that:

The number of personnel varies for each activity. On average there are 34 individuals undertaking training per activity since 2001. There are approximately 65 training, medical and support staff per activity.

So, using Army's responses to my estimates questions in Feb 2016, in the last 15 years approximately 1,122 soldiers have been the subject of surprise attacks by large groups of balaclava-wearing men. They were tied up, blindfolded, stripped naked, denied food, water and sleep, and then subjected to sexual denigration by both men and women which sometimes progressed to sexual assault and torture. And this treatment of our finest soldiers happened partly under the oversight of retired Army Lieutenant General and Chief of Army David Morrison, who is currently Australian of the Year. While Lieutenant General Morrison was Chief of Army between 2011 and 2015—over four years—10 courses of resistance-to-interrogation training programs were conducted. Approximately 340 Army personnel were assaulted, tied up, blindfolded, stripped naked and denied food, water and sleep, and then subjected to sexual denigration.
Retired Army Lieutenant General David Morrison is also famous for his video speech in response to emails that were highly demeaning to women sent from Army accounts. He described the emails associated with what became known as the 'Knights of the Jedi Council scandal' as explicit, derogatory, demeaning and repugnant. Isn't it interesting to note that in 2015, the year when Lieutenant General Morrison made stirring, angry speeches in public about sexual denigration in Army emails, according to official Army replies to my questions he had responsibility for 136 Army personnel on four secret resistance-to-interrogation courses who were subjected to officially-sanctioned physical assaults and sexual denigration?

And while members reflect on the irony—some may say 'hypocrisy'—of that situation, I give this warning. Shortly I will read into Hansard a sworn statement from Lieutenant Colonel Karel Dubsky, an Army commander who was sacked by Lieutenant General Morrison for receiving, but not opening, an email which depicted the sexual denigration of women. Tonight, while I build the case for a special Senate inquiry into these matters, retired Lieutenant Colonel Dubsky has also asked me to help him to correct the public record and obtain a public apology from the Australian of the Year, Lieutenant General Morrison, and the Australian Defence Force. Given that Retired Lieutenant Colonel Dubsky was cleared of involvement with the Knights of the Jedi Council but still had his and his family's lives ruined by an illegal leak of his name to the media while Lieutenant General Morrison was Chief of Army, it is a request I am happy to perform for a person who has given such distinguished service to the Australian people. I would like to acknowledge retired Lieutenant Colonel Dubsky's presence in the chamber tonight. I salute your service.

Another former member of the military who also gave distinguished service while in our military and whose voice needs to be heard tonight is Dr Stephen Scully, a New South Wales medical doctor. Dr Scully has told me that not only was he a participant in the Army's resistance-to-interrogation courses in the early 1990s but in the mid-2000s, then as an Army resident medical officer, he supervised these courses. Dr Scully made disturbing allegations. He said to me:

At least the SAS know what they are going through when they go through the activity, a lot of the regular troops don't know. I mean we took a classroom full of second fourteen guys in 2005 - and the take down can be quite brutal I mean they talk about no physical injuries - but when they take them down they actually smash them, I mean my troop Sargent dislocated his shoulder back in 92 when they were taken down.

A lot of these guys don't get over it. They're not really prepared for it, the med documents never made it back—and I know why.

Dr Scully also disclosed, after I asked him if he had seen sexual assaults on these courses:

I can't really say I saw any sexual assaults - but there was certainly a lot of sexual intimidation - I mean naked soldiers being ridiculed by female interrogators, they would put makeup on them, make up on their face and stuff like that.

Dr Scully has also lodged official Senate investigation submission No. 59, which states in part:

I wish to elucidate that not all harm occurs overseas. Indeed, I have seen significant trauma and morbidity occur in a barracks and field training environment, including training deaths, injury and suicides. I have witnessed gross mistreatment, verging on torture, and have been compelled to be complicit to it. I have witnessed the persecution of soldiers by sub-unit commanders who were previously the subject of a parliamentary inquiry into psychopathic bullying, yet were nonetheless
deemed fit to take command and further ruin young lives. I have been threatened with imprisonment for not changing my medical opinion to suit the wants of command. Operationally, I have been ordered to abandon dying indigenous personnel in mass casualty situations overseas.

I now turn to the statutory declaration by retired Lieutenant Colonel Dubsky, and once again I acknowledge his presence in the Senate public gallery this evening. The declaration said:

I, Karel Josef Dubsky
Unemployed Veteran

do solemnly and sincerely declare that:

David Morrison wrongly accused me, Karel Josef Dubsky of being a participant in the Jedi Council scandal. This occurred during a speech given to the Australian public on 13 June 2013. During the announcement, David Morrison stated '17 men were responsible for the production and distribution of highly offensive material and sending it across the Defence Restricted Network and public internet services'.

He included me despite the fact that I made a sworn statement under 'Record of Interview' to the Australian Defence Force Investigative Service (ADFIS) on 5 June 2013 that I was not a part of or did not know about the Jedi Council matter.

The means by which he wrongly accused and defamed me in the public domain was by advising the gathered press conference on 13 June 2013 that the highest ranked officer 'involved' in the Jedi Council matter was a Lieutenant Colonel.

Due to my high profile as a Commanding Officer and the observable nature of the ADFIS investigation conducted on 5 June 2013 the word quickly spread through Lavarack Barracks that I had been investigated. The 13 June 2013 press conference solidified an uninformed military community into believing I was a part of the Jedi Council. LTGEN Morrison should not have advised the media of Army ranks involved until the investigation was completed. This would have been natural justice and averted my public humiliation.

On 5 June 2013, ADFIS conducted an 'investigation' into my involvement into the Jedi Council matter. As a Commanding Officer I was humiliated as I was taken out of a meeting with my Unit to have my room and body searched.

I was later taken to the ADFIS headquarters to conduct a formal Record of Interview (ROI). As I knew I was innocent I waived my right to legal representation. As this was a formal service police interview I thought I would have been shown evidence related to the charges against me.

This did not occur and in fact I was shown no evidence to comment on at all. Instead I was asked only one question, "what do you know about the Jedi Council?" My answer was "Until I was advised by NSW Police of the Jedi Council on 28 Mar 13, I knew nothing about the Jedi Council."

I then provided a Witness Statement, which I did not have to do. Army cannot call this a proper investigation when only one question was asked under formal ROI.

On 22 July 2013, Channel 7 National News ran a story on the Jedi Council and my face and name were televised. The next day I had Channel 7 Townsville on my doorstep with a camera. The news article that night suggested that I was as much to blame as the ringleaders of the Jedi Council.

This placed significant stress on my family particularly in such a garrison town like Townsville. My wife and children where shunned and vilified. If LTGEN Morrison had not advised the country a LTCOL was involved it is unlikely that Channel 7 would have been able to identify me. It is also unclear who leaked my name to the media although I have been told 'off the record' "that is was a Defence member".
On 26 July 2013, LTGEN Morrison issued me a Notice to Show Cause (NTSC) as to why I should not be removed from Command. I was also issued a NTSC as to why I should not be discharged from the ADF. I successfully argued my case and LTGEN Morrison stated that I was not part of the Jedi Council. He did however remove me from Command 'for failing to remain aware of issues that affect me, my Unit and Army'. In effect I was removed from Command and my career ruined because of LTGEN Morrison's standard that I should read every email I receive. This was an impossible expectation as I received over a hundred emails a day.

In my humble opinion LTGEN Morrison was biased before he made a decision on my NTSC. I attended a meeting on 4 July 2013 in Townsville held by LTGEN Morrison to promote the fourth Army Value of Respect.

I went to this meeting not only because all Commanding Officers were supposed to attend but also because I wanted to look him in the eye and tell him I had nothing to do with it.

I was amazed when he stood up in front of all Lavarack Barracks COs and RSMs and spoke about the Jedi Council Affair and said, 'These individuals, and I use the term alleged because I have to, I will have them removed from the Army.'

I have two witnesses who will attest to this statement from David Morrison, Colonel Michael Mee and LTCOL Steve Jenkins. This comment was completely unacceptable and indicated that he had already made up his mind about the matter before investigating the facts. For this action and comment LTGEN Morrison should be held to account.

Of great concern for the future of the ADF is that LTGEN Morrison allowed or condoned an abandonment of Military Justice in order to be seen to act. He did this by quickly moving from the DFDA justice system to Administrative Law but in doing so did not apply the mandated policy contained in ADFP 06.1.4 Administrative Inquiries Manual.

After what I assumed would have been a Quick Assessment, an ADFIS (discipline) Investigation was commenced. I participated in a Record of Interview (ROI) waiving my rights to silence and legal advice. I was not asked about any of the emails nor shown them. I then provided a Witness Statement to ADFIS but was not shown any emails. The system appears to have then tracked back to Administrative Law.

So far as I was aware, there was no Administrative Inquiry established. No Inquiry Officer approached me to conduct an interview in which I would have been able to answer questions regarding the emails. The first attempt to adduce my version of events/evidence regarding the specific Jedi Council emails was during the Show Cause process.

The appointment of an inquiry into the matter would have saved me life-altering stress and embarrassment because the Inquiry officer would have concluded that I was not involved with the Jedi Council. This would have been the same outcome that both LTGEN Morrison and GEN Hurley eventually concluded.

The greatest and lasting impact on me was the national humiliation on television and in print media due to LTGEN Morrison's handling of the matter. The final 'straw' was my removal from Command for 'failing to remain aware of issues affecting me, my unit and Army'.

The humiliation to my family and my sense of betrayal by Army when combined with my service caused PTSD led me to attempt suicide in March 2014. When David Morrison was named Australian of the Year I was so completely upset and betrayed that I attempted suicide again in January 2016.

I humbly submit that David Morrison's incorrect assumptions, bias, hasty actions, failure to follow ADF procedure and poor leadership through the Jedi Council matter has irrevocably damaged my health. I have spent six months of the last two years in hospital, including seven separate admissions. I was cleared of involvement with the Jedi Council but while David Morrison was quick to denounce my
involvement he has not apologised to me nationally. The ADF has a duty to correct the public record on this matter.

In summary, I request a formal apology from the ADF for the way I was treated throughout the Jedi Council matter. I also request a Public Relations statement acknowledging that I was not involved with the Jedi Council.

Mr Acting Deputy President, I want all those senior officers involved in the cover-up of assaults, human rights abuses and torture of troops brought to justice, and I would like all the victims properly cared for and compensated.

The Australian of the Year, Lieutenant General Morrison, owes a public apology to Lieutenant Colonel Dubsky and his family. He must disclose the name of the person who illegally leaked Lieutenant Colonel Dubsky's name to the media. Tomorrow Lieutenant Colonel Dubsky and I will meet with the Minister for Defence, and I invite the PM to please drop by.

**Gun Control**

_Senator RHIANNON_ (New South Wales) (21:04): At the end of last month, along with 38 other people, including health workers, people who work with victims of domestic violence, people affected by homicide, relatives of people who have committed suicide, academics, unionists and people in the legal fraternity, I signed a letter to the Minister for Justice, Michael Keenan. These are excerpts from the letter. The full copy can be read on the _Guardian_ of 25 October this year. The letter commences:

Australia’s gun control laws are the envy of the world. Since the landmark 1996 national firearms agreement … our state, territory and federal firearms laws have been focused on the goal of ensuring community safety. We believe that any review of the NFA must have direct input from gun control advocates and be focused on community safety.

The letter goes on to state:

At present the Australian government is undertaking a review of the NFA. We support an unbiased review of the NFA that addresses any loopholes and weaknesses in the country’s gun control laws. One weakness is the error in classifying the six shot Adler A110 shotgun as a category A rather than category C firearm. Related to this is the failure to make the temporary importation ban on the eight-shot Adler A110 permanent. However there are many other pressures on our gun control laws that deserve national attention.

So it is with real concern that we see you have organised repeat official meetings to discuss changes to the NFA with the firearms industry and the pro-gun lobby in the form of the Firearms Industry Reference Group. At these meetings you have informed the gun lobby representatives that the review of the NFA is:

“… an opportunity to simplify the national firearms agreement to assist the firearms community,” and

“… the government is keen to simplify the regulations and the bureaucracy to lessen red tape for firearms users.”

The Firearms Industry Reference Group contains representatives from government departments and the Sporting Shooters’ Association, the National Firearms Dealers Association, Shooting Australia and the Shooting Industry Foundation of Australia. It contains not a single gun control or community safety advocate.
They are some excerpts from our letter to Minister Keenan. Again, I draw your attention to the language. What this letter reveals is a very serious development. He is referring to the National Firearms Agreement—that is, the agreement brought down by former Prime Minister John Howard in 1996—and he is calling it ‘red tape’. And he talks about the commitment of the Turnbull government, effectively, to assist the firearms community. What we should be assisting here—what the National Firearms Agreement was about and should still be about—is public safety. A very worrying trend has been revealed in those comments by the minister.

What I want to deal with tonight is this very unhealthy relationship between the gun lobby and the New South Wales government. The examples that I will give are troubling, but they could well give an insight into what could possibly be starting to unfold at a federal level with regard to how the National Firearms Agreement is playing out. Because what we have seen in New South Wales are attempts to water down firearm laws and regulations. It has become a common feature of New South Wales politics for about two decades. Labor and coalition state governments have been striking deals with the Shooters and Fishers Party to weaken gun laws, expand the number of shooting ranges and pick up funding packages for sporting clubs. Deals between the government and the shooters party have resulted in savage cuts to victims' compensation, workers' compensation, cutbacks on public sector workers' pay and conditions. And then we have had the deals around electricity privatisation and ports privatisation. At the same time, there has also been a push to have hunting occur in our national parks and in our state forests. These are some of the issues that I wanted to detail tonight, because it shows a very unhealthy relationship in terms of how deals are made and how legislation that is bad for the community in the first place is often made even worse because it is off the back of dangerous changes to laws that should be promoting public safety.

To start, I would like to go back to 2002, when the Game Council was introduced in New South Wales. That did not just come about in 2002. In a very useful speech by the first Shooters Party MP in New South Wales, Mr John Tingle, he set out all the hard work that he put into it. He was elected to the New South Wales parliament in 1995. He was a member of the crossbench at that stage, and it was reported that about once a week he would have a cup of tea with the former Premier Bob Carr to work out their tactics, because the crossbench obviously played a critical role. From early on, I understand, Mr Tingle worked hard to get this Game Council up.

So the Game Council came in as a statutory authority to administer hunting in New South Wales. It was made out that it was this wonderful body that would manage feral animals. Again, some of the people who work in this area are often quite revealing in the comments that they make, so what you see fairly early on is that there was a lot more going on here. It was really about promoting hunting in general and particularly about building an awareness and to pull more people into shooting and hunting.

I cut to the 2013 report of a review of the Game Council. The Game Council, throughout its 11-year history, was extremely controversial. It was controversial when it was introduced—I was in the state parliament at the time—and it became more discredited as time went on. This report in 2013, from the Game Council itself, really put the icing on the cake or the final bullet in the coffin for the Game Council—however you want to refer to it. The report said:
The Game Council has its roots deeply embedded in politics. 

So that is what we are unpacking here: how so many of these decisions are deeply embedded in politics. There is the language from the shooters themselves. I will start again:

The Game Council has its roots deeply embedded in politics. It was established because of, and has grown with, the influence and power of the Shooters and Fishers Party in the NSW Legislative Council.

It goes on:

The legislation establishing the Game Council was passed in 2002 but the work leading up to that point had been going on for many years.

It goes on to talk about creating awareness and the focus on promoting the value of the service.

I want to add a little aside here, because what is not included in that report but is important to put on the record is the role played by the highly discredited former Labor minister Ian Macdonald, who ran into so much trouble with ICAC about various coalmining deals. He also had his grubby fingers all over this deal, and so many times, when we would argue and debate and work to get this legislation defeated in the New South Wales parliament, he would get up there and boast about what a great contribution it was. It was a way to control feral animals and it was really about conservation, and all the other lies that he would put forward. But what he would regularly say, as a justification for the Game Council, was that it was saving the government money because it was self-funding—another one of Mr Macdonald's lies. It was never self-funding. This Game Council bled money from the New South Wales government and therefore the public of New South Wales.

So the bill to establish the Game Council was supported by the then Labor government, with solid support from the coalition. That again is the theme that you will see as I work through these deals. The Game Council, as I said, was eventually removed. Mr Tingle said that he first suggested the bill to the then Minister for the Environment, Pam Allan, and he says that she was very enthusiastic about it. I will just put on the record some of the comments from some of the people who worked on it. This is some useful material from a November 2012 article in The Australian:

The Carr Government established the Game Council in 2002 at the behest of John Tingle, ostensibly to regulate hunting. But according to David Dixon, who worked as communications manager at the organisation from 2007-10, it's little more than a government-funded lobby group which spends much of its $3.9 million budget on promoting hunting and devotes little energy to monitoring hunters. Dixon told this magazine that few, if any, illegal hunters were prosecuted during his time at the Game Council, and the council's email system became a conduit for propaganda of the type spread by the National Rifle Association in the US.

To move on, I think, of all the deals that were done, the one that I found most troubling was around the weakening of apprehended violence orders—particularly to do with domestic violence. I always found this extraordinary when it came about in the state parliament. Again, Labor were in power at the time—this was in 2008. John Hatzistergos was the Labor Attorney-General at the time. He was in the New South Wales upper house, so we debated this issue a number of times. This is how The Sydney Morning Herald described it:

MEN who have previously been the subject of apprehended violence orders will be given the right to have the orders revoked so they can regain gun licences. The deal was cut by the Shooters Party with the Government and Opposition on the last parliamentary sitting day of the year.
That is a day when we know it is so hard to get proper scrutiny. They go on to state:

Under NSW law, anyone who was the subject of an apprehended violence order lost the right to a gun licence for 10 years.

But under an amendment successfully moved by the Shooters MP Roy Smith to the Domestic Violence Act on Thursday, it will now be possible for those who have been subject of an apprehended violence order that has expired to have the order revoked.

That is absolutely shameful. Once again Labor, Liberal, Nationals and Shooters were voting together. At the same time you would see those people out there talking about their concerns about domestic violence, and there they were doing something as shameful as that. It was making it easier for men who are violent to get their guns back.

What we also see is that that debate with Attorney-General Hatzistergos was absolutely disgraceful. It was a very complicated set of amendments—it went to about three pages. Initially he provided no explanation of what the changes were, because they came in at the last minute. After much pressure from the Greens he offered a short explanation along with his usual characteristic rudeness, so it certainly was not a pleasant debate. This issue was revisited in 2011 when the shooters party introduced legislation to the New South Wales parliament that was aimed at allowing firearm owners who become subject to an apprehended violence order to keep their weapons until they received a letter in the post from the Police Commissioner revoking their licence. That overturned how things previously occurred. Again, The Sydney Morning Herald reported on this in some detail.

Because of the shortness of time, I will move on to some of the other examples. Electricity privatisation and hunting at national parks were two of the places where you saw the clearest deals from a government that was desperate to get its shocking legislation through. They were selling off our electricity system and, at the same time, doing a deal to allow shooters to go into national parks. By that time the coalition was in power in the New South Wales parliament, and it was in late May 2012 when the New South Wales government and the shooters party agreed on this deal. As I said, that was a really clear stitch-up because the electricity privatisation bill went through on 30 May 2012—the vote was passed 20 to 17. By then the Labor Party, as they often are, were a different beast in opposition. They found some decency on this issue and were starting to resist what the government was up to in these deals with the shooters and fishers, so I note that. So the electricity privatisation bill went through at the end of May, and the deal that was to be struck had already been on the record. In a media release on 30 May—the day the legislation was to go through—Mr O'Farrell had actually said:

... the agreement came after the Shooters and Fishers Party sought and received additional employment protection for power station workers.

That was the excuse he gave. But, on the same day, there was another media release where he talked about feral animal control in national parks and that they would allow shooting in 79 of the 799 national parks in New South Wales. That is one in 10 national parks that allowed shooters to shoot in them to supposedly hunt. At the end of May, the privatisation bill went through. Two weeks later the Game and Feral Animal Control Amendment Bill went through. Again, the vote was 20 to 17, with the upper house split along similar lines.

What became interesting then was that there was understandably a huge outcry. Like, who has ever heard of shooting in national parks? It is the exact opposite of what you would
expect to go on in national parks. The community was outraged; environment groups were outraged; there were just so many letters in the paper. So the government started to get worried. It reneged to some extent on the deal with the Shooters Party. Well, that is what it seemed to be in the first instance. When they came to open up the promised 79 national parks they allowed shooting in only 12 national parks, so the shooters got very cranky and talked about how they had been done over. But then what happened? You had to follow the trail, and obviously this had been worked out. What did the shooters then come up with? That they would get an expansion of duck hunting. Now, again, you need a little bit of history.

Back in the 1990s there were huge protest movements. Many people were very distressed about what was happening to our native wildlife and the animal cruelty aspects of the issue, because ducks and many of our native wild birds were being shot. People, who were very courageous, would collect them out of the wetlands and bring them to our parliament and line them up. I saw them in the Victorian parliament and the New South Wales parliament. Then in 1995 Labor came in and banned duck shooting. What happened? The shooters came up with a plan—obviously negotiated. While they had lost out on national parks and they could only go hunting in 12 national parks, they got an agreement out of the O'Farrell government that they would reintroduce duck shooting. Now, again, it was dressed up in fancy language—as conservative governments do these days when there are up to no good—talking about how it was a way to control pesky ducks who were eating the rice and doing other bad things in rural areas, but at the end of the day it allowed native ducks to be shot by shooters across New South Wales.

Now part of the deal—and I guess when it was behind closed doors and the coalition were setting out what they want to get out of this deal, everybody was probably getting a bit testy with each other, because who can trust who—was that they negotiated the support of the shooters for the privatisation of the ports: the Port of Newcastle and Port Kembla. Again, this was shocking legislation that sold out people. Privatisation and selling off assets is certainly not done for the public good. So, who announced the deal about allowing the shooting of our native wild birds? The Minister for Roads and Ports, Mr Duncan Gay. What he had to do with the supposed plan to control the pesky ducks down in the Riverina was a bit of a stretch to work out, but there he was announcing it. This was all part of the way New South Wales politics worked in terms of delivering on these deals and setting them in stone. What was clearly understood is that the reason Mr Duncan had to make that announcement was to help lock in the shooters so that the deal was done. The minister for ports and the minister who required their votes to sell off Port Kembla and the Port of Newcastle would deliver on allowing those shooting activities to go on when it came to killing wild birds.

Another area was public sector wages and conditions. In 2011 the New South Wales government passed legislation to cap public sector salary increases. Again, how did they get it through? With the support of the shooters and fishers. The Sydney Morning Herald reported that the Premier said that they could rely on the Shooters and Fishers Party and the Christian Democrats to determine wages and conditions and what was fair. And what did they get in return for that one? What was set out was that state forests would be opened up to recreational hunters and a five-year moratorium on new marine parks in New South Wales was to be implemented. Again those issues were linked in a very deeply immoral way. That was widely reported in the regional press. The Macleay Argus covered it; the Tweed Echo covered it—
and they really documented how these deals were played out. It was called the war on the environment—*(Time expired)*

**Women's Workforce Participation**

**Senator MOORE** *(Queensland)* *(21:24)*: This year, 2016, marks the 50th anniversary of the lifting the marriage bar on the Australian Public Service. That marriage bar meant that married women could not be employed on a permanent basis in the Commonwealth Public Service. The policy had been in place since the inception of the Commonwealth Public Service in 1901. Regulation 139 stated:

… the employment of married women in the Service is deemed undesirable, but if in any special case it should be considered advisable to depart from this rule, employment may be sanctioned upon the recommendations of the Permanent Head and the special certificate of the Commissioner in each case.

This restriction meant that married women could only be employed as temporary staff, restricting their promotion opportunities. Only permanent staff could be in any supervisory position. Being a temporary employee also restricted the ability of married women to accumulate superannuation and meant that they were the first to be targeted for any redundancies when significant downsizing of the Australian Public Service happened.

In 1923 the Public Service Arbitrator had laid down clearly for the first time the reason for the difference between men's and women's wages and established principles which survived in the Public Service until altered by the arbitration court in 1953. I quote the Arbitrator's words:

The general experience throughout the world, as indicated by statistics published in many countries, is that the effective service of women is considerably below that of men, even in the same occupations, and that this is due principally to (1) loss of services through marriage, (2) greater absences on account of sickness, and (3)—my personal favourite—sapping vitality of unmarried women at an earlier age of life.

While the expectation of life is greater in the case of women than of men, the effective service of women ceases at an earlier age. If these factors are taken into account, equal services to those of men are not as a general rule rendered by women.

Eventually, in 1957 the Menzies government appointed Richard Boyer to head a committee of inquiry into the public service recruitment. Its conclusions were made known to the government in November 1958. Among its many concerns, it recommended repealing the marriage bar because of its inequity, disincentives, waste of talent and training and because Australia was one of the very few nations with such a bar. The removal of the marriage bar was indeed one of the key recommendations of that committee. The committee argued the point in terms of women's citizenship rights as well as advantage to the service. This is the Bowyer inquiry:

These provisions may be considered from two points of view: that of the advantages and disadvantages to the service of employing married women, or continuing them in employment, and that of the rights of married women as citizens and as officers of the service.

We recommend, therefore, that sub-sections (1) and (2) of section 49 be repealed, and replaced by a subsection providing that married women shall be eligible for permanent or temporary employment in the service on such terms and under such conditions as are prescribed.

That was in 1957, but it was way too early to celebrate.
In the abstract prepared by Tom Sheridan at the University of Adelaide called 'Mandarins, ministers and the bar on married women, he says:

Examination of National Archives records reveals that removal of the Marriage Bar was a much more complicated process than hitherto generally realised. Study of the stuttering and convoluted pursuit of its removal over an eight year period through two Inter-Departmental Committees, a Permanent Heads Committee, a Cabinet Committee and through three formal Submissions to Cabinet—meant that the Boyer recommendations did not happen overnight. I am particularly indebted to the work of Mr Sheridan and also to the wonderful Marion Sawyer, who has done research into the cabinet documents and a number of historical records that happened through this period. I really recommend that anyone who is interested follow them through. It makes us proud to see what happened.

In 1960 the Public Service Board released a report to cabinet addressing the implications of lifting the marriage bar. Despite the fact that it supported the Boyer committee's recommendations, cabinet did not act on the matter of the marriage bar. The reason for this failure to act was the belief that 'the Australian social structure would be best served if there was no change and that the Commonwealth government should not lead in encouraging married women away from their homes and into employment.'

We move on to 1961, when advice offered to the then Prime Minister Mr Menzies—over whose name any board submission would be made—was at best lukewarm. His first briefing from senior adviser Doctor Ronald Mendelsohn was completely negative:

… the practical effects of removal ‘are likely to be fairly small’; the topic was ‘loaded’ and emotional; Treasury had not yet drafted requisite amendments on superannuation: removing the bar would be ‘quite unpopular’ because of ‘heightened public consciousness concerning unemployment’; abolition was likely to have ‘important repercussions on employment’ in both the public and private sectors of the economy; a ‘state of affairs’ where married couples drew salaries ‘throughout their married life and throughout the period of upbringing of their children has important social effects’; perhaps the government should first seek scientific evidence about social experience overseas—and so on and so on—

Menzies' only mark on the brief, quite detailed but very negative, was alongside the suggestion that no action be taken or announced 'before there is a real upturn in employment.'

Immediately before the Cabinet meeting, Department Head and Cabinet Secretary John Bunting fortified the case for caution.

And I really enjoy his assessment:

But I would not take

the responses—

at face value and I continue to believe that if each Head of Department questions himself—

naturally—

about his true views on the point he will end up having a bit each way. I certainly do. On the one hand I see it as an anachronism that married women should be excluded from consideration for permanent Public Service employment. On the other, I see a decision to employ them as being a social decision of large dimension. Again, on the one hand I see the demerit of having to terminate a woman's employment merely because of marriage. But, on the other, I also see the demerit as an employer of running second to domestic responsibilities.
No action was taken. Harry Bland, who was a permanent head of the Department of Labour and National Service, the requisite department, made a telling comment. This decision: reflects a typically male public servant attitude to this problem. One has the impression that it is with a great degree of reluctance that signs of enlightenment are allowed to peep through the document's mass of words.

But the words continue. I think one of my favourite pieces of documentation that was brought forward in their research was an advice to the Prime Minister, Mr Menzies, on 3 April 1962 relating to the Boyer report. It says: 'The Boyer report suggests a change in the law to remove the existing restriction, but the cabinet expressed no enthusiasm. It preferred the status quo though, so, as not to provoke the feminists and others, decided to lie low for the time being, rather than come out with a statement.' This lying low seemed to continue for a considerable time, but through this period there was considerable advocacy building up in the community. Marian Sawyer describes it as 'polite advocacy lobbying that continued to transitioned through from the staid to the stroppy'.

Some of this was actually determined by organisations such as the National Council of Women, who supported the Boyer recommendations passing resolutions on the subject at national conferences in 1960, 1962 and 1964. Among the membership of the National Council of Women were four government senators who continued to make comment along these issues for many years. I want to pay my thanks to the women who were in this place—in the other place, of course, but in the Senate. They were Liberal Senators Nancy Buttfield, Annabelle Rankin, Agnes Robertson and Ivy Wedgwood, who all pressed considerably on the issues of the marriage bar over this period.

The Australian Federation of Women Voters was also pushing for the implementation of the Boyer recommendations, writing to the Prime Minister and to women senators in 1960 and rating candidates on the issue in the 1961 election. They sent out an extremely polite survey to all candidates in that election, which began 'Sir'—again, quite naturally—'would you be so kind enough to let us know your attitude on the questions listed and whether, if returned to federal parliament, you will introduce or support any legislative action to implement them,'—they included equal pay for equal value; what a great idea!'—'And also, if you are elected, will you actually be prepared to remove the marriage bar against all women in the Commonwealth Public Service?'

Unfortunately, I do not have any record of the replies from all those candidates but, naturally, there was no actual urgency in pursuing the removal of the marriage bar. Unknown also was that there was movement happening in my own state of Queensland with the introduction of a new organisation called the Equal Opportunity for Women Association—which was originally formed by Merle Thornton and Ro Bognor, the women who were caught up in the issue of chaining themselves to the bar in a well-known hotel looking for equal rights for women.

Out of the publicity and some of the work around that, they created the Equal Opportunity for Women Association—which agitated for changes to this as well as a whole range of other changes to empower women. One of the things that the association did—apart from writing letters—was a survey of women who had been impacted. Case histories were collected by Helga Alemson for EOW of women whose lives and work had been impacted by the marriage bar. This is really telling reading. There are copies of this available in the archives. This
ranges through the personal experiences of a number of women who had their careers truncated simply because they became married and the injustice and frustration that this caused.

One of the advocates who came on board after much encouragement by the EOW was a young parliamentarian from the Labor Party, Bill Hayden. During the years 1964 and 1965 he put a number of questions on notice advocating for changes to the inequitable marriage bar and moved a private member's bill on these issues. Whilst that was not successful at the time, it brought a lot of attention to the issue. I want to quote from one of Bill's speeches—and I think I can actually hear his voice while I am doing this! He said:

First of all, if a woman enters the public service she can immediately be satisfied that henceforth she will pay a continuing penalty in the form of receiving a lower wage than a man for the work she performs, regardless of whether she is employed as a librarian, a school teacher or in any other capacity where men are doing the same sort of work on a higher wage rate. A woman will not receive the same pay as a man. That is the first way in which a woman is penalised because of her sex when she joins the Commonwealth Public Service. But, my goodness, should she compound the offence of being a woman by committing the heinous act of marrying, she is immediately eliminated from the service. There is no future for her. Her services are no longer required within the structure of the Public Service Act.

That speech was made in 1965. By then, there was movement around the parliament, and there continued to be recommendations that there needed to be an urgent change if we were going to live up to our responsibilities of living in a modern world, being a member of the ILO and being around other countries that had moved much more rapidly than we had done.

So, finally, the bill removing the marriage bar and introducing confinement leave came into effect on 18 November 1966. Mr Bury, the then minister, stated that 'the bill removes an element of discrimination against one section of our workforce or potential workforce—an element deriving from social attitudes of another era. Henceforth, the Commonwealth will be permitted to retain on its permanent staff trained and experienced female officers who marry and to recruit qualified married women.'

Naturally, all elements of discrimination were not removed when the marriage bar was removed from the Australian Public Service 50 years ago. However, when I started work in the Australian Public Service, in the early eighties, there were still women in the workforce whose careers had been impacted by the marriage bar. They had to leave their work, but they came back to continue work in the Public Service when the marriage bar was removed.

I remember talking with them and listening to their experiences, and actually learning from them a number of things. One, indeed, was actually truly valuing the work of the Australian Public Service. These were women who had been, through no fault of their own, removed from their employment—actually told they were no longer worthy. In those wonderful documents to which I referred, which EOWA produced, you can see the frustration and anger, and also the deep resentment that caused them during the period of the marriage bar. But later, as they had the opportunity to return to work, where they chose to work was the Australian Public Service, and they continued to provide valuable service for many years and repaid much value to the service.

During the discussion of the period of the debate around removing the marriage bar there were some beautiful statements made in the Senate. A number of them referred to the particular work of a woman who was working in the Parliamentary Library at that time. She
was a very valued and skilled worker in that place, and in giving their contributions to the debate which led to the removal of the marriage bar a number of parliamentarians identified her—her professionalism and the achievements which she had made—as a particular incident that caused them to think about the waste that the marriage bar had actually given to the public sector.

It is a very important anniversary that we are celebrating at this stage—the removal of the marriage bar. In previous times—at the times of the 30th anniversary and the 40th anniversary—there were significant acknowledgements of the bar being removed in the Australian Public Service through publications such as that one I mentioned, the Removal of the Commonwealth Marriage Bar: A Documentary History, edited by Marian Sawer, which celebrated the 30th anniversary. For the 40th anniversary, another specific publication was made, which I recommend to anyone who is interested in this point. It also gives really extensive information about the time lines of the introduction of the Public Service and the various key achievements of women in the public sector, and about those which continued to operate after the marriage bar was removed.

I hope that women in the Public Service now have the opportunity to see what their history was, to learn from the absolute resilience of women who actively chose to work in the Public Service and to see that there was a great deal of effort made by women and men across the community and in the parliament to achieve this first step, I believe, to removing discrimination. I celebrate the 50th anniversary of the removal of the Commonwealth marriage bar and I hope that many people in this place, and in the wider Public Service, acknowledge this date and celebrate, just a little, such a significant event in November 2016.

Senate adjourned at 21:42

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Australian Prudential Regulation Authority Act 1998—Australian Prudential Regulation Authority instrument fixing charges—No. 2 of 2016 [F2016L01043]—Replacement explanatory statement.


Commissioner of Taxation—Public Rulings—

Class Ruling CR 2016/84.

Taxation Determination TD 2016/17.


Southern Bluefin Tuna Fishery Actual Live Weight Value of a Statutory Fishing Right Determination 2017 [F2016L01716].

Southern Bluefin Tuna Fishery Fishing Season and Australia's National Catch Allocation Determination 2017 [F2016L01715].
Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2017 [F2016L01717].
Southern Bluefin Tuna Fishery Transfer Weighing Determination 2017 [F2016L01718].

National Consumer Credit Protection Act 2009—ASIC Credit (Repeal) Instrument 2016/1087 [F2016L01721].


Tabling

The following documents were tabled pursuant to standing order 61(1) (b):
Army and Air Force Canteen Service (AAFCANS)—Report for 2015-16.

Migration Act 1958—Section 486O—Assessment of detention arrangements—


Royal Australian Navy Central Canteens Board (Navy Canteens)—Report for 2015-16.