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

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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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PARTY ABBREVIATIONS
AG—Australian Greens; ALP—Australian Labor Party;
CLP—Country Liberal Party; DHJP—Derryn Hinche'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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<tr>
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<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><strong>Cabinet Secretary</strong></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>Minister Assisting the Cabinet Secretary</td>
<td>Senator the Hon Scott Ryan</td>
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<td>Minister Assisting the Prime Minister for Cyber Security</td>
<td>Hon Dan Tehan MP</td>
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<tr>
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<td>Senator the Hon James McGrath</td>
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<tr>
<td>Assistant Minister for Cities and Digital Transformation</td>
<td>Hon Angus Taylor MP</td>
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<tr>
<td><strong>Deputy Prime Minister and Minister for Agriculture and Water Resources</strong></td>
<td>Hon Barnaby Joyce MP</td>
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<tr>
<td>Assistant Minister for Agriculture and Water Resources</td>
<td>Senator the Hon Anne Ruston</td>
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<tr>
<td>Assistant Minister to the Deputy Prime Minister</td>
<td>Hon Luke Hartsuyker MP</td>
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<td>Hon Julie Bishop MP</td>
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<tr>
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<td>Hon Steve Ciobo MP</td>
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<tr>
<td>Minister for International Development and the Pacific</td>
<td>Senator the Hon Concetta Fieravanti-Wells</td>
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<tr>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>(Leader of the Government in the Senate)</td>
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<td><strong>Treasurer</strong></td>
<td>Hon Scott Morrison MP</td>
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<td>Minister for Social Services</td>
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<td>Assistant Minister for Social Services and Disability Services</td>
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<td>Assistant Minister for Social Services and Multicultural Affairs</td>
<td>Senator the Hon Zed Seselja</td>
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<td>Minister for Education and Training</td>
<td>Senator the Hon Simon Birmingham</td>
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<td>Assistant Minister for Vocational Education and Skills</td>
<td>Hon Karen Andrews MP</td>
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<tr>
<td>Minister for the Environment and Energy</td>
<td>Hon Josh Frydenberg MP</td>
</tr>
</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases. Assistant Ministers in italics are designated as Parliamentary Secretaries under the *Ministers of State Act 1952*. 
<table>
<thead>
<tr>
<th>Title</th>
<th>Shadow Minister</th>
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<tr>
<td>Leader of the Opposition</td>
<td>Hon Bill Shorten MP</td>
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<td>Shadow Minister for Indigenous Affairs and Aboriginal and Torres Strait Islanders</td>
<td>Hon Bill Shorten MP</td>
</tr>
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<td>Shadow Assistant Minister for Indigenous Affairs and Aboriginal and Torres Strait Islanders</td>
<td>Senator Patrick Dodson</td>
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<td>Shadow Cabinet Secretary</td>
<td>Senator the Hon Jacinta Collins</td>
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<td>Shadow Assistant Minister for Preventing Family Violence</td>
<td>Terri Butler MP</td>
</tr>
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<td>Shadow Assistant Minister to the Leader (Tasmania)</td>
<td>Senator Helen Polley</td>
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<td>Deputy Leader of the Opposition</td>
<td>Hon Tanya Plibersek MP</td>
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<td>Shadow Minister for Education</td>
<td>Hon Tanya Plibersek MP</td>
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<td>Shadow Assistant Minister for Schools</td>
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<td>Shadow Assistant Minister for Equality</td>
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<td>Leader of the Opposition in the Senate</td>
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<td>Shadow Minister for Foreign Affairs</td>
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<td>Senator Claire Moore</td>
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<td>Senator the Hon Stephen Conroy</td>
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<td>Senator the Hon Stephen Conroy</td>
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<td>Senator the Hon Doug Cameron</td>
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<td>Shadow Minister for Human Services</td>
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<td>Senator Carol Brown</td>
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<td>Shadow Minister for Infrastructure, Transport, Cities and Regional Development</td>
<td>Hon Anthony Albanese MP</td>
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<td>Shadow Minister for Tourism</td>
<td>Hon Anthony Albanese MP</td>
</tr>
<tr>
<td>Shadow Minister for Regional Services, Territories and Local Government</td>
<td>Stephen Jones MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Infrastructure</td>
<td>Pat Conroy MP</td>
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<tr>
<td>Shadow Assistant Minister for External Territories</td>
<td>Hon Warren Snowdon MP</td>
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<td>Shadow Attorney-General</td>
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<td>Shadow Minister for Justice</td>
<td>Clare O'Neil MP</td>
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<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Hon Brendan O'Connor MP</td>
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<td>Shadow Assistant Minister for Workplace Relations</td>
<td>Ed Husic MP</td>
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<td>Shadow Minister for Climate Change and Energy</td>
<td>Hon Mark Butler MP</td>
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<td>Shadow Assistant Minister for Climate Change</td>
<td>Pat Conroy MP</td>
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<tr>
<td>Shadow Minister for Defence</td>
<td>Hon Richard Marles MP</td>
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<td>Shadow Minister for Veterans' Affairs</td>
<td>Hon Amanda Rishworth MP</td>
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<td>Shadow Minister for Defence Personnel</td>
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<td>Shadow Assistant Minister for the Centenary of ANZAC</td>
<td>Hon Warren Snowdon MP</td>
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<td>Shadow Assistant Minister for Cyber Security and Defence Personnel</td>
<td>Gai Brodtmann MP</td>
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<tr>
<td>Shadow Assistant Minister for Defence Industry and Support</td>
<td>Hon Mike Kelly AM MP</td>
</tr>
<tr>
<td>Shadow Minister for Innovation, Industry, Science and Research</td>
<td>Senator the Hon Kim Carr</td>
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<tr>
<td>Shadow Assistant Minister for Manufacturing and Science</td>
<td>Hon Nick Champion MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Innovation</td>
<td>Senator Deborah O'Neill</td>
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<tr>
<td>Shadow Minister for Health and Medicare</td>
<td>Hon Catherine King MP</td>
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<td>Shadow Assistant Minister for Medicare</td>
<td>Tony Zappia MP</td>
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<td>Shadow Assistant Minister for Indigenous Health</td>
<td>Hon Warren Snowdon MP</td>
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<tr>
<td>Shadow Minister for Early Childhood Education and Development(1)</td>
<td>Hon Kate Ellis MP</td>
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<td>Shadow Minister for TAFE and Vocational Education</td>
<td>Hon Kate Ellis MP</td>
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<td>Shadow Minister for Skills and Apprenticeships</td>
<td>Senator the Hon Doug Cameron</td>
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<tr>
<td>Shadow Assistant Minister for Early Childhood</td>
<td>Senator the Hon Jacinta Collins</td>
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<td>Shadow Minister for Agriculture, Fisheries and Forestry</td>
<td>Hon Joel Fitzgibbon MP</td>
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<td>Shadow Minister for Rural and Regional Australia</td>
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<td>Shadow Assistant Minister for Rural and Regional Australia</td>
<td>Lisa Chesters MP</td>
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<td>Shadow Minister for Resources and Northern Australia</td>
<td>Hon Jason Clare MP</td>
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<td>Hon Dr Andrew Leigh MP</td>
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<td>Tim Hammond MP</td>
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<tr>
<td>Shadow Assistant Minister for Northern Australia</td>
<td>Hon Warren Snowdon MP</td>
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<td>Shadow Minister for Immigration and Border Protection</td>
<td>Hon Shayne Neumann MP</td>
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<td>Shadow Minister for Finance</td>
<td>Dr Jim Chalmers MP</td>
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<tr>
<td>Shadow Minister for Small Business and Financial Services$^{(2)}$</td>
<td>Senator Katy Gallagher</td>
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<tr>
<td>Manager of Opposition Business (Senate)</td>
<td>Senator Katy Gallagher</td>
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<td>Shadow Assistant Minister for Small Business</td>
<td>Julie Owens MP</td>
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<td>Shadow Minister for Communications</td>
<td>Michelle Rowland MP</td>
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<td>Shadow Minister for Regional Communications</td>
<td>Stephen Jones MP</td>
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<td>Shadow Minister for Ageing and Mental Health$^{(3)}$</td>
<td>Hon Julie Collins MP</td>
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<tr>
<td>Shadow Assistant Minister for Ageing</td>
<td>Senator Helen Polley</td>
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<td>Shadow Assistant Minister for Mental Health</td>
<td>Senator Deborah O'Neill</td>
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</tbody>
</table>

Each box represents a portfolio except for (1) which is in the Education portfolio, (2) which is in Treasury portfolio and (3) which is in the Health portfolio. *Shadow Cabinet Ministers are shown in bold type.*
CONTENTS

MONDAY, 10 OCTOBER 2016

Chamber
STATEMENT BY THE PRESIDENT—
   Dress Standards.................................................................................................................. 1225
DOCUMENTS—
   Tabling................................................................................................................................. 1225
COMMITTEES—
   Meeting ................................................................................................................................. 1225
PARLIAMENTARY REPRESENTATION—
   Victoria.................................................................................................................................. 1225
STATEMENT BY THE PRESIDENT—
   Parliamentary Commission of Inquiry .................................................................................. 1225
BILLS—
   Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016—
      Report of Legislation Committee..................................................................................... 1226
      Second Reading................................................................................................................ 1229
QUESTIONS WITHOUT NOTICE—
   Attorney-General................................................................................................................ 1280
   Vocational Education and Training .................................................................................... 1281
   Attorney-General................................................................................................................ 1282
   Defence ............................................................................................................................... 1283
   Mental Health .................................................................................................................... 1285
   Attorney-General................................................................................................................ 1286
   Medicinal Marijuana ......................................................................................................... 1287
   Infrastructure ..................................................................................................................... 1289
   Attorney-General................................................................................................................ 1290
   Renewable Energy ............................................................................................................ 1292
   Mining .............................................................................................................................. 1294
   Marriage ........................................................................................................................... 1295
   Broadband ....................................................................................................................... 1296
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
   Attorney-General................................................................................................................ 1298
   Renewable Energy ............................................................................................................ 1304
CONDOLENCES—
   Siddons, Mr John Royston ................................................................................................. 1306
   Peres, Mr Shimon .............................................................................................................. 1310
NOTICES—
   Presentation......................................................................................................................... 1312
BUSINESS—
   Leave of Absence ............................................................................................................. 1318
   Consideration of Legislation .............................................................................................. 1318
NOTICES—
   Postponement.................................................................................................................... 1319
COMMITTEES—
   Environment and Communications Legislation Committee—
      Reporting Date .................................................................................................................. 1319
CONTENTS—continued

MOTIONS—
  Human Rights
  Mental Health

DOCUORUMENTS—
  Trade—
    Order for the Production of Documents
  Commonwealth Scientific and Industrial Research Organisation—
    Order for the Production of Documents
  Australian Grape and Wine Industry—
    Order for the Production of Documents

MOTIONS—
  Nuclear Weapons
  Suspension of Standing Orders

MATTERS OF URGENCY—
  Attorney-General

DOCUORUMENTS—
  Indigenous Affairs—
    Aboriginal Deaths in Custody—
      Consideration
    Estimates Committees—
      Consideration

DOCUORUMENTS—
  Consideration
  Responses to Senate Resolutions—
    Order for the Production of Documents

COMMITTEES—
  National Broadband Network - Joint Standing—
    Membership

COMMITTEES—
  Membership

BILLS—
  Migration Amendment (Character Cancellation Consequential Provisions) Bill 2016—
  Migration Amendment (Family Violence and Other Measures) Bill 2016—
  Treasury Laws Amendment (Income Tax Relief) Bill 2016—
  First Reading
  Second Reading

ADDRESSES BY WORLD LEADERS—
  Prime Minister of Singapore

COMMITTEES—
  Membership

BILLS—
  Budget Savings (Omnibus) Bill 2016—
  Primary Industries Levies and Charges Collection Amendment Bill 2016—
  Corporations Amendment (Auditor Registration) Bill 2016—
  Customs Tariff Amendment (Tobacco) Bill 2016—
  Excise Tariff Amendment (Tobacco) Bill 2016—
<table>
<thead>
<tr>
<th>CONTENTS—continued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statute Update Bill 2016—</td>
</tr>
<tr>
<td>Assent.......................... 1350</td>
</tr>
<tr>
<td>COMMITTEES—</td>
</tr>
<tr>
<td>Report.......................... 1350</td>
</tr>
<tr>
<td>BILLS—</td>
</tr>
<tr>
<td>Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016—</td>
</tr>
<tr>
<td>In Committee.......................... 1352</td>
</tr>
<tr>
<td>Third Reading.......................... 1386</td>
</tr>
<tr>
<td>ADJOURNMENT—</td>
</tr>
<tr>
<td>Whitrow, Mr David Lawrence ........................................ 1388</td>
</tr>
<tr>
<td>Palliative Care Tasmania ........................................ 1390</td>
</tr>
<tr>
<td>Pork Industry ........................................ 1393</td>
</tr>
<tr>
<td>Walker, Mr Max Henry Norman ........................................ 1394</td>
</tr>
<tr>
<td>DOCUMENTS—</td>
</tr>
<tr>
<td>Tabling........................................ 1396</td>
</tr>
<tr>
<td>Tabling........................................ 1404</td>
</tr>
<tr>
<td>COMMITTEES—</td>
</tr>
<tr>
<td>Rural and Regional Affairs and Transport References Committee—</td>
</tr>
<tr>
<td>Government Response to Report........................................ 1406</td>
</tr>
</tbody>
</table>
The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10:00, read prayers and made an acknowledgement of country.

STATEMENT BY THE PRESIDENT

Dress Standards

The PRESIDENT (10:01): Could I just make an observation to senators. I have made this observation in the past. I do not want to have strict rules about dress standards but I think some senators made a point this morning. I would ask that, now the point has been made, they remove those items. Thank you.

DOCUMENTS

Tabling

The Clerk: Documents are tabled pursuant to statute. A 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:

Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 11 October 2016, from 1 pm.

Joint Standing Committee on Electoral Matters—private briefing during the sitting of the Senate on Thursday, 13 October 2016, from 9.30 am, for the committee’s inquiry into the 2016 federal election and related matters.

Legal and Constitutional Affairs Legislation Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.50 pm.

Rural and Regional Affairs and Transport Legislation Committee—private briefing during the sitting of the Senate on Thursday, 13 October 2016, from 3.15 pm.

PARLIAMENTARY REPRESENTATION

Victoria

The PRESIDENT (10:02): I inform the Senate that I have received a letter from Senator Conroy resigning his place as a senator for the state of Victoria.

Pursuant to the provisions of section 21 of the Constitution, I have notified the Governor of Victoria of the vacancy in the representation of that state caused by the resignation.

I table the letter and a copy of my letter to the Governor of Victoria.

STATEMENT BY THE PRESIDENT

Parliamentary Commission of Inquiry

The PRESIDENT (10:03): In May 1986 the parliament established, by legislation, a parliamentary commission of inquiry to advise the parliament whether any conduct of the
Hon. Lionel Keith Murphy was such as to amount, in its opinion, to proved misbehaviour within the meaning of section 72 of the Constitution.

In August 1986, following a special report to the presiding officers relating to the terminal illness of the judge, the inquiry was discontinued and the act establishing the commission repealed. The Parliamentary Commission of Inquiry (Repeal) Act 1986 gave to the presiding officers exclusive possession of the documents of the commission for 30 years from its commencement. The repeal act commenced on 25 September 1986 and the period of exclusive possession expired from 26 September 2016. The presiding officers may now grant access to documents of the commission by written authority.

With the expiration of the period of exclusive possession, the Speaker and I have determined that the Clerks of the Senate and the House of Representatives and other nominees approved by us can access and examine the records of the commission for the purposes of providing advice to assist in our responses to requests for access. The examination of the records by parliamentary officers commenced on 29 September 2016. We are awaiting advice on the contents of the records before determining any arrangements for wider access to them. It should be understood that this process may take some time as the records are certainly extensive.

BILLS
Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016

Senator McKENZIE (Victoria) (10:04): I present the report of the Education and Employment Legislation Committee on the provisions of the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016, together with the Hansard record of proceedings and documents presented to the committee, and I move:

That the report be printed.

Senator MARSHALL (Victoria) (10:04): I do not intend to speak to the content of the report because we are about to go into the second reading debate on that, but I do want to make a point—and this is a general point—about the committee system within the Senate. Again, we were confronted with a very short time frame to conduct this inquiry. At the outset, the committee secretariat advised non-government senators that they would probably be in a position where no support would be provided to enable them to prepare a dissenting report. At the end of the day, there was some support provided. I thank the secretariat for doing that, but it actually resulted in a lot of work being done over the weekend and the final dissenting report not being concluded until 9.30 this morning.

I think this is a very unfortunate but all too common turn of events. It would appear that the Senate committee system is using all of its resources to simply do a chair's draft. The chair's draft, inevitably, will support the legislation. There are odd occasions when there are some suggested changes, but 999 times out of 1,000 the chair's draft will support the legislation and recommend that the bill be approved. That puts us in a position where the Senate committee system is simply becoming a rubber stamp for the government. I do not think that is why the Senate committee system was in fact established. I think it was established so we could have a fair dinkum review and look at the legislation before us and so alternate views could be put succinctly with the appropriate support from the committee secretariat—to put those alternate
views, unintended consequences and other things that may not have been necessarily considered by the government.

I do not think it is appropriate that the Senate committee system simply becomes a rubber stamp for the government in these circumstances. The government has enormous resources at its disposal when it creates the bill and brings it to the Senate. It does not need the Senate committee system to rubberstamp it. I think it is something, Mr President, that we need to have a very serious and careful look at. If there are resourcing problems—and of course there are—we need to address those problems in a way where non-government senators are supported.

Senator IAN MACDONALD (Queensland) (10:07): In the same vein, I will not speak on the substance of this report but, more or less, add to what Senator Marshall has just said. I have long—and particularly during the last parliament—been of the view that the whole Senate committee system, which once was revered, has fallen into disrepute. In the last parliament, in particular, so many reference committee inquiries were set up with a predetermined outcome. I got to the stage on a number of committees where I would not even bother going because I knew that the majority on the committee had, before hearing one word of evidence, already written, in effect, the report that would come to the parliament. I only raise that to say that this really has brought the committee system—which, as I say, used to be so well revered—into disrepute.

What Senator Marshall says about dissenting reports, I guess, makes some sense. I have to tell Senator Marshall that I have had to draft the dissenting report for most references committee I have been involved in. I have done so not terribly skilfully, as that is not one of my great attributes, but we have had to do, we have done it and we have got the message across for anyone who happened to read it. But I have to say that the more I see of the Senate committee system, regrettably, the only people that bother to read them these days are journalists who have a particular angle that they want to make a story of.

As Senator Marshall said, in most of the legislation committees the recommendation will be to support the bill. Although, as Senator Marshall may know and as Senator Collins well knows, because she was on a committee that I chaired, on several occasions the Legal and Constitutional Affairs Committee would recommend amendments to the bill. That is, of course, what the committee system was supposed to be all about.

The legislation comes before the legislation committee. People who have a serious concern—and that is not always the majority of those who give evidence, I might say—can come along and say, 'We understand what the government wants; we don't necessarily agree with it, but perhaps you could amend it or add this or do something to it,' and often the committee has been persuaded that there does need to be some amendment to government legislation, and that has gone through as a committee recommendation, and, as far as I can recall, the government has, on each occasion, picked up the amendment.

But the references committees are set up principally for purely political purposes. We have yet again an inquiry into Manus Island and Nauru. I think it is about the fourth one. Nothing new comes out. We have the same old group of people on one side making their complaints—usually unsupported by factual, firsthand evidence—and we just waste the time of the committee. There are so many committees running at the present time that particularly on the government side—and, when Labor are in power, the same applies to them—there are so few
backbench senators that the senators involved can do no more than make a cursory consideration of the matters before the various committees.

I agree with Senator Marshall in his bottom-line submission: the whole Senate committee system needs a major review. Once upon a time—and I have said this twice before but I will repeat it—you could go to a Senate committee report or a hearing and really find it valuable. The reports, the work, really did change things in our country. But in this day and age, I regret to say, with most Senate committees, be they legislation or references, you could almost write the report before the committee starts. I regret saying that, because a lot of people do come to those committees seriously and with the thought that they may be able to change the course of debate and legislation. I think we need to somehow get back to the situation where these committees do actually mean something, are serious and are not there for purely political purposes but are there to try and get the best for our country from legislation and other matters that are before the parliament.

Senator CAMERON (New South Wales) (10:12): I adopt the position that has been put forward by Senator Marshall. I agree with some of the comments made by Senator Macdonald and I know that Senator Macdonald is genuine in the views that he is putting forward in relation to the committees, but I do not agree with some of the substance of what Senator Macdonald has said. I firstly indicate that Labor really welcomes the support that we get from the secretariats. The secretariats do a great job both for government and for the opposition, but, as Senator Marshall has indicated, they are under the pump. That is the bottom line. They are under huge pressure, from both government and opposition, to provide professional, well-thought-through reports to the Senate and to the Australian public. I think they do that very well, but the resources are the issue for the secretariats. I do not think it is a matter of how the secretariats operate. I do not think it is a matter of the politicisation of reference inquiries. I mean, here we are, we are all politicians, but we have politicised a reference inquiry—what a terrible thing! It has happened ever since inquiries have been there. Politics are part of what we do for a living, and the committees actually work through that pretty well.

I take the view that this is simply about a resource issue. I know, Mr President, that you have raised the issue of resources on many occasions in terms of the Senate being able to be a proper house of review. If we are to be a proper house of review, we actually need the resources to be available not only for government but to the opposition and the crossbenchers in relation to reports and inquiries in the Senate. So I do agree with some of the aspects that Senator Macdonald has raised, but not that there needs to be a major review. I think this is an issue of resources and that is how this could be resolved.

Senator McKENZIE (Victoria) (10:15): I just have a couple of comments to make around the discussion this morning. During my time here as a senator, I have sought to maintain the integrity of the Senate committee process and I have often raised my concerns with the resource issue and indeed the workload issues that have come. We all have to take responsibility for that. They are decisions of the Senate, which actually mean we set up select committees and we refer issues to references inquiries and the like. In the selection of bills process any Senator can refer a piece of legislation to the legislation committees for inquiry. So, whilst we complain that that occurs, we all actually have to take responsibility and maybe
talk to our own whips and our own leadership to ensure they are thinking of that as those
decisions are made.

I do not agree with the notion that a legislation inquiry, particularly in the committee that I
chair, results in a rubber stamp. I refer the senators who would question that to the higher
education reform legislation of a couple of years ago, where our committee made significant
recommendations—five recommendations actually—for changes that over a period of time
were actually adopted by the government. So I do not take legislation committees being a
rubber stamp as fact.

With respect to this particular inquiry, our committee has been under the pump—
absolutely. It was very clear that this piece of legislation was always going to come to our
committee and was always going to be subject to an inquiry. And, with the government's
desire to see it before the parliament as soon as possible, as per our election commitment, it
was not going to be a long inquiry. But our committee secretariat's workload has been taken
up with doing the fourth inquiry into the ABCC and registered organisations legislation,
which, again, was always going to come before the Senate.

The committee I chair, the Education and Employment Committee, has inquired into this
so many times—hearing the same evidence from the same submitters, over and over again.
And, yet, we took up committee secretariat time to hold another hearing, to read the
submissions and to write a report. Similarly, there are the childcare legislation and hearings
that our committee has had to do over the past two weeks. So I would question those that are
making the complaint. Look at your own behaviour. We could have done that report into
ABCC and registered organisations on the papers and given our secretariat some issues.

I also want to put on the record that when we were in opposition getting secretariat support
for dissenting reports was similarly difficult, so I do not think it is a unique situation. But I
will do everything I can as chair and everything I can do as a senator to ensure that the
integrity of the Senate committee process is upheld and that there continues to be a body of
work from this place that all Australians can be proud of and that will inform debate and
discussion in the public arena. Thank you.

Question agreed to.

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (10:19): On behalf of the opposition I rise to
oppose the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016.
We do this because the legislation is ambiguous, it is unclear and it is imprecise.

This legislation was designed to give the coalition a political weapon during an election
campaign. That is simply what this bill is about. If you are wondering what the situation is in
terms of the proposed enterprise agreement that was the genesis of this bill, all you have to do
is go to the words of the CFA chief fire officer, Mr Steve Warrington, who was unequivocal
in his view that the proposed EBA would not impact the CFA's firefighting abilities. He
stated:
I am really confident that, during a firefight, operations will not be compromised.
What is this about? The chief fire officer is saying that operations will not be compromised, yet we have heard all of the argument from the Prime Minister, from Minister Cash, in relation to what a terrible thing this agreement would be. Yet the chief fire officer in Victoria said:

I am really confident that, during a firefight, operations will not be compromised.

Not only is this bill ambiguous, unclear and imprecise; it goes to a number of fundamental issues in terms of both the state legislation and the federal legislation. Every senator in this chamber who truly believes in state rights must vote against this bill. This is clearly an attack on state rights. Every senator who claims to support small government must vote against this bill. Every senator who has argued against government red tape—and there are plenty of them over here—must vote against this bill. Every senator who has argued against undue government interference against individuals and businesses should vote against this bill. Every senator who wants a sensible, sustainable and fair resolution to the Victorian firefighters dispute must vote against this bill. Every senator who wants the focus of all Victorian firefighters, both volunteer and career, to be on the upcoming fire season in Victoria should vote against this bill.

This bill was created for a political advantage for the coalition in the election campaign. The bill will not resolve the dispute that exists in Victoria. The bill is not about the safety of Victorian citizens. The bill is not about recognition and respect for volunteer firefighters. The bill is not about resolving an industrial dispute. The bill is about base politics from Prime Minister Turnbull, a PM who is out of his depth, indecisive and inept. On the basis of the expert evidence that came before the inquiry, the bill will lead to delays, confusion and another layer of uncertainty. That is the last thing you need, going into a firefighting season in Victoria—delays, confusion and uncertainty, and more animosity being built up for political purposes by the Prime Minister and the coalition against the firefighters who happen to be paid firefighters and operate under an enterprise agreement.

This bill will simply reignite a dispute that was resolved between the employer and the employees before the intervention of the Turnbull government. This is a bill dreamt up by a weak, embattled Prime Minister in the middle of an election campaign. That is all it was—a weak, embattled Prime Minister looking for any issue to try and get the focus away from his flagging electoral campaign. This bill was designed to appeal to the public, to the CFA volunteers and to the right wing of his party. Any chance to come after the trade union movement is always something that the coalition will be in—they will be in that right away. That is what this is about.

It was the height of political cynicism and opportunism to inject the Commonwealth government into a dispute that was on its way to being resolved. The tired, old anti-union rhetoric used by some of those giving evidence to the Senate inquiry exposed their lack of understanding of how workers collectively bargain. Their rhetoric also exposed their underlying political opposition to collectivism and enterprise bargaining. It was no more so than for the former board members of the CFA in Victoria. So the bill has nothing to do with the safety of the Victorian community or the safety of volunteer and career firefighters in Victoria.

The men and women who make up the volunteer and career firefighting capacity in Victoria regularly put their personal safety at risk to ensure the safety of the community. To
engage in divisive, uninformed political rhetoric for personal political gain, and to use firefighters as a political football, is another low point in this Prime Minister's uninspiring and weak leadership. I am concerned but not surprised about the coalition's political vilification of career firefighters. These firefighters and their union, the UFU, have addressed in the agreement recommendations from the 2009 Victorian Bushfires Royal Commission. That is part of the reason it is so big. It is part of the reason it took so long to deal with the agreement. There are serious issues facing firefighters every time they go out on a job. Every time they go out on a job they put their lives at risk. So these are the reasons a firefighter's agreement may not be the same as other agreements that are put through the Fair Work Commission.

Career firefighters are seeking to have a say in how they respond to fires. They want to respond in a manner that maximises their safety, as well as protects lives and property. They are seeking to ensure that agreements between the CFA and career firefighters relate not only to their wages and conditions but to their safety and to the equipment that they use—the equipment that is so important to their capacity to go to a fire, fight a fire and go home to their families safely. These are legitimate issues for firefighters to be concerned about in their industrial instrument with their employer. Career firefighters who place their lives in danger to protect the community are entitled to documented, enforceable health and safety conditions in their enterprise agreements.

I will just make the point that Senator Xenophon seems to be on the public record supporting this. It seems to me that, for the first time in my knowledge of Senator Xenophon when it comes to health and safety issues for working people, Senator Xenophon would put politics before the health and safety of workers in this country. That is what the Xenophon team will do if they support this bill today. This bill is simply about allowing managerial prerogative at the expense of the safety of firefighters in this country.

Career firefighters are responding to years of ineptitude, cover up and anti-union activities by the former CFA board. The previous board failed to create a culture of trust, cooperation and mutual respect. From what I can read into the evidence to the Senate inquiry, the previous board was driven by political and ideological bias. That made negotiations protracted, difficult and eventually unsuccessful. The health and safety of individual firefighters was put at risk by the previous board as a result of poor decisions on firefighting infrastructure, personal protection equipment and safe workplaces. Is it any wonder the firefighters wanted documented and legally enforceable clauses in their agreement that would protect their lives, protect their safety, when they went on a job? No, it is not.

The argument from coalition members and the leadership of Volunteer Fire Brigades Victoria—that many of these matters should be the prerogative of management and contained in operational procedures—demonstrates a lack of appreciation of the dangerous nature of firefighters' work. It also ignores the failures of the board to make proper decisions on a range of important issues. In the case of the Volunteer Fire Brigades Victoria leadership and the previous board leadership, I find this extremely concerning.

The UFU, the firefighters union, is obliged to consult with its members, listen to its members and act in the interests of its members. The UFU must also ensure that membership concerns on wages, conditions, processes, procedures and equipment procurement are dealt with by agreement, negotiation, conciliation and, as a last resort, arbitration. These are rights afforded to all Australians under the Fair Work Act. The bill is designed to frustrate or
remove these rights from Victorian career firefighters. The priority for political leaders must be to assist in the resolution of this dispute in a fair and equitable manner. This bill does not do that. This bill will never do it, because the bill is a political instrument, designed for political advantage for the coalition, at the expense of Victorian firefighters, at the expense of Victorians, who rely on those firefighters for their safety.

It is one of the worst acts of political fighting against workers that I have seen in this place, where the coalition would put aside the needs of the Victorian community for their own political benefit. Real leadership entails ensuring the protection of all Victorians, including volunteer and career firefighters, through the provision of professional, efficient and effective firefighting services. That is what this agreement does. The agreement is the focus of this bill. Do not let anyone pretend it is about volunteers. It is about the agreement and it is about ensuring that workers' rights are stripped away, as this lot always want to strip away workers' rights.

I do not have time to traverse all of the issues raised during the two days of hearings into the bill, but a number of issues stand out, not limited to these. First are the concerns raised by the royal commission into the 2009 Victorian bushfires, including concerns about organisational factors inhibiting the fire authority's response on the day and the fact that the metropolitan fire district does not reflect metropolitan Melbourne. I found it pretty hard to understand how the Victorian CFA operated, given that there is clear delineation in New South Wales between career firefighters and bushfire firefighters. The royal commission's conclusion was that the way the three agencies are currently structured did not contribute to their collective maximum potential on 7 February. The royal commission says there are problems with how the CFA operates. The UFU are trying to deal with some of those issues in their agreement. So any senator who stands up and says, 'The agreement's too long; the agreement took too long to negotiate; it's too complex; leave it up to the boss,' just does not understand the issues that came up in the Victorian royal commission.

There is a need to clarify responsibilities and improve integration and coordination amongst the agencies. That was a conclusion of the royal commission. That is part of the agreement that has been signed off by the new board and the new chief fire officer in Victoria. They said there was concern over the sustainability of the current volunteer structure and the structure's capacity to provide efficient services in expanding population areas.

This is not the fault of Victorian volunteer firefighters. This is just a clear example of what is happening with urban growth in Victoria. We are relying on volunteers, who may not be there when a fire takes place in what are described as peri-urban areas, and that is not sustainable in the future. There will have to be a close look at this long-term structure of the CFA in Victoria arising out of the royal commission report.

I am also concerned about the politicisation of the previous CFA board and the poor decisions of the board in relation to health and safety and industrial issues. No-one should just think this is about a union. This is about a board who were politicised, who did not want their workers to operate under a collective agreement. That was the position there. And they did, in effect—

_A government senator interjecting—_
Senator CAMERON: I cannot even hear you. You have to do better than that if you are going to intervene!

The ineffective and dangerous response by the previous board to the Fiskville contamination issue placed career and volunteer firefighters in an unsafe, contaminated working environment. This is a board who knew there was contamination at Fiskville but kept sending workers back to Fiskville. No wonder that those career firefighters are saying, 'We don't trust that board'—the previous board—'to deal with the issues effectively'. There was clearly a conspiracy by the previous CEO and the board to adopt a union-busting strategy, prepared by the Chicago based union-busting outfit called Seyfarth Shaw. They were in discussions with a union-busting Chicago based organisation to try and get rid of the UFU, to try and stop career firefighters having access to advice, having access to support, from their union.

These are the issues that underpin where we are at the moment. And you will hear lots from the other side about how terrible it is that the volunteers are being sidelined. There was absolutely no evidence that the clauses in the agreement would affect the volunteer firefighters. I can understand the volunteer firefighters' leadership raising the issues, because most things these days are about power and control. The volunteer firefighters union—basically—want power and control. There is no doubt about that. That conspiracy was about destroying effective trade unionism in the CFA.

I did not find the evidence from the former CEO, Ms Nolan, to be credible, especially her memory lapse on issues associated with the retention of a Chicago based union-busting legal firm to provide strategic advice. She knew everything else. She remembered everything. But she could not remember who told her to get the union-busting outfit in. She could not tell us whether it was one person or a dozen persons. She could not tell us anything about it. A memory lapse about something so important just does not add up and it makes the rest of her evidence not credible.

So I take the view that the expert evidence that we had from Professor Stewart—the legal evidence we have had from a number of prominent legal practitioners—will say that this bill will be challenged all the way. This bill will be challenged in the Supreme Court of Victoria. It would be challenged in the High Court. It would be challenged on constitutional grounds. This is a bill that is brought here for political purposes. It is not about looking after volunteer firefighters. It is not about looking after the Victorian community. We should reject this bill.

Senator RHIANNON (New South Wales) (10:39): The Fair Work Amendment (Respect for Emergency Services Volunteers) Bill is dangerous legislation. If you are committed to public safety, as I would hope all senators are, you would vote against this legislation. When you look into it—when you look into the way the minister has handled it, what happened during the election campaign with regard to the submissions and the evidence that was given—you see that this is a major stitch-up. It really continues the ongoing way that this government works. It works to undermine workers' rights; it works to undermine how unions operate. It will go to extraordinary lengths. In this case, we are talking about the undermining of public safety.

This bill is political opportunism. It should have been buried. It should never have come to life. It should now be buried. I say that it should never have come to life after the federal election because it was part of a whole ploy. Sometimes bad tactics come out in election...
campaigns, and this was certainly one of them. The government argues that this bill is needed to protect the rights of Country Fire Authority volunteers, but that does not stand up to scrutiny. When you look at what the minister has said and when you look into what is stated about what this bill will do, that certainly is not the core of this bill.

Volunteer firefighters do an incredible job in Victoria and across the country. The enterprise bargaining agreement the Turnbull government is trying to destroy with this bill will not undermine the massive contribution volunteer firefighters make. I was able to sit on this inquiry, hear the evidence and read many of the submissions. The evidence is overwhelming in that it does not back up what the government asserts. We heard evidence from volunteer firefighters working at integrated stations where volunteers are working side by side with paid firefighters who do not support the bill. Mr Luke Symeoy from Craigieburn told the committee:

On behalf of my brigade: we do not want this bill to go ahead. We want this settled. I would like this settled. The fire season is coming up and we do not need this. This has gone on for too long. The EBA has got nothing to do with volunteers. If anything, it is going to better us and better our skills and better our equipment, because half the equipment that we have got today we would not have if it were not for staff. That is the honest truth. I can stand here and put my hand on my heart and tell you that.

Mr Raj Faour, a volunteer for Hallam, told the committee:

You probably hear a lot in the media, and the VFBV love to speak about 60,000 volunteers and how they represent the 60,000 volunteers. Well, I am one—and one of many—who stands before you today and tells you that we are not represented by the VFBV.

That is why I urge senators committed to public safety to ensure that when the next firefighting season hits Victoria the uncertainty and the undermining at the core of this bill is not allowed to settle into how things will operate in Victoria. I believe that these are informative comments that deserve our consideration when we are looking at this bill.

In going back to the issue of public safety—and this is a key matter that Minister Michaelia Cash sidesteps when she talks about this issue—we need to look at what is happening in Melbourne. Outer Melbourne should receive the same level of protection for firefighting that all people of Melbourne receive. Having sat on the inquiry last week, what became abundantly clear is that we are talking about areas of Melbourne that were once country but are now part of the outskirts of Melbourne. These are areas that deserves full fire protection.

Clearly, Melbourne is a growing city. Where those outskirts areas were once farming land, now when you visit those areas you often see large housing divisions. These areas have been well serviced by the CFA. The CFA was able to do a very effective job when there were rural workers and farmers. The farmers and rural workers were the locals who volunteered and did a mighty job as firefighters. But, as I have said, these outskirts are changing. Now we see that in so many of these areas the workforce is quite different.

I want to quote from a very significant comment from the Victorian Bushfires Royal Commission. They said: 'We've got a problem here in Victoria with these boundaries. What is called country in some areas is still legitimately country, but in some areas it is now suburban Melbourne, so what are we going to do about it?' It is a very important question; it is a question that this government is refusing to answer. It could be to the severe detriment of public safety and saving lives.
Again, this is a reference to those areas where locals are now more likely to be working not locally but at a distance, in offices and factories. If you are not working locally, you are not readily available to volunteer. The people who live in these areas pay their rates and taxes like other city residents and understandably expect, and have a right to expect, that firefighters who cover the rest of the city will turn up to their part of the city and fight fires. That is what we should be dealing with here. How do we ensure that their transition is as smooth as possible? It is happening, but if this bill goes through it is going to really blow it apart. What will be the impact on public safety if this bill is passed and people in outer Melbourne growth areas are not covered by paid firefighters?

If you listened to Minister Cash, you would think that the enterprise bargaining agreement is an attack on volunteer firefighters due to a union takeover of their activities. Listening to witnesses at the inquiry, it became clear that the concerns of volunteers who thought the EBA would unfairly impact on them arose from misinformation. Where correct information was available, volunteers understood that the proposed EBA does not affect volunteers. Mr Justin Rees, first lieutenant and volunteer firefighter with the Melton brigade, said:

… we have formally expressed this to Volunteer Fire Brigades Victoria. However, the volunteer bill 2016, if implemented, will affect our relationship with our members, staff and volunteers and impact our service delivery. Encouraging volunteer organisations to intervene into the employment matters and conditions of people employed by emergency services is not appropriate. We need to be focused on supporting our community, protecting life and property and supporting our emergency service people—volunteer and career.

That was so clearly said. Professor Andrew Stewart, an expert in industrial relations from the University of Adelaide, told the committee that the bill was a recipe for increased complexity, uncertainty and disputation. Again, a reminder to senators here: this bill takes us down a very irresponsible and dangerous path. We are dealing here with emergency services who need to be able to work in a coordinated, cooperative way, and that is what will be ripped apart if this bill is passed. Professor Stewart set out to the inquiry how the bill will require the Fair Work Commission to move into the highly problematic area of attempting to form judgements about how an organisation such as the CFA should construct a proper balance between paid and volunteer firefighters. Professor Stewart also explained how the bill would require the Fair Work Commission to determine matters that properly reside within the authority of the CFA and the state government of Victoria to resolve. That is why you come to the conclusion that disputation will increase if this bill goes ahead.

One of those issues is the very important matter that I mentioned earlier—the conclusion of the Victorian Bushfires Royal Commission that more paid firefighters are needed in urban growth areas. That is what a responsible government would be working with the Victorian government to resolve. The need that has been identified by the royal commission is clear. A vote for this bill is a vote against that important recommendation. It really is a life-saving recommendation. We need to be very clear. This issue of public safety has been swept aside by the government, and we need to get this back into focus.

We are on the edge of summer. Bushfires, wildfires, are sweeping the world. We know that this is regularly what happens in Australia. We have seen the tragedies in many states, and Victoria has often been the worst affected. It is deeply alarming that the government is willing to sacrifice public safety and not deal with the key issue here. What becomes relevant in considering this issue is the hidden grenades in this bill, which I urge all members of
parliament to acquaint themselves with. The bill is not clear as to which emergency service organisations will be covered by the legislation. The bill creates an undisclosed list of employers that are designated emergency management bodies. That is the term that is used. This is a serious development and shows an attempt to undermine a good-faith approach to negotiations for enterprise agreements. The bill, if passed, will undermine the principle of collective bargaining and, in effect, the authority and the ability of the Fair Work Commission to do its job.

Then there is the issue of the definition of a 'volunteer' in the bill. The definition is so broad it includes individuals who receive payment for volunteering. There is also the wide-ranging definition of 'volunteer bodies', which opens up the possibility of a party not covered by the enterprise agreement being able to intervene. This could mean denying workers wage rises and undermining other parts of the agreement. It is why, as Professor Stewart identified, this bill, if passed, would most likely result in much greater disputation. Ambulance Employees Australia has given compelling evidence of why this legislation should be abandoned.

Minister Cash's management of the issue is also relevant to the debate. Her commentary, in some ways, has been of assistance in exposing what is really going on here. Minister Cash's opinion piece in the Herald Sun on 22 August shared two blatant areas of misinformation. One was that seven paid firefighters—union members—had to be present before the CFA personnel were able to be deployed to a fire. The other one was that paid firefighters had to report only to other paid firefighters, not CFA commanders. She wrote this piece; it was published in the Herald Sun. Clearly, she is out there arguing her case. But when you look into what she asserts, it just does not stack up.

If it were the case that volunteers deployed to a fire had to sit there and wait until paid staff turned up, I acknowledge it would be a concern. But, again, that is not what the agreement says. So why did the minister state that? Did she misunderstand the bill? Why was she arguing the opposite of what the case is? What the agreement says is that in these areas where you have volunteers and professionals overlapping, seven firefighters have to be deployed, but they do not have to turn up before the volunteers can start fighting the fire. If the volunteers turn up first, they start first; they start fighting the fire first. That is not what the minister said when she wrote her article. As I said, that is what the agreement says. It is to ensure that the minimum number of firefighters who can fight a fire safely are on their way and are going to turn up at some point.

It is worth asking: why seven? It is understood to be the minimum for safe standards. Again, we are coming back all the time to the issue of public safety. The intent of the bill, the minister's comments and the minister's misrepresentation of the EBA undermine public safety. I urge all senators give that consideration. When they are thinking about how they are going to vote, public safety needs to be at the front of their mind.

As I said, the minister had another argument about the bill in which she asserted that under the EBA paid firefighters could only report to other paid firefighters, not CFA commanders, implying that the paid firefighters could not report to volunteers. Again, I ask the minister: why did you say that? It is untrue. Clause 77.5 is clear: the first arriving incident controller on a scene can determine the number of appliances and crews. And elsewhere the agreement refers to the incident controller, who could be a volunteer. Again, there is no undermining of
the role of volunteers. It is a very cooperative way of working together. The EBA is something that we can learn from and be impressed by. In the complexity—which obviously there is when it comes to fighting fires—it is working through how our volunteer and our paid staff work together. But what do we get from the minister? We get this constant abuse of paid firefighters.

The minister has said that the CFA must get the approval of the union 'for any policy that affects the application or operation of this agreement, or the work of employees covered by it'. What the minister has not acknowledged—and what should have been her starting point—is that the agreement states on page 11:

For the avoidance of doubt, except as provided in Clause 60- Peer Support, nothing in this agreement shall prevent volunteers in the CFA from providing the services normally provided by such volunteers without remuneration.

The role of volunteers is explicitly protected right up the front of the agreement. Again, this needs to be centre in our minds when we are considering how we vote on this bill. The lies that are being pushed by the minister and by those trying to get this bill passed are extreme, and the seriousness of it needs to be put side by side with the question of public safety.

The Australian Nursing and Midwifery Federation has also called for this bill to be rejected. In their submission, they identify the significant overreach of this bill, exposing the political opportunism that is at the heart of the government's decision to introduce this bill. The Australian Nursing Federation sets out that where the Commonwealth moves to involve itself in the activities of state agencies established for public purposes it needs 'considered policy analysis', and no such analysis has been given by the government to justify this bill.

As I have given such strong emphasis in my comments to the issue of public safety, I did want to return to the issue of bushfires. It was in 2009 that the Black Saturday fires ravaged Victoria; 173 people died in those tragic events. The Black Saturday fires were subsequently investigated, as we know, by the Victorian Bushfires Royal Commission, which found serious and systemic issues within the fire agencies that prevented effective and efficient coordination and unambiguous management of the fires, including saying that on 7 February there was no single person in charge of operational planning, tasking and accountability.

The royal commission then recommended greater interoperability as an absolute priority. The EBA—what will be effectively undermined and largely destroyed if this bill goes through—goes a huge way to achieving what the royal commission set out as essential to being able to effectively fight bushfires and put public safety first.

So, again, these issues are critical in how we vote when we come to consider this bill. What we are seeing here is a government that is prepared to put its obsession with undermining working conditions and attacking unions before public safety. They are committed to working hard to divide volunteers from paid firefighting staff. There are so many examples of where cooperation is real, effective and vital to be able to fight fires effectively.

Effectively, the government have been running a major scare campaign—a scare campaign, misleading volunteers by telling them things that are simply untrue; a scare campaign attempting to mislead senators who will shortly vote on this bill on things that are untrue. We have heard about the union-busting law firm that was brought in, which again shows what the intent here has been. As part of a wider agenda I acknowledge that is something that needs to be explored. But right now what needs to be centre of our minds when we come to vote on
this bill is: do we put public safety first or do we put the very narrow self-interested agenda of the government and of Minister Michaelia Cash first?

Surely, we should be putting public safety first? This EBA, at the heart of it, is about improving the operations of the firefighting services in Victoria, both volunteer and paid, in a way that is actually commendable and should not be undermined. If you vote for this bill, you undermine the EBA, and you undermine and put public safety at risk.

Senator PATERSON (Victoria) (10:59): I rise to speak in support of the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016. I would like to take the opportunity to place on the record my thanks and appreciation for the outstanding job that the minister, Senator Cash, and the Prime Minister have done on this issue. They have listened to the community concern about this agreement and they are acting swiftly to address it in this bill. Victorians, CFA volunteers and anyone who lives in an area protected by them will be grateful for their efforts in this area.

I am very proud to be the first coalition speaker on this bill. I am proud as a Victorian senator because nothing could be more fundamental to my duty to protect the interests of Victorians than standing up for an organisation and for people, in this case CFA volunteers, who do so much to protect us. I am proud to speak as a Liberal because I think this issue very powerfully highlights the deep philosophical difference between this side of the chamber and the other when it comes to the question of civil society and how we best protect ourselves from the ills that we have in our society and the dangers that we face. Should communities self-organise, volunteer and contribute their own time to the best interests of their community or should work always be directed, paid for and controlled by government? We on this side of the chamber believe it is a wonderful thing that communities and individuals are willing to give up their time and their effort to protect their community. We do not think it is a bad thing at all, but it seems that the world view of those opposite is that if this job could be done by someone who could be paid, if this job could be done by someone who could be employed by the government, it would be preferable to have that rather than have someone who is a volunteer take up that role.

It was an honour to participate in the parliamentary inquiry into this bill with my colleague Senator Hume, and it was particularly ably chaired by my colleague Senator Bridget McKenzie, who did a wonderful job in this inquiry. It really brought to the fore the key issues that we are facing in this debate with this EBA, with this bill and with the CFA. I grew up in Upper Ferntree Gully in the outer eastern suburbs of Victoria. It is a beautiful part of the world in the Dandenongs, but it is a fire-prone part of the world, and everybody who lives in Upper Ferntree Gully knows, after the Ash Wednesday fires of 1983, how important the CFA is to protecting their homes, their livelihoods, their businesses and their lives. Tragically on that day many lives were lost, many homes were lost and many lives were ruined, but our CFA volunteers in those brigades did a particularly wonderful job in protecting them, fighting them and doing their best to come up against the awesome force of those fires on that day.

That is not all that they did. I remember, as a young boy living in Grandview Crescent in Upper Ferntree Gully, that on Christmas Eve the CFA brigades would come with the fire truck. They were dressed up as Santa Claus and they would come and visit the children in our street and other streets in Upper Ferntree Gully, and that is a very nice demonstration of how they see their role as going far beyond just protecting us from fire. They are deeply involved
in their community and providing for their community, and I have a very positive impression of the work that they did from that experience. Of course, this is not unique to that part of Victoria or even just to Victoria. This is an issue which we all face and which was most powerfully demonstrated in recent times on Black Saturday in February 2009. No Victorian or Australian could be unaware of the heroic efforts by the CFA—including, I should add, both paid and volunteer staff on those days.

The question I want to ask today is: how is it that we got here? How did we get to such an acrimonious ending to an EBA? All public sector EBAs have the capacity to be fraught and to be controversial. They have competing interests between taxpayers on the one hand and paid employees on the other and between the government's interests in achieving policy objectives and others. All of them have capacity to be fraught, but none have been quite so fraught as this EBA—as this negotiation. It has been an extraordinarily divisive debate and it has left an absolute trail of destruction—a trail of destruction through the CFA and a trail of destruction through the Andrews Labor government. How many other EBAs have cost the job of the CEO of the organisation? It cost the jobs of the Chief Fire Officer of the CFA, the entire board of the CFA and a Labor minister who, in my view, was doing an admirable job in trying to defend the interests of an organisation and of the volunteers who she was responsible for. Let me place on the record my admiration for Jane Garrett and her courage. It is not an easy thing for any of us in public life to take a stand on an issue like this, to be willing to resign and lose a glittering ministerial career over a point of principle, but I have to say it is particularly difficult in the modern Labor Party. Jane Garrett has been subject to ferocious bullying and intimidation because of the stand that she took. We have heard evidence in the media and through the Senate inquiry of times at which she was warned there would be an axe put through her head if she did not reverse course and support this EBA and support the United Firefighters Union. The threats and intimidation have not ended there. They have of course affected the lives of our volunteers and have probably contributed to damaging the relationships between our volunteers and paid firefighters, and that is incredibly concerning for Victorians as we head into summer and as we head into the fire season.

The UFU tells us that this dispute is a furphy—that there is no interest in the federal government in intervening in this dispute, that there is nothing for Victorians to be concerned about—because, they assure us, this EBA deals only with the pay and conditions of the paid employees of the CFA. It affects volunteers in no way according to the UFU. If that was the case, I cannot understand why so many volunteers and Volunteer Fire Brigades Victoria would take such a strong interest and have such great concerns about this EBA. It does not matter to them how much their colleagues who are paid receive, it does not matter to them the conditions under which they are employed, unless of course it directly affects their interests—as it so clearly does in this case. I am going to go through some of the clauses that have been drawn to our attention that demonstrate that it does, but there is a more fundamental point than this. At its heart, the CFA is a volunteer organisation. It has 60,000 volunteers. It also has paid firefighters and they do a good job and they are entitled to have good working conditions and to be well paid for it, but they only number in the several hundred. There are 60,000 volunteers. At its heart, the CFA is a volunteer organisation, which means that any EBA which impacts on the CFA's ability to manage itself, to manage its own operations, inextricably is linked to the interests of volunteers and directly affects their interests.
It is not possible for an EBA so restrictive of the decision-making processes of management and so deferential to the UFU to not affect volunteers. That is of course assuming that it is as the UFU says it is—that it only relates to the pay and conditions of paid staff. But I am going to highlight some of the clauses in the UFU agreement that really contradict this. I will not read them all. There are 46. They were very ably put together by the VFBV. I acknowledge the presence in the gallery today of the VFBV team, so capably led by Andrew Ford. I say to him: thank you for everything you have done for your community in this debate.

I will just give a couple of examples. Clause 16.1 is, contrary to what was said by the UFU, directly about the interests of volunteers. It relates to the volunteer support program and volunteer support officers. I will quote directly from the EBA. It states that:

\[\text{… the CFA will consult and reach agreement with the UFU … on the structure of any Volunteer Support Programs …}\]

That does not sound like something which relates to the pay and conditions of a paid employee or a UFU member.

There are others. I will go on. It refers to peer support programs. In one clause it says:

\[\text{Peer support employees under this agreement will be drawn from professional firefighters …}\]

That obviously excludes volunteers. On uniforms, appliances and equipment, clause 90.4 says:

\[\text{The CFA and UFU must agree on all aspects of the:}\]
\[\text{90.4.1. articles of clothing;}\]
\[\text{90.4.2. equipment, including personal protective equipment;}\]
\[\text{90.4.3. technology;}\]
\[\text{90.4.4. station wear; and}\]
\[\text{90.4.5. appliances;}\]

Of course these apply not just to paid employees of the CFA but also to volunteers.

This agreement directly affects the interests of volunteers and anyone involved in the CFA. The way in which we can identify why this agreement is so different and so far-reaching is that this is the first EBA of the CFA which has been so contentious. We heard evidence in the inquiry from former board members of the CFA who were involved in previous EBA negotiations. They said there were issues and that they had concerns but ultimately they felt that they were able to agree to those EBAs because they did not detrimentally affect the interests of the CFA or its volunteer firefighters. This one does. This one has had a totally different response because it is a totally different agreement.

Why is it that this agreement has been so fractious and contentious? In part it is because the UFU and the Victorian government have been so unwilling to make any concessions or to listen to any of the concerns of volunteers and others about this agreement. We heard evidence from the new CEO during the inquiry, Ms Frances Diver, who told us about her process in coming to the decision that the CFA should recommend that the EBA be agreed to. She said that over a six- to eight-week period, after she was appointed CEO, she engaged in further discussions with the UFU and a sum total of two concessions were a result of those negotiations. In my view, they do not amount to material changes to the EBA. Ms Diver
disagreed and said that they were. But in an agreement with hundreds and hundreds of clauses, many of which were extremely restrictive, to give only two concessions is very minor, particularly over such a short period of time.

The main thing that Ms Diver said allows her to have confidence that the CFA should agree to this agreement is that the UFU had clarified a number of matters about the EBA, clarified some of the misinformation in the debate and given the CFA many assurances about the agreement. I do not take much comfort from those assurances, and I know volunteers do not take much comfort from those assurances. The truth is that we know why the EBA was finally signed. It was signed because the entire board of the CFA was sacked. A new board was appointed with the express instruction that they should resolve this agreement by signing it without much further delay, and a new CEO was appointed to do that.

I just want to make some observations about the actual bill before us today, because I think that is relevant. I was very heartened to hear Senator Cameron outline his concerns about the red tape limitations of this bill and the federalism implications of this bill and the small government implications of this bill. There is hope for Senator Cameron yet if late in his career he is showing such an interest in such high principles. But unfortunately in this instance he is not right and his concerns are erroneous.

The only thing that this bill does to address the direct problem that we have seen in this EBA is to add the definition of 'objectionable terms' in section 12 of the Fair Work Act. It will prohibit objectionable emergency management terms. They are terms which would prevent emergency services bodies from being able to properly manage the volunteer operations and which are contrary to the relevant state legislation covering these bodies. The Fair Work Commission will no longer be able to approve agreements that contain these terms and any such terms in existing agreements will be legally ineffective. This will mean that an enterprise agreement can no longer undermine the capacity of emergency services volunteer bodies to properly manage their operations. Contrary to the concerns raised by some in the hearing and in the chamber today, this will only apply to firefighting and state emergency services organisations in Victoria, the ACT and the Northern Territory, because they are covered by the national workplace relations system.

The bill will also give volunteer organisations the right to make submissions to the Fair Work Commission about enterprise agreements covering certain emergency services bodies that would affect the volunteers they represent. I think that is a very welcome amendment, given that we know that the interests of volunteers have been so overlooked in this debate and in this EBA negotiation.

I want to conclude my remarks by recommending to the Senate that it pass this bill with the utmost urgency so that our volunteers and paid firefighters in the CFA can begin to prepare and focus on their priority, which is protecting our community ahead of the summer and the fire season, which is coming up.

Senator MARSHALL (Victoria) (11:13): The name of this report is the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016. Yet again, which is common practice not just for this government but previous governments, we seem to have Orwellian titles to describe bills which we are putting up to parliament. This bill is not about respect for our emergency services volunteers. It is in fact about disrespecting them. It is absolutely about disrespecting them. It is about putting a bill in place that will enable
emergency services workers to continue to be used as a political football in a political game that has been orchestrated by the state Liberal opposition in Victoria and this federal Liberal government. It is about politicising their valuable and important work, ensuring that there is no agreement, and ensuring that this dispute, this uncertainty—this disastrous ‘trail of destruction,’ as Senator Paterson said—continues on right through to the next state election. That is what this bill is actually about. That is the genesis of it; that is why it is here. And how do I know that? Because we see all of the evidence being presented in the inquiry that points to that as a matter of fact.

Let us just go back to April this year, when the Victorian division of the Liberal Party of Australia registered a website called 'Hands off the CFA'. That was back on 28 April 2016, well before this issue got to boiling point. The purpose of this website was to have people register to express their concern, so that the Liberal Party in Victoria could then contact those people and seek political donations—not for the CFA, not for volunteers, but for their political party—so they could continue to run a political campaign. Now, if you have an issue that is bubbling away—‘hands off the CFA’—the last thing you want, if you are raising money from it, is for the dispute to go away. And this government is absolutely focused on that objective. They have introduced this bill to ensure that agreement can never be reached in the CFA. Senator Paterson supported that contention in his own proposition, when he said it is not possible for an EBA not to affect the volunteers. That is what he said. His position—and this is what the government also believes—is that it is not possible for any clause in this EBA not to have an impact upon the volunteers. That is their argument, and they know it will be argued by some volunteers, and particularly by the volunteers’ association, that every single clause in the agreement somehow affects them and that therefore they are ineligible clauses—illegal clauses. That is what this legislation is actually setting up: the politicisation of this issue.

We also know that it was part of an agenda within CFA management to try and break the union. Lucinda Nolan, the former Chief Executive Officer of the CFA—even though her memory was hazy at the time—recognised that they engaged a renowned United States, Chicago-based union-busting firm to give them strategic advice on their options. She was a little bit vague about how she came to be advised to engage that firm. We have asked the CFA to provide that information to the committee, but at this point in time we still have not received answers to those questions. Lucinda Nolan had terms of reference for that company. We are still waiting on that advice too: she was not able to recall what the terms of reference were about; there were terms of reference, but at this point in time they have not been presented to the inquiry. So we see the Liberal Party playing political games with this dispute, playing political games with the volunteers, and playing political games with the career firefighters—and we see the CFA management playing political games with renowned union-busting companies in this area.

Why did it end like this? Senator Paterson also posed that question. How did this dispute take so long to get to this point? That is a question that has occupied many people’s minds, including that of Commissioner Roe, who has been dealing with this issue for four years, trying to get the parties to an agreement. This is what he said in point 4 of his non-binding recommendations to the parties:
In the more recent conciliation sessions it appears to me that the CFA have sought to ignore the long and sensitive bargaining process that has been before me since November 2015. In the context of good faith bargaining and the general clause by clause approach that has been adopted before me, I find it difficult to now disturb the agreements that have been made during the course of bargaining. It is also important to note that the reason or basis upon which it was put to me that the CFA are at liberty to re-agitate matters previously agreed was not clear. Although I note the clear and unambiguous concerns put to me by the CFA in the most recent conferences in relation to various matters, it is difficult for me to reconcile this against previous agreements reached and the fact that at all times before me I have had the benefit of senior members of both the CFA and different areas of government advocating for certain outcomes. I would also note that no explanation was provided as to why the most recent suggested outcomes varied significantly from the outcomes previously sought by the CFA in the 23 November document. The most recent claim or proposal from the UFU has not changed in any significant particular since it has been before me and presumably for some time prior to that. In those circumstances I have felt that I am somewhat constrained in the matters that I am able to properly deal with given the good faith bargaining regime under the Act.

So Commissioner Roe vents his frustration that things have been negotiated and agreed between the union and the CFA and then, mysteriously, they have become un-agreed as negotiations continued, with no explanation to the committee about how those things happened. I understand—and the evidence to the committee was—that on 25 November 2015, there was a small handful of un-agreed items. Without any new claims being made, those un-agreed items continued to grow and grow. That is not good faith bargaining. When Commissioner Roe vented his frustration, the CFA were unable to explain why, when they had senior managers through all these negotiations, they would walk away from agreements previously reached. That says to me that there was a different agenda. That says to me the agenda was not to reach an agreement. You do not negotiate clauses and get agreement around them, only to walk away from them later on, throughout the negotiations, unless you have a different agenda. The agenda here, as I have already said, is very clear. It is a political agenda of the Liberal Party—the state opposition in Victoria and the federal government—to ensure that there is no resolution to this dispute. It was the agenda of management at the time that they did not want a resolution to the dispute either; they wanted to embark on a union-busting process.

Now, Commissioner Roe has belled the cat on that. People ought to read Commissioner Roe's recommendations—at that time people started using the effect on volunteers as the excuse for walking away from that agreement—because this is what Commissioner Roe went on to say at clause 7:

I do consider it necessary to recommend changes to the Agreement to underline that the Agreement only applies to paid professional firefighters and does not apply to volunteer firefighters or affect their important role. The changes also underline the maintenance of the discretion of incident controllers in managing resources in the interests of public safety. The changes to clause 83.5 are also designed to emphasise that the provisions only relate to integrated stations and to the work of professional firefighters. The role of volunteers in fighting bushfires and maintaining community safety and delivering high quality services to the public in remote and regional areas and in integrated stations is not altered by this Agreement.

There are, as I understand it from the evidence, some 1,600 rural fire brigades, and there are some 17 integrated stations. The 1,600 cannot be affected by this agreement because the
agreement only applies to full-time professional firefighters. It only applies in the integrated stations where the full-time firefighters also work with volunteers.

Throughout the course of the inquiry it was without exception, as I understand it—and, if there was an exception, it was a very small one—that the volunteers in the integrated stations fully supported the making of this agreement. Why? Because they wanted to move forward. In the integrated stations the volunteers that came and gave evidence—

*Senator Hume interjecting—*

*Senator MARSHALL:* Senator Hume, you were there.

*Senator Hume interjecting—*

*Senator MARSHALL:* Sorry?

**The ACTING DEPUTY PRESIDENT (Senator Gallacher):** Order! Please address your comments through the chair.

*Senator Hume interjecting—*

*Senator MARSHALL:* No, that is not the evidence. Do not try to misrepresent the evidence. The evidence was that the volunteers from the rural brigades clearly had a problem. I am talking about the volunteers that were in the integrated stations. Anyone who was at the inquiry will clearly know that they were supporting this agreement, and the evidence speaks for itself in that respect. They know that they get a benefit out of it. I will take you to some of the evidence about that in a moment, if I get time.

They want to get on with it. The volunteers and the professional firefighters talked about—to use Senator Paterson's words—'the trail of destruction' that has been caused by the politicisation of this dispute.' They all want to get on with it. The CFA management want to get on with it. The workers want to get on with it. The volunteers want to get on with it. Victorians want to get on with it. The volunteers want to get on with it. We want this agreement to be made and we want agreement reached. We want the agreement implemented and we want the politicisation of the CFA to stop. That is what everyone wants. Everyone wants that.

Ms Diver, the new CEO, clearly wants to move forward. She put a view that, while the EBA may not be perfect in every sense, it was a document that enabled them to move forward with all their staff—both volunteers and career firefighters—and get the organisation back on track, to move forward, with no restrictions on the operational control of fighting fires, and to move forward in the interests of the Victorian community.

Now, that will not be in the interests of the Liberal Party. It will not be in the interests of the Liberal Party because they want this to continue, and that is what this bill is designed to do. But the interests of the Liberal Party are at odds with the interests of Victorians. Victorians want the agreement to proceed. They want this bill to be opposed, because Victorians know that this bill will do nothing but create further disputation and ensure agreements are never reached in the CFA. I think it is an appalling objective of this government to try to continue the politicisation of this bill.

How does the bill ensure that there will never be agreement reached? We took evidence from Professor Andrew Stewart, and he said—and I paraphrase:

On the evidence before the committee the bill would simply add layers of ... complexity and delay to any future bargaining process. Bargaining would become even more complex, with the capacity for
legal appeals to the High Court including on issues of constitutionality. Volunteers will not be affected by the proposed EBA and the security and well-being of Victorians will not be compromised. However interminable legal arguments arising from the bill would exacerbate division and divert resources from firefighting.

On this basis, on the evidence before the committee, we say as senators that this bill should certainly not be passed. Professor Stewart raised issues, and I will now go to his direct quotes:

… if a Chief Officer gives directions, or establishes standard operating procedures [under the CFA Act], as to the chain of command for the performance of emergency work by firefighters, those directions or procedures must prevail over anything to the contrary in an enterprise agreement.

- Professor Stewart raised a number of problems in relation to interpretation issues associated with the bill, including one interpretation that 'any attempt to reserve particular work (including management) for paid employees would be unlawful'—

and, therefore, it would not apply in any case.

- Professor Stewart raised issues of constitutionality including that 'the Commonwealth cannot legislate in such a way as to “significantly impair, curtail or weaken” the capacity of the states to function as autonomous and independent entities.'

The CFA chief fire officer was unequivocal in his view that the proposed EBA would not impact upon the CFA's firefighting abilities. He stated that he was 'really confident' that 'during a firefight, operations will not be compromised.' He also indicated that the instrument provided to him, in writing from the CFA board chair, gives him 'assurances that the powers of the Chief Officer are not being compromised' by this agreement.

Much has been said about the misconceptions over the proposed EBA. I have already been to the motivations for much of that. But I have to say that I have never seen such a wilfully and deliberately misleading campaign orchestrated together—hand in hand—with the press and elements of the political class and the volunteers' organisation itself. Some 20-odd front-page headlines in the Herald Sun are nearly all inaccurate—with hearsay and misinformation being peddled. We heard the minister and we heard other people peddling misinformation about the impact of some of these clauses. We had people believing that, under the EBA, in a fire situation every decision being made on the fireground would potentially have to go to the union for agreement and potentially end up in the Fair Work Commission. This is absolute nonsense. Senator Paterson was able to give us very few examples of where the EBA does impact upon volunteers. He talked about the volunteer support officers, but I want to make the point that that clause is in the existing agreement. That is not a new clause, so nothing will change with respect to the way that is being operated. People cannot say, 'Things are going to change because of the new clause,' because it is an existing clause.

We have a situation where it is not the government's intention to try to assist the CFA in fighting fires. It is not their intention to promote harmonious workplace relations. It is not their intention to support volunteers. Their intention is to have an ongoing dispute festering away that people are confused about, and that brings up strong emotions from many people, and exploit that for their own political ends. That is not what the Senate ought to endorse. The Senate, as a house of review, should look closely at these matters and should say, 'We are not going to let the government politicise the CFA in Victoria. We are not going to let the government use these people, who put their lives on the line defending us, as political footballs.' We should not allow that. The Senate should say no to that. That is one of the roles
we are here for. We need to have the courage to look at the detail and look at the evidence presented before the Senate inquiry and say that this is nothing but a political beat-up. It was a promise made in the middle of a federal election campaign in front of a volunteers rally as part of a campaigning strategy. That is what this bill is all about. It is an election strategy delivery process. That is when the promise was made and that is how it is intended to be delivered.

I am disappointed that we are in this position today. I am disappointed that the Senate may even pass this bill. For Victorians, that means ongoing uncertainty. It means an organisation that has been damaged by this dispute will continue to be damaged. Relationships between volunteers and career firefighters will continue to be damaged. This is all in the name of votes—cheap votes for the Liberal Party in Victoria and here federally. I think it is a disgrace—it is a disgrace to use people in this cheap, political way. It is appalling that this government has denigrated firefighters, who are our heroes in this community.

Senator HUME (Victoria) (11:33): I rise today in strident, vociferous and unequivocal support of the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016. Firstly, it was an honour to participate in the Senate inquiry into this bill and to meet and to speak to so many of Victoria's very brave firefighters, and, in particular, the selfless and courageous volunteers of the CFA. This legislation honours a coalition commitment to protect the Victorian Country Fire Authority from a hostile takeover by the United Firefighters Union—the UFU. If the federal parliament did not pass this amendment, the CFA's volunteer based model would be severely undermined. This would threaten the safety of communities and erode Australia's great tradition of volunteerism and community spirit.

The CFA—with 60,000 volunteers, including around 35,000 operational firefighters—is one of the world's largest volunteer based emergency services organisations. It protects people and property in one of the world's most fire-prone regions. The CFA volunteers are community minded, they are dedicated, they are selfless and they are courageous. The CFA is a very proud organisation whose members, under the CFA banner or the banners of its predecessor organisations, have protected the people of Victoria for more than 100 years. In its current form, the CFA was founded in 1945 after the royal commission into the horrific 1939 Black Friday bushfires, which found that the bush fire brigades, the country fire brigades, and the Forests Commission could all be combined to more effectively protect the people of Victoria. Since that time, the CFA has grown to over 60,000 members, who respond to emergencies over the entirety of country Victoria and also 60 per cent of suburban Melbourne. All told, the CFA protects around 3.3 million Victorians and around one million homes.

In this protective capacity, the CFA shoulders an incredible burden—outback Victoria is one of the most fire-prone regions on earth, sitting beside only southern California as areas most vulnerable to severe fire damage. In such an environment, disasters are inevitable. In recent years, the most notorious fire to hit Victoria was the 2009 Black Saturday fire, which tore through Marysville, Kinglake, Flowerdale, Strathewen and surrounding areas. In addition to the widespread property damage, the fires struck at the heart of these local communities, as 173 Victorians perished in the flames on this infamous day. Yet it is testament to the quality of the CFA that 19,000 of its members were on hand in both frontline firefighting and community support capacities. Without volunteers, such a number of firefighters could never
have been gathered together to protect Victorians and their homes. If I may quote the royal
commission into the Black Saturday fires: ‘The commission particularly recognises the
contribution of volunteers and their families. The strength of the CFA volunteer base was
evident on the 7th of February. The commission heard of volunteers preparing for the day,
warning local residents and assisting with the confronting task of locating and identifying the
dead. Countless more volunteers took up support roles.’ These are grim, yet very inspiring,
words revealing the dedication and sacrifice of the CFA volunteers in Victoria. My brother-
in-law was one of them and he was deeply affected by that day.

Volunteers are fundamental to Victorian firefighting because only they can meet the surges
in demand that big fires such as Black Saturday cause. Before I proceed, please let me be
clear: paid firefighters are trained, qualified and dedicated to their tasks, and we respect them
all. But I quote the Volunteer Firefighter Brigades Victoria submission to the Senate inquiry:
‘It is essentially the sheer number of available trained and experienced volunteers upon which
Victoria relies to deal with major emergency events. Forty to 50 per cent of firefighters at
critical events are volunteers.’ I do not know how Senator Cameron can stand in this chamber
and say that firefighting operations will not be compromised, when such a mass of volunteers
are relied upon to fight fires. They are the very volunteers who would be subordinated to
union control, and demeaned and insulted, under the proposed UFU deal. Put simply, without
the volunteer base the firefighting capacity in my home state would be crippled, and that is
something that I simply cannot countenance. For these reasons I am very proud to stand and
support the bill put forth by Minister Cash and the Turnbull government.

This week the Victorian government—this weak, entirely beholden Andrews
government—is seeking to hand control of the CFA's volunteers to the United Firefighters
Union. At the behest of the UFU, Premier Andrews is pressuring the CFA into submission
over a new enterprise agreement. This agreement would undermine volunteers and the CFA's
operation. For example, it would mean that a paid firefighter can only report to another paid
firefighter, except in the case of level 3 incidents, which are around one per cent of annual
incidents. This would sideline our volunteers and provide a potential dual command structure
which is intolerable in an emergency situation. That is set out in clause 35.4.

Clause 41.1 says union agreement is required before the CFA can make a change to policy.
This stifles the ability of the CFA to adapt to any prescient needs. Clause 77.5 says seven paid
firefighters need to be dispatched before other firefighters can commence fighting, meaning
that volunteers can be left to face fires alone for a period without instruction, without
direction and without an understanding of the command structure, and despite the sudden and
swift nature of fire emergencies. Union agreement is also required on what uniforms will be
worn by volunteers, and paid firefighters must have uniforms that are visually distinguishable
from those of volunteers, diminishing the equal value and significance of volunteer
firefighters. That is in clause 20. And clause 21 says that union agreement is required for
workplace changes by the CFA, including in matters that could impact on the use of
volunteers, such as their terms and conditions of employment. This change effectively hands
control of volunteer management to the United Firefighters Union. The union disingenuously
suggests that a clause in the agreement stating that the role of volunteers is not altered by this
agreement means that volunteers will be no worse off. That is a complete misrepresentation.
A specific clause in an agreement overrides a general motherhood statement like this, so the
many specific clauses that sideline volunteers, such as those I have already mentioned, will still apply.

So much damage has already been done in this debate. Such is the concern about the impact of the proposed agreement on the CFA that Victorian Emergency Services Minister Jane Garrett has already resigned in protest. The CFA chief executive officer, Lucinda Nolan, and the chief fire officer also resigned in protest. I quote the former CFA chief executive officer, Lucinda Nolan, regarding the EBA: ‘This agreement was not going to make the organisation a better place. It is destructive and it is divisive. I could not stay and oversee the destruction of the CFA. I think that this has the potential to negatively impact the organisation, community safety, our volunteers and our volunteer contribution.’ That was Ms Nolan’s evidence to the Victorian parliamentary inquiry last month. She also said that she was given a clear alternative: sign the EBA or leave the organisation. ‘Obviously, I chose the latter,’ she said.

The extent of bullying in this debate has been an embarrassment both to the UFU and to the Victorian government. A number of CFA volunteers have resigned and many more are threatening to do so. The CFA board who staunchly opposed the EBA were sacked by the Andrews government, and then a new hand-picked board was appointed in an effort to force the CFA into submission. The CFA board stated before they were sacked:

We have serious concerns many of these proposed clauses are unlawful and we have legal advice that indicates CFA would be in breach of its statutory obligations.

They also said:

Many of these clauses have no place in modern day workplaces and are out of step with today’s society.

Advice from the Victorian Equal Opportunity and Human Rights Commission is that some clauses do not comply with the Equal Opportunities Act and would be unlawful.

In the words of the CFA itself:

The proposed EBA undermines volunteers, our culture, allows the UFU operational and management control of CFA.

Senator Cameron unsurprisingly argues that this bill is political opportunism. What extraordinary hypocrisy! The opposite is true. The EBA is a product of an opportunistic, militant union taking advantage of a weak state government that is beholden to unions for their election. In fact, former Labor Minister for Police and Emergency Services during the Bracks government, Mr Andre Haermeyer, said:

The UFU … attitude to volunteers has often been dismissive. Many of its demands in its current dispute with the CFA are Trojan Horses that would sideline CFA volunteers and undermine their interests, with little or no real benefit for the paid firefighters the UFU represents.

Mr Haermeyer went on to say:

It would also undermine the operational authority of the CFA’s chief officer and operational commanders as well as compromise the fiduciary responsibilities of the CFA’s board under the Country Fire Authority Act. Full-time paid firefighters deserve to have their safety and interests protected, but so do volunteers.

This is a Labor minister. He was the one who did not get sacked. He was the one who did not have to resign, unlike Minister Garrett.
The Fair Work Amendments Bill will address the overreach of the EBA simply and comprehensively. The bill will simply add to the definition of objectionable terms in section 12 of the Fair Work Act to prohibit objectionable emergency management terms. Objectionable emergency management terms are terms which would prevent emergency services bodies from being able to properly manage their volunteer operations and terms which are contrary to the relevant state legislation covering those bodies. The Fair Work Commission will no longer be able to approve agreements that contain these terms, and any such terms in existing agreements will be rendered legally ineffective. This will mean that an enterprise agreement can no longer undermine the capacity of emergency services volunteer bodies to properly manage their operations.

This simple amendment will only apply to firefighting and state emergency services in Victoria, the ACT and the Northern Territory because they are covered by the national workplace relations system. The bill will also give volunteer organisations the right to make submissions to the Fair Work Commission about enterprise agreements covering certain emergency services bodies that could affect the volunteers they represent.

I would like to finish up by quoting Andrew Ford, CEO of the Volunteer Fire Brigades of Victoria. He said in evidence to the Victorian parliamentary inquiry in August this year:

Our issues are not between paid firefighters and volunteers; they are about a broader union control than that industrial interference with CFA decision-making and an EBA that we submit effectively dismantles the legislated nature and operations of the CFA and therefore erodes the capacity of the CFA to manage their operations.

... ... ...

If the constructive CFA is dismantled, if the respect for volunteers and the roles they do and can and have performed is eroded, and if the provision of support to them to perform their role well is eroded, then volunteers will walk. That is the message I would like the Senate chamber to take home today. Volunteers will walk. I urge the chamber that if the members here value the spirit of volunteerism, if they reject this Orwellian union takeover of a great Victorian organisation—

*Senator Rhiannon interjecting—*

**Senator HUME:** Thank you, Snowball. If you value the lives and the property of the people of Victoria, if, Senator Rhiannon, you genuinely value public safety, then you will support the amendments to the Fair Work Act, you will respect our volunteers and their 100 years of courageous service.

**The DEPUTY PRESIDENT:** Thank you, Senator Hume. In future, address your remarks to the Chair.

**Senator HINCH** (Victoria) (11:50): Madam Deputy President, I will not take very long. I listened this morning to Senator Cameron in his sterling role of being an apologist for the bully boy, Daniel Andrews, over this whole sorry affair. It speaks for itself. You have had his own minister, Ms Garrett, who would not do the dirty work that he wanted her to do, and she resigned. You had Ms Nolan, who would not do it either—she quit as CEO. You had the Chief Fire Officer: he resigned. The replacement board—the puppet board—that was then put in by the Premier had a marathon session. I think the final figure was about five to four to approve this EBA.
I am opposed to it. I agree with Senator Hume and her remarks about volunteers. I say that as a person who was one of the lucky ones. I had my own farmhouse saved during Ash Wednesday, when my neighbours all lost their houses. Not to mention the heroics of the volunteers and the paid firefighters during Black Saturday.

All I want to say today is that you have a million homes being looked after by these volunteers. You have something like 1,200 units that they belong to, and there are 57,000 of them. They are the core—they are like our lifesavers, they are volunteers. It is not just fires they go to. If you have ever lived in the country you know that if somebody runs his car off the road at three o'clock in the morning and hits a big tree, the first people there giving emergency services are fire volunteers. My own farm manager, no matter how much work he had to do on the farm, would get up at five o'clock on a Saturday morning and go down to do training.

So all I want to say is that, as a newcomer to the Senate, I am very proud on this occasion to support the government and hope this legislation passes.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (11:52): I rise today to speak on the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016. Once again we see the government seeking to exploit workers for their own benefit, but be aware that those opposite do not actually care about volunteer firefighters. While this bill may be called the 'respect for emergency services volunteers' bill, be assured that those opposite do not actually care about the rights of any workers, and they certainly have misused the term 'respect' here. As I heard Senator Marshall say earlier, it is actually about disrespect, and I will go into the reasons I agree with Senator Marshall later on in my contribution. If those opposite truly respected emergency services volunteers, they would not be turning this issue into their own political plaything to undermine states' rights and workers' rights.

The government found political advantage in exploiting the CFA dispute, and this is something that I want everyone to remember. They even set up a website in April 2016, Hands Off the CFA, authorised by the Victorian Liberal Party to exploit the issue for their own benefit. The website has no Liberal logo or anything other than a small authorisation. Members of the public registered their interest in the website, and that personal information was later used to solicit financial support for the campaign, which was a Liberal Party campaign. That is right: people thought they were donating to volunteer firefighters, but the money was going to the Liberals. To me, that is just grubby.

Firefighting services is clearly an area that is the concern of the states, and the federal government should not be intervening in this area. The Labor Party has said all along that—whatever differences there are between the volunteers and the CFA and the United Firefighters Union, or any parties that are fighting fires in Victoria—we would like to see leadership and we would like to see an effort to reconcile differences, not to inflame tension.

These differences have resulted in Volunteer Fire Brigades Victoria bringing an action in the Supreme Court of Victoria. This case is expected to commence on 17 October and is expected to take 10 days. The listing of this matter was expedited, and the opposition is hopeful that the court will determine the matter quickly. This case will determine whether the proposed agreement between the CFA and the paid firefighters is consistent with the CFA’s obligation under the CFA act. As the court case makes clear, this is a dispute which is not between parties to an enterprise agreement under the Fair Work Act but between Volunteer
Fire Brigades Victoria and the CFA. Yet this government has brought this bill to this parliament even before the Supreme Court has made its decision. Labor's view is that this has always been and remains a state issue. It is our firm belief that, as this may be resolved in the Supreme Court of Victoria, this federal parliament should stay out of the way, at the very least, to exercise the precautionary principle. Those members of the government opposite only want to exploit this issue for their own political benefit, and truly they should be ashamed of themselves.

This government has spent most of this year attacking workers, their rights and the unions that represent them. A large chunk of this year has been used on a double dissolution election and what the government considered the very important piece of legislation regarding the Australian Building and Construction Commission, the ABCC. But where has that gone? It was such an urgent piece of legislation we had to have an election on it, and what have we seen since then? Absolutely nothing. It has been over three months since 2 July, we have had three sitting weeks in this place, and the government has not availed itself of the joint sitting that the double dissolution afforded it. It could have organised for the House and the Senate to have a joint sitting to pass the legislation, but it has not. It is as if the Building and Construction Commission bill was just an excuse for Mr Turnbull to try to clear out the crossbench, having done a grubby deal with the Greens to change Senate voting, and it was just an opportunity to vilify hardworking union officials and their members, just like the bill we are debating today. Those opposite are attacking unions and unionists because they fight for workers' rights, and that goes against Mr Turnbull's big business mates. They are seeking to make political capital out of a complex and sensitive issue. Quite frankly, I find it appalling.

We are debating this bill today about the current Victorian Country Fire Authority dispute because the Turnbull government opportunistically and dishonestly have been misleading Victorians, volunteer firefighters and the parliament about the dispute. The legislation we are seeing today is drafted in broad terms, but the government has not thought about the implications, other than to further its politically motivated intervention in this Victorian issue. The legislation has potential consequences that are broader than the CFA and will create considerable uncertainty for emergency service organisations throughout the country. Exactly who will be affected by this bill is currently unknown. The Department of Employment advised the shadow minister, Brendan O'Connor: 'This bill only applies to emergency services in Victoria, the Northern Territory and the Australian Capital Territory, and the Commonwealth has no constitutional power to intervene in respect of emergency services that currently exist in other states. However, it should be noted that, if any emergency services were deemed to be corporations, they could be captured and, in a recent court case, the Country Fire Authority was found to be a trading corporation. It is entirely unclear whether any other fire authorities or other emergency management bodies in Australia are captured by this legislation, and this will only be able to be determined through litigation.' The government almost seems to have accepted this uncertainty, giving itself power to both exclude and include bodies to be captured by the legislation.

No matter how broad or narrow the implications of this bill turn out to be, it is clear that it is the government's response to an industrial dispute between the Victorian Country Fire Authority and the CFA employees represented by the United Firefighters Union. So what is
clear is that this bill will not address the concerns raised by the Victorian board of volunteer firefighters, the VFBV. What is also extremely disappointing is that, even if it is only to apply to two territories and Victoria, the government has failed to provide a briefing to the ACT government and the newly elected Northern Territory government. The Liberal-National government is rushing in and impacting the emergency services sectors of these territories, and it has not even bothered to brief those governments on the changes.

This matter will still be determined by the Fair Work Commission, and it is very likely to be appealed. All this legislation will do is make it harder for volunteer and career firefighters to work together to protect the Victorian community. The government clearly has no regard to the interests of career firefighters in ensuring the safety of career and volunteer firefighters through the proposed agreement. Labor is concerned that, in its unseemly and unnecessary rush to play politics, the government will ignore the unforeseen or undisclosed effects of this legislation on a range of organisations. Labor is particularly worried given the fact that the employment minister does not seem to understand, or to have read, the enterprise agreement she is trying to decimate. We saw that in an absolutely atrocious interview the minister had with David Speers on Sky News recently. To be honest, it was like watching a train wreck in slow motion. It was painful. I was quite embarrassed for her. It clearly exposed the government's political gaming and the minister's complete incompetence. Rarely have we seen a minister so badly out of their depth on the detail of their portfolio—and I must admit that I was quite surprised to see it of that minister.

Asked on multiple occasions how the EBA would negatively affect volunteer firefighters the minister entered into what could have been mistaken for a comedy script riddled with errors. The minister was clearly briefed to say the EBA would undermine volunteer firefighters. She managed to get that part out, but that is where the detail ended. Mr Speers asked more than 10 times about the details of how the agreement would undermine volunteers. He even had to point the minister to the details of the legislation, which she obviously was not across despite using it as a prop. He was met with a more than inadequate response. Perhaps most embarrassing for the minister was when she introduced us to a case study whom she suggested would be adversely affected by the proposed EBA. When David Speers asked the minister what would happen to the individual if the agreement went through—if I remember correctly, the individual's name was Don—she was left red-faced and floundering in search of an answer. The best she could muster was to say that she hoped there were no resignations. Even though she said this was going to adversely affect poor old Don, she could not give us one example of how that was going to work. And finally, when pressed on what the impact would be, she conceded 'You'd need to ask that person.'

It was quite excruciating watching the minister trying to avoid these questions, and she was unable to clear up her previous assertions in an error riddled opinion piece either. She made a number of incorrect statements in that opinion piece, and I would just like to outline a couple of them. The minister incorrectly asserted that the volunteers cannot fight fires until seven paid firefighters are present, when the agreement only requires that seven firefighters be sent to the fire. She incorrectly asserted that paid firefighters report only to other paid firefighters when incident controllers, whether paid or volunteer, will continue to direct paid firefighters. And she incorrectly asserted that the CFA must get the union's approval for changes in policy when consultation is already an integral part of such agreements to ensure the safety of
firefighters and the community. These mistakes by the minister were not off the cuff; they were carefully scripted, and they were just plain wrong.

When the minister in charge cannot accurately represent the bill and the current situation to the people, the volunteers and firefighters, and to this chamber we need to seriously ask ourselves whether it is right that this exercise should be passed into law. The Liberal government is not interested in helping volunteers or ending the CFA dispute. Senator Marshall, in his contribution earlier, went into that in some detail, so I will not take up too much extra time in regard to that—I thought Senator Marshall put it very well. The Liberal government is simply interested in the political opportunity that the dispute has presented for them. Those opposite are not friends of workers and never have been. Mention the word 'union' and they just about have hysterics over there; sometimes it is quite funny to watch actually. If they were supportive of workers, they would support Labor's call for a royal commission into banking, for example. Instead, we are seeing the farce of the House inquiry, controlled by the government, which gave the banks a free pass to spin their dodgy deals and shonky schemes. And we have heard how they were approached to suggest a tribunal. What an absolute joke! As Mr Shorten said, with all of these bank CEOs saying 'We're sorry, we've stuffed up. We've caused problems for thousands of our customers' haven't they just made the final argument to have a banking royal commission? I think so. Instead, this government wants to give the same big four banks a $7 billion tax cut.

But getting back to the bill we are debating today: the opposition has grave concerns that this is just another example of the government deciding to overturn the decision of an independent tribunal it does not like. It did not like the decisions of the Road Safety Remuneration Tribunal, so it abolished the tribunal. In this case, the government does not like the Fair Work Commission's recommended resolution of a longstanding dispute between the CFA and its paid firefighters, so it seeks to impose itself in this matter by legislating. If the government, or some future Labor government, were to legislate every time they were unhappy with an agreement reached between an employer and unions, or its employees, there would be utter chaos in the system. It would create chaos in workplaces right across Australia. That is why there are grave concerns about the proposed legislation.

A number of important groups came out against this legislation during the Senate inquiry process. For example, the Police Federation of Australia has made submissions against the enactment of this legislation, as has the Australian Nursing and Midwifery Federation. Ambulance Employees Association Victoria has also made submissions against this proposed legislation. But this government has not listened to the concerns of those groups—because they do not really care about the policy outcome of this bill, just the politics. This bill will not speedily resolve this issue. If the government's legislation is passed before the agreement is submitted to the Fair Work Commission for approval, having been agreed between the CFA and its employees, then the Fair Work Commission must consider whether any term of the agreement is an 'objectionable emergency management term'. In doing so, the Fair Work Commission will hear from the CFA, the United Firefighters Union, any other employee bargaining representatives and Volunteer Fire Brigades Victoria. Ultimately, it does not matter what the government thinks is objectionable or even what Volunteer Fire Brigades Victoria thinks is objectionable; it only matters what the Fair Work Commission determines is objectionable. In the event that the Fair Work Commission determines that these or other
clauses in the agreement are objectionable, the commission can choose not to approve the agreement or can approve the agreement subject to undertakings about those clauses. If the Country Fire Authority, or any other employee's bargaining representative, disagrees with the decision of the Fair Work Commission, they could appeal to the full bench of the Fair Work Commission and from there to the Federal Court. Further, given the views of respected academics, including Professor Andrew Stewart, that the bill may be unconstitutional, one could expect that the legislation itself will be challenged. In his submission to the Senate inquiry, Professor Stewart said:

In summary, I am concerned that the amendments proposed in the bill would be difficult to apply and potentially subject to a constitutional challenge. They are intended to help resolve a single dispute at a single state agency, yet the uncertainty they would create would likely serve to exacerbate that dispute and delay its resolution. Furthermore, at least some of the issues raised by that dispute can be addressed through legal mechanisms that already exist.

The enactment of this bill does not guarantee any speedy resolution to this matter. In the meantime, there is nothing but uncertainty for the workforce of the CFA, and all the CFA volunteers, and no foundation for mending the fences that have been broken in the course of this dispute. Compare this to the current Supreme Court case, which will be resolved shortly. So this bill, rather than solving the issue quickly, will just result in it dragging on and on and on.

In closing, I would like to state what an utterly disastrous approach the government has taken on this issue. As I said earlier, the minister failed to publicly explain or demonstrate an understanding of this bill. She absolutely failed in explaining this bill at all. The issue is currently being decided by the Supreme Court and this bill does not even wait for the court's decision to be handed down. The government are stepping into areas that are the domain of the states and violates their rights, all because they dislike unions. If passed, the bill may end up being challenged in the High Court and ruled unconstitutional, delaying the resolution of this issue even further. On all accounts, this government seems to be deliberately dishonest and woefully incompetent. It is my suggestion that the Turnbull government should just stop playing politics with the CFA.

Senator KIM CARR (Victoria) (12:09): The Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016, in my judgement, is not intended to make industrial agreements involving firefighters fairer or simpler to negotiate and is not intended to preserve or defend the role of volunteer firefighters. This is nothing more than a piece of political mischief-making. While claiming to defend volunteers in the Country Fire Authority brigades in Victoria, the government's real aim is to vilify and undermine professional firefighters and their union. To do so, it has cobbled together legislation that raises more serious problems than it purports to solve. This bill is so ill-considered that its constitutional status is dubious. Numerous legal advisers and experts have examined the government's legislation and argue that it would be vulnerable to a challenge in the High Court. I appreciate that is a claim that is made on numerous occasions about legislation. There is only one group of people who can make a judgement as to whether a bill is unconstitutional and that is the High Court itself. But there is no doubt that there are substantive arguments to support a challenge being actually launched on this legislation. Only the justices of the High Court will determine the validity of that, but there is absolutely no doubt that this bill is vulnerable to a challenge.
At the very least, this bill has demonstrated what happens when a government, desperate in an election, seeks to capitalise upon a dispute in one particular region of the country. This is a dispute that has gone on for over three years. It is a product of mismanagement by the previous Liberal government in Victoria and a similar set of arrangements we saw entered into with various paramedical legal services in the state where there was, of course, a further protracted dispute engineered by a conservative government and the failure of an agency to deal with its responsibilities—a quite biased and politically engaged agency which was quite hostile to the labour movement. We have known of cases where the management of the CFA in Victoria in previous elections has intervened in electoral processes in the state, and we know the actions that that body has taken by the engagement of various union-busting outfits in an attempt to undermine an agreement-settling process. That is why this dispute has gone on for the length of time it has. That is why there has not been a settlement for three years. There is no willingness by the CFA to actually enter into a proper negotiation process to secure a settlement. Until recently, that had been the case.

We know that the dispute in Victoria was politicised by the Liberal Party; we know of the use of Liberal Party volunteers masquerading as firefighters; we know of the Liberal Party's use of various CFA websites to raise money for the Liberal Party; we know what has happened in many country areas where an attempt was made to vilify trade unions, to vilify the Labor Party; and of course we know the electoral result in Victoria. I take the view that the swings to Labor in Bendigo, for instance, demonstrate that there was actually a swing to the Labor Party through this dispute, so it did not quite work out the way that was intended. I know that in boxes around Kilmore, which of course was an area devastated by the Black Saturday bushfires, Labor's vote actually tripled. I know of circumstances in many other areas where media leaks claimed, for instance, that in booths in Jagajaga there was a great outpouring of hostility, while the reality was that the Labor vote improved. So in some respects the attempts being made by the Liberal Party to polarise this issue and attempt to demonstrate the evils of trade unionism were not carried through to the ballot box itself. That does not change the fact that, while the electorate was not fooled, the actions themselves were not undertaken.

What we have seen is the Liberal Party in Victoria use distortions and misrepresentations, particularly through the Herald Sun, to vilify professional firefighters. We know that 18 front pages in the Herald Sun might as well have been printed as blank sheets of paper with the effect they had, but the consequences were to attempt to undermine the moral and authority of firefighters in the state. No matter how many times you state an unfounded fear the consequence there is really aimed at the organisation itself, and that is the case with the CFA.

Clause 7A in the EBA negotiated between the board of the Victorian CFA and the United Firefighters Union—and I might say, at the insistence of Mr Julius Roe at the Fair Work Commission—is to make sure that the role of volunteers was not altered by the agreement. Nothing in this agreement—I repeat: nothing in this agreement—prevents volunteers from providing the services that they would normally provide. So the role of the Victorian volunteers, who do such a commendable job and represent such a broad cross-section of society—they are not just conservative people, they are not just the captains of the local social set: they are actually made up of all sorts of folks and they undertake such a remarkable job—is not actually under threat, no matter what the National Party says and no matter what the
Liberal Party says as a political device to try to mobilise support for those organisations. It is also clear that there is no provision in the EBA which countermands the provisions of the state's emergency services legislation.

What was demonstrated, and what my colleague Senator Bilyk made very clear just before me, was that Professor Andrew Stewart from the University of Adelaide, who is very highly regarded for expertise, advised the Senate inquiry that the chief fire officer gives directions or authorises operating procedures under the CFA Act, and those directions prevail over anything that is contrary or might be alleged to be contrary in any EBA. That is the law. There has never been any doubt about the law in Victoria, but in order to keep spinning the line that the volunteers have threatened the government it has continued to pretend that there might be some other course of action available to it. Now I know this might play down well at the editorial suite at the *Herald Sun* and their deep, deep antipathy to the Victorian Premier and their deep antipathy to unions and their deep antipathy to workers who are unionised, but the facts remain the same.

This bill fundamentally ignores the problem of the constitutionality of these measures: the fact that the Commonwealth legislation might impair, curtail or weaken the capacity of the state to function as an autonomous entity. The irony will not be lost on those who spent years listening to the coalition's talking and beating the drum of state rights. Of course we know that in other areas the issue of states' rights is sacrosanct, unless a case comes before the parliament or before politics of this country for a bit of union bashing—then anything goes. The minister, being so intent on smearing the union of the professional firefighters, made it very clear she had not even bothered to actually look at the detail of the EBA. Senators will recall the opinion piece which was published in the *Herald Sun* on 22 August in which she claimed that the seven paid firefighters had to be present before volunteers could be deployed to fight a fire. She also said that paid firefighters could only report to other professionals. These claims were just wrong. It is not about the facts here, is it? It is about the smear.

This is a political campaign run by the Liberal Party aimed at smearing professional firefighters and smearing the Labor government in Victoria. The minister, who rarely shows any embarrassment at all, had to at least acknowledge when she was lost for words with a television interviewer that she could not identify where the provisions in the EBA were in terms of the claims that she was making. I say that this is a serious political problem for this country, if they think that the Commonwealth can intervene for the settlement of an exasperation, in this case, of an industrial dispute in one state.

What we do know is that the Commonwealth does have powers to regulate wages and employment conditions. But, when it comes to the question of state government employees, the situation is a bit more complicated. The High Court has made this very clear. The court itself has set limits. In 1995, in a case involving the Australian Education Union and the Victorian government, it found that the Commonwealth cannot direct a state on who or how many people to employ. Surely this bill presents us with a difficulty about how this measure will actually be implemented and be consistent with previous High Court decisions? This bill will allow a federal body, the Fair Work Commission, to override the decisions of a state body, such as the Victorian CFA or the Victorian government, when it decides how to structure its relationship with its employees and its volunteers.
The Department of Employment states that it has been advised by the Australian Government Solicitor that this bill is within the powers of the Commonwealth. Well of course they always say that, don't they? In all my time in government I have never known a bill to come before parliament which the Solicitor-General had not advised will survive a High Court challenge. We know the difference is, and the reality is, that that does not necessarily bind the High Court. Just because there is an opinion—an unpublished opinion, an unverified opinion—presented by the Solicitor-General that does not in itself make it a fact, because these are issues that will be tested in a court of law, namely the High Court of Australia.

We know the problem here is that the government does not release the Solicitor-General's opinions, and it does not want those opinions to be subject to the scrutiny of other constitutional experts—it does not want the debate about that particular issue. We know that there is a contrary view by eminent jurists in this land. And while we cannot prejudge the outcome of a challenge, I say it is absolutely arguable that there is a case for it to be put before the High Court. And what is clear in these circumstances is that if the court eventually upholds the legislation, then there will be, of course, even then protracted uncertainty about the status of the firefighting arrangements in the state of Victoria.

It has been mentioned that this is a matter that is currently before the Supreme Court of Victoria. We await their decision. But what incredible timing, as we move into summer—what extraordinary genius at work here as we move through the bushfire season—to actually create this level of uncertainty when there is a state case currently in play. I find it extraordinary. In response, Victorian firefighters and emergency workers are hampered because of this protracted matter. It will not, however, be because of the EBA now. What this Commonwealth government has done is actually taken this upon itself, and it is the one that we should look to with regard to the future status of volunteers because of this legislation. As I said, what an extraordinary proposition as we come into the firefighting season.

We have heard the argument that has been put by the royal commission into the bushfires in Victoria: about the inadequacies of the current arrangements in play prior to this EBA being put in place, about the failure of the CFA to get its administrative practices in order, and about the need for there to be substantial change—change which reflects a pattern across the country I might add. That is what this EBA does: it gives you a much more national approach to that. But what we do know now is that the Commonwealth—for narrow, sectional, sectarian motives—have sought to intervene because they thought it was going to be an electorally appealing proposition, and they are now going to have an opportunity, as they see it, to bash another union. That is their stock in trade: 'We don't have to worry about the facts in these circumstances. We don't have to worry about the consequences in these circumstances. What we have to do is intervene in a dispute that is three years old, close to resolution, and make it a more protracted problem than it already is.'

What I am concerned about is that this is a grubby piece of union bashing masquerading as a bill to save a great Australian institution. No-one pretends that volunteer firefighters do not embody some of the great features of Australian civic duty, but the Turnbull government has pretended that their roles in Victorian bushfire responses are actually threatened by an EBA. The safety of Victorians is not something that should be a matter of political contention. You would have expected in a country such as this, where we are ravaged by bushfire on such a regular basis, that there would be some things that would be above sectarian political abuse.
But you would be wrong, because that is what this legislation is doing. This government, with this legislation, is in fact making the situation much worse, making the capacity of the CFA to do their job properly much more difficult for them, and, for narrow political reasons, the government is seeking to pursue its political objectives of trying to belt professional firefighters. This is a bill that should actually be withdrawn. They should leave the state government to resolve the matter with the union, with the volunteers and with the CFA. This is a matter before the courts in Victoria, and that is where it should be presented and the matters dealt with in that context.

Senator McKENZIE (Victoria) (12:27): I rise as chair of the employment and education committee, whose task it has been over recent weeks to conduct the inquiry into the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016, and it gives me great pleasure to be able to stand here as a very proud regional Victorian and recommend, as the committee did, that this particular bill be passed. I am incredibly disappointed in particular that my Victorian Labor Party Senate colleagues are not similarly supporting this bill. It has been an incredibly arduous issue within our home state, as the world-renowned Country Fire Authority—which runs the majority of the firefighting volunteers, paid employees and brigades right across my great state—purely volunteer brigades and also integrated brigades—have been the subject of an EBA process that has damaged not only the culture within the CFA but also pitted firefighters who should be working together for the safety of our communities against each other.

I have been really interested to listen to the debate this morning, and it disheartens me when I hear Labor Party senator after Labor Party senator, including those who are not even from my home state, claiming and decrying the politicisation of this particular issue. Where were they at the last state election in my home state? Where were they when there were union members in firefighting uniforms handing out how-to-vote cards, handing out how-to-vote information to Victorians heading into the state election? This particular fight is nothing more than Daniel Andrews having to pay the ferryman for his premiership. That is the sad reality, because if it was not more than that, then we would have Labor Party senators backing our volunteers, backing our 60,000 volunteer firefighters in Victoria, and supporting this legislation to simply give them a say when industrial relations affect their organisation and their capacity to keep us safe. That is what this legislation seeks to do, and I recognise members of our volunteer brigades in the gallery today both from my home state of Victoria—the great state of Victoria—and Tasmania and around about. It is great to have you in the gallery today to listen to this particularly important debate.

If you were on the ground in regional Victoria, this was an issue way before it became an election issue. It was not just National Party voters who were also volunteer firefighters who had an issue with how this was proceeding and it was not just Liberal Party voters who were our CFA volunteers who had an issue with how this was proceeding; it was our CFA volunteers who were Greens voters and it was our CFA volunteers who were Labor Party voters—who were Labor Party members—who similarly had an incredible issue with how the UFU and the Labor Party were using the great organisation of the CFA, which has not been involved in politics and simply goes about doing the job of keeping Victorians safe, as a political tool over a long period of time. To come in here and say it was the coalition government who started that conversation I think is incredibly naive and shows that you have...
not actually been on the ground out in brigades talking to Labor Party voters and coalition voters alike within the CFA who have issues with this matter.

The inquiry that we conducted had over 321 submissions in a very, very short time span, and, unlike other inquiries where you might get 100 get-up submissions, where they are all the same and just the name on the front of it is a bit different, these were individual submissions from brigades in their totality, from CFA members and from individuals out in our local communities emphasising the fact that the CFA and its volunteers needed protection.

We held two hearings. One was out at Macedon, and I thought it was fantastic to get senators, particularly out-of-state senators who may not have been across the CFA as it is structured and the work that it does, out into regional Victoria listening directly to volunteers from as far away as Dumbalk, Wangaratta and Lara—you name it; they came en masse. I really want to pay tribute to the volunteers and to the paid firefighters who came to that hearing and gave us a very clear, firsthand assessment of their view of the legislation and how it might work for them.

We then had, obviously, a hearing in Melbourne where we heard from the UFU, VFBV et cetera, and that again was very informative. I would like to thank everybody who took the time out, with a very short time frame, to give their perspective on this issue. And it is a serious issue—state ministers do not get sacked for nothing, CFA boards do not get sacked for nothing, CFA CEOs do not resign for nothing and CFA chief operating officers do not resign for nothing. They all walked because they knew that the EBA as it existed would fundamentally undermine the CFA's capacity to fulfil its statutory obligations. It is that simple. If you have any doubts, please read the letter on the committee's website from one of Melbourne Fire Brigade's ex-statutory officers, Peter Brown, who also has had similar issues when dealing with the UFU and the way they obstructed his—he has now resigned—role as a statutory officer. It is because they chose to fill the EBA with the requirement to consult and agree, even after a protracted negotiation. As Senator Carr says, three years is a long time and, if you are not going to move, that three years just stretches out. To this day we have 50 clauses in the EBA that contain the words 'consult' and 'agree'. CFA policy cannot be changed, the CFA cannot decide on a matter of policy within its own organisation, unless not only does it consult with the UFU but also the UFU agrees to whatever the outcome is. If it does not agree, we kick it down the can and it goes into a dispute mechanism in which, at the end of the day, the volunteers have no say—and that is essentially what we are talking about.

There are 35,000 members and 60,000 people in total having no say in industrial relation matters that directly impact on their capacity to fill their statutory obligations to fight a fire on the ground.

Our hearings had a whole list of examples of clauses, and they are attached in appendix 3 of the report that was tabled earlier this morning. For anyone who is listening, you can go and look at this. There are specific clauses right throughout the EBA which affect and impact on the CFA and their volunteers' ability to do their job. When I put these to the UFU's boss, Mr Marshall, and said, 'You say that's not the case, you say the volunteers are wrong and that this will not impact them, where is the evidence, Mr Marshall? Please provide us with the legal advice that would support your opinion.' I am yet to see that. We are taking as fact what the head of a union says when he sits there and says, 'No, Senator, the volunteers are wrong—no, that's not the case.' You can read the Hansard. For question after question, he said that that...
was not the case. When asked to provide evidence, he had nothing. He was given extra time to provide evidence and, to my knowledge, as of today no evidence has been provided.

In contrast, when the CFA and the volunteers were asked to back up why they felt that these particular clauses would undermine the capacity for them to do their jobs, they had got legal advice from a range of sources. They had experts. They gave us absolutely detailed on-the-ground advice on how these clauses would have an impact on their capacity to keep Victorians safe and, I think almost as importantly, to retain the volunteer culture of the CFA, which is a world renowned organisation that we are incredibly proud of. The state legislation that sets up the CFA defines it as a volunteer organisation supported by employees, and that is rare and that takes unique management. It takes a unique approach to industrial relations—well, it should. Through this EBA the union has essentially sought to insert issues that should be around standard operating procedures into an industrial agreement, and I just think that was a really bad way to go and we are seeing the repercussions of that.

In terms of how the report goes to the issue, I will just examine the adverse impact of the EBA on the volunteers and CFA culture. We looked at the emergency management legislation because usually, as I said, EBA negotiations are between employers and employees, but here you have an organisation that not only has some employees; it also has 35,000 volunteers working for them. It is unpaid work, but they are working within that organisation. So how do we deal with an industrial agreement and its subsequent impact in that scenario? The EBA as currently put forward does not assist. It would seem that Victorians en masse support that. It does not matter whether it is Joe Buffone or Lucinda Nolan; the former CEOs made it very, very clear in the inquiry that the EBA would absolutely override the organisation’s capacity to fulfil its statutory obligations. That is serious stuff. You do not just get to change the minister, change the board, shuffle a few deckchairs and ram something like that through and completely undermine the capacity of an organisation like the CFA to do its role. It is absolutely unbelievable.

As I said, we have attached the power of veto to the report. There was evidence about the brigade administrative support officers and how the EBA would impact on them. We had evidence from a CFA volunteer in Macedon that including that particular role in the EBA showed a complete misunderstanding of what the role was all about. The person in that role would probably be having to work at night or on weekends simply because of the way the brigade functions. They are not a nine-to-five operation because volunteers are usually working in small business or in our many public service operations out there in the community. They have regular jobs. They work regular hours. So if you are going to be an administrative officer supporting them, you have to be around when they are meeting, not in business hours. So there are implications from that.

There are cross-crewing implications in how the EBA would impact on the CFA’s capacity to employ part-time employees and also on training, development, uniforms et cetera. I go to this again. The UFU gave no evidence to the committee backing up their claims other than just dismissing out of hand the issues of the volunteers.

**Senator Rhiannon:** That's not true.

**Senator McKENZIE:** Sorry, Senator. Peter Marshall saying, 'That's not true', just as you did, does not make it so. I want to see evidence. I want to see legal opinion.
The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senator Rhiannon, this is not a debate between the two of you.

Senator McKenzie: Unfortunately they just did not deliver it. So here we are with a bill before the Senate which I commend to the Senate as a way of protecting our volunteers and ensuring that the CFA can operate effectively, allowing them to have a say when industrial relations issues impact on their operation.

People have talked about the constitutionality. One academic who was employed by Julia Gillard previously—so hardly, I would say, impartial—gave what he admitted was just an opinion and he said that there were alternative opinions out there. This bill has been carefully drafted. One of the other criticisms was around the scope of the bill. The scope of the bill is deliberately narrow. We do not want to encapsulate every volunteer or, indeed, every organisation that includes and supports volunteers. This bill recognises the unique construct of the Country Fire Authority in my home state of Victoria. It is a volunteer organisation supported by employees. It is very, very different. So the police force does not need to be worried. The nurses do not need to be worried. The ambos do not need to be worried. This is not going to affect them. This is about solving a unique problem for a very unique and highly regarded organisation.

The other critique that has been bandied about by those opposite is, 'Poor volunteers. They just don't get it. It is all about misinformation.' Well, I am sorry but to a man and a woman—from the brigade members to their representative bodies in Melbourne, to the sacked board members and the resigned CEO, Lucinda Nolan, right throughout the organisation—there was a clarity of thought and purpose. There was a deep understanding of how the EBA affected their capacity to deliver emergency services operations in my home state. For those opposite to say that they were not always quoting from the right information either is, I think, just a complete attempted to muddy the waters.

We on this side respect the role of both volunteer firefighters and paid firefighters and the courage that they all display in keeping us safe in emergencies. Right now, the CFA is working in regional communities affected by floods. They do not just look at fires. These men and women are helping our communities right across the board.

The ALP's failure to support this bill and our volunteers is deplorable. Those volunteers deserve to be able to have a say when industrial relations matters impact on their capacity to do their job and impacts on the culture of their organisation and the capacity for volunteer firefighters to work hand in glove with paid firefighters, as they have to do in integrated stations. We do not want that undermined.

It was very, very clear in submission after submission and in all the public evidence that currently in Victoria the CFA are in crisis with this EBA. This bill will absolutely give them the support that they need to have a say on those EBA arrangements that are seeking to undermine their particular operations.

Senator Bilyk also made comment earlier around our government reacting to things we do not like. I will tell you what, Senator Bilyk, with respect to the Road Safety Remuneration Tribunal, we do not like it when small businesses go out of business. We do not like truck drivers around our country who are supporting their families going out of business. We do not
like our volunteers being overridden for the sake Premier Andrew's deal with the UFU. I am very proud to be in a government that supports Australians who put their lives on the line to have a say when IR arrangements impact on their ability to do their jobs. I absolutely look forward to the Senate supporting this particular piece of legislation.

I would like to thank the secretariat for the hard work that they have done in turning this around in such a short period of time. I would also like to thank all those who took the time to make submissions and to give evidence—the Senate inquiry process does not work unless we all participate. I look forward to the passage of this bill as we go forward to support our great volunteers.

Senator XENOPHON (South Australia) (12:45): I can indicate that I and my colleagues Senators Kakoschke-Moore and Senator Griff will be supporting this bill. We have some reservations about it which I believe ought to be properly ventilated in the committee stage but, on balance, the right thing to do is to support this legislation.

I also need to refer at the outset to the contribution made by my colleague, Rebecca Sharkie, the member for Mayo, an electorate that is protected entirely by the Country Fire Service of South Australia, which depends on the generous spirit of around 3,000 volunteers in over 75 brigades. When Ms Sharkie made her contribution about this in the other place not so long ago, she made the point that she is extremely grateful that there are selfless people in her community and in many other communities who are prepared to give their time, and sometimes to risk their own lives, to protect all of us. I share those sentiments of Ms Sharkie. I also accept that she has some concerns about the legal argument amongst some legal experts—that this may or may not be unconstitutional, and that it may lead to a potential legal challenge on the basis of it being unconstitutional; and whether, as some say, it is an overreach. This is a unique set of circumstances, and a very messy, bitter dispute. To call it a bitter dispute is probably an understatement, given the passions that it has triggered on both sides of the debate.

It is worth making brief reference to the Education and Employment Legislation Committee's report, which I think gives a fair summary in the body of the report of the history of this dispute. There is also a very comprehensive dissenting report from non-government senators. The committee's report says:

The FWC is currently able to inform itself on any matter before it, including by inviting oral and written submissions. However, the FW Act does not entitle a volunteer body to make a submission about a matter involving an enterprise agreement that is before the FWC, even if the matter could affect the volunteers represented by that body.

That is what this bill is seeking to address, and that is something that it is important that we deal with.

I know that the coalition has been attacking the UFU, and I do not find that useful. I met with Mr Peter Marshall, who articulated his union's position very well in terms of this. I also find it unhelpful for Senator McKenzie, who I have a great deal of regard for, to have a dig at Professor Andrew Stewart—who has a different view; he does not support this bill—just because he did some work for the Gillard government on industrial relations. He is somebody who is a regular commentator in my home state of South Australia, where he is from. He is a regular on the Leon Byner program on FIVEaa, where he gives some very considered
opinions on industrial relations—opinions which I find pretty much middle-of-the-road. Good people can have different views on this, but I think we need to make a decision.

The UFU has been attempting to negotiate a new enterprise agreement since 2013. Commission Roe issued a final recommendation on 1 June 2016 to try and resolve the dispute. The minister the time, Jane Garrett, refused to back the proposal and resigned from cabinet on 10 June 2016, and Deputy Premier Merlino took on the portfolio. The CFA board refused to endorse the agreement and was dismissed by the state government, and the Chief Executive Officer, Lucinda Nolan, resigned, closely followed by the Chief Fire Officer, Joe Buffone. Madam Acting Deputy President, that just gives you an idea of what a mess, and how bitter and protracted, this dispute has been. The fact that a cabinet minister resigned as a result of this dispute, I think, is very telling.

This issue was occurring long before the election campaign, but it has become a political issue—some would say a political football. Nonetheless, we have to deal with this issue. Regardless of the regrettable politicisation of this debate, the Senate has a job to do: we need to deal with this bill. It is abundantly clear that there are opposing views, and that there is no simple solution. Allegations of union takeover, veto powers, and paid staff only reporting to paid staff, have been strenuously denied by the UFU. Volunteer Fire Brigades Victoria made this point in their submission. They say:

... allowing the union to vet current policies and shape and effectively determine policy proposals by CFA where those policies affect employees under the UFU Agreement in some manner. Volunteers are excluded from this process.

The submission goes on to say:

The deal precludes CFA from responding to government on proposed changes arising from any proposed legislative, statutory rules or regulatory changes or reforms likely to constitute a major change or significant effect on employees. In other words, CFA can’t have interaction with government on even hypothetical matters without first checking with the union under the consultation clause as part of the deal!

And there was an exclamation mark at the end of that part of the submission. So there are different views: the UFU, in their quite considered submission, say that is not the case. But I want to err on the side of caution—and the caution is that we do not want volunteers to be discouraged from being volunteers as a result of the matters in this dispute. That is something that does concern me.

We also need to look at what the effect of this particular piece of legislation will be in relation to this dispute. We need to see whether this will actually solve the problem. I believe that the Senate should not be focused on who is right or who is wrong in this dispute. Rather, the focus should be on whether this bill will do anything to resolve this dispute. I believe that, on balance, it will clarify the rights and responsibilities of volunteers and members of the UFU in their interactions with each other. This bill contains a number of clauses which I think ought to be the subject of robust consideration, examination and questioning of the minister in the committee stages of this bill, to see that there are not any unintended consequences, and also to determine what the scope of the regulations will be and what the government is planning. Of course, the Senate does have a role in disallowing those regulations, as it should—as it must—under the rules governing subordinate legislation.
I want to come to one issue that was raised by my friend and colleague Senator Cameron. Well, I regard him as a friend. I do not know if it is mutual, but I hope it is.

*Senator Cameron interjecting—*

**Senator XENOPHON:** What?

**Senator Cameron:** We're very friendly.

**Senator XENOPHON:** You are very friendly. Senator Cameron said that I am putting politics ahead of safety. He is nodding his head, and I am shaking my head, saying that that is absolutely wrong. I am very disappointed that Senator Cameron is saying that. We have done a lot of good work together, particularly relatively recently in relation to the security of payments legislation in the building industry. That, to me, is about a safety issue that needs to be dealt with. Senator Cameron and I will no doubt be having many more discussions in the context of the ABCC legislation on that.

But to say that this is putting politics ahead of safety is a slur. It is unfair. We need to consider what the impact will be if this legislation does not go through. The real risk—the real danger—is how many of the over 35,000 active volunteer firefighters in the state of Victoria will say: 'We are not going to do this anymore. This is just too hard for us, because under the current framework we are being discouraged from being volunteers.' That is a perception, a perception that leads to a reality, and that is something we need to take into account. That is my concern.

I am sure we can have a decent and civil and robust discussion on this during the committee stages of this bill, but we cannot ignore that factor. We cannot ignore the fact that former Minister Garrett resigned from the Victorian cabinet in relation to this and the fact that she has made a number of complaints relating to this whole process before the Victorian Equal Opportunity and Human Rights Commission. I do not think it is proper to comment on the rightness or wrongness of that complaint, but it just gives you an idea of how bitter this whole dispute has been. It must not be ignored.

We cannot ignore the fact that the whole board of the CFA was sacked. The chief fire officer resigned. These are issues that go to safety. It is about how you integrate the volunteers and the paid firefighters, the members of the UFU—who, by the way, I have absolutely no doubt do absolutely outstanding work in protecting Victorians and protecting lives and property in the state of Victoria—and I believe this bill seeks to clarify that.

This bill does contain a number of clauses in terms of definitional matters as to how disputes are to be resolved and what the rights of volunteers are. I think it is more appropriate to raise those in the context of the committee stage of this bill—how it will work, what the scope of the regulations will be—because it is the manner of the implementation of this bill, through the regulations, that will be very important.

I do not see this as a warning—I say this as an observation—but if the government gets it wrong or overreaches, in terms of the regulations then that could subject them to a disallowance motion in the Senate, and we would be back, if not to square one, close to square one in terms of dealing with these matters. This legislation facilitates a process.

I expect that there will be a very robust and lengthy committee stage of this bill, as there should be, because there some concerns have been raised about the constitutionality of this bill, there are concerns about how this bill will work and there are concerns as to whether this
is an overreach on the part of the Commonwealth in what is largely state legislation. But I counter that argument by saying that because the Fair Work Commission is involved and because there is that interaction between state legislation covering volunteers and dealing with the Fair Work Commission—federal legislation—if there is a dispute such as this that seems to be intractable, there must be an opportunity to resolve it.

I believe this bill, as imperfect as it is, provides the mechanism to resolve this and, above all, to give certainty to the 35,000 volunteer firefighters to be able to continue to serve their community alongside their fellow brave firefighters in the UFU. That, to me, is what the substance of this bill is about.

Senator Cameron: But they've got uncertainty.

The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senator Cameron, Senator Xenophon has the call.

Senator XENOPHON: Madam Acting Deputy President, I know it is very improper the me to say so: I love interjections from Senator Cameron—some more than others. But in relation to the question of uncertainty, that is something that we can flesh out in the committee stage. I believe, on balance, that there will be less uncertainty. I believe that the uncertainty facing tens of thousands of volunteer firefighters in Victoria will be significantly dealt with and ameliorated by virtue of this bill. That is why I support this bill, as do my colleagues. We have our reservations. We are not spruikers or barrackers for this bill. But we are saying that, on balance, we need to deal with it, and, imperfect as it is, this is the best way forward to deal with this issue. That is why we will be supporting it.

Senator LAMBIE (Tasmania) (12:58): I rise to contribute to the debate on the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016. With this legislation, I will vote using the precautionary principle. I will vote to protect the safety of all firefighters, both professional and volunteer, and that is why I will oppose this government legislation.

But I am not just opposing it. I cannot believe it has actually made its way up here to the Senate. This is a schoolyard fight that should have been left in the hands of the Victorian government. That is where it should have stayed. It should have been worked out there. I cannot believe how it has reached this level, how it is sitting here in the Senate and how we are now talking about this instead of worrying about our age pensioners, our veterans and our kids out there paying for their university degrees. Honestly! The Victorian government can actually hold its head in shame; I will give it that much. It should have been figured out.

This is not a decision I have come to easily or quickly. This decision is one I have certainly lost sleep over. I have met and listened to many different stakeholders—not just on one or two occasions but sometimes on three or four occasions—and I have come to the view that if we are to have respect for our emergency service volunteers and give them the best chance of returning home to their families after they have served their communities in dangerous situations then I must vote to oppose this government legislation. For most Tasmanians—indeed, for most Australians—the issues surrounding the presentation of this legislation are confusing. However, the facts are clear. I have asked the Law Council of Australia to describe the situation. Essentially, they have said to me that during the election campaign the federal government stated that it would consider amending the Commonwealth Fair Work Act 2009 in a way that would affect the capacity of the proposed new Victorian Country Fire
Authority/United Firefighters Union of Australia Operational Staff Enterprise Agreement 2016 to be made. The federal government indicated that their proposed amendments would seek to support the work of volunteers by preventing a new enterprise agreement replacing the CFA UFU Operational Staff Enterprise Agreement 2010.

I acknowledge that this is a highly charged debate. Volunteer Fire Brigades Victoria, the VFBA, and the former CFA board oppose the proposed EA—and therefore support this legislation—on the grounds that it would undermine the role and independence of volunteers and be discriminatory. The UFU supports the proposed enterprise agreement—and therefore opposes this federal legislation—on the basis that it would enhance security and safety for emergency service workers. As I indicated earlier, I asked for legal advice from the Law Council of Australia. In this case, they have sat on the fence and said:

The Law Council considers that wherever possible, parties to a civil dispute, should act in good faith and engage in appropriate dispute resolution processes to resolve disputes. The CFA dispute appears to be one where reasonable minds may differ.

Clearly a resolution has not been reached with this dispute between professional and volunteer fire fighters in Victoria, or else this legislation would not be necessary. Because of that, as I have already said, this is a very sad day. Both groups of people—professional and volunteer fire fighters—are fine, courageous, reasonable groups of Australians but, as the Law Council indicates, this dispute appears to be one where reasonable minds may, and have, differed. The Law Council also makes another important observation:

In any proposal to amend the Act, it will be essential for the Government to carefully ensure that it is acting within its power to create Constitutionally valid legislation. This is because there may be an argument, depending on the nature of the amendment, that instructing a State Government agency on how to manage volunteers, would overstep constitutional limits.

During this debate the government will not be able to give a fair guarantee that with this legislation they have not overstepped their constitutional limits.

I understand that there are three contentious clauses in the proposed EA which this legislation attempts to counter: clause 36.4, allowing paid employees greater operational and management control of the CFA; clause 83.5, a minimum of seven paid firefighters to be dispatched at a scene applying to 31 stations out of the 1,200; and clause 90.4, prioritisation of the health and safety of an employee covered by the EA, including that the CFA and UFU must agree on clothing, equipment, technology, station wear and appliances. It is a shame that this dispute is about, maybe, half a dozen paragraphs—it really is. The interpretation is also shameful—you have both sides interpreting it the way they want to. That is what it comes down to. It is a really sad day when this issue has had to come all the way into the Senate instead of being worked out outside this parliament.

A key legal decision already made which significantly affects the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016 was made on 8 January 2015 in a Federal Court case—United Firefighters’ Union of Australia v Country Fire Authority. According to a Law Council Report, the full Federal Court found:

Under established principles, Federal industrial agreements or awards which purport to regulate the recruitment and redundancy of State public sector employees are legally invalid. This is because there is an implied limitation in the Constitution on the power of the Federal government to make laws which
discriminate between States or effectively curtail a State's capacity to function as a government. This limitation is known as the 'Melbourne Corporation' principle.

It would appear that the Federal Court's finding and its Melbourne Corporation principle and limitation raises serious doubts regarding the constitutional legality of this legislation. This legislation creates a lawyers' fest and a black hole to throw millions of dollars of taxpayers' money into, on legal fees and court costs. Should this legislation pass, there still would not be any clarity for our professional or volunteer firefighters.

The place for resolving this dispute is not in this parliament with this questionable legislation, which is more than likely to be challenged in the courts; it is at the Victorian state negotiating table, where the volunteer firefighters and the professional firefighters must reach an agreement. In addition to this point, it is important to note that a Supreme Court ruling, yet to be made, will also affect this matter. Mr Rob Mitchell, a Labor MP, raised this is his speech on the second reading in the other place. He said:

There is a Supreme Court action pending in Victoria, where legal ruling on the issues that this legislation is apparently dealing with will be handed down in a few weeks. Again, why the rush? Why not use the outcome of the independent umpire, the court, to inform the legislative process? We might find that federal intervention is not required.

This legislation is fundamentally about volunteers and volunteerism, which are the building blocks of Australian Culture. Andrew Broad MP, member for Mallee in the other place, said:

Without politicising this, I want to say that both sides of parliament do value our volunteers. These are people who do not brand themselves as heroes.

However it is clear that volunteers have been politicised, when energy should have been put into reaching a negotiated agreement. Victorian Premier Daniel Andrews is equally to blame for this mess, as is Prime Minister Turnbull. I agree with Andrew Broad MP, when he said in the other place:

This should be dealt with in Victoria by a respectful Andrews government. It was such a political issue inside Mr Andrews' own parliament that he had to sack a minister. They then had to sack a board and put in one that is regarded by the membership, whether rightly or wrongly, as comprised of yes-men and yes-women.

There are both complex principles and big questions that should be answered in this debate about community volunteers. A key question is: do our governments, both state and federal, choose to exploit community-minded people or volunteers who work for free in essential or emergency services? Whenever this question is asked, the government and its supporters, in order to cover their tracks and deflect blame for the underfunding and under-resourcing of essential and emergency services, shoot the messenger. It is a classic response from a government caught out short-changing and abusing their essential and emergency services workforce. The usual response from a guilty politician is that the people asking the questions and exposing government dysfunction and incompetence are just attacking hardworking volunteers or workers. Well, no, it does not work like that. The only people attacking our volunteers are the politicians who allow those services to be run into the ground and become poorly managed and poorly resourced.

In this debate I have found that those who ask the hard questions about safety, staffing levels, up-to-date equipment and better procedures are painted as attacking volunteers in an attempt to deflect blame. This happened to me after I met recently with representatives of the
Australian Paramedics Association Tasmania, who raised some urgent matters with me and about staffing and what they believed was the abuse or overuse of volunteers by the Liberal Tasmanian government. I would like the Minister for Employment, in her closing speech, to clarify what effect her government's legislation, which is targeted at Victorian emergency services volunteers, could have on emergency services volunteers in states other than Victoria. I have not received strong views from volunteer groups in Tasmania regarding this legislation; however, I know that Tasmania has a long and proud volunteer culture and groups like the ambos, the SES and the firefighters would like a clear explanation of whether and how this legislation is going to affect them.

I pay my respects to all our emergency services volunteers, who risk all to keep us safe. I recently wrote to the Tasmanian Premier in relation to our ambulance service, which relies on 500 registered volunteers:

It will become clear after reading these matters that not only are the lives of patients who require the services of Tasmanian paramedics at increased and unnecessary risk but the health and well-being of our paramedics are also being placed at risk due to being under-resourced at a time when the workload is increasing.

The main issues that were raised with me are as follows:

- Ambulance Tasmania has not supported 14-hour night shifts since 2011, yet I am told the whole state is still working 14-hour night shifts. This is despite a group of Southern staff willing to and pursuing change to 12-hour shifts. The Australian Paramedics Association expressed their concerns surrounding fatigue, with reports of shifts often running to 15-17 hours in length. I don't think I need to tell you that this practice puts the paramedic, patient, and broader public at risk.

- The Australian Paramedics Association Tasmania also informed me they do not support the current Single Officer Response Model for vehicles outside of the urban response area because of safety reasons. These reasons include increased assaults against paramedics. Currently, I am told, if a volunteer does not show up for a shift at 'paramedic-volunteer stations' the paramedic will respond alone and their back-up is by another urban station—further increasing the risk to the paramedic.

- There are only approximately 230 on-road paramedics across the state, with over 500 registered volunteers. Australian Paramedics Association Tasmania believes Ambulance Tasmania is relying too heavily on volunteer ambulance officers.

- There is no funding for an Emergency Medical Services helicopter at present, which means Ambulance Tasmania is using the Westpac rescue helicopter. If the state is going to rely so heavily on volunteer response, the Australian Paramedics Association recommends a dedicated Emergency Medical Services helicopter to be dispatched with a paramedic on board—reducing response times and improving patient outcomes.

- The Australian Paramedics Association also recommends increased resources, as Ambulance Tasmania published a 23% increase in workload over the past few years in Southern Tasmania alone. In the same time, there has not been one additional 24-hour stretcher ambulance placed on the road.

- The State Operations Centre is currently under-staffed. Australian Paramedics Association Tasmania recommends the increased workload warrants an additional 24-hour Emergency Medical Dispatcher.

At the heart of the dispute between people who work for free, for the state government or as volunteers, and the professionals who make their living by providing a service are matters of management, resourcing and funding. As the resourcing and funding are reduced by governments, the quality of service delivery must decrease, despite the gallant efforts of our
very own Australian volunteers. In Tasmania's case, the paramedics are speaking out because of a cut in funding. This is how one paramedic has summarised the situation to me:

I have had a quick look at the DHHS Annual Report 2014-15 for Ambulance Tasmania and I note the following:

- Reduction of $5.476 million in actual expenditure in 2014 compared to the annual budget figure in 2015.
- Dominic Morgan resignation—was announced by Minister Ferguson on the 22/12/2015, being 288 days ago or 9 months, 13 days (up until today).
- Current Workforce Profile does not differentiate between actual Paramedics and Administrative/Office staff—so it is not known if there has been a reduction in Paramedics and or an increase.
- I understand there have been a number of Paramedics resign lately that have not been replaced and the overtime bill is going through the roof. Overtime is not reported on either in the Annual Report.

It may also be time to consider calling again on the 'secret' Ambulance Tasmania report to be made public so all Tasmanians have the right to know what is going on with their Ambulance Service.

I have to say: if you think the firefighters and volunteers are having problems in Victoria then maybe you need to stick your nose into the situation in Tasmania and start questioning Will Hodgman about the ambulance service and the safety of our patients. How far is this legislation going to go?

In closing, with this legislation I will vote using the precautionary principle: I will vote to protect the safety of all firefighters, both professional and volunteer, and that is why I will oppose this government's legislation.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (13:14): I rise today to speak in opposition to the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016—legislation that is not only opportunistic and reckless but actually dangerous. This bill is the outcome of the ultimate example of politics triumphing policy, of myths being ruthlessly peddled over substance, of a government manipulatively sowing fear and division for base political reasons, of shameless opportunism at the expense of firefighters and community safety, and of Liberal politicking that saw the Prime Minister himself use the good volunteer firefighters of Victoria as unwitting pawns in his blatant attempt to secure his own job.

At the outset of my contribution I would like to record my huge admiration, respect and gratitude to all firefighters. I would like to acknowledge the incredible contribution that they make by putting themselves in danger to protect the lives and property of their fellow Australians. And I would like to recognise the many thousands of selfless volunteer firefighters that are a critical and necessary part of Australia's emergency response.

I wholeheartedly support the words of Premier Daniel Andrews that he penned in an opinion piece at the height of the federal Liberal fearmongering over the industrial agreement that is the subject of this bill. He wrote:

The role of volunteer firefighters in this state is sacrosanct. At no stage has our government questioned it or jeopardised it.

Anything that says otherwise is a lie.
It is this lie that sits at the very heart of this legislation. The bill before us today is nothing but unnecessary and undue meddling by the Commonwealth in state affairs. Today I would like to address some of the misrepresentations, myths and outright lies about the enterprise bargaining agreement that prompted the hysteria of those opposite.

You only need to watch Senator Cash's train wreck interview on Sky News on 22 August to see that this bill is nothing but a base exercise in cynical politicking, completely devoid of substance or justification. The minister showed very clearly that she knew nothing about the EBA by parroting the tired and completely untrue claim that seven firefighters must be dispatched and present at a fire before any firefighting starts. At this point, interviewer David Speers, who to his great credit had done his homework, revealed the truth of the matter by quoting clause 7A of the agreement itself. This clause clearly states that it does not require seven firefighters to be physically present at the fire before actually commencing firefighting operations. What is also important to note here is that the requirement for seven firefighters to be dispatched only affects 34 integrated CFA stations in highly populated areas. These stations represent three per cent of the almost 1,200 CFA stations across the entire state of Victoria—three per cent. And yet the minister wants us to believe this is reason enough to scrap the entire agreement. Mr Speers then went on to point out that in fact the chief fire officer at the CFA also said that the agreement will not affect his ability to direct a fire. But the interview then went from embarrassing to humiliating for Senator Cash, who clearly had not done her homework, as Mr Speers correctly pointed out that clause 7A also clearly states that the role of volunteers in fighting bushfires and maintaining community safety is not altered by this agreement.

But it gets worse. Mr Speers offered the minister the opportunity to name a clause in the agreement that caused her the greatest concern. Do you know what? She could not actually name a single cause that raised concerns for her and not a single clause that would actually impact on the ability of volunteer firefighters to do their job—not one justification for this blatant attack on unions and a fundamental and necessary feature of our industrial relations system, the enterprise bargaining agreement.

And yet, even after their brazen opportunism and complete lack of substance has been categorically demonstrated, those opposite have the gall to continue to bring this bill before us today. It is astounding. Falsely, the bill before us today asserts that the agreement in question 'interferes with the capacity of the CFA to manage its volunteers' and 'will weaken the CFA as an organisation and compromise the safety of Victorians'. These are serious claims and, on face reading, worthy of addressing, except for the fact the EBA that this bill seeks to destroy does not apply to volunteers at all and has no capacity to impact on them. Indeed, the importance of volunteers is explicitly acknowledged in the proposed agreement when it states:

The role of volunteers in fighting bushfires and maintaining community safety and delivering high quality services to the public in remote and regional areas and in integrated stations, is not altered by this Agreement.

For the avoidance of doubt, except as provided in Clause 60—Peer Support, nothing in this agreement shall prevent volunteers in the CFA from providing the services normally provided by such volunteers without remuneration.

The seven firefighters requirement is just one of the myths that has been peddled about this agreement, and I would like to address a few more just for the record. This agreement will not
cost $600 million or a billion or whatever other inflated figure you might have heard. Volunteers have been consulted. This is not a union takeover, as some media outlets have tried to claim. There is no veto power in the agreement which would allow the United Firefighters Union to overrule the decisions of the CFA. It will not destroy the CFA. Indeed, the Fair Work Commission itself ruled in favour of the agreement, saying the role of volunteers was 'not altered' by the proposed agreement. In fact, if there is any side of politics that should hang their heads in shame for attacking emergency services, it is the Liberals, who cut $66 million out of the CFA in Victoria.

Not only is there no basis for this bill but it could set a dangerous precedent. If one agreement can be taken down by federal legislation, the entire enterprise agreement framework is weakened. By attacking one specific workplace agreement it potentially puts all workplace agreements that sit under the Commonwealth framework under threat. In fact, the Police Federation of Australia put in a submission to the inquiry saying that they fear that it could be extended to policing in the future, which they say 'would cause great concern for policing'. I think my colleague from Tasmania Senator Lambie raised this exact issue: what does it mean for other enterprise agreements and other emergency services? The Police Federation of Australia then go further, saying:

Should this Bill be carried, the proposed provision will likely only serve to hinder and restrict police forces from encouraging the use of volunteers.

So, while the government says it cares about volunteers, this senseless legislation would actually discourage their use—not only that, but it would lay the groundwork for future Liberal governments to disregard the negotiation process and legislate away legitimately negotiated outcomes. In doing this, this bill would weaken the entire Fair Work framework and all agreements that are negotiated in good faith under it.

Indeed, the Victorian Government warns of this in its submission to the inquiry into this bill. The Victorian government also points out that this legislation is cantankerous and unnecessary but that it sets a dangerous precedent for future EBAs. And this goes to the heart of the true agenda of those opposite: attacking working Australians and the groups that represent them. We have seen again and again in this place that there are no depths those opposite will not plumb when it comes to attacking unions and the work they do representing working Australians. This is just the latest iteration, because those opposite know that weakening our industrial relations system makes it much harder for hardworking Australians to negotiate for fair outcomes and conditions.

It is no coincidence that it has been under this Abbott-Turnbull government that we have seen the slowest wages growth in recorded history. Working Australians are going backwards while many businesses are recording record profits. And this bill is yet another attack on the capacity of people to negotiate in good faith for the outcomes that they deserve.

But not only does this bill represent an unwarranted and unnecessary attack on working Australians; it is also a shoddy piece of legislative drafting and it breaks fundamental best practice of legislation drafting in that it will be retrospectively applied. While the government tries to pretend that this is not the case, the Victorian government points out that this is misleading, as it clearly states that the legislation would apply to agreements made before or after commencement. So this would mean that the current agreement that is already in
operation could potentially be struck down, because both address the same matters and both are there to protect the community.

By far the greatest issue I have with this legislation is that it plans to strike down an agreement that has been explicitly designed to protect the safety of the community and the people that guarantee this safety. This agreement, at its core, is about the most important thing that there is: the protection of human lives. If this legislation goes ahead, lives could indeed be put at risk. But you do not need to take my word for this, or even the word of the Victorian state government, because the real story of the urgent need for this agreement is told in the words of the fire stations that know better than anyone what is actually at stake. These are the people that work every day with the nitty-gritty of these agreements. These are the people that we rely on to protect our homes and our lives should disaster ever strike. And these are the people who know exactly how important they are.

There were many submissions to the recent inquiry into this bill from these fire stations that illustrate this point so much better than I could. Let's take the Hoppers Crossing Fire Station, which used its submission to describe a house fire that station firefighters attended and that tragically resulted in a death because there were not enough firefighters on the scene in the first 10 minutes to administer first aid to a badly burnt man. While members of the public tried desperately to hose the man down, he received burns to 90 per cent of his body and, tragically, died later that night in hospital. Hoppers Crossing's submission explained that if the new agreement had been in place this man's life might have been saved and it might have allowed for a faster rescue of a mother and baby who were trapped inside the building. Sadly, it was not, and sadly it will not be if the Turnbull government gets its way.

The Hoppers Crossing case is telling, but sadly it is by no means unique. It is no secret that this agreement has been contentious and difficult to deliver. But now, more than ever, there is a pressing and urgent need for resolution. But now those opposite want to endanger life and trample over the agreement, with absolutely no alternative in place. They want to scrap the whole process, but they offer no protection or remedy for the dangerous situation that will result from having no agreement whatsoever. This is irresponsible, shameless legislation, and I urge all in this place to protect the safety of Victorian communities by rejecting it.

Senator ROBERTS (Queensland) (13:28): Madam Acting Deputy President and fellow senators, as a servant to the people of Queensland and Australia I rise in the chamber to outline my position on the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016, which is of great significance not only to the people of Victoria but most certainly to the people of Queensland and citizens across our great nation. In short, this legislation relates to the Victorian government's battle with the Country Fire Authority, and that is why this bill is often called the CFA legislation. Like so many issues that come before this parliament, the CFA bill is an issue of freedom versus control. We have to decide, today, if government can control communities or set them free. With freedom versus control in mind, let us consider this bill.

Dr Maria Montessori, perhaps the greatest authority on human development based on a deep understanding of human needs, said, 'Discipline and freedom are so co-related that, if there is some lack of discipline, the cause is to be found in some lack of freedom.' Humans are profoundly in need of freedom and discipline. Freedom and discipline are symbiotic. They are wed.
This legislation is the first I have spoken to in the chamber. And I pledge to all senators here and now that Dr Montessori's words will be in my heart and mind whenever I have matters to consider. The question will be: what freedom do we surrender to ensure stability and discipline in Australian society?

Other pressing legislation soon to come before this chamber includes the bills for the Australian Building and Construction Commission and the Registered Organisation Commission. Those bills can also be classified as control versus freedom issues. In considering the CFA bill, my intention is to look at the broader industrial relations landscape and assess community needs entirely. Freedom to choose destiny, when applied to the CFA matter, could be simplified thus: should the 60,000 wonderful brave people of the Country Fire Authority be able to freely choose whether they come under the control of a union enterprise agreement or not and should they remain as volunteers free from union control or not?

For 160 years local communities managed the proud CFA brigades of Victoria. The Daniel Andrews Labor government wishes to stop communities from making choices about local fire brigades and enshrine union management processes in an enterprise agreement. An EA is ultimately an issue of control versus freedom, especially when it is an overwhelming 400 pages long. The control mechanism proposed by the Andrews government will be amplified if the fire union bosses dictate the daily operations of community rural fire brigades. The bosses will have the ability to dominate by enforcement of the EA. Is this union involvement productive, efficient and justifiable? Rigorous attention to laws and rules is a noble pursuit, but sometimes it is tainted by unconscious good intent or ignoble intent.

When crucial and important legislation comes before this parliament there are a number of tests beyond freedom versus control that we should apply. I am not saying anything new when I comment that tests should centre on the community benefit of any proposed legislation. I am sure as we all vote we are cognisant of how our decisions affect communities.

I am fortunate enough to have travelled this country from the north of Queensland to rural Victoria to get to the bottom of how rural fire brigades work in Australian communities. The legislation that is before us will not only affect Victorian volunteers; it will affect other statutory bodies that rely on volunteers. So when considering the CFA bill we packaged all of the government's proposed IR legislative agenda and talked to many groups about the interlock between each and every aspect of the government's IR program, including the Australian Building and Construction Commission and the Registered Organisations Commission.

As part of my listening with Senator Hanson we heard from many people affected by the government's IR program. We asked: how will it affect them, what changes were needed, were there better solutions and what were their needs? We gave people the freedom and right to be heard, and found it richly rewarding. We first listened to the concerns of ACTU secretary Dave Oliver and CFMEU national secretary Mike O'Connor. We listened to small businesses, tradies, building subcontractors, individual unions, United Firefighters Union secretary Peter Marshall and Volunteer Fire Brigades Victoria CEO Andrew Ford. It was rewarding listening to union members and families, paid and volunteer firefighters, large businesses, industry and employer groups, respected IR consultant Grace Collier and ACCC Chairman Rod Simms. We continued to listen as we deliberated over the three pieces of
legislation. We learned that the IR carve-out in the powers of the ACCC has led to much discord that could easily be addressed by implementing a level and fair playing field between the expectations of company directors and union bosses.

While we are talking about union bosses' fiduciary duties, where they sometimes let their workers down is that they do not address the core issue of putting more money in members' pockets. How could everyday Australians get more money? Let's get the union movement behind comprehensive tax reform addressing PAYE and payroll tax. Reform would reduce the burden on their members—and that is the key. A reduced tax burden on everyone can only increase employment and reduce cost-of-living pressures.

In the future, One Nation will address comprehensive tax reform. For now, the most interesting conversation I had was the one at the Education and Employment Legislation Committee hearing on Wednesday 28 September in Melbourne with United Firefighters Union national secretary Peter Marshall. Mr Marshall was passionate about his union and has served the Victorian community fighting fires. I honour his commitment. Mr Marshall offered the view that the CFA's failure to adequately manage firefighting meant that statutory responsibilities of volunteer firefighters had to, in effect, be controlled by the EA and thereby come under the UFU's control.

Listening to paid and volunteer firefighters—in committee, at fire stations and in personal conversations—showed that the CFA requires standardisation of practices and operating manuals, congruent with best practice. It is clear that the politicisation of the CFA board and management has weakened and done much damage for many years. The Victorian Minister for Industrial Relations, in her recent letter to me, advocated that the EA is a way to implement recommendations from the 2009 bushfire royal commission. This all begs the question: is the union a vehicle for Victorian government ministers, or are they a vehicle for the unions?

It is true that the Victorian CFA needs a clear operations manual. What I find most bizarre about the solution proposed by the Andrews government is that the proposed control mechanism is a 400-page enterprise agreement. It is not as if these plans of the Andrews government are malicious; they are not. The focus is supposedly on the need to keep the community safe and to keep all firefighters, paid and volunteer, safe. The changes are intended to standardise operations and give clear guidance. It is a noble intent by an ignoble means. Strangely, and I say this is as respectfully as I can, both the Andrews government and the firefighters union seem to think that a 400-page enterprise agreement is a clever idea when, clearly, few in the community, especially in rural Victoria, think that it is. It is not clever.

It is true that we may sometimes need control mechanisms, rules or guidelines. Yet that mechanism must accept that freedom is paramount and add value if a freedom is removed. A solution that controls people's lives must add value—not heartache, disaster and discord. Premier Andrews' solution fails the core test of the value in control versus freedom. I challenge my fellow senators to think for a minute what would eventuate if the Andrews government blueprint for control of local communities were replicated in my home state of Queensland. Imagine for a minute if Annastasia Palaszczuk came down to the Rural Fire Brigade stations and issued an edict that volunteers across Queensland should be controlled by union bosses and follow 400-page enterprise agreements with onerous new control
mechanisms. What would happen if Annastacia Palaszczuk brought about the same changes to other statutory bodies that married paid staff and volunteers? This bill protects Queensland from such action. Make no mistake, I stand in this chamber very proudly on the side of freedom. Every piece of legislation that comes before us should tick that simple box: whether it promotes freedom and happiness for communities. There is nothing more asinine or debilitating than a nanny state.

There is another test that legislation before this parliament should meet. I turn senators' attention to the reason we are here: the liberty and freedoms for states and individuals enshrined in our Constitution. In writing our Constitution, our nation's founding fathers clearly intended competitive federalism. It was always the design of those who wrote the Constitution that the states would be responsible for matters such as industrial relations. Our founding fathers wanted to set the states free and, in choosing their destiny, the states would compete for trade and prosperity, and that could only benefit the Australian people. Because both sides of politics have decided to kick around the issue of industrial relations and allow emotion, egos and power plays to take over, we now have one of the most bastardised industrial relations systems in the modern world. Political trickery has replaced sensible discourse in the IR space, campaigns respond to a 24-hour news cycle and outcomes are based on who can shout the loudest or use the most emotion. It is highly unfortunate that we need this legislation as it tramples on a state's rights. It controls a state government when people should be free to make their own decisions. However, sometimes we need an intervention to assist freedom. Conversely, we need to remember that the Andrews government, bleating about federal intervention, is in fact relying on an EA under federal legislation.

There will be debates in this chamber and forever more about the merits or otherwise of states doing their own thing on IR. We get that. Our country's IR system is broken, and as a party we will have a lot more to say about this in the coming term of parliament. As the song teaches, though: one day at a time. At its heart, industrial relations is about relationships. Perhaps in Australia the term needs to be changed to 'industrial recklessness' in which workers, honest union members and business owners pay the price. As broken as the IR system may be, nothing is more broken than the Australian government. That is why minor parties are on the rise and why I am confident our party will win significant support at the next Queensland election.

At the core of the CFA dispute is broken government at its worst, and broken government has manifest itself by being a lazy, lazy government. Lazy government has for many years known about and ignored the systemic issues in Victoria's Country Fire Authority. For a long time, governments have known from royal commissions established after great tragedies of national significance that there are issues with the way fires have been fought, both in rural and city areas, and the need to interconnect between the city and rural services. I would hazard a guess that many reports have been written for ministers of the Victorian government saying the lack of an effective operational manual is the issue in the Country Fire Authority and urgent action is needed. These reports have most probably sat at the bottom of the red box given to the minister each Friday. Perhaps they have sat in some ministerial advisor's suitcase on the way to Malaysia to watch the Grand Prix and dance around seminaked. Perhaps governments were too worried about the 24-hour news cycle to think that they could not take on the challenges. Perhaps the 'Twitterati' scared them into silence. Perhaps the baubles of
office and ministerial leather were all too consuming for so many ministers who need only have asked these communities what their needs were.

I know about lazy government. Remember, I am a Queenslander. We live it every day. Considering our state's wealth, Queensland right now is languishing in economic growth because of lazy, terrible government. Listening is a straightforward process for Senator Hanson and me. The formula for the success of Pauline Hanson, as much as academics and political talking heads might tell us otherwise, is nothing simpler than listening to people about the solutions that their local communities need and then speaking out and serving the people. That is what government should do and should have done many years ago with the CFA issue.

The Andrews government took the extraordinary steps of sacking a responsible CFA board and replacing it with nodding yes men and women. It was a much debased thing to do. There was a lack of discipline and, instead, more control was exerted rather than listening to what freedom could have been given to the board in its pursuit of better outcomes. In this state's House, our country's house of review, I apply this test: is my vote needed to pass legalisation that protects the people of Queensland and wakes a lazy Victorian government to the realities of life, jolting it out of its comfort zone and reminding it that there are more people in the community than union bosses? These are the tests that we have laid out for whether legislation should be passed. This bill awakens lazy state government in Victoria and Queensland and around our country. It sets communities free to pursue respect for volunteers. It may for now bulldoze a state's right, but in the context of what is wrong with our industrial relations landscape it is a badly needed bandaid and it removes a complex set of rules not required in an EA format.

Based on my experience leading heavy industry and in using breathing apparatus in emergency rescue training, similar to that used by firefighters, I know that safety depends on clear management structures and chains of command, with disciplined standard operating procedures. The Andrews government enterprise agreement weakens both and will undermine safety. Victorian firefighters and communities will pay the price as standards continue to deteriorate. If the Victorian government is at all interested in safety and communities, I suggest that he gets back to the basics of effective management and leadership—clear accountability with statutory bodies responsible to the government on behalf of the people of Victoria. This bill is needed to keep the Victorian and Australian communities safe. It passes the community needs test.

I will write to the Victorian Premier and suggest that he scraps the enterprise agreement, implements a simplified 20-page enterprise agreement for paid firefighters and creates a dignified and sensible operations manual that all communities across Australia can use in steering the direction of local firefighting brigades. My letter will be that short and that simple. It will be a suggestion, and he can take it or he can leave it. And the people of Victoria can take his decision to the next election or leave it. This legislation will, as the title highlights, show due respect to our courageous and dependable firefighters—paid and volunteer.

Good policy and good politics involve listening and then engaging in hard work. Senators here may hear the four One Nation senators say a lot over the next term, but be assured that what we say is the result of the rewarding work of listening to everyday Australians about
what people need. That is our secret, and that is why people know that we say the things that need to be said and do the things that need to be done. We need to pass the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016 to uphold statutory accountability, to restore freedom and to enable safety.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (13:45): I rise to close debate on the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016, and I thank all senators for participating in the debate.

Today the Australian Senate has the opportunity to stand up and protect our volunteer firefighters—the men and women who put their lives on the line to ensure that our communities are safe. The government has introduced the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016 because we are committed to doing what we can to protect Australia's emergency services from a hostile union takeover.

Australia's proud tradition of volunteer firefighting is under threat. The actions of the United Firefighters Union have placed the Victorian Country Fire Authority in the position of having to choose between the best interests of its brave volunteers and conceding to the demands of the union. Unfortunately for the tens of thousands of proud volunteers of the CFA, the Victorian government and Mr Shorten and Labor have taken sides against them. I would like to acknowledge the tens of thousands of volunteers of the Victorian CFA, some of whom have even travelled here today, who have had the courage to stand up and to take a stand against what is not in their best interests.

This is a necessary amendment to the Fair Work Act. The amendments will protect volunteers from interference by third parties who seek to misuse enterprise bargaining agreements made under the Fair Work Act to dictate the management of firefighting and state emergency services organisations that rely on the selfless goodwill of volunteers in order to carry out their functions. These amendments will ensure that enterprise agreements cannot include terms that limit the ability of a firefighting or a state emergency service body to manage its volunteers. The Fair Work Commission will not be able to approve agreements that include such terms, and any such terms in an agreement will be legally ineffective.

The amendments will also give organisations that have a history of representing selfless volunteers of emergency service bodies a voice before the Fair Work Commission. The change recognises that volunteers have a right to be heard and that their concerns are relevant to the wellbeing of all Australians they seek to protect and serve.

These two targeted amendments to the Fair Work Act are needed because the proposed enterprise agreement represents a very real threat to the CFA's ability to manage its volunteers. The proposed EBA would, for example, interfere with the CFA's chain of command; require, unfortunately, volunteers to wear different uniforms to paid firefighters; prevent volunteers from running education programs unless paid firefighters are unavailable; and give the union an effective veto power over a range of matters, including the CFA's internal policies.

As we have heard from speaker after speaker, the previous leadership of the CFA dared to speak out about this injustice. The former chief executive of the CFA called the agreement, 'destructive and divisive'. The former board of the CFA said it 'allows the UFU operational
and management control of the CFA’. For their courage in speaking out and opposing the deal the entire CFA board was sacked by the Victorian Labor government. The chief executive resigned in protest and Labor’s own emergency services minister lost her job as well.

The Leader of the Opposition, Bill Shorten, knows what this deal means for the volunteers in Victoria. It is his home state. He should be standing up for the 60,000 men and women who selflessly, year after year, ensure that Victorians—in one of the most fire prone states in Australia—are protected. And yet what has he done? It has been articulated in the Senate today: he has opposed us every step of the way.

These amendments have been carefully drafted to apply only to firefighting and state emergency services bodies that are established under statute, use volunteers and are covered by the Fair Work Act. They will not impact other volunteering organisations—for example, Surf Life Saving Australia or the Salvation Army. They will not affect safety management bodies that do not meet the new definition of ‘emergency management body’, such as the police or paramedics. The amendments are simple, they are targeted measures and they are vital to ensuring that the volunteer firefighters in Victoria can get on with what they do best—that is, protecting all Victorians.

I am very alarmed by new reports contained in the New South Wales Rural Fire Service Association submission to the recent Senate inquiry into the bill that CFA volunteers close to the New South Wales border have been contacting New South Wales brigades inquiring about membership. This presents a clear and present danger to Victorian communities, and it shows just how urgent it is for the government and the Australian Senate to provide the volunteers with the assurance they need to remain as members of the Victorian CFA. Firefighters are vital. It does not matter what state you come from in this place—I am from Western Australia—firefighters, community volunteers, are vital for the safety of our communities. And there is a need to ensure that all firefighters, both volunteer and paid, remain united in protecting our communities. The government has been very clear in its desire to ensure that the amendments only address issues that have arisen in the current context of the actions of the United Firefighters Union in Victoria.

Can I also be very clear here: this is not the fault of paid firefighters. Neither volunteer nor paid firefighters could function effectively without the support of each other in large country towns and on the suburban fringe. This interrelationship—and anybody from a small community knows this—and the way they operate together in tandem is typical of the way small communities operate, but it is also crucial that this relationship is not disturbed in the future. The connections built by volunteer organisations allow communities to thrive, prosper and defend themselves. A volunteer ethos needs nourishing. A volunteer ethos is something that, as members of the Australian Senate, we should all be so proud of. We should be supporting and we should be doing everything in our power to ensure that that ethos is never compromised. A CFA that does not reflect respect or acknowledge volunteers will be a much diminished institution.

On this side of the chamber—and I thank the many crossbenchers for their commitment to the volunteers in Victoria—the government is proud to support emergency services volunteers and the communities they protect. Because of time, I will cut my remarks short and commend the bill to the chamber.

**The PRESIDENT:** The question is that the bill be now read a second time.
The Senate divided. [13:59]
(The President—Senator Parry)

Ayes .................38
Noes .................33
Majority ............5

AYES
Abetz, E
Back, CJ
Birmingham, SJ
Brands, GH
Burston, B
Bushby, DC
Canavan, MJ
Cash, MC
Cormann, M
Culleton, RN
Duniam, J
Fawcett, DJ (teller)
Fierravanti-Wells, C
Fifield, MP
Griff, S
Hanson, P
Hinch, D
Hume, J
Kakoschke-Moore, S
Leyonhjelm, DE
Macdonald, ID
McGrath, J
McKenzie, B
Nash, F
O'Sullivan, B
Payne, MA
Paterson, J
Parry, S
Reynolds, L
Roberts, M
Ruston, A
Ryan, SM
Scullion, NG
Seselja, Z
Sinodinos, A
Smith, D
Williams, JR
Xenophon, N

NOES
Bilyk, CL
Brown, CL
Cameron, DN
Carr, KJ
Chisholm, A
Collins, JMA
Dastyari, S
Di Natale, R
Dodson, P
Farrell, D
Gallacher, AM
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Lambie, J
Lines, S
Ludlam, S
Marshall, GM
McAllister, J
McCarthy, M
McKim, NJ
Moore, CM
O'Neil, DM
Polley, H
Pratt, LC
Rhiannon, L
Rice, J
Siewert, R
Sterle, G
Urquhart, AE (teller)
Waters, LJ
Whish-Wilson, PS

Question agreed to.
Bill read a second time.

The PRESIDENT (14:02): It being past 2 pm, we will move to Questions Without Notice.
QUESTIONS WITHOUT NOTICE

Attorney-General

Senator JACINTA COLLINS (Victoria) (14:02): My question is to the Attorney-General, Senator Brandis. I refer to the explanatory statement on the Legal Services Amendment (Solicitor-General Opinions) Direction 2016 tabled by the Attorney-General, which states, 'The Attorney-General has consulted the Solicitor-General.' The Solicitor-General has said, 'I wasn't consulted about the direction.' Is the Solicitor-General correct?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:03): Senator Collins, I have addressed this issue both in responses in this chamber and in a detailed submission that I gave to the Senate Legal and Constitutional Affairs References Committee. I consulted the Solicitor-General about the matter at a meeting in my office on 30 November 2015. I invited the Solicitor-General to put his ideas in writing, which he did, and I considered those as well. When I made the direction, I was advised by my department that the requirements of section 17 of the Legislation Act had been satisfied. Might I remind you, Senator Collins, that section 17 of the Legislation Act provides:

(1) Before a legislative instrument is made, the rule-maker must be satisfied that there has been undertaken any consultation that is:

(a) considered by the rule-maker to be appropriate; and

(b) reasonably practicable to undertake.

Such consultation was undertaken.

The PRESIDENT: Senator Collins, a supplementary question?

Senator JACINTA COLLINS (Victoria) (14:04): Thank you, Mr President. I refer to the Attorney-General's answer in question time on 12 September in which he claimed that the Solicitor-General was consulted on the direction 'during the course of a meeting in my office on 30 November 2015'. Does the Attorney-General stand by that statement?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:04): Obviously I do, Senator, and I have just repeated it. That is my position.

The PRESIDENT: Senator Collins, a final supplementary question?

Senator JACINTA COLLINS (Victoria) (14:05): Thank you, Mr President. To reinforce the point, I refer to the Solicitor-General's submission to the Legal and Constitutional Affairs References Committee, which states, 'At no time'—I repeat: 'at no time'—during that meeting did the Attorney-General indicate that he was considering issuing a legal binding direction,' Given the Solicitor-General has directly contradicted the Attorney-General's statements, will the Attorney-General now concede he has misled the Senate?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:05): Thank you, Senator Collins. I have read the Solicitor-General's statement very carefully and I have read the passage from which you have quoted. Senator Collins, I agree with what the Solicitor-General says. It is the case that, to quote him:
… at no time at that meeting did the Attorney-General indicate that he was considering issuing either a legally binding direction concerning the performance of the functions of the Solicitor-General or a requirement that a Commonwealth person or body could only approach the Solicitor-General for advice after receiving the Attorney-General's advance approval.

_Senator Wong interjecting—_

_Senator BRANDIS:_ I agree with that statement, Senator Wong, because at the time of that meeting I was seeking Mr Gleeson's views about the matter. I had formed no view whatever as to what course I would take. That is a view I formed subsequent to the meeting.

**Vocational Education and Training**

_Senator McKENZIE (Victoria) (14:07):_ My question is to the Minister for Education and Training, Senator Birmingham. Can the minister inform the Senate why the Turnbull government decided to axe the VET FEE-HELP loan scheme that Labor introduced?

_Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:07):_ I thank Senator McKenzie, one of this Senate’s leading contributors on education policy, for her question. The vet fee help scheme and particularly the changes and opening up of it that the Labor Party introduced in 2012 will go down as one of the most wasteful policy experiments in Australian history, standing alongside the likes of pink batts and school halls.

_Senator Wong interjecting—_

_Senator BIRMINGHAM:_ Senator Wong, I take full responsibility for cleaning up the mess. I will happily take full responsibility for cleaning up the mess.

Let’s have a look at what the VET FEE-HELP scheme metric demonstrated. They saw the number of students between 2009 and 2015 jump by some 5,000 per cent. During that time every course cost more than tripled from $4,000 to $14,000.

_Senator Wong interjecting—_

_Senator BIRMINGHAM:_ I know Senator Wong and those opposite do not want to hear about this. That was a massive growth in costs for students. The loans increased by some 11,000 per cent from $26 million initially to $300-odd million in 2012 to $2.9 billion by 2015. It was the expansion that Labor undertook in 2012 that opened it up to rorters and fraudsters without sufficient student protections in place.

Our government put in place 20 reforms over the last couple of years—banning inducements and payments based on student progression. We have driven down the volume of loans this year by hundreds of millions of dollars. Yet we realised that it was still necessary to get those inappropriate providers out of the system, so we had to bring the VET FEE-HELP program to an end and replace it with something that is more credible, is built from the ground up and has all of the appropriate safeguards and protections in place. That is exactly what the Turnbull government is doing to protect students and vocational education in Australia.

_The PRESIDENT:_ Supplementary question, Senator McKenzie.

_Senator McKENZIE (Victoria) (14:09):_ Can the minister advise what the Turnbull government is doing to return integrity to the training system and to protect students and taxpayers?
Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:09): The Turnbull government is taking the action of bringing to an end to the VET FEE-HELP scheme at the conclusion of this calendar year and replacing it with a new program, the VET Student Loans program, that firstly has in place strong safeguards to admit public providers, TAFES, and only those private providers in the training market of high repute and good outcomes for their students. Secondly, it limits the range of courses that are being provided support to those that actually are relevant to employment outcomes and boosting the employment prospects of students studying. Thirdly, it will apply a loan cap across a range of different criteria—$5000, $10,000 and $15,000 loan caps—that will support effective costs of delivering different programs. It will also ensure there is a student engagement measure so that we know students are engaged in their studies and participating. There are a range of other compliance measures that ensure our new program has all of the safeguards that were sadly lacking in the old program. (Time expired)

The PRESIDENT: Senator McKenzie, a final supplementary question?

Senator McKENZIE (Victoria) (14:10): Yes. Can the minister further advise the Senate what the reaction has been to the government's announcement?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:10): I am pleased that there has been a wide and positive reaction to this program. For those opposite, the reaction from some who they usually listen to is that they are pleased. The Australian Education Union welcomed our announcement and our changes. The National Tertiary Education Union said they were encouraged that the new scheme will involve greater scrutiny of eligible providers and courses. The Australian Industry Group said that this an important issue and they urge all parties to positively consider the legislation once it is presented. The Business Council has urged the Senate to urgently pass these reforms. There has been broad and wide support from all parts of the Australian economy and from all key stakeholders.

Senator Wong interjecting—

Senator O’Neill: In three years you’ve done nothing.

Senator BIRMINGHAM: I am pleased that, despite the interjections and so forth from those opposite, Labor’s shadow ministers have been constructive in comments and have indicated that the Labor Party will be cooperative. I hope and trust we will see these reforms of the Turnbull government legislated and implemented by year’s end. (Time expired)

Attorney-General

Senator CAMERON (New South Wales) (14:12): My question is to the Attorney-General, Senator Brandis. On 12 September when asked whether he stood by his assurance to the Senate that he had consulted the Solicitor-General on the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, the Attorney-General said:

Yes, I do.

I again ask the Attorney-General: do you stand by this assurance?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:12): Senator Cameron, as I said to your colleague Senator Collins, the answer is, yes, I do. I have provided a detailed statement
to the Senate Legal and Constitutional Affairs References Committee that explains why it is that that is my position.

The PRESIDENT: Senator Cameron, a supplementary question.

Senator CAMERON (New South Wales) (14:13): I refer to the Solicitor-General's evidence that he wrote to the Attorney-General on 11 May 2016 advising that he 'did not accept that the direction was the subject of prior consultation with me'. Why did the Attorney-General fail to reflect this position in his answer to the Senate some four months later?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:13): It is because I was asked whether I stood by a statement that I have made, and I do.

The PRESIDENT: Senator Cameron, a final supplementary question.

Senator CAMERON (New South Wales) (14:13): Given that we know that the Solicitor-General wrote to the Attorney-General indicating he had not been consulted and the Solicitor-General has confirmed this in evidence to a Senate committee, why does the Attorney-General continue to deny that he has misled the Senate?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:14): It is because, Senator Cameron, I have not done so. If you read the submission that I have provided to the Senate Legal and Constitutional Affairs References Committee you will see why it is that that is my position which I adhere to.

Defence

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:14): My question is to the Minister for Defence, Senator Payne. Can the minister update the Senate on the progress of the force posture initiative between Australia and the United States?

Senator PAYNE (New South Wales—Minister for Defence) (14:14): I thank Senator Fawcett for his question. Australia is of course firmly committed to deepening our longstanding and robust defence relationship with the United States, and this commitment is no better exemplified than in the Force Posture Initiatives. Last week I met with the United States Secretary of Defence, Ash Carter, in Washington and I am pleased to advise the Senate that at that meeting we welcomed the in-principle conclusion of cost-sharing negotiations. This is an important milestone for implementation of the initiatives.

The Force Posture Initiatives contain two very important aspects: the annual six-month rotational deployments of the US Marine Corps, and enhanced air cooperation, both of which occur in Northern Australia. To support the full implementation of the initiatives, a substantial infrastructure development program will be required, including upgrades to airfields, to aircraft parking aprons, to living and working accommodation, and to messes, gyms and training ranges. These are upgrades which will benefit both Australian and US forces. Australia and the United States will share the costs for more than $2 billion in infrastructure investment in Northern Australia, as referenced in the defence white paper, as well as the ongoing costs of the initiative over the full 25-year life of this very important agreement.

The marine rotations have grown from 200 marines in 2012 to 1,250 this year just gone. This year's rotation, which is the largest to date, participated in a number of exercises with the
Australian Defence Force and regional partners, including 600 marines participating in Exercise Hamel in South Australia, the Army's main national exercise. The marines have also participated in Exercise Southern Jackaroo with Australia and Japan, and recently in Exercise Kowari with Australia and China. I am very much looking forward to seeing the rotation grow in coming years to around 2,500 marines, and to the further strengthening of ties between us and the United States. *(Time expired)*

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

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) *(14:16)*: Could the minister further advise the Senate of the strategic benefits of the force posture initiative to Australia?

**Senator PAYNE** (New South Wales—Minister for Defence) *(14:17)*: Again, I thank Senator Fawcett for that very important aspect of this question. Australia's alliance with the United States is clearly our most important defence relationship, and it remains central to our strategic and security arrangements. Australia has benefited from more than 70 years of peace and stability in our region, underpinned by the strong US role in the region. What the Force Posture Initiatives do is to strengthen the ability of Australia and the United States to work together in the interests of continuing regional peace and stability, and also afford new opportunities for engagement with regional partners, many of which are involved in increasingly modernising their own militaries. The initiatives will expand our cooperation, increase opportunities for combined training and exercises, and deepen the interoperability of our armed forces. They also position both nations to respond to contingencies in the region, such as humanitarian assistance and disaster relief operations. They are a tangible demonstration of Australia's support for the US rebalance to the Indo-Pacific— *(Time expired)*

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

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) *(14:18)*: Could the minister further update the Senate on the advantages to the Northern Territory of the force posture initiative?

**Senator PAYNE** (New South Wales—Minister for Defence) *(14:18)*: I know that senators will be very pleased to understand the extent of the impact of the investment in infrastructure of over $2 billion dollars in the Northern Territory. Northern Territory businesses, whether they are retail trade, transport, or recreational and other business services sectors will also strongly benefit. There was a 2013 study which indicated a rotation of 1,100 marines contributed an additional $5.6 million per year to the Northern Territory gross state product. In 2016 alone, it is expected over $7 million will be spent to support the marine rotation, and that will only grow as we progress and increase the initiatives in coming years. The US will use Australia's supplies of goods, products and services to the greatest extent practicable. We expect competitive tendering processes to offer opportunities for local and international suppliers. I think it has been very important to bring these negotiations to fruition. I was very pleased to announce the outcome, with the Secretary of Defence, Ash Carter in Washington last week— *(Time expired)*
Mental Health

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:19): My question is to the minister representing the Minister for Health, Senator Nash. Today is World Mental Health Day. Each year in Australia, one in five Australians experiences mental illness. Just recently, we learnt that the number of people taking their own lives is at a 10-year high. There is a growing concern in the mental health sector that the current changes to funding will unintentionally remove access to services for some consumers and carers. These changes are seeing some Commonwealth and state programs closing, and therefore people may miss out on access to services. Has the government done any analysis on the number of people who may lose access to services, and what steps are being taken to ensure that consumers and carers will not lose access to services?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:20): I thank the senator for her question, and acknowledge her very sincere interest in this issue. In relation to the specific analysis, I will take that on notice for the senator. But broadly, this government—like everybody, I believe, in this chamber—has an absolute commitment to ensuring we get the delivery of mental health services right. Indeed, that was why, after the review, the minister took the steps she did to change the policy settings that we had in place around delivery of support for mental health, from what had previously been, as I think many in this chamber would know, support directed from Canberra. What we have seen now is $371 million go out through the Primary Health Networks to ensure that we can address these issues of mental health from a regional perspective—so we can get away from the silo mentality, and move towards a much better targeted regional delivery of mental health care.

There is no doubt that we have seen an increase in the instances of mental illness. Some of the discussion around that is it is now something that is much more in the public awareness as an issue that is affecting many, many Australians. So I can certainly indicate to the senator, on behalf of the minister responsible, that this is something that the government will take very, very seriously and continue to take very seriously, and we will ensure we have policies in place to address those people that are in need.

The PRESIDENT: Senator Siewert, a supplementary question.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:21): I thank the minister for her answer, but the minister did not specifically address the issue that I asked. I understand that she has taken it on notice, so I appreciate that. But, to be specific, there are a number of programs that are closing and will leave service gaps, because those programs are closing, because not everyone will get a package, for example, through the NDIS—if the minister could take that on notice, when she is providing the information. But, because of that, there is going to need to be an investment in further mental health services. Is the government going to provide further money? (Time expired)

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:22): Could I perhaps start by indicating that there has been an expansion of funding to the sector. We have seen in June just this year $192 million over four
years extra to strengthen mental health care in Australia. I think that is indicative, as I said earlier, of the seriousness with which this government addresses this issue.

What we have also seen now are 12 suicide prevention trial sites, comprising four of the Primary Health Network led sites, and an additional eight regional trial sites in identified priority areas. I do recognise that the senator has not directly asked about suicide. But I think, when we are talking about mental health, it is very important to acknowledge that the suicide rates in this country are something that have to be addressed, and that is why I have specifically noted the extra funding that is going to that issue. (Time expired)

The PRESIDENT: Final supplementary question, Senator Siewert.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:23): The minister has, in fact, pre-empted somewhat the question I was going to ask on suicide prevention. My question specifically is: is the government prepared to introduce suicide reduction targets?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:24): What the government is absolutely committed to doing is reducing the suicide rate. There is no doubt that to do that we have to be able to not only have the right policies in place but ensure the funding is there to support those policies, which indeed we have done. I acknowledge the work that the Minister for Health and Aged Care has done in this area over a considerable period of time now. This is not an issue that I think anybody wants to play politics with. This is something across this nation that we on all parts of this chamber are acutely aware of. So, we will continue—

The DEPUTY PRESIDENT: Senator Siewert, a point of order.

Senator Siewert: I was very clear on the question that I asked. Specifically, is the government prepared to look at suicide reduction targets?

The PRESIDENT: Thank you, Senator Siewert; you were. I will remind the minister of the question. Minister, you have 15 seconds remaining.

Senator NASH: I can certainly assure the senator that the minister is prepared to look at all areas when it comes to policy relating to suicide rates and ensuring that, as a nation, we reduce them.

Attorney-General

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:25): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General advise the Senate when he first determined that he would issue the Legal Services Amendment (Solicitor-General Opinions) Direction 2016? When did he instruct his department to draft the direction?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:25): I will check the precise date, but it was in 2016. Your question gives me the opportunity to address a misconception that lay at the heart of your colleague Senator Collins's question, when she suggests that there is a difference between me and the Solicitor-General in relation to what he says in paragraph 29 of his statement.
There is plainly a difference of view, Senator Wong, between the Solicitor-General and me as to whether the discussion that we had at the meeting in my office on 30 November 2015 constituted a consultation within the meaning of section 17 of the legislation act. That is a difference. I consider that it was. Mr Gleeson disputes that view. But that there was a discussion in my office on 30 November in relation to these matters cannot be disputed.

The DEPUTY PRESIDENT: Senator Wong, supplementary question.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:26): I refer to the evidence of the deputy secretary of the Attorney-General's Department, which reveals that the department was first instructed to prepare the direction on 20 April 2016. Can the Attorney-General confirm that this instruction was given some five months after he alleges he consulted with the Solicitor-General about the direction?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:27): Senator Wong, with respect, you make my point for me. I did not approach the meeting of 30 November 2015 with any preformed view as to how the issue which had been raised with me by the Solicitor-General should be dealt with. The purpose of that meeting was to listen to what the Solicitor-General had to say to me and have a discussion with him so that we could proceed to fix the problem he had identified. I asked him to put before me his views, which he did the following March, and it was on the basis of both that conversation on 30 November and the material he put before me in March 2016 that I arrived at a view. It was my view and it was my department's view that that was consultation within the relevant meaning of the act.

The DEPUTY PRESIDENT: Senator Wong, a final supplementary question.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:28): Noting that this minister did not instruct his department to prepare the direction until 20 April 2016, isn't this the reason that neither the notes of the meeting circulated by the Solicitor General's office nor the comments provided on those notes refer to the issuing of a direction? Why does the Attorney-General continue to deny that he has misled the Senate?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:28): Senator Wong, you rather make my point for me when you say that the instruction to the department occurred both subsequent to the meeting on 30 November and subsequent to me receiving the Solicitor-General's written suggestions in March 2016. I had regard to both of those events in making my decision, and, in my view, that constituted a consultation.

Medicinal Marijuana

Senator HANSON (Queensland) (14:29): My question comes from Bec Bridson of Buderim, and goes to the minister representing the Minister for Health and Aged Care, Senator Nash. November sees Australia one step closer to the use of medical cannabis, with the allocation of licences for growing medical grade cannabis. The federal government has deemed the end product capable of treating ailments such as epilepsy and cancer, and of pain management. But, more broadly, this miracle oil or capsule from whole-plant production is proving beneficial to sufferers of Crohn's disease, Parkinson's, PTSD, rheumatoid arthritis, autism, dementia, Tourette's, type 2 diabetes, irritable bowel syndrome—the list goes on. My question is: why is the government allowing states, if they choose to introduce medical
cannabis, to regulate the trials and patient groups for this urgently needed life-saving drug on a state-by-state basis?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:30): I thank Senator Hanson for her question and for her obviously very sincere interest in this issue. The reason the states deliver those trials is that it is the responsibility of the states and territories to do that—that is the appropriate mechanism through which they should be delivered. This government has now—I think very responsibly—through the Minister for Health and Aged Care and her leading work provided an opportunity for those people who need to access medicinal cannabis for health purposes to do so.

Obviously there needs to be a strict regulatory environment, and this government has put that in place. Once these processes have been concluded, we are going to see people being able to access medicinal cannabis, which they were not able to do before. I have to note that the community drive to ensure that this was put in place was not insignificant, and it came from people across many communities. I know that my colleague here, Senator Ian Macdonald, was one of those involved in the committee process that looked in detail into the benefits and into how this will operate. I think we have the balance right; I think we have landed at a point where we are going to be able to deliver something that will provide health benefits but at the same time maintain that very strict regulatory requirement that is needed to ensure the safety and efficacy of the delivery of this medicine. In relation to the question of delivery through the states and territories, that is the appropriate process.

The PRESIDENT: Senator Hanson, a supplementary question.

Senator HANSON (Queensland) (14:32): Senator Nash, is the government aware that tomorrow Queensland will debate and vote on passing the use of synthetic medical cannabis in lieu of whole-plant cannabis, which health workers claim will be detrimental to patients' wellbeing?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:32): No, I am not aware of that, but I am very happy to undertake to get a briefing for the senator from the minister's office.

The PRESIDENT: Senator Hanson, a final supplementary question.

Senator HANSON (Queensland) (14:33): Senator Nash, can you please give me an example of a controlled drug, either on the PBS scheme or otherwise, that is administered on a state-by-state basis? If not, why doesn't the federal government take full control and make this a federally administered drug?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:33): I am not aware of the level of detail that is required by that question, so, again, I am very happy to take that on notice for the senator so that I can get her a fulsome answer. What I will say is that right across this country people are very appreciative of the fact that this government has made some sensible, measured decisions about being able to deliver medicinal cannabis for health purposes to support those people.
who need it—people who are in those circumstances where this has been deemed to be the most appropriate use of medication to assist them.

Infrastructure

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:34): My question is to the Minister for Regional Development, Senator Nash. Can the minister update the Senate on how the Turnbull-Joyce government is investing in regional infrastructure?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:34): I thank the honourable senator for his question and acknowledge his very deep commitment to the people of rural and regional Australia. I am pleased to advise the Senate that this government is investing billions of dollars in road, rail, telecommunications, health and education infrastructure and community facilities right across the country.

As part of our commitment to supporting local communities, particularly in rural and remote Australia, last week I was pleased to announce the successful projects under round 3 of the National Stronger Regions Fund. Under round 3, we are investing $126 million into 67 projects right across the nation—projects ranging from $25,000 up to $10 million that will deliver huge benefits for local communities. The great news is that that $126 million will leverage an extra $336 million in partner funding, meaning that $462 million will be invested as part of round 3. I think this goes to show what can be achieved under a very strong coalition government.

What this means for communities right across the country is not only are we improving their quality of life but we are also strengthening their economies. In Dubbo, we are investing $6.6 million to upgrade the Dubbo airport and aeromedical facilities—a tremendous initiative. In Bega, on the south coast of New South Wales, we are investing $855,000 to upgrade the community owned aged-care facility, Hillgrove House. Mr President, in your own state of Tasmania we are investing more than $3.8 million in the Circular Head community wellbeing centre. These are just some of the projects that are investing, in partnerships with people across rural and remote communities, to ensure that we have strong economies and strong futures.

The PRESIDENT: Senator Williams, a supplementary question.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:36): I thank the minister. Can the minister advise the Senate of the success of the National Stronger Regions Fund?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:36): I am happy to advise the Senate that round three of the National Stronger Regions Fund was very successful, as were rounds one and two of this program. The coalition government's investment in community infrastructure through the Stronger Regions Fund now stands at $632 million for 229 projects: investments like the $8 million into the Waltzing Matilda Centre in Winton and $1.8 million for the Margaret River business events hub. I am very pleased to say that we are investing in coalition as well as non-coalition seats—$10 million for the Fowlers Road to Fairwater Drive road link in the seat of
Whitlam, $850,000 for the construction of the Upper Murray events centre in the seat of Indi and $10 million for the construction of the Charleston dam facility in the seat of Kennedy—and these are investments that will change lives in those communities.

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

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:37): Can the minister inform the Senate of any other measures the coalition government is pursuing to ensure more investment in regional Australia?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:37): I am very pleased to advise the Senate that the government will now be moving to what we are calling the Building Better Regions Fund from the existing National Stronger Regions Fund. What this will do is better target funding to projects outside of the major capital cities.

We are also going to introduce a new stream. The current infrastructure spend, which is so important for our rural communities, will continue. We are also going to introduce a community investment stream. We know that local communities so often understand the best delivery mechanisms to grow their economies and grow their futures. We are also going to assess like-for-like projects so that projects of the same size will be compared and small will not be compared against large—which I am sure you will appreciate, Senator Sterle. We are going to ensure that we continue to deliver those funding dollars that are so important for strengthening these communities.

Attorney-General

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:39): My question is to the Attorney-General, Senator Brandis. I refer to the Solicitor-General's submission to the Legal and Constitutional Affairs References Committee regarding the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, which states:

... there was no consultation with me, and no oral or written submissions were sought from me.

Is the Solicitor-General correct?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:39): Senator Gallagher, I have addressed this now to three of your colleagues and I do not think I can add to what I have already said. I have prepared a detailed submission to the relevant Senate committee, which explained what my position is. Obviously, the Solicitor-General and I have a difference of view as to the discussion in my office on 30 November, and the submission he made to me in writing in March 2016 constitutes a consultation within the meaning of section 17 of the Legislation Act. He has one view; I have another.

The PRESIDENT: Thank you, Attorney-General. Senator Gallagher with a supplementary question.
Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:40): I refer to paragraph 47 of the Solicitor-General's submission, which states:

… while there was discussion about the Guidance Note at the meeting on 30 November 2015, the Guidance Note and the Direction are significantly different.

The Solicitor-General goes on to attest that the making of the direction was not discussed at the meeting. Is the Solicitor-General correct?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:40): In relation to the legal services direction, the guidance note and the relationship between them, I refer you to paragraph 7 of my own submission.

The PRESIDENT: Senator Wong, do you have a point of order?

Senator Wong: Yes, but I think he sat down. He was just asked if the Solicitor-General was correct. Is he not prepared to answer that question?

The PRESIDENT: Have you concluded your answer, Attorney-General?

Senator Wong: I think everybody will see that the Leader of the Government in the Senate has refused to answer the question.

The PRESIDENT: There is no point of order.

Government senators interjecting—

Opposition senators interjecting—

The PRESIDENT: Order! On both sides! Senator Gallagher with a final supplementary question.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:41): Given the Solicitor-General's unimpeachable reputation as Australia's leading counsel and the Attorney-General's reputation for being slippery with the truth—

Government senators interjecting—

Senator GALLAGHER: why should the Senate believe your claim that you have consulted with—

The PRESIDENT: Order! Senator Gallagher, you will have to withdraw that remark.

Senator Wong: Oh, come on!

The PRESIDENT: Yes. There was a direct imputation reflecting adversely on a parliamentarian. Senator Wong, on a point of order?

Senator Wong: Mr President, I would ask you to reflect upon that. The opposition's position—which, if I may say, most of the Australian community believes—is that this minister has misled the Senate. It is a legitimate point of debate.

The PRESIDENT: It is how you couch the phrases, and that phrase was couched in a way that impugned the Attorney-General. I ask Senator Gallagher to withdraw.

Senator GALLAGHER: I withdraw, Mr President.

The PRESIDENT: Thank you, Senator Gallagher.
Senator GALLAGHER: My further supplementary question to the Attorney-General is: why should the Senate believe your claim that you consulted with the Solicitor-General, rather than Mr Gleeson's categorical denial that such consultation took place?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:42): Senator Gallagher—

Senator Ian Macdonald interjecting—

Senator Wong interjecting—

The PRESIDENT: Order! Senator Wong!

Senator Ian Macdonald interjecting—

The PRESIDENT: And Senator Macdonald! Senator Wong, on a point of order.

Senator Wong: Mr President, I would ask that that be withdrawn. Senator Macdonald has just asserted that Mr Gleeson was a Labor appointee and that is the problem.

Government senators interjecting—

The PRESIDENT: Order on my right! Senator Macdonald, on the same matter?

Senator Ian Macdonald: On the point or order, Mr President: Senator Wong is clearly misleading the Senate and attributing to me things I did not say. What I said was that Mr Gleeson is a Labor appointee—and that, I am sorry, is correct.

The PRESIDENT: Thank you. There is no point of order on either side.

Senator BRANDIS: Mr Gleeson wrote to me on 12 November last year and identified in a letter, which you have seen, a particular problem. I invited him to come to my office so that we could discuss that problem. That meeting happened on 30 November last year and we had a long discussion about that problem. At the end of that meeting I invited him to put his thoughts in writing to me, which he did 14 weeks later. I considered what he had said to me at the meeting, I considered what he had reduced to writing in his letter to me of March 2016, I sought advice from my department and I made some decisions. Mr Gleeson and I have a difference as to whether or not that process constitutes a consultation within the meaning of section 17 of the Legislation Act. Those are the metes and bounds of this difference.

Renewable Energy

Senator HANSON-YOUNG (South Australia) (14:44): My question is to the minister representing the Minister for Environment and Energy, Senator Birmingham. A Galaxy poll was published today in The Adelaide Advertiser showing that a whopping 73 per cent of South Australians have not fallen for the government's lies. They understand that the recent blackout that hit our state happened when the storm-force winds destroyed transmission towers, not because of renewable energy. Will you give up on the scare campaign, Minister, or does the Turnbull government plan to blame all storm damage done across the country on wind farms from now on?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:45): I thank Senator Hanson-Young for the question and the opportunity to make very clear to the Senate that this government will make no apologies for wanting to see energy reliability and energy affordability as being priorities right across Australia, especially in a state like South Australia—our home state, Senator Hanson-Young—which has amongst the
highest economic challenges and highest unemployment in the nation and therefore should be doing everything possible to be making itself the most attractive location in Australia for investment and job creation in the future.

To look at the facts in relation to what the AEMO preliminary report indicated, it said that the severe weather damaged three transmission lines. It went on to indicate that following these transmission faults and a drop in voltage at the wind farms' connection points, 315 megawatts of wind generation disconnected and the Heywood interconnector increased its flows to meet the demand. Then the Heywood interconnector overloaded. I note that that overloading took place after those other events which, yes, included an extreme weather event but also included the reality of the drop in voltage in relation to wind farms.

What we can see though, not just in relation to this one incident but in relation to repeated incidents in South Australia, is that SA does face the highest priced and least reliable energy in the country. This is not a good situation for a state such as South Australia, seeking to attract more investment in the future and increase jobs growth. That is why we welcome the fact that the Chief Scientist, Dr Finkel, will work with all state and territory energy ministers to give a comprehensive assessment of how we can have a far more rational and sensible approach to energy policies in the future than has been the case with the ad hoc approach of state and territory targets today. *(Time expired)*

**The PRESIDENT:** Senator Hanson-Young, a supplementary question.

**Senator HANSON-YOUNG** (South Australia) (14:47): Yesterday there were storms in Victoria. The airport was shut down, flights were delayed and 50,000 Victorian homes are still without power today. Does the minister blame these issues on wind farms?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (14:48): I am pleased to see that there is such a highly-thought-through process of questioning there from the Australian Greens, that this is the best we possibly have.

*Government senators interjecting—*

**Senator BIRMINGHAM:** As indeed some of the interjections coming from behind me pointed out, if you want to draw the analogy the first point you would make is that the entire state of Victoria did not face a blackout yesterday. The second point you would make is that in Victoria, of course, this does not come on top of what occurred in South Australia previously, which are the types of price spikes, brownouts and other issues the state has faced over a prolonged period of time. And it does not come in the face of the reality that South Australia has the highest priced, least affordable energy in the country. That, of course, runs in tandem with having an energy market that is dependent upon the highest level of wind energy in the country and the lack of frequency and stability that AEMO have indicated that provides into the energy market in South Australia.

**The PRESIDENT:** Senator Hanson-Young, a final supplementary question.

**Senator HANSON-YOUNG** (South Australia) (14:49): Given that the public are not buying the Turnbull government's lies, when will the government give up attacking wind farms and renewable energy and instead recognise that we need to increase support for a renewable energy industry because extreme weather events will only become more frequent and more common due to global warming? Where are you, Senator Birmingham, and where the hell is the Prime Minister?
Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:49): Policy by polling over there from the Australian Greens. Their whole position is based on the fact of what a Galaxy poll in The Adelaide Advertiser says today, whereas on this side and in this government we stand for creating the type of environment that can generate investment, generate jobs and generate security in energy markets, and can drive down prices wherever possible—but, yes, can do so in an environment that also meets our emissions target responsibilities globally.

We recognise that there are three factors to assess: reliability, prices and emissions. Unfortunately, the Australian Greens do not care about reliability or prices; they are only focused on the emissions part of the equation. To get the market settings right we need to address all three. Dr Finkel is absolutely the right person tasked with the right job to come up with a far more thoughtful analysis of how to give reliability, price stability and effective emissions reductions to energy markets than anything the Australian Greens could possibly offer.

Mining

The PRESIDENT: Senator O'Sullivan, I overlooked you last time. You have been unusually quiet in question time today.

Senator O'SULLIVAN (Queensland) (14:50): At 128 kilos, I think that deserves an explanation, Mr President! My question is to the Minister for Resources and Northern Australia, Senator Canavan. Can the minister advise the Senate of the importance of the resources industry to our economic prosperity?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:51): It is a very timely question. I thank the senator for his question, because this week in Parliament House it is Minerals Week. It is a week to recognise how important our minerals and resources sector is. While we all understand how important that sector has become, particularly over the past decade, it is important to stress that it has perhaps never been as important as it is for our economy since at least the days of the gold rushes. That is because of the record investments we have had in this sector over the past 10 years.

It is true that those investments are receding and that they are not as large in our future plans as they were over the past 10 years. But, because of those investments over the past decade, the mining and resources sector has never been, really, as big as it now is as part of our economy. We are exporting record amounts of coal and record amounts of iron ore, and we are about to be the world's largest exporter of LNG.

Today, in fact, up there in Gladstone, near where I live, a sixth train is starting production of LNG. It is their third major project, the APLNG project there in Gladstone. It is part of a revolution in the gas sector, the LNG sector, across the world, and it is happening right here in Australia. In central Queensland and western Queensland, this industry has helped create 20,000 jobs, very important and crucial jobs in that region. It has meant a boost to the Queensland economy of more than $10 billion and a subsequent increase in tax revenues and other economic spin-offs for our economy.

We need this investment in our country. We need it to grow our regional economies. We need it to be able to make sure that we continue to provide the good public services that most Australians expect, and we can thank our strong resources sector for helping to pay for lots of
that in our country. It is right and proper that we reflect on how important that is this week at Minerals Week.

**The PRESIDENT:** Senator O'Sullivan, a supplementary question.

**Senator O'SULLIVAN** (Queensland) (14:53): Can the minister advise the Senate of the importance of the resources industry to energy security?

**Senator CANAVAN** (Queensland—Minister for Resources and Northern Australia) (14:53): Of course, the vast majority of our resource and energy exports help fuel the world and go overseas, but we should also remember that here in this country more than three-quarters of our electricity comes from domestic coal and gas from this industry. We keep the lights on in this country thanks to those industries.

This government prioritises energy security. It is our top priority to deliver for the Australian people. That is what the Australian people expect. That is why we have established our Chief Scientist, Dr Alan Finkel, to establish a blueprint for energy security. Unfortunately, some governments and some political parties are forgetting that priority right now. Some are trying to play politics with our energy security, chasing unrealistic and unachievable renewable energy targets. I was in South Australia when the lights went off. A Labor government had 14 years to keep the lights on, and once again they failed to balance budgets, they failed to run most economic programs and they failed to keep the lights on for Australians and this country.

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

**Senator O'SULLIVAN** (Queensland) (14:54): Is the minister aware of any threats to future resource projects?

**Senator CANAVAN** (Queensland—Minister for Resources and Northern Australia) (14:54): I want to stress that this government supports investment in our resources sector. We are very supportive of those plans to invest in our sector, and we do everything we can to facilitate those while protecting our environment and maintaining our strong regulatory framework that we have.

Unfortunately, there is an ongoing and coordinated campaign to stop resource investment in this country. It is a campaign that explicitly seeks to disrupt and delay these investments, a campaign which, in these activists' own words, seeks to create breathing space, through legal challenges, to then run a political campaign against this sector and stop these jobs. This government stands against those campaigns. This government believes that we should reflect and listen to the demands of the people in these areas where these resource projects are happening. The traditional owners support projects in these sectors; they want the jobs. The local people want the jobs and investment, and those voices are loud and audible in our thoughts as we support these investments in our resources sector.

**Marriage**

**Senator PRATT** (Western Australia) (14:55): My question this afternoon is to the Attorney-General, Senator Brandis. My question is: can the Attorney-General confirm that he considers LGBTIQ advocates who do not support the government's marriage equality plebiscite to be fools?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): No, I do not, but I do think it is very foolish for those who wish to see marriage equality, as you do and I do, to pass up the best and nearest opportunity to achieve that outcome soon.

The PRESIDENT: Senator Pratt, a supplementary question.

Senator PRATT (Western Australia) (14:56): I refer to a recent letter from 196 healthcare professionals warning the Prime Minister of the dangers of the government's marriage equality plebiscite. Does the Attorney-General consider these 196 healthcare professionals to be fools?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): No, I most certainly do not, but again, if you believe—as obviously the signatories to that letter do and as evidently you do—this is a harmful debate which may potentially have effects on the mental health of vulnerable gay people, why on earth would you not wish to draw it to a close soon rather than prolong it for years?

The PRESIDENT: Senator Pratt, a final supplementary question.

Senator PRATT (Western Australia) (14:57): I refer to recent research which demonstrates 55 per cent of voters support a parliamentary vote on marriage equality. Support for the Turnbull government's plebiscite has fallen to 38 per cent and falls to 20 per cent when voters are made aware of its costs and the fact that it is not binding on this parliament. Does the Attorney-General consider the majority of Australians to be fools?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:58): No. Going into the election, some 70 per cent of Australians, including a majority of every political loyalty, supported a plebiscite, and we took a policy committing to a plebiscite to an election which we won, and you now are asking us to break an election promise. I understand perfectly well that different people may have different views about the desirability of dealing with this matter by a plebiscite, but the fact is—and you cannot rewind history—that this is a commitment we made at an election and we intend to keep to that commitment. If—as I know you do, Senator; I accept your good faith, of course, on this issue—you want to see this outcome soon then I would urge you to embrace the shortest path to it.

Broadband

Senator BACK (Western Australia) (14:59): My question is to the Minister for Communications, Senator Fifield, and I ask: can the minister update the chamber that, after a one-day delay occasioned by inclement weather in French Guiana, Sky Muster II successfully launched last Thursday. It would be fair to say that 'Thunderbirds are go'! Sky Muster II is now 36,000 kilometres above us. It is going to undergo several months of testing before it is in customer service. As colleagues would know, this is the sister satellite to Sky Muster I; and it will raise the NBN's satellite network capacity
to 135 gigabits per second, which is about 30 times the capacity of Labor's appalling interim satellite service.

Sky Muster I has been in commercial use since May; Sky Muster II will significantly augment its capacity. Sky Muster I, Sky Muster II and the fixed wireless rollout of the NBN are a very practical demonstration of the NBN's premise, which is that no Australian will be left behind when it comes to good broadband connection. Already 30,000 Australians in regional areas are connected to Sky Muster. Sky Muster covers 400,000 premises around the nation, and ultimately we expect that around 200,000 people will hook up to sky muster. This is a good story—in contrast to that of Labor's interim satellite service, where $351 million was spent. They said 250,000 people would be able to hook up; they only had enough capacity for 45,000 people. (Time expired)

Senator BACK (Western Australia) (15:01): Mr President, I ask a supplementary question. This is good news. Can the minister give us even more good news and advise how the coalition's multi-technology mix is delivering the NBN faster and at lower cost?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (15:01): As I have shared with colleagues before, the coalition is not taking a theological approach to the NBN, as was the case under the former Senator Conroy. We are taking a technology-agnostic approach, which means the mandate for the NBN is that it can use the technology that makes sense in a given area and can see the NBN rolled out fastest and at lowest cost. The great news is that, as a result of that approach, NBN is now available to 3.2 million premises nationwide—that is more than a quarter of the population. By the middle of next year, the NBN will be available to 50 per cent of Australian premises. By the middle of the year after that, it will be available to 75 per cent of Australian premises. By 2020, it will be available to all Australian premises. The NBN will be completed six to eight years sooner than would have been the case under our predecessors and at a cost of $30 billion less. We want to see Australians get the NBN, and get it soon—and, under us, they will.

Senator BACK (Western Australia) (15:03): Mr President, I ask a further supplementary question. Can the minister advise the Senate how the Turnbull government's faster rollout of the NBN will benefit all Australians?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (15:03): One of the important things when rolling out a national broadband network is that you only get the full national economic benefits once the entire nation has it. So what we as a government have had a laser-like focus on is ensuring that Australians get the NBN as soon as possible. Under our predecessors, the NBN was essentially a failed project. After the best part of six years and $6½ billion, only 51,000 people were paying customers. Contractors had downed tools in four states. As a result of the groundwork put in place by Mr Turnbull when he was the Minister for Communications, the NBN is on track and on budget. NBN as an organisation has met every rollout and financial milestone over the last 10 quarters. Australians will get the NBN—many of them have it already—and they will get it a darn sight sooner under us than under those opposite.

Senator Brandis: Mr President, I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Attorney-General

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:04): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Opposition senators today relating to the Solicitor-General.

Today we saw the same old George on display—the same slipperiness, the same word games and the same fundamental lack of decency. Yet again, we have seen that this Attorney-General is one who fails to meet the fundamental obligations of his office. He is a serial offender. On so many occasions, over an extended period of time, he has demonstrated to the Senate his arrogance, his contempt and his failure to be upfront and clear and honest with this chamber. Senator Brandis's latest effort is an attempt to undermine the independence of a senior statutory office holder, the Solicitor-General, and then mislead the parliament about his conduct. Let's have a look at the facts.

On 4 May 2016, three days before the last parliament was dissolved, Senator Brandis issued a direction amending the Legal Services Directions. His amendment bars the Solicitor-General from providing legal opinions or advice to anyone in government without the Attorney's permission. This is nothing more than a power grab by Senator Brandis. It is a bid to control the flow of legal advice from the Solicitor-General to government departments and to other senior figures in the government—even to the Prime Minister or the Governor General. The Solicitor-General has said he is not aware of any time in Australia's history where the Solicitor-General has been prohibited or prevented from giving legal advice without the Attorney-General's approval.

The substance of the changes to the Legal Services Directions is bad enough—and the Senate will have an opportunity to take a view about that—but Senator Brandis has made matters worse by tabling a misleading explanatory statement about his amending direction. His statement said:

As the direction relates to the process for referring a question of law to the Solicitor-General, the Attorney-General has consulted the Solicitor-General.

This was a mislead of the Senate. And on 12 September 2016 in this place, in answer to a question in question time, there was a second mislead of the Senate when Senator Brandis was asked whether or not he stood by that previous assurance. He was then asked about when and how the Solicitor-General had been consulted. He replied:

During the course of a meeting in my office on 30 November 2015.

This was a third mislead of the Senate. How do we know this? Because the Solicitor-General, the very person who was supposed to have been consulted, has said he was not. In his submission to the Legal and Constitutional Affairs References Committee, the Solicitor-General says:

... there was no consultation with me at any time.

This could not be clearer. He is being very clear that the Attorney-General has misled the Senate, because the two answers cannot simultaneously stand. The Solicitor-General goes on to say:
Significantly, neither the making of a Direction nor the requirement for pre-approval from the Attorney-General before a Solicitor-General could provide advice was discussed at the meeting of 30 November 2015, at any subsequent meetings, or in any subsequent correspondence.

This is an open-and-shut case—a clear example of a minister misleading the Senate.

In fact, we saw today Senator Brandis’s defence. His defence was: ‘We had a general chat. We had a chat in November’, and somehow, ‘If we had a chat about the law or Lionel Murphy or perhaps even the weather and our families, that constitutes sufficient consultation for me, as a minister in this chamber, to put it into an explanatory memorandum and to answer questions in question time about it.’ It is outrageous and it is being done for this reason: the Attorney wants to shut down the Solicitor-General as a source of independent advice. He sought to achieve this through underhanded conduct. He tried to sneak the direction through just before parliament was dissolved. He told parliament he had consulted. It was a clear attempt to deceive the parliament into thinking the Solicitor-General was on board with the changes. He tried unsuccessfully to stop the committee inquiring into this and, when he was caught out, he misled the parliament again.

This is not the first time we have seen this behaviour from the minister. He has previously misled the parliament. He has certainly failed to maintain the standards required of the Attorney-General. He should resign. (Time expired)

Senator BACK (Western Australia) (15:09): It is disappointing in this place when you see people of the apparent status of the shadow Attorney-General, Mr Dreyfus QC, and indeed the Leader of the Opposition in the Senate, herself a solicitor, lowering themselves to the level that we have just heard from Senator Wong on a matter which is of itself relatively straightforward. I intend to explain how it is. The Attorney-General was in consultation with the Solicitor-General, at the request of the Solicitor-General, on the practice of briefing the Solicitor-General on questions of law, and here is what happened. On 12 November, the Solicitor-General raised the issue with Attorney-General Brandis. It resulted in a meeting on 30 November 2015 in which the Attorney-General asked the Solicitor-General to come to his office to have a discussion about the concerns the Solicitor-General had raised. There is no question about that. There were two solicitors in the office at the time, both of whom have provided notes of that meeting. I have not heard that Mr Gleeson has refuted or challenged the contents of the notes that were provided. What followed was the fact that the Attorney-General, as a result of that meeting in which he inquired further the details of concern by the Solicitor-General, asked Mr Gleeson to respond to him in writing. Isn't that an amazing process? The Solicitor-General asked for a meeting, the Attorney-General agreed to it and the Attorney-General said, ‘So that I'm clear, will you put your note in writing?’ which he did by March this year.

We then move from March to 20 April, all of which has been confirmed by the wasteful questions by the opposition today, and it was then that the Attorney-General, Senator Brandis QC, sought from his department to prepare a draft which would be a response to the Solicitor-General. Let's examine that a little bit further, if we may. This happened on 20 April this year. I now want to advise the chamber and anyone who might be listening what followed as a result. The department advised the Attorney-General on 29 April, recommending that the Attorney-General put into place the rule change upon which he had consulted with Solicitor-General Gleeson. The department told the Attorney-General that, to comply with the law, he
would need to be satisfied that any consultation he considered to be appropriate and reasonably practical had been undertaken. In recommending that the rule should go ahead, the Attorney-General's Department head said:

We consider that your consultation with the Solicitor-General would meet this obligation.

Why have we had the waste of time in this place today? Why has Mr Dreyfus QC made a fool of himself in the other place when this was the advice of the department to the Attorney-General:

We consider that your consultation with the Solicitor-General would meet this obligation.

It is the case, as reported on the weekend by the legal affairs editor of one of the major newspapers, that Mr Gleeson SC is annoyed because he was not consulted about the final wording of the rule change. I quote:

But, with the greatest of respect to the Solicitor-General, so what?

I ask with the same level of respect to my colleagues on the other side: so what?

The Solicitor-General is a legal adviser to the government and to the Attorney-General. He has no power of veto over the government. Section 17 of the legislation act makes it clear that 'the consultation must be to the satisfaction of the rule-maker'. As I recall, the rule-maker is the Attorney-General, Senator Brandis. It is not the Solicitor-General, Mr Gleeson. He has badly overextended.

Senator Jacinta Collins (Victoria) (15:14): I too would like to reflect on the discussion of this matter of this direction, which ultimately the Senate will have an opportunity to address again once we hear the report of the committee. I would like to take this chance to remind senators that what we are dealing with here is a matter of form. This is the form of the Attorney-General. This is important because, if you listen to his answer today and indeed the comments of Senator Back and the interjections from Senator Macdonald in question time, Senator Brandis would have us believe that this is just a small difference of interpretation over section 17. When he is challenged on this point he takes his next usual step, which is to blame the department. We have been down this path before. We went down this path with Man Monis and we have gone down it several other times.

The Deputy President: Senator Collins, please resume your seat. Senator Brandis, a point of order?

Senator Brandis: I am not blaming the department or anyone. I am merely quoting them.

The Deputy President: I think that is a debating point, thank you, Senator Brandis.

Senator Jacinta Collins: Senator Brandis does indeed know that is a debating point. He has been around this place long enough not to intrude in remarks in that way. The point that was highlighted—this is as I go back three years from now—in a feature on Senator Brandis I think quite captures what occurred here today, and I will quote that feature. It was in The Sydney Morning Herald in July 2013, which said:

Brandis is a master of the art of being economical with the truth.

And that is the truth. It might be described more nicely than what Senator Gallagher said in her earlier comments, but perhaps the President will accept that quote as an example of what has occurred here today.
On the issues of form, let us look at the details of what the Solicitor- General was concerned about, because it is not only the Attorney-General's representation that appropriate consultation occurred it is also what was in his letter. He was concerned about the accurate public representation of Solicitor-General advice in relation to three matters: the citizenship laws for dual citizenship—I find that very important, given the debates that the parliament dealt with in the last parliament; the issue of same sex marriage; and the issue of correspondence between Sir John Kerr and the Queen in 1975.

These are all very important issues, and they again highlight that if the Solicitor-General is concerned about how this Attorney-General represents his advice we here would not be surprised. This is why the Attorney-General suffered the censure motion back in March 2015. I remind the Senate that on that occasion the motion declared that the Attorney-General was unfit to hold office, based on his bullying statements and endless attacks on the President of the Australian Human Rights Commission, Gillian Triggs.

Reporting on this particular matter highlights the core issue here and the core issue with the conduct of the Attorney-General. A headline in *The Australian Financial Review* on 6 October said, 'Solicitor-General says A-G Brandis verballed him'—verballed him. And that is what has occurred time and time and time again. This is why he suffered that censure motion in relation to his conduct with respect to the Australian Human Rights Commission. This is why he feels he can just be rhetorical about comments about how we should deal with the conduct of bigots. This is how he manages his bookshelves in the way that he does, because he thinks he is above the rest of us. This is why the department conducted the issues around the Man Monis case so poorly: because their minister is not getting on and appropriately dealing with his role as Attorney-General.

That this situation is untenable is highlighted by the interjections coming from government senators during question time. It was not only, as was highlighted by Senator Wong and by Senator Macdonald's interjection that the Solicitor-General was a Labor appointment, it was also that he was precious. If you look at the comments from Senator Back, his concerns, 'So what? They don't matter.' This is why this situation between the first and the second law officers of the land is untenable, and why Senator Brandis should take into account censures that have occurred in the past in relation to his pattern of behaviour and resign. *(Time expired)*

**Senator REYNOLDS** (Western Australia) (15:20): I too rise to take note of the Attorney-General's answer in relation to this matter. As a member of the Senate Standing Committees on Legal and Constitutional Affairs, when I first saw the terms of reference and who was appearing at the first inquiry I was somewhat surprised that the Attorney-General had not been called to provide any evidence. After reading the Attorney-General's evidence that he provided to the committee, I can see why the Labor chair did not initially ask the Attorney-General for his side of the argument.

I think once you strip away all of the highly personal and overblown rhetoric against the Attorney-General himself—when you actually have a look at the facts of the matter—I think it does show everything that I think is wrong with the standard of debate in this chamber today. Clearly, the questions and the acknowledgements by those opposite that consultation did occur show that this argument is nothing more than another political witch-hunt about the Attorney-General. But it is also, I would characterise, a penance debate on the definition of consultation, because even Senator Gallagher in her question acknowledged that consultation
had occurred. If anybody goes through and reads the Attorney-General's submission and also the attachments to that submission, I believe that they can come to no other conclusion than that significant consultation did occur throughout the process of putting this Legal Service Direction and associated guidance note together.

Let us have a look at what consultation did actually occur. The Solicitor-General wrote formally to the Attorney-General on 12 November last year, saying that there were inadequate provisions for the referral to seek legal advice from the Solicitor-General from anybody but the Attorney-General, and that the issue needed to be addressed. The meeting that discussed that issue was held between the Solicitor-General and the Attorney-General on 30 November, and the Solicitor-General was invited by the Attorney-General to provide additional information and submission. The Solicitor-General did so; 14 weeks later he provided a draft copy of the Solicitor-General's written suggestions, which the Attorney-General took into account in finalising the new legal services direction and guidance.

The Attorney-General himself is the first law officer and he is the decision maker. The second legal adviser—it is my understanding the Solicitor-General is an adviser. The Attorney-General is required to take into account that advice but, as one of the last Labor speakers tried to conflate, the Solicitor-General does not have to be on board with every single word of any determination the Attorney-General makes. On 11 March we had the information provided by the Solicitor-General, and then on 23 March the Attorney-General and the Solicitor-General met again and the Solicitor-General in fact was thanked by the Attorney-General for his comments that had been provided. From the information provided by the Attorney-General it was clear that he had said that he had taken into consideration the Solicitor-General's advice. On 4 May the direction and guidance note was issued.

So we have several months of personal and written contact between the Attorney-General and the Solicitor-General on this matter—and on a matter that nobody, including those opposite, have said at any point in time in this debate, that I am aware of, that the legal service direction and guidance notice needed updating. In terms of the substance of what was decided, nobody on the other side has actually addressed the substance that this was something that was required, that the department themselves had actually confirmed did constitute the legal consideration and guidance that the Attorney-General took from this.

It really does come down to a quite disgraceful attempt by those opposite to conflate a whole range of issues on this matter. On my reading of the evidence it is very, very clear: the Attorney-General was required to consult on a matter raised by the Solicitor-General to him on multiple occasions, and that advice was taken into consideration in the preparation of the new legal service direction and the guidance. I am quite disappointed in the approach taken by those opposite— (Time expired)

Senator STERLE (Western Australia) (15:25): As we all know in this chamber there is no greater fear, for want of a better word, than of being accused of misleading the Senate. It is a very serious accusation. But what we have here is that the Attorney-General, Senator Brandis, has had his own legal adviser accuse him of doing such a thing, of misleading the parliament.

The Sydney Morning Herald reported on 5 October that the Solicitor-General:

Mr Gleeson, the government's top legal adviser—
as we all know—
said in an explosive submission to the inquiry that he had not been consulted about a change requiring all ministers - including the prime minister - to obtain the written approval of Senator Brandis before seeking his advice.

This has never happened before.

Days before the federal election, we have been told and we know, the Attorney-General issued a directive instructing that no minister—including the Prime Minister—can seek advice from Mr Gleeson 'except with the consent of the Attorney-General'. Legal experts have expressed concern that this directive is a power grab that restricts the independence—and this is the key word—of the Solicitor-General. Further, legal experts have expressed concern the move could mean Mr Gleeson, an apolitical legal adviser on major issues, who appears in high profile cases on behalf of the government of the Commonwealth, is 'frozen out' of advising the government.

Let us just have a proper look at the role of the Solicitor-General. This is taken directly from the Attorney-General's website.

The Solicitor-General is the second law officer of the Commonwealth of Australia—behind the Attorney General. The Sydney Morning Herald says:
Their role is to provide independent—here it is again—apolitical advice to government on matters of national significance and appear in high-profile court cases on behalf of the Commonwealth.

Back to the Attorney-General's website:
The function of the Solicitor-General under s 12 of the Law Officer's Act 1964 (Cth) is to act as counsel for the Commonwealth and its emanations, to furnish opinions on questions of law on referral by the Attorney-General and to perform such other functions ordinarily performed by counsel as the Attorney directs.

In the role as counsel, the Solicitor-General will ordinarily appear as one of the counsel representing the Commonwealth in all matters before international judicial and arbitral tribunals.

The Solicitor-General also appears in most matters in the High Court of Australia involving the Commonwealth and its emanations and in select matters of importance in the intermediate appellate courts of Australia. In 2013 and 2014, the Solicitor-General appeared in matters involving constitutional law, extradition, migration, native title, trade practices, taxation, corporations, customs, international arbitration and criminal law.

The Solicitor-General also provides a substantial number of opinions each year in Commonwealth matters.

The Solicitor-General is assisted by two counsel assisting and also works in close collaboration with senior officers of the Attorney-General's Department, Australian Government Solicitor, other key departments and agencies and with leading counsel from the private bar.

What I want to get to, and I think this is very important—it brings it into perspective—is an article in today's Canberra Times that I read with interest, which drew an interesting point of view on this matter. It said that despite the Attorney-General saying otherwise:
Mr Gleeson said he was not consulted and released a letter he had written to the attorney general which appeared to support his claim. Senator Brandis released the same letter but in much more highly redacted form.

Mr Gleeson's version indicated he had not been consulted on issues such as the revocation of Australian citizenship, marriage equality and the release of Sir John Kerr's correspondence with the Queen.

If this was because the government did not want to hear what he had to say, we all have a problem. A regime that is afraid to listen to independent, and authoritative, advice is only interested in ruling for itself, not for the broader community it is meant to represent.

To make this point a bit more finite, I would like to expand by saying that an Attorney-General who is afraid to listen to independent and authoritative advice, who restricts access to that advice and who seeks that advice from someone who is not the Solicitor-General is only interested in ruling for himself and not for the broader community.

I will leave this thought with the Senate. Someone is not telling the truth. It is either the top lawman, or his offsider. Someone has to come out and tell the truth— *(Time expired)*

Question agreed to.

**Renewable Energy**

**Senator HANSON-YOUNG** (South Australia) (15:30): I move:

That the Senate take note of the answer given by the Minister for Education and Training (Senator Birmingham) to a question without notice asked by Senator Hanson-Young today relating to renewable energy.

This motion is of course is in relation to the storms in South Australia some two weeks ago. These storms were some of the worst that our state has faced in 50 years, with gale force winds, flooding and incredible damage right across our state—so much so that 22 transmission towers were destroyed and, as we all know, our state was plunged into darkness with a blackout. While some areas of our state, mainly the metropolitan areas, had that power restored relatively quickly, within a matter of hours, some parts of our state remained without power for many days following.

In the midst of all of this—while we had gale force winds blowing, floods happening, homes and businesses being destroyed and emergency personnel and hundreds of volunteers out in our state trying to do whatever they could to help their neighbours, their friends and other members of the community whose homes had been destroyed and whose businesses were being damaged—we had some members of this parliament doing everything they could to use this opportunity for their own political means. We had the Minister for the Environment and Energy firstly try to blame the blackout in South Australia on our large reliance on renewable energy. We had one of our own senators, Senator Nick Xenophon, attacking renewable energy before anyone really knew exactly what was going on. Straight out of the blocks, people like Senator Xenophon, Barnaby Joyce and even the crazy senator that we have here from Queensland—

**Senator McGrath:** Which one? There are a lot of us!

**Senator HANSON-YOUNG:** It has been pointed out to me that there are quite a few of them. The One Nation senator said that this was of course all because of the hoax called global warming.
Senator Brandis: Madam Deputy President, I rise on a point of order. I do not think it is parliamentary to refer to other senators as 'crazy'.

The DEPUTY PRESIDENT: Senator Hanson-Young, you might want to rephrase that comment.

Senator HANSON-YOUNG: The craziness I was referring to was that coming from Senator Malcolm Roberts, who believes that climate change does not exist and is a hoax set up by the CIA—craziness indeed! Let me put this to you: this storm was being used for political purposes by people in this chamber to drive their ideological attack against renewable energy. Thankfully, the South Australian public have not bought it. They knew that, in the midst of this storm, when the transmission towers were blown over and the power went out across our state, all this would have happened regardless of whether it was renewable energy, coal-fired power energy or even nuclear energy, because the power was not able to get to the places it needed to.

Above all else, what has been incredibly disappointing in this is to see what Malcolm Turnbull, as the Prime Minister, has done in the days and weeks following this power outage in South Australia. This is a Prime Minister who, only 12 months ago, said that, in order to power our nation into the future, we needed to be investing and believing in and supporting renewable energy and the renewable energy sector. And now we have him out kicking wind energy and the renewable energy sector, when they need the support of our Prime Minister the most. Who is really pulling the strings here? It is former Prime Minister Tony Abbott and, even in this chamber, the likes of Senator Eric Abetz. These are the people who are calling the shots these days in the coalition government and we have a Prime Minister like Malcolm Turnbull who looks nothing more than a fraud today. He is a Prime Minister who said that he believed in renewable energy, that he would do everything he could to support that sector, and now he is kicking—

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

Senator Brandis: It is also unparliamentarily to refer to a member of parliament as a 'fraud', which was the insult used against the Prime Minister. That should be withdrawn.

The DEPUTY PRESIDENT: Senator Hanson-Young, I have two points. Firstly, please refer to members in the other place by their correct title and, secondly, you may wish to withdraw that.

Senator HANSON-YOUNG: There is obviously some tetchiness over on the government side from Senator Brandis—

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

Senator Brandis: The senator is reflecting on your ruling with that last remark. Something is either parliamentary or it is unparliamentary, and when you rule a remark to be unparliamentarily it should be withdrawn without comment.

The DEPUTY PRESIDENT: Senator Hanson-Young, I will remind you that I did ask you to withdraw that comment.

Senator HANSON-YOUNG: I withdraw the comment that related directly to the Prime Minister being a fraud and I will leave that for other people to judge outside of this chamber. Senator Brandis knows very well that it is not indeed the Prime Minister who is able to call
the shots in his own government right now; that it is the right wing grumps on the backbench of the coalition government who are driving this ideological crusade against renewable energy and, of course, making the Prime Minister look weaker than ever. At a time when we should be investing in renewable energy, when the sector needs as much support as possible, we have a Prime Minister missing in action. If you want to see energy security in our state, invest in battery storage and invest in the solar thermal plant in Port Augusta.

Question agreed to.

CONDOLENCES

Siddons, Mr John Royston

The PRESIDENT (15:37): It is with deep regret that I inform the Senate of the death on 22 September this year of John Royston Siddons, a senator for the state of Victoria from 1981 to 1983 and again from 1985 to 1987. I call the Leader of the Government in the Senate, Senator Brandis.

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

That the Senate records its deep regret at the death, on 22 September 2016, of John Royston Siddons, former senator for Victoria, places on record its appreciation of his long and highly distinguished service to the nation and tenders its profound sympathy to his family in their bereavement.

John Royston Siddons was born in Melbourne on 5 October 1927. He was educated at the Ivanhoe state school, Preston Technical School and Wesley College before starting work in his father's business, Sidchrome. In 1952 he established Ramset Fasteners Pty Ltd, which eventually joined with his father's firm to become Siddons Industries Ltd, of which he became chairman in 1963.

Although his early forays into business gave him a taste for public policy, particularly industrial relations, John Siddons's formal involvement in politics did not begin until the early 1970s when he joined the Australia Party. That brought him into contact with Don Chipp, with whom he shared a dream of building a third political force to challenge both the coalition and the Labor Party and which led in turn in 1977 to the formation of the Australian Democrats.

John Siddons was elected as a Democrats senator for Victoria at the 1980 election, commencing his term on 1 July 1981. As a senator, he sought to promote industrial and economic reform and developed a bill on industrial democracy, which, much to his disappointment, never made it into law. At the time of his election and because of his background in commerce, he brought a greater knowledge of business to the Senate than most members of the Senate have ever possessed. He was also passionate about conservation and sustainability and actively campaigned to stop the Franklin Dam project in Tasmania.

Senator Siddons's party affiliations throughout his career were nearly as varied and numerous as his accomplishments outside the parliament. Defeated at the 1983 election and then re-elected to the Senate in 1984, John Siddons served as Deputy Leader of the Australian Democrats from August to November 1986 and was the Democrats spokesman on industrial relations, Treasury, finance, industry and commerce from July 1985 to November 1986. At the end of November, he broke ranks with the Democrats to serve out the remainder of his
term as an Independent. In the lead-up to the 1987 election, he registered the Unite Australia Party, but he failed to retain his seat as its candidate.

I think we may say that, although his politics were quixotic, it is clear that in the relatively short time he spent in this chamber Senator John Siddons succeeded in winning the admiration and respect of his Senate colleagues. As the then Senator the Hon. Fred Chaney remarked when Senator Siddons first lost office:

… we should all regret losing Senator Siddons because he represented one of the scarcest commodities in this place; that is, a person with independent business experience.

Senator Chaney's regret was short lived as Senator Siddons was duly re-elected the following year.

He was an accomplished businessman and company executive, a pioneer in the field of sustainability and a champion of the Australian manufacturing sector. He was also the author of four published works, as well as being a successful entrepreneur. To be elected to this place twice as a Democrat, John helped to form and lead two political parties, but perhaps it would be more apt to say that John Siddons was always an Independent in the true spirit of the word, notwithstanding his party designations.

On behalf of the government, I celebrate a life well lived and a career in this place, which, albeit relatively short, was a notable one, and I offer the government's sincere condolences to former Senator Siddons's family.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:42): I rise on behalf of the opposition to acknowledge the passing of John Royston Siddons, who passed away last month at the age of 88. At the outset, I convey the opposition's condolences to relatives and friends of Mr Siddons.

As Senator Brandis has said, Mr Siddons was a key figure in the formation of the Australian Democrats and one of its early parliamentary members. His six years as a senator came after a significant career in the manufacturing industry. He was first elected as a senator for Victoria in 1980 and, although defeated in 1983, he returned to serve a further term from 1985 to 1987.

Born in 1927 Mr Siddons was raised a devote Methodist, and whilst he might later leave the church it was not before apparently being instilled with the Methodist work ethic. He brought these first to industry and then to politics, coming to the Senate with a strong background in manufacturing, having built the Siddons Ramset business, which was primarily known for fasteners and industrial tools. In addition to striving to produce innovative quality products made in Australia, in the 1970s Mr Siddons set about changing the structure of production line to incorporate self-managed teams. He saw this as industrial democracy and as innovation in its own right.

At the same time, Mr Siddons was taking an increasing involvement in politics. Believing the policies he was implementing in his business deserved a wider platform, he first became involved with the Australia Party. This belief in the need for a progressive centrist party ultimately led to a meeting with Don Chipp, and Mr Siddons was part of the formation of the Australian Democrats. Elected to the Senate for the party in 1980, he served from 1981 to 1938 before re-election in 1985, serving from 1985 to 1987. Consistent with his background, he served on committees and as party spokesperson in trade, commerce and industrial
relations throughout his career. He also served as national president of the Australian Democrats and briefly as its parliamentary deputy leader in 1986.

It was also in that year that the party's founder and the leader of the Democrats, Don Chipp, retired. In the ensuing leadership contest, Mr Siddons, then the deputy leader, lost to Janine Haines. In November of that year, he left the party, disillusioned with the party's leadership direction on economic policy. Mr Siddons then launched the Unite Australia Party, but was defeated at the 1987 election. Yet notwithstanding the circumstances of his departure, Mr Siddons would later mourn the decline of the Australian Democrats as a political force.

Following his defeat in 1987, Mr Siddons return to business activities and, not being one to take retirement at a gentle pace, Mr Siddons set about pursuing another interest: ethics and morality. He authored a book that discussed a system of morality that was independent of religion, race or culture. This did reflect a departure from the faith of this youth but also a desire to see children and young people develop an understanding of ethics. He also continued to maintain an interest in manufacturing and in innovation. In 2005, he warned of the demise of the Australian car manufacturing industry. Sadly, that is a prophecy that has come to fruition.

John Royston Siddons bought a different range of experiences to the Senate at a time when third party involvement was on the rise. Both these aspects of his contribution—his personal attributes and his place as an Australian Democrats senator at a time when the party was establishing itself on the Australian political scene—were important for our nation's democracy. The opposition again extends our deepest sympathies to his family and his friends.

Senator HANSON (Queensland) (15:46): I rise today to contribute the thoughts of myself and other One Nation senators to the condolence motion for the former Senator John Siddons. John Siddons left his mark on Australia's manufacturing industry and contributed to the country through his years as senator and his role in the establishment of the now defunct Australian Democrats.

I did not know the honourable senator personally, but after going through his long list of achievements it is clear to me that even after leaving the Australian Democrats he continued in the grand tradition of their founder, Don Chipp, in always striving to keep the bastards honest. And this, I feel, is a sentiment that many Australians wish was a little more common in our parliament today. My thoughts, prayers and condolences are with his family, friends and former colleagues during this difficult time.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (15:47): I rise on behalf of the Nationals to pay my respects to John Siddons, a man of the people who made a notable contribution to this country both inside and outside of parliament. Big John, as he was known, was a passionate Australian and particularly passionate about Australian manufacturing. It was his family that most notably established Sidchrome tools, a brand of tool found in many a garden shed and in many a trusted tool box.

It was only during my research today that I found out that a previous senator was actually involved with a particular brand of tools without which I would never have survived at sea. I started off with very humble equipment. Without those Sidchrome tools, we would simply
have never been able to go to sea. I am quite sure, as with a whole bunch of manufacturing industries, that they were actually made in Australia. That is just fantastic. Senator Siddons was always motivated to increase the efficiency and growth of Australian industries, like his family's industry.

Senator Siddons served two terms in this place following his election in 1981. Siddons was unsatisfied with the major parties, I think it is safe to say, and gravitated towards smaller parties, where he believed he could have a greater influence and progress his unique individual agenda. No matter what your politics, the strength of John Siddons's convictions and motivation is apparent and should be commended. In fact, Siddon's principled stance led to him to create his own party—the Unite Australia Party—which enabled him to push his progressive market-based agenda, involving policies from lower taxes and abolishing compulsory unionism to very a strong anti-uranium and pro-environment stance. That is a very unique mix in this place, I have to say.

Siddons's passion for industrialism and small business is something that the Nationals can understand. This passion was clearly demonstrated with his Industrial Democracy Bill in August 1981. This bill aimed to establish an industrial democracy board and encouraged the voluntary establishment of elected consultative bodies in private business. These are ideas that have been revisited on a number of occasions since. During debate for this bill, Senator Siddons said:

This Bill offers a practical alternative to centralised wage fixing. It puts in place a voluntary collective bargaining mechanism alongside the present conciliation framework.

It was this kind of thinking, which many have since described as being 20 years before its time, that made him popular with many in the communities he represented.

In light of his approach to work reforms, John Siddons was awarded the prestigious James Kirby Award in 1977, a testament to a man of intrinsic intellect and innovation. We recognise and remember John Siddons as a leader for entrepreneurs. His reputation for action and not just talk is to be acknowledged. Post-politics, unsurprisingly, Siddons created and commercialised the heat pump water heater. This creation innovatively arose from some basic testing in his family's backyard pool and later developed into a model of domestic water heater which would become an essential feature of all Australian households and internationally. It is a great story of Australian innovation. It is this innovation and entrepreneurial attitude that makes Australia proud. Senator Siddons was a leader in creativity, and his legacy and creativity is something to celebrate.

John retired to Shoreham on the Mornington Peninsula, a beautiful place to spend time with family and friends and enjoy his pastime activities of yachting and tennis. John was well known for his strong interest and passion for the importance of ethics and the morality of life. This is detailed in the book that he wrote, The Immortality of Goodness. Siddons wrote this book because, as he said, traditional morality needs to be taught to young children in schools. It was this strong sense to do right, to be good and to look after his community, his party and his country that I think we can remember and commend for John Siddon's contribution to Australia. On behalf of the Nationals, I pass on my sympathy to Rosemary and his family, his friends and colleagues. Vale, John Siddons.

Question agreed to, honourable senators standing in their places.
Peres, Mr Shimon

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:52): I move:

That the Senate records its deep sorrow at the death, on 28 September 2016, of Shimon Peres, the eighth Prime Minister and ninth President of the State of Israel, places on record its acknowledgement of his leading role in the foundation and development of his nation and tenders its profound sympathy to the people of Israel and to his family in their bereavement.

Shimon Peres was one of the most important statesmen of the second half of the 20th century. In his almost seven-decade-long career in Israeli politics, from the forging of Israel's nationhood out of the wreckage of war and the horrors of the Shoah, through times of war and peace, and throughout Israel's recent emergence as one of the technology and innovation capitals of the globe, there has rarely been a moment in which Shimon Peres was not at or close to his country's helm.

It was my immense privilege, on my first visit to Israel more than 10 years ago, to have met Shimon Peres at the Knesset before he ascended to the office of President, and a photograph of us enjoys pride of place in my office.

Reflecting in later life upon his own eventful role in Israel's history, Shimon Peres once wrote that he was a child of the generation that lost one world and went on to build another. And, indeed, looking back on his long and accomplished life, it is difficult not to think of Shimon Peres as a builder of nations and as one of the pre-eminent statesmen of the modern world.

The trajectory of Shimon's early life is one that would be familiar to so many Jewish families who fled the anti-Semitism of Europe to embrace Zionism's promise, the land and a future free from persecution. He was born in 1923 in the predominantly Jewish town of Vishnyeva in what was then the Second Polish Republic. Amid growing anti-Jewish sentiment, he and his family made aliyah, and arrived in Mandatory Palestine in 1934.

By the age of 19, he had become the leader of the labour-aligned Zionist youth movement and went on to serve in Israel's pre-independence underground military organisation, Haganah. It was not long before Shimon Peres's precocious talents drew the attention of David Ben-Gurion, whose protege he would become. Ben-Gurion appointed him to be Haganah's head of mobilisation in 1947, the year before Israel's founding as a state. By 1953, at the age of only 29, he had risen to become the director of the Ministry of Defense. In 1959 he was elected to the Knesset. He served as Prime Minister on two occasions, as foreign minister on three and finally, from 2007 until 2014, as President.

In no small way, the passions that define Shimon Peres's life grew to shape Israel's destiny. He was a fierce defender of Israel's security, but, equally, he became a tireless advocate for peace. Even when the politics of the day meant that the very prospect of peaceful coexistence between Israel and its neighbours seemed fanciful, he persevered.

In 1994, along with Yasser Arafat and Yitzhak Rabin, Shimon Peres was awarded the Nobel Peace Prize for his role in the Oslo Accords. And, while that ambitious agreement failed to secure an enduring peace, Shimon never lost hope. The duty of leaders, he once said, is to pursue freedom ceaselessly, even in the face of hostility, in the face of doubt and disappointment.
Although his legacy will be defined by his ambitious pursuit of peace, equally we should pay tribute to Shimon Peres's advocacy for the transformative power of innovation, which helped to transform the Israeli economy into the global leader in advanced technology it is today.

Shimon Peres was among Israel’s first visionaries and one of its last surviving founding fathers. In his passing, his country has lost a tireless advocate for peace and reconciliation, and the world has lost a famous statesman.

On behalf of the Australian government and the Australian people, as we take up this moment to celebrate the long life and distinguished place in history of Shimon Peres, I extend our nation’s sympathy to his family and to his nation, and express our abiding friendship to the people of Israel.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (15:58): On behalf of the opposition, I rise to support this condolence motion, to express Labor’s deep sadness at the passing of Shimon Peres, and to join with the government in expressing, as Senator Brandis has, our sadness at his passing. Shimon Peres was a former President and Prime Minister of Israel and a former leader of Israel’s Labor Party. He was a Nobel Peace Laureate and a recipient of the US Congressional Medal of Honor. But Shimon Peres was much more than the offices he held and the honours he was awarded. He was a towering figure, both in his own nation and in the international community, both in the 20th and the 21st centuries. He was a statesman and a leading social democrat. He was a political leader with an unwavering commitment to Israel’s security and also to peace in the Middle East.

He was a remarkable person: a pillar of Israel’s national security leadership who became a passionate peacemaker, a hard-headed realist yet an eternal optimist, a master of political intrigue yet a believer in high-minded principle, a manager and a dreamer. It has been said that he was one of the youngest 93-year-olds on the planet and that he was as full of contradictions and complexity as the vibrant society he served. His death marks the passing of the last of the founders of the modern state of Israel, and that in itself is a remarkable fact given that David Ben-Gurion declared the establishment of Israel in 1948. It reflects his great age at his passing and his precocious abilities at the start of his career.

Shimon Peres Shimon was born in Poland in 1923. When he was 11 his family, like so many, fled persecution in the old world of Europe by immigrating and settling in Tel Aviv. He was a Labor Party activist in his teens, an aide to Israel’s leading founder, Ben-Gurion, at 24 and director-general of Israel’s defence ministry by the time he was 30 years old. He was elected to the Knesset in 1959, became a cabinet minister in 1969 and then Prime Minister for the first of his two stints in that office in 1984. Politically, his trajectory involved a steady move to the Left and a transformation from hawk to dove. As foreign minister, Shimon Peres negotiated the historic Oslo peace accords with the Palestinians, signed at the White House in September 1993. For that achievement he shared the Nobel Peace Prize with Yitzhak Rabin and Yasser Arafat.

After Prime Minister Rabin’s assassination, Shimon Peres became prime minister for the second time, but it was a period of political turmoil in Israel. Peres and Labor lost office in 1996 and a new cycle of violence ultimately led to the failure of the Oslo Accords to deliver on their promise. Yet Shimon Peres never gave up. He was elected President of Israel in 2007,
a position that he held until 2014 and which he used to campaign for peace. As Natan Sachs of the Brookings Institution has written:

Yet through all the pitfalls of his pursuit of peace, and the disappointments and tragedies that accompanied his journey, he remained a believer in the possibility of coexistence between Israel and its neighbours and in Israel’s potential to transform its reality for the better rather than succumb to cynicism and passivity.

Sadly, Shimon Peres has left this world with his vision of peace for Israelis and Palestinians still to be achieved. Yet we can pay tribute to the memory of a great man. We solute his legacy—modern Israel—and we honour his life lived in the pursuit of peace.

Question agreed to.

The PRESIDENT: I ask senators present to stand in silence as a mark of respect to the late Shimon Peres.

Question agreed to, honourable senators standing in their places.

The PRESIDENT: I thank the Senate.

NOTICES

Presentation

Senator Fifield to move:

That, on Wednesday, 12 October 2016 the sitting of the Senate shall be suspended at 10.30 am to noon to enable senators to attend the address by His Excellency Lee Hsien Loong, Prime Minister of the Republic of Singapore.

Senator Fifield to move:

That consideration of the business before the Senate on the following days be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable senators to make their first speeches without any question before the chair, as follows:

(a) Tuesday, 11 October 2016—Senator Burston; and
(b) Wednesday, 12 October 2016—Senator Culleton.

Senator Xenophon to move:

That the Civil Aviation Legislation Amendment (Part 101) Regulation 2016, made under the Civil Aviation Act 1988 and Transport Safety Investigation Act 2003, be disallowed [F2016L00400].

Senator Xenophon to move:

That the Senate—

(a) notes that:

(i) on 12 September 2016 the Senate agreed to an order for production of documents directed at the Minister representing the Minister for Small Business for the legal advice referred to by the Australian Statistician during his appearance on 7.30 on 3 August 2016,

(ii) on 14 September 2016 the Minister representing the Minister for Small Business advanced a public interest immunity claim that the longstanding practice of successive governments has been not to disclose privileged legal advice to conserve the Commonwealth’s legal and constitutional interest,

(iii) the Senate has not accepted that there is a general public interest immunity that allows ministers or departments to withhold legal advice, but rather that each claim of public interest immunity is assessable by the Senate and that information of the particular potential harm should be provided to the Senate to make this assessment,
(iv) on 16 July 1975 the Senate laid out by resolution its position with respect to public interest immunity claims - paragraph 4 of that resolution makes it clear that, while the Senate may permit claims of public interest immunity to be advanced, it reserves the right to determine whether a particular claim will be accepted, and

(v) Australian courts have acknowledged that for the Parliament to undertake its duties it must be able to require the Executive to produce documents, and that the justification for legal professional privilege does not apply; and

(b) does not accept the public interest immunity claim made by the Minister representing the Minister for Small Business in relation to the order for production of documents of 12 September 2016, and orders that there be laid on the table by the Minister representing the Minister for Small Business, by the start of business on the next day of sitting, the legal advice referred to by the Australian Statistician during his appearance on 7.30 on 3 August 2016.

Senator Hanson-Young to move:
That the Senate—
(a) notes the large storm that lashed South Australia on 28 and 29 September 2016;
(b) acknowledges the incredible effort of hundreds of emergency services personnel and volunteers who responded to the storm damage under very difficult circumstances; and
(c) expresses support for the renewable energy industry in South Australia and endorses South Australia's strong renewable energy target.

Senator Di Natale to move:
That the Senate—
(a) condemns the misogynistic, hateful comments made by the Republican candidate for President of the United States of America, Mr Donald Trump, about women and minorities, including the remarks revealed over the weekend that clearly describe sexual assault;
(b) reflects on the divisive, destructive impact that hate speech from political candidates and members of elected office has on our community;
(c) requests that every member of the Senate refrain from making racist, sexist comments, both in this chamber and outside it; and
(d) calls on the Government to join the Senate in its condemnation of both Mr Donald Trump and hate speech in all its forms.

Senator Smith to move:
That the Senate—
(a) notes:
(i) the strong multi-party commitment in Australia to see an end to the death penalty worldwide,
(ii) that 10 October is World Day Against the Death Penalty, an important moment to mark our resolve to end capital punishment around the world,
(iii) that the evidence overwhelmingly shows that the death penalty is not an effective deterrent to crime,
(iv) that the death penalty is the ultimate cruel and inhumane punishment and Australia opposes its use in all cases,
(v) that the international trend shows the world moving away from the death penalty—in 1977, only 16 countries had abolished the death penalty, now 140 nations have abolished capital punishment in law or practice,
(vi) that despite this overwhelming trend, 2015 saw more people executed than in any year in the past quarter century, with executions carried out by several of Australia's neighbours and allies, and

(vii) that Australia has the opportunity to influence progress towards the worldwide abolition of the death penalty in its relationships with key regional and global partners;

(b) acknowledges the efforts of all Australian governments to:

(i) continue to strengthen efforts to advocate for an end to the death penalty wherever it still occurs,

(ii) support civil society efforts to advocate for an end to the death penalty, particularly in retentionist countries, and

(iii) encourage other United Nations member states to support a global moratorium on the death penalty at upcoming United Nations General Assembly negotiations on a moratorium resolution; and

(c) welcomes the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into Australia's Advocacy for the Abolition of the Death Penalty, and looks forward to the Government's response to the recommendations of the inquiry.

Senators Waters and Rhiannon to move:
That the Senate—

(1) notes that:

(a) the statement of ministerial standards stipulates that "Ministers are required to undertake that, for an eighteen month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office";

(b) Mr Ian Macfarlane held the Resources portfolio for the Coalition for thirteen years, including nine years as Minister, most recently the period of 18 September 2013 until 21 September 2015;

(c) on 26 September 2016, approximately twelve months after he ceased to be a Minister, it was reported that Mr Macfarlane had been appointed as CEO of the Queensland Resources Council; and

(d) it was also reported that Prime Minister Turnbull's office gave approval for Mr Macfarlane's appointment;

(2) calls on all federal Ministers to rule out meeting with Mr Macfarlane in his capacity as CEO of the Queensland Resources Council until 21 March 2017 when eighteen months will have elapsed after he ceased to hold his ministerial portfolios; and

(3) calls on Prime Minister Turnbull to clarify whether he or his office endorsed Mr Macfarlane's disregard for the statement of ministerial standards.

Senators Rhiannon and Cameron to move:
That the Senate—

(a) notes that:

(i) Australian dwellings increased in price by 10 per cent in 2015-16, indicating a clear national housing affordability crisis, with Sydney prices increasing by 13 per cent and Melbourne by 13.9 per cent, and

(ii) significant causes of these price increases include distortionary negative gearing and capital gains tax discount policies; and

(b) calls on the Federal Government to significantly reform negative gearing and the capital gains tax discount to ensure housing is more affordable for first home buyers.

Senator Ludlam to move:
That the Senate—

(a) notes:

(i) the video games industry is the fastest-growing entertainment industry in the world,

(ii) in recent years the industry in Australia has generated over $2 billion in retail revenue, and it continues to grow,

(iii) the industry is larger than the local film industry, but receives no Federal Government assistance,

(iv) the Senate inquiry into the future of Australia's video game development industry was held from June 2015 to April 2016, with the final report presented on 29 April 2016, which was unanimously agreed to, and

(v) under resolution of the Senate, the Government is required to respond to Senate inquiries within three months of reporting; and

(b) orders that there be laid on the table by the Minister for the Arts, no later than 2 pm on Thursday, 13 October 2016, the Government's response to the report of the Environment and Communications References Committee on the future of Australia's video game development industry.

Senator O'Sullivan to move:

That the Parliamentary Joint Committee on Law Enforcement be authorised to hold private meetings otherwise than in accordance with standing order 33(1), during the sittings of the Senate, from 5 pm, as follows:

(a) Wednesday, 12 October 2016;
(b) Wednesday, 9 November 2016; and
(c) Wednesday, 23 November 2016.

Senator McKenzie to move:

That the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity be authorised to hold private meetings otherwise than in accordance with standing order 33(1), during the sittings of the Senate, from 1 pm, as follows:

(a) Tuesday, 8 November 2016; and
(b) Tuesday, 22 November 2016.

Senator Smith to move:

That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, as follows:

(a) Thursday, 13 October 2016, from 10.30 am; and
(b) Wednesday, 9 November 2016, from 9.30 am.

Senator Reynolds to move:

That the Joint Standing Committee on Electoral Matters be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 9.40 am, as follows:

(a) Wednesday, 12 October 2016;
(b) Wednesday, 9 November 2016, followed by a public meeting;
(c) Wednesday, 23 November 2016, followed by a public meeting; and
(d) Wednesday, 30 November 2016, followed by a public meeting.

Senator Leyonhjelm to move:
(1) That a select committee, to be known as the Red Tape Committee, be established to inquire into and report on, by 1 December 2017, the effect of restrictions and prohibitions on business (red tape) on the economy and community, with particular reference to:

(a) the effects on compliance costs (in hours and money), economic output, employment and government revenue, with particular attention to industries, such as mining, manufacturing, tourism and agriculture, and small business;

(b) any specific areas of red tape that are particularly burdensome, complex, redundant or duplicated across jurisdictions;

(c) the impact on health, safety and economic opportunity, particularly for the low-skilled and disadvantaged;

(d) the effectiveness of the Abbott, Turnbull and previous governments' efforts to reduce red tape;

(e) the adequacy of current institutional structures (such as Regulation Impact Statements, the Office of Best Practice Regulation and red tape repeal days) for achieving genuine and permanent reductions to red tape;

(f) alternative institutional arrangements to reduce red tape, including providing subsidies or tax concessions to businesses to achieve outcomes currently achieved through regulation;

(g) how different jurisdictions in Australia and internationally have attempted to reduce red tape; and

(h) any related matters.

(2) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 1 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of the Australian Greens, and 3 to be nominated by other parties and independent senators.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, the Leader of the Australian Greens or any other party or any independent senator;

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and

(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee.

(4) That 3 members of the committee constitute a quorum of the committee.

(5) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(6) That the committee elect as chair and deputy chair a member nominated by the aforementioned other parties and independent senators.

(7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(8) That the chair, or the deputy chair when acting as chair, may appoint another member of the committee to act as chair during the temporary absence of both the chair and deputy chair at a meeting of the committee.

(9) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, has a casting vote.

(10) That the committee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or
dissolution of the House of Representatives, and have leave to report from time to time its proceedings, the evidence taken and such interim recommendations as it may deem fit.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Moore to move:
That the Senate—
(a) notes the recent death of Rebecca Wilson and expresses its sympathy to her family and many friends on this loss;
(b) acknowledges her significant contribution to sports journalism, nationally and internationally in this industry; and
(c) celebrates her inspiration and support for women in this industry, and in sport.

Senator Kakoschke-Moore to move:
That the Senate—
(a) supports the first National Headspace Day on 10 October 2016 as part of National Mental Health Week;
(b) notes that:
   (i) one in four young people have experienced a mental health issue in the past 12 months - a higher prevalence than all other age groups,
   (ii) suicide remains the leading cause of death of young people, accounting for one-third of all deaths,
   (iii) young Australians with mental health issues are putting themselves in serious danger by waiting months before seeking help,
   (iv) research from Headspace and Orygen shows that 50 per cent of 12 to 25 year olds are waiting six months before reaching out for help,
   (v) close to 50 per cent of young people said financial cost was a barrier preventing them from getting treatment,
   (vi) research shows that 75 per cent of mental health issues emerge before the age of 25 – by treating these issues early and providing a holistic model of support, the risk of them developing into more serious problems is greatly decreased, and
   (vii) over the past ten years, more than 260,000 young people have sought help and advice through Headspace centres or online and over the phone;
   (c) recognises the work of Headspace in making a substantial difference in communities across the nation and transforming services for young people living with mental illness; and
   (d) calls on the Government to continue funding Headspace and rolling out Headspace centres in regional Australia as part of the Government's commitment to tackling mental health issues among young Australians.

Senator Kakoschke-Moore to move:
That the Senate—
(a) notes that:
(i) human trafficking and slavery are serious and often transnational crimes encompassing a wide range of exploitative practices with almost every country affected as a point of origin, transit or destination for victims,
(ii) on 4 August 2016, the Department of Foreign Affairs and Trade (DFAT) and the Attorney-General’s Department (AGD) co-hosted a whole-of-government event to mark the United Nations World Day Against Trafficking in Persons which is commemorated on 30 July each year,
(iii) the event was an important opportunity for DFAT and AGD to strengthen relationships with key stakeholders in the human trafficking space including Australian Catholic Religious Against Trafficking in Humans (ACRATH),
(iv) the event followed the Senior Officials Meeting of the Roundtable on Human Trafficking and Slavery, also attended by ACRATH, which provided key stakeholders to reflect on the issues impacting on people trafficked into Australia,
(v) ACRATH continues to make a significant contribution to the work of anti-trafficking initiatives in Australia,
(vi) in the last twelve months ACRATH has undertaken 132 presentations across Australia, assisted 22 trafficked women and 13 children and devoted 7,267 hours of volunteer time spent in raising awareness of, and advocating against, human trafficking in Australia, and
(vii) funding for ACRATH will expire in 2017; and
(b) calls on the Government to fund ACRATH for a further three years as part of the Government’s commitment to the total eradication of slavery and human trafficking.

Senator Di Natale to move:
That the Senate—
(a) notes that this week marks the Global Week of Action against the extrajudicial killings in the Philippines of people who use drugs;
(b) unreservedly condemns the extrajudicial killings of more than 3,000 people who use drugs in the Philippines, and their encouragement by Philippines President Duterte; and
(c) urgently calls for President Duterte to end the extrajudicial murder of people who use drugs and instead focus on internationally accepted, evidence-based interventions and policies that place the reduction of harm and the wellbeing of the community front and centre.

BUSINESS

Leave of Absence

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:03): by leave—at the request of Senator Day, I move:
That leave of absence be granted to Senator Day from 10 to 13 October 2016, for personal reasons.
Question agreed to.

Consideration of Legislation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (16:04): I move:
That general business order of the day no. 6 (Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015) be considered on Thursday, 13 October 2016 under the order relating to consideration of private senators’ bills.
Question agreed to.
NOTICES

Postponement

The Clerk: A postponement notification has been lodged in respect of the following:

Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Opposition in the Senate (Senator Wong) for today, proposing the disallowance of the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, postponed till 7 November 2016.

Question agreed to.

COMMITTEES

Environment and Communications Legislation Committee

Reporting Date

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

Environment and Communications Legislation Committee—Interactive Gambling Amendment (Sports Betting Reform) Bill 2015, extended to 6 December 2016.

The President (16:04): Does any senator wish the question to be put on those proposals? There being none, we will proceed.

MOTIONS

Human Rights

Senator WONG (South Australia—Leader of the Opposition in the Senate) (16:05): I move:

That the Senate—

(a) reaffirms its commitment to the right of all Australians to enjoy equal rights and be treated with equal respect, regardless of race, colour, creed or origin;

(b) reaffirms its commitment to maintaining an immigration policy wholly non-discriminatory on grounds of race, colour, creed or origin;

(c) reaffirms its commitment to the process of reconciliation with Aboriginal and Torres Strait Islander people, in the context of redressing their profound social and economic disadvantage;

(d) reaffirms its commitment to maintaining Australia as a culturally diverse, tolerant and open society, united by an overriding commitment to our nation, and its democratic institutions and values; and

(e) denounces racial intolerance in any form as incompatible with the kind of society we are and want to be.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:05): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator McGrath: I rise to speak on this motion to celebrate and reaffirm the Australian values of a fair go and mutual respect. Our Australia is one in which we find unity in our diversity. We are defined not by one race but by many, we are defined not by one culture but by many, we are defined not by one religion but by many and we are defined not by one way of life but by many. What joins us is that we call ourselves Australian. As citizens of this country, each of our destinies is tied to all the others and that is what makes us strong.
Mental Health

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (16:06): At the request of Senator Polley, I move:

That the Senate—

(a) recognises that:

(i) World Mental Health Day takes place on 10 October,
(ii) Mental Health Week will take place in Australia from 9 to 15 October, and
(iii) both World Mental Health Day and Mental Health Week seek to encourage help-seeking behaviour, reduce the stigma associated with mental health issues and foster connections through communities;

(b) acknowledges the importance of World Mental Health Day and other campaigns, including R U OK? Day in Australia and World Suicide Prevention Day, that:

(i) help build community awareness about mental health issues, and
(ii) help build community awareness around suicide prevention and encourage people to have regular and meaningful conversations with family, friends and colleagues;

(c) recognises the efforts of dedicated individuals and organisations working to address mental health issues and suicide prevention;

(d) notes with concern that suicide rates remain unacceptably high, and that in Australia:

(i) suicide is the leading cause of death for men and women between the ages of 15 and 44,
(ii) each day seven people die by suicide and 30 attempt suicide,
(iii) higher rates of suicide exist among vulnerable groups, including Aboriginal and Torres Strait Islander peoples, young people and people from lesbian, gay, bisexual, transgender and intersex (LGBTI) communities,
(iv) the annual number of deaths by suicide is around 2,500,
(v) each year it is estimated that 65,000 people attempt suicide, and
(vi) the annual suicide toll is now twice the annual road toll; and

(e) calls on the Government to show leadership around suicide prevention, including working in a bipartisan approach to adopt the National Mental Health Commission's target to reduce suicide by 50 per cent over the next 10 years.

Question agreed to.

DOCUMENTS

Trade

Order for the Production of Documents

Senator XENOPHON (South Australia) (16:07): I seek leave to amend general business notice of motion No. 54, standing in my name for today, concerning an order for the production of documents relating to the WTO government procurement agreement.

Leave granted.

Senator XENOPHON: I amend the motion by, in paragraph (2), omitting '3 pm on 10 October 2016' and substituting '3.30 pm on 12 October 2016'. I move:

That—
(1) The Senate notes that:
(a) the Government is currently in negotiations with the 45 of 164 World Trade Organisation (WTO) member countries that have acceded to the WTO Government Procurement Agreement, and that Australia is negotiating to accede to the agreement; and
(b) these negotiations are being held in secret but could have profound effects on the ability of future Australian governments to use Government procurement for local industry development.

(2) There be laid on the table by the Minister representing the Minister for Trade, Tourism and Investment, by no later than 3.30 pm on 12 October 2016, the Australian offer made and responses to date to that offer.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:08): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator McGrath: The government opposes Senator Xenophon's motion that Australia's offer made as part of negotiations to accede to the World Trade Organisation government procurement agreement and responses to that offer be laid on the table. As is standard treaty-making practice adopted by coalition and Labor governments alike, working documents related to Australia's treaty negotiations are not publicly available nor would we make public the documents of our negotiating partners who share them with us in confidence. I table a letter from the Minister for Trade, Tourism and Investment to Senator Xenophon dated 30 August 2016 and relating to this matter.

Senator Xenophon (South Australia) (16:08): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator Xenophon: This motion is about transparency. There is a lack of transparency in our trade agreements in this country. We simply are seeking a similar degree of transparency that, for instance, the United States has. This agreement has huge implications for every Australian company that seeks to be part of the $60 billion a year that the Commonwealth spends on procuring goods and services. There is a real risk that this will affect Australian jobs and Australian manufacturing.

The President: The question is that notice of motion No. 54 as amended, moved by Senator Xenophon, be agreed to.

The Senate divided. [16:13]

Ayes.................39
Noes..................27
Majority...............12

AYES

Bilyk, CL
Burston, B
Carr, KL
Collins, JMA
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Brown, CL
Cameron, DN
Chisholm, A
Culleton, RN
Di Natale, R
Farrell, D
Gallagher, KR
Hanson, P

CHAMBER
Question agreed to.

**Commonwealth Scientific and Industrial Research Organisation**

**Order for the Production of Documents**

Senator RICE (Victoria) (16:16): I seek leave to amend general business notice of motion No. 56 standing in my name for today concerning an order for the production of documents relating to CSIRO by omitting '10 am on 10 October 2016' and substituting '12.30 pm on 11 October 2016'.

Leave granted.

Senator RICE: I move:

That there be laid on the table by the Minister representing the Minister for Industry, Innovation and Science, by no later than 12.30 pm on 11 October 2016, the following documents relating to the final report commissioned by the Commonwealth Scientific and Industrial Research Organisation (CSIRO) and prepared by Ernst and Young, entitled \textit{Review of CSIRO's Science Prioritisation and Implementation Process}:

(a) the terms of reference for the review; and

(b) any documents, including correspondence, briefs or file notes, held by either CSIRO or the Department of Industry, Innovation and Science.
Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:17): I seek leave to make a short statement.

The President: Is leave granted? Leave is granted for one minute.

Senator McGrath: The government is happy to table the review scope of work. CSIRO has been very transparent about these matters already and, in particular, with its staff. The government opposes the motion as all key information is already publicly available. I table the review scope of work comprising the work order request and the service requirements.

The President: The question is that the motion moved by Senator Rice as amended be agreed to.

The Senate divided. [16:18]

(The President—Senator Parry)

Ayes ...................... 40
Noes ...................... 26
Majority ................ 14

AYES

Bilyk, CL
Burston, B
Carr, KJ
Collins, JMA
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Hanson-Young, SC
Kakoschke-Moore, S
Lambie, J
Ludlam, S
McAllister, J
McKins, NJ
Pratt, LC
Rice, J
Siewert, R
Urquhart, AE (teller)
Watt, M
Wong, P

NOES

Abetz, E
Birmingham, SJ
Canavan, MJ
Duniam, J
Ferravanti-Wells, C
Hume, J
Macdonald, ID
McKenzie, B
O'Sullivan, B
Paterson, J
Reynolds, L

Back, CJ
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Payne, MA
Ruston, A
Question agreed to.

Australian Grape and Wine Industry
Order for the Production of Documents

Senator XENOPHON (South Australia) (16:21): I seek leave to amend general business notice of motion No. 58 standing in my name for today concerning an order for the production of documents relating to a government response to a committee report into the Australian grape and wine industry by, in paragraph (b), omitting '10 October 2016' and substituting '12 October 2016'.

Leave granted.

Senator XENOPHON: I move:

That—

(a) the Senate notes that:

(i) the President's report to the Senate on government responses outstanding to parliamentary committee reports as at 30 June 2016, listed the report of the Rural and Regional Affairs and Transport References Committee on the Australian grape and wine industry as amongst the reports the Government had failed to respond to within the 3 month timeframe, and

(ii) the Government still has not provided a formal response to the committee's report, although it has been 7 months since the report was tabled; and

(b) there be laid on the table by no later than 3.30 pm on 12 October 2016 by the Minister representing the Minister for Agriculture and Water Resources the Government's response to the report of the Rural and Regional Affairs and Transport References Committee on the Australian grape and wine industry, dated 12 February 2016.

Question agreed to.

MOTIONS

Nuclear Weapons

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (16:21): I ask that general business notice of motion No. 62 standing in my name for today which relates to the abolition of nuclear weapons be taken as a formal motion.

The PRESIDENT: Is there any objection to this motion being taken as formal?

Senator McGrath: Yes.

The PRESIDENT: There is an objection.

Suspension of Standing Orders

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (16:22): Pursuant to contingent notice and at the request of Senator Di Natale, I move:

That so much of the standing orders be suspended as would prevent Senator Di Natale from moving a motion relating to the conduct of the business of this Senate, namely a motion to give precedence to general business notice of motion no. 62.
This, today, could have been a very straightforward opportunity. In fact, it could have been a moment for celebration as this Senate completely united and unanimously reaffirmed its commitment to the abolition of nuclear weapons.

This motion calls on the government to support moves in the United Nations General Assembly later this month or very early November to commence negotiations on a binding legal instrument banning nuclear weapons. As far as I know, it is Australian government policy to prevent nuclear proliferation and to promote disarmament. The motion is also consistent, as far as I understand it, with the platform of the Australian Labor Party. It is certainly consistent with the position of the Greens and I suspect with the aspirations of many on the crossbench.

But, in shutting down the opportunity for a clear and unanimous declaration in the Senate, all the government is doing is drawing attention to how it will instruct our representatives to vote in the UN General Assembly later this month. In a few short weeks from now when the nations of the world vote to initiate drafting a legally binding instrument to ban these horrific weapons—and by all accounts that is what is about to happen—on which side of the fence will the Australian government stand and on which side of history will we be?

This Senate should have been given the opportunity today to send a strong and unanimous message to the world that we are on board and that we are on the right side of this debate. The government blew it today in denying leave for this motion, but there is still time to make it right later this month when the whole world will be watching.

**Senator McGrath** (Queensland—Assistant Minister to the Prime Minister) (16:23): The Australian government will support all efforts in the first committee of the UN General Assembly this October or November that will strengthen the global nuclear non-proliferation and disarmament regime and help advance effective and realistic measures towards the elimination of nuclear weapons. Australia’s consistent, considered position on a ban treaty is well known. A ban treaty would be ineffective in eliminating nuclear weapons. Proceeding with a ban treaty without the participation of the states which possess nuclear weapons without due regard for the international security environment will not help create the conditions for major further reductions in nuclear arsenals. The government, whether Labor or coalition, deliberately and consistently deny leave in this regard. That is our position. A short speech is a good speech.

**Senator Gallagher** (Australian Capital Territory—Manager of Opposition Business in the Senate) (16:25): The opposition do not support the suspension of standing orders, consistent with our longstanding approach to motions dealing with complex foreign policy issues which are not capable of being debated or amended. However, we do want to take this opportunity to put on the record Labor’s strong opposition to nuclear weapons and our support for nuclear disarmament.

Nuclear disarmament and nonproliferation is a profoundly important issue. There is no greater ultimate threat to the safety, security and welfare of everyone on the planet than nuclear weapons. That is why Labor support the elimination and prohibition of nuclear weapons. It is why we have long supported action to reduce the nuclear arsenals built up by the world’s nuclear weapon states. It is why we support action to ensure there is no further proliferation of nuclear weapons and to ensure that nuclear materials do not fall into the hands of rogue state and non-state actors. It is why we support safeguards around Australia’s
participation in the nuclear fuel cycle to ensure Australian uranium is not diverted to non-civilian uses.

Labor's position on nuclear issues is set out in our national platform. I commend the document to those listening to this debate who are interested in these issues. The starting point for Labor is that nuclear weapons must be eliminated and prohibited. This is a humanitarian imperative. Given the catastrophic consequences of deliberate or accidental detonation of nuclear devices, Labor support the negotiation of a global treaty banning nuclear weapons. We also support stronger action under the existing nuclear non-proliferation treaty, which is designed to prevent proliferation and commit nuclear weapon states to disarmament.

There is a pressing need for the nuclear weapon states to do more to meet their disarmament commitments under the non-proliferation treaty. Article 6 of the non-proliferation treaty requires that nuclear weapon states pursue negotiations in good faith on effective measures relating to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control. The nuclear weapon states must negotiate further substantial reductions in their nuclear arsenals. They need to reduce the number of warheads on high alert. They need to be more transparent about the measures they have in place to reduce the risk of accidental detonation of nuclear weapons.

Labor also support the Comprehensive Nuclear-Test-Ban Treaty. We want to see its early entry into force. Labor support nuclear-free zones. We want to see new nuclear-free zones created and existing nuclear-free zones strengthened. We are committed to strengthening the work of the International Atomic Energy Agency and compliance with the test ban treaty, the non-proliferation treaty and other nuclear treaties and agreements. We support deep, verifiable and irreversible cuts in all categories of nuclear weapons and a continuing reduction in their role in national security policy.

Labor has a strong, demonstrable track record on these issues. Labor governments have ensured that Australia has led the way in the international community on nuclear disarmament. The Keating Labor government established a Canberra Commission on the Elimination of Nuclear Weapons. The Rudd Labor government set up the International Commission on Nuclear Non-proliferation and Disarmament to drive the disarmament process under the non-proliferation treaty. Labor will continue to advocate strongly for a progressive position and practical action to achieve a world that is free of nuclear weapons.

Question negatived.

MATTERS OF URGENCY

Attorney-General

The ACTING DEPUTY PRESIDENT (Senator Marshall) (16:28): I inform the Senate that the President has received the following letter, dated 10 October, from Senator Gallagher:

Pursuant to standing order 75, I give notice that today I propose to move "That, in the opinion of the Senate, the following is a matter of urgency:

The failure of the Attorney-General, Senator the Honourable George Brandis, QC, to uphold the standards expected of the First Law Officer of the Commonwealth, by his undermining of public confidence in legal administration within the Government.

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

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

Senator WATT (Queensland) (16:29): At the request of Senator Gallagher, I move:

That, in the opinion of the Senate, the following is a matter of urgency:

The failure of the Attorney-General, Senator the Honourable George Brandis, QC, to uphold the standards expected of the first law officer of the Commonwealth, by his undermining of public confidence in legal administration within the Government.

I should say at the outset of this debate that I am a member of the Legal and Constitutional Affairs Committee, which is the relevant committee to which this matter has been referred, and that we are still in the process of conducting hearings about this very serious matter involving the Attorney-General. Our committee process is ongoing and we are yet to hand down our report, and I do not want to prejudge what that report might say. But I think that it is important as a member of that committee to put on the record what we already know as a result of these hearings.

As I have been reading the material and talking to people about this matter, it has become clear to me that there is some confusion in the community about why this issue really matters. It is all very well for lawyers like myself and other lawyers who are involved in this committee to take for granted that matters around the conduct of the Attorney-General and the Solicitor-General are inherently important things, but I very well understand that for the average person in the street it may not seem, necessarily, to be particularly important. So the first thing I wanted to do is just take a little bit of the Senate's time to explain exactly why it is that these matters involving the Attorney-General really do matter—because, for all that we might be talking about legal directions, guidance notes, legislative instruments, and all sorts of legal jargon, what this really boils down to is what appears to be an unprecedented attack by the Attorney-General on the Solicitor-General of our country. Most of us in this chamber, and most Australians, would accept that matters like the separation of powers, the independence of judicial officials, and the independence of statutory officials like the Solicitor-General—we take for granted that those things are important, and that the independence of officials like the Solicitor-General is absolutely critical to our system of democracy, to making sure that the government of the day receives the best possible independent legal advice. But it appears, unfortunately, that there is one person in this chamber who does not understand and does not accept that the independence of the Solicitor-General is important. And what is even worse is that that person appears to be the first law officer of our country, the Attorney-General, Senator Brandis.

Those of us who have followed the career of Senator Brandis know that he has form in this regard. This is Senator Brandis, of course, who attempted to induce the resignation of the Human Rights Commissioner, Professor Gillian Triggs—again, completely ignoring the need for independence in that official. For those of us from Queensland this is eerily familiar, because we lived through the Newman government, which had a completely out-of-control Premier and Attorney-General who showed their flagrant disregard for the independence of the judiciary and the Solicitor-General on a number of occasions. So there just does seem to
be something about Liberal attorneys-general from Queensland that they just do not get things like the separation of powers and the need for the independence of the Solicitor-General.

There are a number of witnesses who have already given evidence to this inquiry who have underlined exactly why this issue matters so much. Professor Appleby from the University of New South Wales said at the inquiry that the issue of the direction that the Attorney-General gave, in her view:

... demonstrates a serious incursion by the Attorney-General into the Solicitor-General's role, and the process that preceded the issue of the direction demonstrates a lack of trust and a lack of respect by the Attorney-General for the office of the Solicitor-General, particularly in respect of the function, the status and the independence of that office. This raises, in my mind, serious concerns for the rule of law.

But in addition to that, we have three current or former solicitors-general of our country who have completely contradicted the argument that Senator Brandis has relied upon to back his actions. The current Solicitor-General, Justin Gleeson, has done so in his submission to the Senate inquiry; a former Solicitor-General, Dr Gavan Griffith, has equally made the point that Senator Brandis's actions are not in line with relevant sections of the legislation; and even Sir Anthony Mason, a former Solicitor-General and former Chief Justice of the Australian High Court, has rejected the argument of Senator Brandis that he has some power to control which ministers—including the Prime Minister—and which departmental officials can obtain independent legal advice from the Solicitor-General. So we have a professor from the University of New South Wales—probably Australia's leading expert on the role of the Solicitor-General, and we have three current or former solicitors-general, one of whom went on to become Chief Justice of the High Court of Australia, who say that what Senator Brandis is attempting to do is not right. Yet Senator Brandis charges on. He is out on his own in this matter. He has no support from a legal point of view for what he is attempting to do.

However, not content with initiating a serious attack on the rule of law, Senator Brandis has gone further. It appears that he has misled the Senate in arguing what the process was that was undertaken in the lead-up to him issuing this direction. Senator Brandis has now said on a number of occasions, including in question time today, that he consulted the Solicitor-General before issuing a direction which controls the independence of the Solicitor-General. But anyone who has paid attention to this Senate inquiry will see that there is no evidence whatsoever to back up what Senator Brandis is saying. And the problem for the Attorney-General is that, as much as he might say that he has consulted the Solicitor-General—and if you look closely at what he says, he is very careful in his answers; he is very careful about saying that he talked to the Solicitor-General about a general process, and about briefing the Solicitor-General, but he is very hard to pin down about whether he consulted the Solicitor-General specifically on the direction that he issued. Yet he was happy to go and tell the Senate that he did so—in the explanatory memorandum for the direction. But when you look at the evidence, there is not one other person who attended the meeting that the Attorney-General had with the Solicitor-General on 30 November last year who backs Senator Brandis up. Senator Brandis is relying on a meeting that he had on 30 November last year with the Solicitor-General as the evidence for him having consulted the Solicitor-General about this direction—this direction which controls, in an unprecedented manner, the independence of the Solicitor-General. After that meeting the Solicitor-General was smart enough to circulate a record of that meeting, outlining the issues that were discussed. There is no mention, whatsoever, in those meeting notes that the Solicitor-General took, that the direction, or any
attempt to control his advice, was discussed in that meeting—and that is very easy to explain: because it was not discussed.

The Solicitor-General circulated that meeting record to all of the other attendees at that meeting, which included two other independent people. So, whether you want to say that the Attorney-General and the Solicitor-General are just involved in a fight here—and who do you believe? It is one person's word against another—there are other people, other independent witnesses, who were present at that meeting who not only do not back up the Attorney-General's view of events; they actually back up what the Solicitor-General is saying when he says that he was not consulted about this matter.

The former Australian Government Solicitor, Mr Ian Govey—now retired—was asked for feedback about these meeting notes, and he responded by saying that he was okay with those meeting notes; they were an accurate reflection, apart from one minor unrelated point. He did not make any point about a direction or any control on the Solicitor-General having been discussed at this meeting. That is one independent person who attended this meeting who does not back up Senator Brandis and does not say that this direction was discussed at the meeting.

Not only that, though, Mr Moraitis, the secretary of Senator Brandis's own department, also attended the meeting on 30 November. Mr Moraitis was sent the Solicitor-General's record of what occurred at that meeting. He was asked for feedback: 'Was anything left out? Was anything else discussed?' He responded by saying that he had no issues with those notes. The secretary of Senator Brandis's own department, who attended this meeting where this consultation allegedly occurred, was invited to respond about what was discussed at that meeting, and he says that he has no issue with the Solicitor-General's record of events.

We also obtained evidence from Senator Brandis's own department, which also demonstrates that they were instructed by the Attorney-General to issue this direction well after the meeting occurred in November. It is very clear—we are waiting for more evidence—that Senator Brandis has misled the Senate, and he needs to seriously consider his position.

(Time expired)

Senator REYNOLDS (Western Australia) (16:39): I too rise to speak with respect to the urgency motion put by Senator Gallagher regarding the 'alleged' failure of the Attorney-General, Senator the Hon. George Brandis, to uphold the standards expected of the first law officer of the Commonwealth.

As Senator Watt just noted, the Legal and Constitutional Affairs References Committee is still conducting an inquiry into this matter. This issue not only dominated question time; it is now subject to this urgency motion. As a member of the committee, as well, I think it is entirely inappropriate that we are here being forced to debate an issue that is still before the committee and before the Attorney-General has even had the opportunity, this Friday, to present his testimony to the committee.

Senator Watt also said that it was not about the Solicitor-General; it was about him being attacked by the Attorney-General. There was a lot of commentary about the Attorney-General, but there were few, if any, facts of the matter that were actually addressed in his speech just then. He also talked about this being a serious attack on the rule of law. Well, nothing I have seen as a committee member and nothing that I have seen so far in this
chamber, in terms of the debate today, give any evidence of that. The Attorney-General is the first law officer of Australia, and, accordingly, he is the decision-maker. The second legal officer of Australia is the Solicitor-General, and his role is clearly advisory.

So, what is the context to this? On 4 May this year the Legal Services Amendment (Solicitor-General Opinions) Direction 2016 and the associated changes to the guidance notice were signed off by the Attorney-General. Not only was I surprised to find that we are debating this here today, but I was also most surprised to see that the chair of the Legal and Constitutional Affairs References Committee had not even invited the Attorney-General to put in a submission. After the Attorney-General had, on his own initiative, I understand, put a submission to the committee, it is no wonder to me at all that the Labor Party did not ask the Attorney-General, the subject of this, to put a submission in in the first place.

Even just listening to the debate and the discussions earlier, it is very clear that consultation occurred. What is happening here is that the Labor Party is running what I think can only be described as a pedant's argument on the definition of consultation, because even they have to admit consultation occurred. The only real question is whether it satisfied the test, because ultimately the Attorney-General, as the decision-maker, takes advice from the Solicitor-General, and then he makes his own determination, as it should be.

So, far from any evidence I have seen so far, this is not an attack at all on the Solicitor-General. But, as Senator Watt and previous Labor speakers in motions to take note of answers suggested, it is more about not taking the full Solicitor-General's advice word for word. That is not unusual. It is certainly appropriate for him to be consulted on the advice, for the advice to be considered and then for the Attorney-General to take the final decision.

Let's have a look at the definition, if the pedants on the other side really want to have a discussion about consultation and what it actually means. The Macquarie Dictionary provides the meaning of consultation as the 'act of consulting' or 'a meeting for deliberation'. Clearly, the evidence shows that occurred between both parties. The Oxford Dictionary defines consultation as 'seeking information or advice from someone, or to have discussions with someone'.

Again, the advice, which even those opposite have conceded today, clearly shows there was extensive and longstanding discussions and consultations between both parties. Now those opposite and the Solicitor-General may not like the final decision the Attorney-General made, but that is really, as far as I can see, not relevant, because it was done in accordance with procedures.

The matters in relation to the requirement to amend the direction and guidance note were raised formally. I have heard almost nothing from those opposite about the substantive issue at hand and what is in the guidance directive. The Solicitor-General himself, in a letter dated 12 November last year, requested to meet the Attorney-General to discuss issues in the current direction and guidance note, specifically in relation to the requirement that any request for advice to the Solicitor-General must go through the Attorney-General. Other ministers and their departments had been going directly through to the Solicitor-General. So he asked the Attorney-General to discuss it with him and the Attorney-General did. That request was on 12 November last year. The Attorney-General met with the Solicitor-General on 30 November to discuss the very issues raised by the Solicitor-General. Already this is sounding to me like consultation. On 11 March, 14 weeks after that meeting, at the request of the Attorney-
General the Solicitor-General provided his feedback on the issues to hand. These matters were considered by the Attorney-General.

In the Attorney-General's submission he noted that he considered that 'this consultation was appropriate and sufficient for the purposes of section 17 of the Legislation Act.' So, not only can it be demonstrated that they had two-way consultation over an extended period of time on this issue but also the Attorney-General said that he believed that the consultation was appropriate to meet his requirements under section 17 of the Legislation Act. Notwithstanding the Attorney-General's own interpretation—that he acted in accordance with section 17—the Attorney-General's Department also confirmed that the Attorney-General had met that requirement to consult under section 17. In fact, the department made the following statement in their own submission to the inquiry. I will read it word for word, because it gives the complete lie to everything those opposite have said so far:

Section 17 provides that before a rule-maker makes a legislative instrument, the rule-maker must be satisfied that any consultation that is considered to be appropriate and is reasonably practicable to undertake, has been undertaken.

That is what the Attorney-General said that he believed had occurred. The department goes on:

Due to the nature of the power exercised by you [the Attorney-General] under s 55ZF of the Judiciary Act 1903 and the subject matter of the instrument, [the department] considers that your [the Attorney-General's] consultation with the Solicitor General would meet this obligation.

So, not only is there evidence of consultation on matters raised by the Solicitor-General and submissions backwards and forwards and discussions backwards and forwards; you also have the Attorney-General believing that he has consulted in accordance with his legal requirements and the Attorney-General's Department also confirming that that consultation occurred.

It was only after this confirmation from the Attorney-General's Department that the Attorney-General issued the direction, explanatory statement and guidance note which, according to his evidence and the evidence from the department, was almost identical—or very, very similar—to the suggestions received by the Attorney-General from the Solicitor-General. Again, coming back to the substance of this issue, nobody, but nobody, in this chamber—or, I believe, in the inquiry—has said that the direction is necessary. It resulted from the Solicitor-General himself, who said, 'Attorney-General, we need to fix this. This is what I believe needs to be done.' Then what the Attorney-General did. That may not have been word for word what the Solicitor-General advised, but, as the Attorney-General, it is his decision—if he wants to make some amendments to the advice he got, that is his right as the first law officer and decision maker of this nation.

Some of the suggestions from those over in the east, made in rather florid and colourful language, are that the Attorney-General is deliberately subverting the rule of law in this matter and is trying to undercut the Solicitor-General. They provided not a shred of evidence to support that case. Let us have a look at some of the facts. Neither the direction nor the guidance note changes the Law Officers Act 1964, which is the law setting out the Solicitor-General's role and functions. It changes nothing in relation to the Solicitor-General's role. Section 12 of the act sets out the statutory functions of the Solicitor-General. Paragraph 12(b) provides that one of the Solicitor-General's three functions is 'to furnish his or her opinion to
the Attorney-General on questions of law referred to him or her by the Attorney-General.'

Except where the Solicitor-General is acting as counsel under paragraph 12(a) of the act, which is irrelevant to the legal services direction, the Law Officers Act explicitly provides only one circumstance in which the Solicitor-General may provide an opinion to the government on a question of law, and that is where the Attorney-General refers that question to him. That is exactly the issue the Solicitor-General asked the Attorney-General to look at, because ministers, or departments on behalf of ministers, were going directly to the Solicitor-General, which is specifically against his charter in the Law Officers Act 1964.

The office of Solicitor-General was created in 1916 for the very purpose of assisting the Attorney-General in the performance of his duties, including his role as the principal legal adviser to government. However, over the years a practice developed across government whereby briefs were being sent directly to the Solicitor-General in contravention, as I have said, of the Law Officers Act. This new direction establishes a whole-of-government procedure that gives effect to paragraph 12(b) of the Law Officers Act. Nobody in the committee, and certainly nobody opposite, has addressed the substance of the issue: this direction was at the request of the Solicitor-General. He wanted this issue raised because he was having issues and requests for legal opinion referred to him by other ministers, which is in contravention of his requirements under the Law Officers Act. That is very, very clear.

These arrangements that have been introduced do not limit the independence of the Solicitor-General in any way. They do nothing to change the effect of the Law Officers Act at all. Not one speaker on the other side—apart from attacking the Attorney-General and using this as an opportunity to bring up other issues where they have a bit of bile on their liver about the Attorney General—has provided one shred of evidence about how these arrangements limit the independence of the Solicitor-General. They do absolutely nothing to change the effect of the Law Officers Act. They simply establish a procedure that allows government bodies and agencies to refer questions through the Attorney-General. (Time expired)

Senator McKIM (Tasmania) (16:51): I had a very measured start to my contribution planned, but it has been sidetracked somewhat by the latter part of the contribution from the member who has just resumed her seat, Senator Reynolds, because she has said words to the effect that this instrument, the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, has come about as a result of a request that the Solicitor-General made. That is an outrageous characterisation of the Solicitor-General's actions with regard to this matter, which began on 12 November when the Solicitor-General wrote to the Attorney-General to raise concerns regarding what he, the Solicitor-General, believed to be insufficient procedures in place around how and on what basis the Solicitor-General was briefed. That letter makes it very clear that the Solicitor-General had concerns that:

... insufficient procedures are in place to ensure, first, appropriate coordination within Commonwealth agencies, and between agencies and my office, in matters of high legal importance—

and, secondly, concerns about the accurate public representation of the Solicitor-General's advice. This second matter has not been discussed at length during a lot of the conversation on this matter but if I have time I will go to it, because I do believe that it is strongly arguable that the Prime Minister has deliberately misrepresented, publicly, advice that the government received from the Solicitor-General. Of course, that is a very serious accusation and one that demands a response from the Prime Minister.
In the Solicitor-General's letter of 12 November he goes on to discuss Guidance Note 11, which in effect sets out the manner in which the Solicitor-General is to be briefed. That is all reasonably unremarkable in terms of the Solicitor-General raising his concerns and discussing the guidance note, but the Solicitor-General in that letter then gives examples that show clearly that the government, through the Attorney-General, is shopping around for legal advice. I am going to come back to that later, because it is a really serious matter, but first I want to go to the matter of consultation.

I do agree with something that the previous speaker said, which is that there is little doubt, there is no contention, that a consultation did occur between the Attorney-General and the Solicitor-General. The question that needs to exercise the mind of every senator and the mind of every member of the Legal and Constitutional Affairs References Committee—and I am one of the members of that committee—is: what was the subject of the consultation that occurred? There is little or no doubt that consultation occurred around a guidance note. Where there is an issue of concern for the Attorney-General, and where arguably he has a problem, is on the question of whether there was consultation on the Legal Services Amendment (Solicitor-General Opinions) Direction 2016, a statutory instrument. The Attorney, in the explanatory memorandum that went with that statutory instrument, said:

As the Direction relates to the process for referring a question of law to the Solicitor-General, the Attorney-General has consulted the Solicitor-General.

My reading of those words leads me to form, I think quite reasonably, the view that the Attorney is suggesting in his explanatory memorandum that he has consulted the Solicitor-General on the direction—that is, on the Legal Services Amendment (Solicitor-General Opinions) Direction 2016. One issue that the Attorney has is that the general obligation to consult, which is contained in section 17 of the Legislation Act, specifically references legislative instruments. The guidance note is not a legislative instrument. What is a legislative instrument is the Legal Services Amendment (Solicitor-General Opinions) Direction 2016. Section 17 of the Legislation Act says:

Rule-makers should consult before making legislative instruments

(1) Before a legislative instrument is made, the rule-maker must be satisfied that there has been undertaken any consultation that is:

(a) considered by the rule-maker to be appropriate; and

(b) reasonably practicable to undertake.

Again, on face value that relates to consultation around a legislative instrument—in other words, the direction. It does not relate to consultation around the guidance note. In any event, I believe it is known publicly that both the Attorney and the Solicitor-General will be appearing before the committee on Friday of this week, and that issue will no doubt be discussed at some length with both of them.

I want to go now to the issue of shopping around for legal advice. As I have said publicly, seeking legal advice is not like using a dating app. The Attorney-General has a solicitor-general in place to assist him in one of his primary functions, which is providing legal advice to government, to cabinet, in particular on whether or not a piece of legislation is likely to be in accordance with the Constitution. I will be clear here: there are circumstances where it would be appropriate for the Attorney-General not to seek advice from the Solicitor-General—for example, when the Solicitor-General has a conflict or when there is a legitimate
perception that the Solicitor-General may have a conflict. But what we know, because of this letter that the Solicitor-General sent the Attorney-General, is that on areas of extreme legal significance and importance, such as the legislation that proposes stripping citizenship from some Australian citizens, and on issues that are so important to the fabric of our community, such as marriage equality, the Attorney-General has been shopping around for legal advice, presumably because he knew that he would not like the advice he got from the Solicitor-General.

So what he did was not go to the Solicitor-General and take advice from the Solicitor-General and then if he did not agree with it go out to market and get advice from somewhere else. That would be problematic, but not as problematic as what the Attorney-General did. What the Attorney-General has done is to ignore the Solicitor-General, presumably because he thought he would not like the advice, and go out to the private bar and to the Australian Government Solicitor for legal advice, particularly around citizenship and marriage equality—two extremely important pieces of legislation that the Attorney-General effectively sidelined the Solicitor-General on. How do we know that? Because the Solicitor-General wrote to the Attorney-General complaining about what had happened, and that letter has been sent by the Solicitor-General to the Legal and Constitutional Affairs Committee.

It is quite outrageous that something as serious and as drastic as removing citizenship from an Australian citizen was not, in the final form it was put in before this parliament, based on legal advice from the Solicitor-General. When the Attorney-General goes to the Australian Government Solicitor—let's be clear here—he is effectively seeking advice from his department, because the AGS is part of the Attorney-General's Department. Why would this parliament bother to create the statutorily independent office of the Solicitor-General if it intended that the Attorney-General should just work around it?

Senator Ian Macdonald: The Solicitor-General shouldn't get involved in politics, should he?

Senator McKIM: It is not Tinder, it is seeking incredibly important legal advice, Senator Macdonald. I am astounded that you, as a former minister, would appear to be supporting such a sidelining of the second-most important law officer in this country. (Time expired)

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (17:01): I rise on this matter of public importance because I have grave concerns, as have other speakers, about the situation that we find ourselves in arising from the actions of the Attorney-General. My concern is that by his actions he is undermining public confidence in legal administration and in the relationships between some of the most senior law officers in our system.

I want to talk a little as I begin about what is at stake, because there has been a suggestion in some of the remarks today from the Attorney-General that these matters are trifling, that they are insignificant and that they go to mere formalities rather than questions of substance. I want to put it to you, Mr Acting Deputy President, that that is not the evidence that is before us. There are quite significant disagreements and significant questions of a legal principle at stake in the matters that are before the Attorney-General, and in his attempt to gloss over those and to cast them simply as formalities he does no service to public debate in this country.
The first question I wish to address is this idea propagated by the Attorney-General that in issuing this directive he is simply codifying long-standing arrangements and indeed requirements of the legislation. In fact, the requirements of the legislation are not straightforward and there are many who will contend that they are not met by the directive that has been issued by the Attorney-General. In fact, the Solicitor-General is amongst those who dispute that. In his submission to the inquiry he makes the point that section 12 of the Law Officers Act sets out the roles of the Solicitor General:

They are that the Solicitor-General "act as counsel" for a range of persons and bodies, including the Crown in the right of the Commonwealth, the Commonwealth, a Minister and an officer of the Commonwealth—

That is in section 12(a). Also, that the Solicitor-General:

… furnish his or her opinion to the Attorney-General on questions of law referred to him or her by the Attorney-General;

That is in section 12(b).

What is important is that in many of the opinions that have been issued over the years about the interaction between these two provisions, there is a clear sense that section 12(b) does not limit section 12(a). That is to say that whilst section 12(b) provides that the Attorney-General may refer matters to the Solicitor-General, it does not limit the Solicitor-General's obligations under section 12(a) to act as the counsel for a range of entities within the framework of the Commonwealth. It is not the case that what is under discussion is a mere codifying of the legislation, and it is not the case that this is a settled question. Indeed, Sir Anthony Mason has written:

It is not to be implied from this qualification—

section 12(b)—

that the Solicitor-General cannot furnish an opinion to the Commonwealth or its emanations without a request from the Attorney-General. As Solicitor-General I was instructed by the Crown Solicitor and the Attorney-General's Department to advise departments and other Commonwealth agencies without any express approval by the Attorney-General being communicated to me.

There are a range of views about this question and it ought not to be taken as given that the direction that has been issued is in accordance with the legislation.

Similarly, there have been assertions in the discussions in this chamber today that the guidance note and the direction are essentially the same thing. As the Solicitor-General's evidence points out, they are not the same thing. The reason that they are not is because they have a very different standing and a very different status in the way that they function. The guidance note is essentially a policy document prepared by the Office of Legal Services Coordination. It is flexible. It can be amended at any time by the Office of Legal Services Coordination, and that is historically done in close consultation with the Solicitor-General of the day. It need not be strictly followed if circumstances require, and indeed there are no penalties available for a failure to follow the procedures set out in the guidance note. By contrast, a legal direction is a very different beast. It is a legislative instrument, it is made under the Judiciary Act 1903 and it forms part of the Legal Services Directions 2005. The direction is binding. It is binding on those who perform Commonwealth legal work, and the Attorney-General may impose sanctions for noncompliance. It is one thing to set out a set of
preferred practices in a guidance note. It is quite another to codify them in a legal instrument that emanates under a piece of legislation against which sanctions are attached.

I say this: I do not come to this chamber with a background in the law, and I am perfectly willing to concede that there are minds much finer than mine that could address themselves to these questions. There are plainly differences about the interpretation of the legal services act, and they are manifest in the way that these issues have been presented in the public debate. But I will say this: on a question where there is controversy, where there is so significant a difference between the different people involved in the conversation, I would have thought that that was an occasion when the Attorney-General might have engaged in meaningful consultation. He might have meaningfully engaged, for example, the Solicitor-General about the consequences of issuing a direction in the way that he did. He might have gone to others in the profession and sought their counsel about what the consequences would be of codifying the practices around obtaining legal advice from the Solicitor-General in this way. But what is very clear is that that meaningful, substantial consultation has not taken place.

I note that in all his remarks the Attorney-General has sought to narrow down the idea of consultation to some sort of formal procedure, a tick and flick—‘Tick the box, and then we can say, “Oh, yes, we did the consultation within the narrow confines of the act.”’ Well, consultation, when we are talking about good government and good administration, is not simply a tick and flick. It is a process of obtaining meaningful advice to allow you to make good law, to make good legislation and to act in the best interests of the Commonwealth in pursuing your duties—in this case, as the Attorney-General.

It is most disappointing to see that the consultation around this question has been desultory, because, despite the Attorney’s protestations, we have the Solicitor-General saying quite plainly, in no uncertain terms, that he has not been consulted. The Attorney-General has maintained publicly that he did consult the Solicitor-General regarding the making of the directive, and that statement has been vehemently denied by the Solicitor-General. When we look at what the Attorney relies on, he relies on the fact that at some point back in November last year it appears a meeting took place to discuss the arrangements by which legal questions would be referred to the Solicitor-General. The way the Attorney has approached this is very curious to me, because he really does not maintain a consistent story, I believe, about what happened. He, of course, maintains that there was consultation at the meeting on 30 November, but in the parliament today, when asked about it, he said, ‘I did not approach the meeting of 30 November 2015 with any preformed view as to how the issue which had been raised with me by the Solicitor-General should be dealt with. The purpose of that meeting’—and these are his words—‘was to listen to what the Solicitor-General had to say to me and have a discussion with him so that we could proceed to fix the problem he had identified.’ I do not understand how that can possibly be consistent with the other story, which is that the purpose of that meeting was to consult on the issuing of a legal services directive. These are two entirely different ideas.

We have also heard evidence from a range of departmental figures that what was discussed at that meeting in no way went to an issuing of a binding directive which would significantly constrain the activities of the Solicitor-General. I am most concerned about where we find ourselves. I think the Attorney-General has done himself no good service and has done no service to our Commonwealth.
Senator IAN MACDONALD (Queensland) (17:11): Before I start on this debate, can I just repeat a warning I gave to the Legal and Constitutional Affairs References Committee before it embarked upon this political witch-hunt, and that is that what the Labor Party and the Greens political party are doing is politicising the role of the Solicitor-General vis-à-vis his immediate superior, the Attorney-General. The Attorney-General is responsible and answerable to this parliament and ultimately to the people of Australia. The Solicitor-General is responsible to no-one except his legal training, his commitment to the law and the Attorney-General. By raising this matter here in this political witch-hunt inquiry, what the Labor Party and the Greens have successfully done is diminish the position of the Solicitor-General generally and this Solicitor-General in particular.

I might say to these so-called independent statutory officers like the President of the Human Rights Commission and the Solicitor-General: if you want to be captured by the Labor Party's political approach, if you want to become a player in the political system, then do the right thing by your position, resign as President of the Human Rights Commission or Solicitor-General, take a real pay cut from the enormous salaries both get, stand for parliament, see if you can get people to support you and elect you to parliament, and then come into parliament and play the games. Deliberately or innocently, both the Human Rights Commissioner and the Solicitor-General have allowed themselves to be involved in the political games, and by doing that they have diminished the positions they hold and themselves.

Senator McKim seemed to think it was awful for Senator Brandis to get legal advice from elsewhere. Well, can I tell you, Senator McKim, that the fact that he holds the title of Solicitor-General does not mean that his legal opinions are any better than those of any number of very experienced silks who are available to give advice to the government and anyone else and who make their way in the courts.

Senator McKim: Mr Acting Deputy President, briefly on a point of order: I suspect that Senator Macdonald has just misled the chamber. In my contribution, I was explicit that there were circumstances where it would be appropriate not to seek the advice of the Solicitor-General—

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): That is not a point of order; that is debating the subject.

Senator IAN MACDONALD: The Solicitor-General does not have a monopoly on good advice. In fact, I know from my very limited legal training that some of the advice given by the Solicitor-General has not been all that hot, and I can understand why the Attorney has gone and sought other advice. Remember that the Attorney-General is a qualified barrister and a Queen's Counsel himself. Like him or hate him—and we can all say which side we fall on there—he has a very astute and sharp legal mind. In fact, I would back the Attorney's legal view on matters ahead of most other QCs and SCs.

Regrettably, this inquiry, and the politicisation of the role of Solicitor-General, stems from the Labor Party's insatiable—almost manic—desire to try to get rid of Senator Brandis. And I can understand why they want to get rid of Senator Brandis. In Senator Brandis the government has a Leader of the Government in the Senate who is up to the challenge, whose knowledge of the law of the Senate and politics is such that the Labor Party and the Greens can never lay a glove on him. As much as they keep trying to attack him, they never
succeed—and they never will because Senator Brandis, love him or hate him, is a very able
and competent person. The Labor Party cannot stand that, and they will go to any length—
even to the length of diminishing the role of Solicitor-General—just to try and get at the
Attorney-General.

I am sad that it has come to that. If you do not like the legal direction note, do the right
thing and move a motion of disallowance—which is going to happen this afternoon. If you do
not like the motion, bring on the disallowance motion and argue it—agree with it or disagree
with it—and deal with it. That is the way you deal with it, and I understand that is what the
Labor Party are going to do later on. But why politicise the role of the Solicitor-General by
bringing on this debate today, wasting all of question time on the same thing and setting up
this dodgy political Senate inquiry simply to politicise these matters? If you are interested in
the substantive article, bring on the motion of disallowance and argue the debate on the facts,
not on politicising the role of the Solicitor-General.

My colleague Senator Reynolds went through the facts very well, and I do not want to
repeat a lot of them. But, of course, we have never heard the Labor Party and the Greens talk
about the note taking of that meeting on 30 November 2015. The notes of what was discussed
at that meeting say: 'Four documents in issue: (1) The Law Officers Act, (2) LSD, (3)
guidance note, (4) MPS.' I asked a witness what LSD stood for and, of course, it was Legal
Service Directions. So it is there in the note taker's notes of that meeting, which have been
tendered to the committee. But, strangely, no-one else has mentioned that in this debate so far.

Further, while everyone seems to concede that the guidance note was discussed, they seem
to think that the Legal Service Directions note was not. Senator Reynolds rightly pointed out
this whole process started because the Solicitor-General was concerned at the number of
briefs he was getting, from all sorts of departments and officers, that were impinging upon his
time and stopping him from doing the quality high-level work that he was supposed to be
doing. So he asked for this meeting with the Attorney-General, who listened to him and heard
what he had to say. And then it was up to the Attorney-General to devise the way to address
that. He asked the Solicitor-General to put his thoughts in writing, which he did. Having done
that, it is left to the Attorney-General, who is responsible to parliament and the people, to then
make a decision. Having heard all the submissions from his secretary, from the department,
from the Solicitor-General and from previous people involved in this particular area, he has
mixed that all up and then come to a decision. And it is his decision to make.

But what I get from reading the Solicitor-General's submission to the committee is that he
perhaps feels he has a veto power, that he is the one who makes the rules. Well, I am sorry,
Solicitor-General, you do not make the rules; the Attorney-General makes the rules. Under
the act, you are able to give advice on those—which you initiated and were asked for, which
you gave and put in writing. Just because the Attorney-General did not follow your advice to
the letter does not mean to say that the Attorney-General is wrong. It is the Attorney-General,
Senator Brandis, who has to make the decisions, not the Solicitor-General—and, from reading
the Solicitor General's submission, it seems to me that he has confused his role.

I also want to reiterate that this is a purely administrative matter that has been blown out of
all proportions by the Labor Party and the Greens simply because of their insatiable and
manic desire to attack Senator Brandis using any means at their disposal. Regrettably, it has
brought this whole process and the role of the Solicitor-General into the political field.
What is consultation? This debate is about the Attorney-General allegedly misleading parliament because he said he consulted with the Solicitor-General, which he clearly did, and the Labor Party wanting to use this to try to attack the Attorney-General. Consultation was clearly and obviously had. Not only was it had at the request of the Solicitor-General but the note taker has shown what the matters to be discussed were. There was a general discussion on how the Solicitor-General should be briefed. He was concerned about his workload. The Attorney-General listened to him and asked him to put his thoughts in writing. The Attorney-General, having consulted, then made a decision, which is his decision to make, not the Solicitor-General's. I might say, not that Senator Brandis needs the comfort of departmental confirmation of what he has done, but, as all ministers do, when these matters come up the department prepare a brief, they send forward the brief with all the alternatives, the options, what it is all about and some recommendations. The recommendation in this instance was that the Attorney sign the direction to deal with the issue, which was consulted on—that is, the workload of the Solicitor-General. Not only did the department recommend that this direction should go ahead but they also clearly said in their advice—and that was given to the committee; we do not hear too much from the other side about that—‘Yes, the consultation you have had satisfies your obligation under the act.’

Again, I am disappointed that this is not being dealt with in the disallowance motion later today. Whether you agree with it or not—and I have an open mind on it, I tell you—that is where it should be dealt with. This unfortunate debate really politicises the position of the Solicitor-General. I have to say, in my mind at least, it makes his position subject to question.

Senator KETTER (Queensland) (17:24): I rise to speak on today's urgency motion. If one listened to those opposite in relation to this matter, one would think that this matter—the issue of the rule of law in our country—is a storm in a teacup and that we are pedants on this side of the chamber, in the words of Senator Reynolds, for raising this matter and expressing our concerns as to the Attorney-General's handling of this matter. In fact, we go so far as to question the integrity of the Attorney-General in relation to this matter.

This matter is the subject of a very good article on the ABC, put together by Associate Professor Gabrielle Appleby of the University of New South Wales Law School. The headline of this particular article is 'Standoff between Brandis and solicitor-general threatens the rule of law'. When we are talking about a matter which I think is generally seen as being threatening to the rule of law, we on this side of the chamber will get up and defend the institutions. It is quite disappointing that, when Australians think about the Liberal Party, historically it has held itself out to be a party that considers itself to be a custodian of institutions and wanting to preserve the institutions of our country which underpin the rule of law and so many other things that are so important to us. This is a party which lost its way many years ago. I talk about the 1975 constitutional crisis, because it does come up, strangely enough, in the course of this particular matter. One only has to go back to the 1975 constitutional crisis to see that respect for the institutions, respect for the conventions that are so important for our democracy, are flagrantly disregarded by those on the other side.

The job of the Solicitor-General is to provide legal advice to the government—to government ministers and to heads of departments. It is quite clear that the Attorney-General has attempted to hobble the ability of the Solicitor-General to do his job. I was very interested
in the submission of the Solicitor-General to the inquiry. Regarding the direction that was issued by the Attorney-General, he said:

... it imposes a prohibition or restraint that the Solicitor-General may not be asked to furnish, and may not furnish, an opinion on a question of law unless the Attorney-General has referred, or consented to a referral of, the question of law to the Solicitor-General.

I continue to quote the Solicitor-General's submission. He said:

It then sets out a process for seeking the Attorney-General's consent.

I make this very important point:

It does not set out the matters that the Guidance Note (before its revision) sought to address, such as when the Solicitor-General should be briefed to appear or advise, how the Solicitor-General should be briefed, how the Solicitor-General should be contacted and so on.

We know from previous contributions this afternoon that the matter arose to some extent by virtue of a letter from the Solicitor-General on 12 November. It is quite clear that the Solicitor-General had expressed certain concerns about the process for seeking and acting on advice to him on significant matters. He pointed out three specific areas which were recent examples where there was a need for urgency of improved coordination, and those matters were citizenship, marriage equality and, as I alluded to earlier, correspondence between Sir John Kerr and the Queen in 1975.

I digress for a second. I found that interesting, and I think this goes to the point. The Solicitor-General was trying to identify the fact that one part of the government provided advice on a matter and another part, the Solicitor-General, had been asked to give advice on this matter back in 2013. It is extremely important that, in matters of such sensitivity, you have all parts of government understanding what they are doing and that it is properly coordinated. This was a very legitimate matter that was raised by the Solicitor-General, and what happened? The Attorney-General used that as an opportunity to seek a power grab, if you like—to hobble the ability, as I said, of the Solicitor-General to do his job. This is a very serious matter. But apparently Senator Brandis would like to see all the advice the Solicitor-General gives to other ministers. One would understand that is fair enough. You would expect that to happen in a healthy relationship between the two top law officers, but this government, and indeed this Attorney-General, do things differently. We now have the first and second law officers of the land involved in a very public confrontation and conflict, and this is not what should be happening. This is a matter which will be further looked at. We call on the government to uphold the— (Time expired)

Question agreed to.

DOCUMENTS
Indigenous Affairs
Aboriginal Deaths in Custody
Consideration

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:30): I move:

That the Senate take note of the documents.

That is the response to the motion that went through on incarceration rates of Indigenous Australians, and also the Western Australian Attorney-General's response to a resolution of
the Senate relating to the death in custody of Ms Dhu. In fact, Madam Deputy President, you were a co-sponsor of that particular motion.

I do note the government's response from Western Australia, saying that it was not necessarily in their purview to address that particular issue because it was in the hands of the coroner. My response there was to expect some leadership from the Western Australian government to indicate that they were comfortable with the video of Ms Dhu's time in custody to be released publicly, because that is what the motion referred to. It called on the Western Australian government to support the wishes of the family of Ms Dhu, who have been campaigning for a long time to get the video of her time in custody released.

I am pleased to report to the Senate that the coroner decided to revisit that particular issue and in fact revisited that the week before last and has reserved her decision. I am really pleased that the coroner did revisit that decision and reconsider the decision, but I am deeply concerned about the time frame now around her reconsidering that issue and then determining an outcome when the family really are desperate to see this vision released. The longer it takes the more I am concerned about the impact that it has on Ms Dhu's family. But I am pleased that, I think, the resolution of this Senate actually did have an impact in raising this issue and putting on notice and putting on record very clearly the family's wishes to see this vision released. It is a really important point to make: that the Senate resolutions are listen to. They can be very useful, and in this instance I think they were.

This issue is directly related to the other matter that I am talking about in terms of the response to the Senate resolution on incarceration rates of Indigenous Australians. Part of that motion called on Commonwealth and state and territory governments to implement the full recommendation of the Royal Commission into Aboriginal Deaths in Custody. Ms Dhu died in custody, so these two points are directly linked. I am pleased to see that the South Australian government has responded to that motion.

Their response was from the Minister for Correctional Services and made the point that they have been looking at those recommendations. They said that there are only two of the recommendations that are not implemented and that they are not related to the Department of Correctional Services.

We have not seen responses from other states, but unfortunately we are still seeing deaths in custody of Aboriginal people. Until we do see the implementation of these recommendations we are going to see, unfortunately, this issue continue to be in the headlines and we are going to continue to see Aboriginal deaths in custody, because there are 339 recommendations that have not been implemented. And we are seeing some appalling instances. Don Dale is a classic example of how people are being treated in the system. Again, I am disappointed that the inquiry that was established as a result of the Don Dale situation has not been extended across Australia, because we do need to be addressing these issues.

But we can make a very good start if we actually go back to the report that was now tabled more than 25 years ago—and yet we are still seeing these outrageous incidences. I really, really do not want to be standing up at any more rallies that are rallying because an Aboriginal or Torres Strait Islander person has died in custody. I look forward to hearing the reconsideration by the WA coroner on the release of the vision of Ms Dhu. (Time expired)
Question agreed to.

Estimates Committees
Consideration
Senator IAN MACDONALD (Queensland) (17:37): I move:
That the Senate take note of the documents.
I am not sure if I can take note of that block of documents, or whether I should—
The DEPUTY PRESIDENT: You can, Senator, if you are talking about the numbers listed—
Senator IAN MACDONALD: No. 23.
The DEPUTY PRESIDENT: Yes, you may.
Senator IAN MACDONALD: Thank you, Madam Deputy President. There are a number of departmental and agency unanswered estimates questions on notice, which are listed there. I would certainly encourage the named departments and agencies to ensure that those unanswered questions are in fact answered by the time of next week when we embark upon the next round of Senate estimates committees.
I just want to draw to the attention of the chamber, following the debate that we have just had, that the Attorney-General's Department does not appear there, which is, again, another indication of how efficient the Attorney-General is, as the minister in charge of that department, and how efficient his department is in getting questions answered on time and appropriately. And it does show that the Attorney-General administers his department well.
I must say that he has not always supported, apparently, from what we have heard in that debate by some of the officers here—I was absolutely amazed the Solicitor-General should, in a public letter to the committee, actually indicate the range of advices that he was giving to the Attorney-General. That is something which had been mentioned in that debate. That is something that I guess will be raised at the estimates committees next week, when we deal with questions that have and have not been answered. It seems just incredible to me that the Solicitor-General, in giving advice to his minister, that he is required by law to do, should then disclosed to the public that the advice he gave related to same-sex marriage and some migration act. I thought that was terribly unprofessional.
In that respect, I note one of the accusations brought against the Attorney-General—I am saying he administers his department well, but one of the accusations brought against him was that some academic had said that she did not agree with the way he had approached things. It transpired from the inquiry that the academic giving evidence, when she was asked whether she had any relationship with the Solicitor-General, indicated that she was a personal friend of the Solicitor-General's daughter. Perhaps I should say no more about that at this time.
Suffice it to say, in relation to document No. 23, that these unanswered questions—none of which, as I said, relate to the Attorney-General's Department; I particularly relate to that because it is the Senate estimates committee that I had chair, so I congratulate the department and the Attorney-General for responding and answering any questions that were put on notice. Of the other departments that appear before the estimates committee that I chair, unfortunately I see the Department of Immigration and Border Protection is on this list. I will
be urging Minister Dutton to ensure that those unanswered questions are indeed answered before next week.

Question agreed to.

**DOCUMENTS**

**Consideration**

The following orders of the day relating to government documents were considered:

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 January to 31 March 2016. Motion to take note of document moved by Senator Bilyk. Debate adjourned till Thursday at general business, Senator Bilyk in continuation.


Aged Care Complaints Commissioner—Report for the period 1 January to 30 June 2016, including final report of the Aged Care Commissioner for the period 1 July to 31 December 2015. Motion to take note of document moved by Senator Bilyk. Debate adjourned till Thursday at general business, Senator Bilyk in continuation.

**Responses to Senate Resolutions**

**Order for the Production of Documents**

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (17:42): I table documents relating to the orders for production of documents concerning the relocation of the Australian Pesticides and Veterinary Medicines Authority, and the government's response to reports of the Environment and Communications References Committee and the Community Affairs References Committee.

**COMMITTEES**

**National Broadband Network - Joint Standing**

**Membership**

**The DEPUTY PRESIDENT** (17:42): The President has received letters requesting changes in the membership of committees. There are two nominations for the one position on the Joint Standing Committee on the National Broadband Network. In accordance with standing orders, a ballot will need to be held to determine which one of the two senators who have nominated is appointed. I understand that it is the wish of the Senate that the ballot be held on Tuesday, 11 October 2016 immediately prior to government business being called on.


COMMITTEES

Membership

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (17:43): by leave—I move:
That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation Committee—
Discharged—
Senator Farrell
Participating member: Senator Dastyari
Appointed—
Senator Dastyari
Participating member: Senator Farrell

Community Affairs References Committee—
Discharged—Senator Farrell
Appointed—
Senator Dastyari
Substitute member: Senator Polley to replace Senator Dastyari for the committee's inquiry into the future of Australia's aged care sector workforce
Participating members: Senators Dastyari and Farrell

Education and Employment Legislation Committee—
Appointed—
Substitute member: Senator Rhiannon to replace Senator Hanson-Young for the committee's inquiry into the provisions of the Building and Construction Industry (Improving Productivity) Bill 2013 and related bill
Participating member: Senator Hanson-Young

Electoral Matters—Joint Standing Committee—
Appointed—Participating members [for the committee's inquiry into the 2016 election]: Senators Abetz, Back, Bernardi, Bushby, Duniam, Fawcett, Hume, Macdonald, McKenzie, Paterson, Smith and Williams

Environment and Communications References Committee—
Appointed—
Substitute members:
Senator Hanson-Young to replace Senator Waters for the committee's inquiry into oil or gas production in the Great Australian Bight
Senator McKim to replace Senator Waters for the committee's inquiry into recent fires in remote Tasmanian wilderness
Senator McKim to replace Senator Waters for the committee's inquiry into large capacity fishing vessels on 2 November 2016
Participating member: Senator Waters

Intelligence and Security—Joint Statutory Committee—
Discharged—Senator Gallagher
BILLS

Migration Amendment (Character Cancellation Consequential Provisions) Bill 2016

Migration Amendment (Family Violence and Other Measures) Bill 2016

Treasury Laws Amendment (Income Tax Relief) Bill 2016

First Reading

Bills received from the House of Representatives.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (17:44): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (17:44): 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—

MIGRATION AMENDMENT (CHARACTER CANCELLATION CONSEQUENTIAL PROVISIONS) BILL 2016

The Migration Amendment (Character Cancellation Consequential Provisions) Bill 2016 makes a number of amendments to give full effect to the substantive amendments made by the Migration Amendment (Character and General Visa Cancellation) Act 2014.

The Character and General Visa Cancellation Act significantly strengthened the character and general visa cancellation provisions in the Migration Act to ensure that non-citizens who commit crimes in Australia, pose a risk to the Australian community or represent an integrity concern are appropriately considered for visa refusal or cancellation.

The Character and General Visa Cancellation Act also introduced:

• mandatory cancellation of visas held by non-citizens in prison who do not pass certain limbs of the character test,
• a revocation power specifically for mandatory cancellation decisions, and
• a new power for the Minister to personally set aside, in the national interest, a decision made by his or her delegate or the AAT to revoke a mandatory visa cancellation decision.

The consequential amendments set out in this Bill will ensure that the mandatory cancellation-related powers are reflected consistently and comprehensively throughout the Migration Act, according to the original intent of the changes made in late 2014. This will ensure that the Government has the capability to proactively and robustly address character and integrity concerns.

In particular, the Bill will ensure that confidential information that is critical to decision making under the new character cancellation provisions is given the same level of protection that is currently afforded to confidential information relating to other character provisions in the Migration Act.

This Bill will also give full effect to the policy of mandatory cancellation, by putting beyond doubt that a non-citizen who is the subject of a mandatory character cancellation decision is available for removal from Australia if they do not seek revocation within the relevant time period, or are unsuccessful in having their visa reinstated.

Further, the Bill seeks to strengthen our ability to identify non-citizens suspected of being of character concern by aligning the definition of 'character concern' in the Act with the strengthened 'character test' in section 501.

Consistent with the original intent of the Character and Cancellation Act, this will facilitate the lawful disclosure of non-citizens' identifying information where a non-citizen is suspected of being of character concern.

This Bill demonstrates this Government's clear and continuing commitment to ensuring that non-citizens who pose a risk to the Australian community are dealt with effectively, efficiently and comprehensively.

I commend the Bill to the Chamber.

MIGRATION AMENDMENT (FAMILY VIOLENCE AND OTHER MEASURES) BILL 2016

The Migration Amendment (Family Violence and Other Measures) Bill 2016 amends the Migration Act 1958 to introduce an assessable sponsorship framework for family sponsored visas.

Under the current arrangements it is a requirement for family visa applicants to be sponsored by an Australian citizen or permanent resident. However, for most of these visas there is no assessment of the character of the sponsor, or responsibility that attaches to their sponsorship.

While full character checks have long been a mandatory requirement for all visa applicants, sponsors are currently only required to provide police checks when a minor is included in the visa application, and even then, the available grounds to refuse a visa for persons with a violent criminal history are limited.

In the sponsored family visa program and in particular, the partner visa category, the lack of focus on sponsors has led to problems with:
• some sponsors being targeted by non-genuine visa applicants, who are focused solely on a permanent visa outcome. The Government considers these sponsors to be vulnerable; and
• Australian citizens and permanent residents who have a violent history, including against family members, being able to sponsor non-citizens without having to disclose details of their past to either the department or other parties to the visa application.

The bill being introduced today will change this, and put in place a framework that will require a sponsor of a family stream visa to be assessed and approved before a visa application can be made.

In addition, it will also require sponsors to agree to the results of their character checks to be shared with the persons they are sponsoring, so that they can make an informed decision about whether to
proceed with their application or not, especially in circumstances where there are children involved in the application.

While the visa application process itself will not change, under these new provisions, a valid family visa application cannot be decided, until a sponsorship approval is in place.

This Government has made it very clear that we have strong views on domestic violence. It is not acceptable, under any circumstances.

These important reforms are a very significant first step in protecting potentially vulnerable visa applicants from the risk of domestic violence when participating in the family sponsored visa program.

If people have a history of violence or domestic violence, then that should be taken into account when determining their suitability as a family visa sponsor, and with the changes being introduced today – it now will be.

The amendments in this bill support, and deliver on important elements of the second action plan in the National Plan to Reduce Violence against Women and their Children 2010-2022.

The improvements introduced with this bill strengthen the protections for visa applicants by extending the sponsorship framework that currently applies to the temporary work sponsored visa program to the family sponsored visa program as well.

Amongst other things, the introduction of this framework will:

- replace the current unenforceable sponsorship framework insofar as it relates to family sponsored visas;
- place a greater emphasis on the assessment and approval of family sponsors;
- require the approval of persons as family sponsors before any relevant visa applications are made;
- separate the sponsorship assessment from the visa application process. This will ensure that amongst other things, the sponsorship obligations (rather than unenforceable undertakings) are imposed and enforced with civil penalties and administrative sanctions;
- allow the Minister to refuse a sponsorship application; and cancel and / or bar a family sponsor where inappropriate use of the program or serious offences are detected – especially those involving family violence; and
- improve the sharing of personal information between parties identified in the sponsorship application and the program more generally.

These requirements will initially apply to partner visas, and will be progressively rolled out across all family sponsored visas under the family stream of the migration program.

The changes we are making in this bill complement the work being done right across Government to reduce the incidence of domestic violence in our community.

TREASURY LAWS AMENDMENT (INCOME TAX RELIEF) BILL 2016

This Bill amends the Income Tax Rates Act 1986 to provide a personal income tax cut to hard working Australians to support them to work, save and invest.

By extending the upper bound of the third income tax bracket, this Bill delivers on the Government's commitment to bring down personal income taxes for Australians, and reduce disincentives to work and take enterprising risks.

This is an important step in the process of modernising our tax system.

As a result of the cuts to income tax contained within this Bill, 500,000 Australian taxpayers will be kept out of the 37 per cent tax bracket in 2016-17.

Further, around 3.1 million taxpayers will receive an annual tax cut of up to $315 in 2016-17 and beyond.
Australians want a tax system that doesn’t limit opportunity or punish those that are working hard or taking risks in business.

It is crucial that we have a modern tax system that allows people to work more and take more risks without facing the pressure of a growing tax burden that suffocates hard work, innovation and enterprise.

Australians understand that the tax system which this Government inherited is outdated, hindering growth and hampering small business.

That’s why this Government announced in the 2016-17 Budget a suite of measures aimed at boosting the economy and making a start on personal income tax relief.

Australians knows that our future, our jobs and those of our children depend on how well we continue to grow our economy.

That’s why the economic plan laid out in the Budget will back in Australians to seize opportunities.

A strong economy means a mum whose kids are now at school and wants to work a few more days, or work full-time, will have plenty of opportunities to do so without the being penalised with such high rates.

A strong economy means that young men and women who have left school and are looking for a job will find an employer who is hiring and happy to give them a start.

Under existing law a marginal tax rate of 32.5 per cent applies to taxable incomes between $37,001 and $80,000. Incomes above $80,001 then have a marginal rate of 37 cents not including the 2 per cent Medicare Levy.

This Bill will extend the 32.5 per cent marginal tax rate from $80,000 to $87,000, from 1 July 2016, benefitting around 3.1 million Australian taxpayers.

Once this Bill enacting the personal income tax cuts has been introduced to Parliament and the Commissioner of Taxation has confidence that the legislation will pass he will make the new withholding schedules giving effect to these tax cuts.

The Government is committed to delivering personal income tax cuts that are affordable.

As a down payment towards further tax relief for working Australians, this Bill will particularly assist those earning the average full time wage in Australia.

This is crucial because without this action, the average full time wage earner would move into the second top tax bracket of 37 cents in the dollar in tax in 2016-17.

These are mum and dad workers – middle income Australia that is bearing this growing burden.

This Bill will reward these hard working Australians for doing more overtime, picking up more shifts, taking a promotion or getting a second or better job.

This is a step towards the modern tax system that Australians want and need. A system that encourages Australians to work, not punish them for having a go or taking risks.

As the Government works to improve Australia’s fiscal settings, it will look for opportunities to extend further tax relief to working Australians.

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

Debate adjourned.

Senator CASH: I move:

That resumption of the debate be an order of the day for a later hour.

Question agreed to.

Senator CASH: I move:
That the bills be listed on the Notice Paper as separate orders of the day.
Question agreed to.

**ADDRESSES BY WORLD LEADERS**

**Prime Minister of Singapore**

**The DEPUTY PRESIDENT** (17:45): A message has been received from the House of Representatives inviting senators to attend a meeting of the House for an address by His Excellency Lee Hsien Loong, Prime Minister of the Republic of Singapore.

The House of Representatives message read as follows—

The House of Representatives acquaints the Senate with an invitation to Senators, contained in the resolution agreed to this day, in the following terms:

That:

1. the House invite His Excellency Lee Hsien Loong, Prime Minister of the Republic of Singapore, to attend and address the House on Wednesday, 12 October 2016, at 10.45am;
2. unless otherwise ordered, at the sitting of the House on Wednesday, 12 October:
   a. the proceedings at 10.45am shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the Prime Minister of the Republic of Singapore;
   b. at the conclusion of His Excellency's address the House shall suspend until 1.30pm; and
   c. the provisions of standing order 257(c) shall apply to the area of Members' seats as well as the galleries; and
3. a message be sent to the Senate inviting Senators to attend the House as guests for the welcoming remarks by the Prime Minister and the Leader of the Opposition and address by the Prime Minister of the Republic of Singapore.

**COMMITTEES**

**Membership**

Message received from the House of Representatives notifying the Senate of the appointment of members of the House of Representatives to joint committees as follows:

Message no. 26, dated 15 September 2016—

Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity—Mr Buchholz, Mrs Elliot, Mr LS O’Brien, Mr Robert and Mr Zappia

Joint Committee on the Broadcasting of Parliamentary Proceedings, Mr KJ Andrews, Ms Bird, Mr Christensen, Ms Templeman and Mr Vasta

Parliamentary Joint Committee on Corporations and Financial Services—Ms TM Butler, Mr Irons, Mr Keogh, Mr Falinski and Mr van Manen

Parliamentary Joint Committee on Human Rights—Mr Broadbent, Mr Goodenough, Ms MMH King, Mr Leeser and Mr Perrett

Parliamentary Joint Committee on Law Enforcement—Dr Aly, Mr Hayes, Mr C Kelly, Mr LS O’Brien and Mr Wood

Joint Committee of Public Accounts and Audit—Ms Brodtmann, Ms Flint, Mr Gee, Mr Hart, Mr Hill, Mr Hogan, Mr Irons, Mr Laming and Dr McVeigh

Parliamentary Standing Committee on Public Works—Mr Buchholz, Mr Coleman, Mr Goodenough, Ms Keay, Ms Ryan and Mr Zappia
Joint Standing Committee on Electoral Matters—Mr Buchholz, Mr Dick, Mr Giles, Mr Morton and Mrs Wicks

Joint Standing Committee on Foreign Affairs, Defence and Trade—Dr Aly, Mr KJ Andrews, Mr Champion, Ms Claydon, Mr Crewther, Mr Danby, Mr Drum, Mr Feeney, Mr Hastie, Mr C. Kelly, Mr Littleproud, Ms Price, Mr Ramsey, Dr McVeigh, Mr Perrett, Mr Snowdon, Mrs Sudmalis, Ms Vamvakinou, Mr Wood and Mr Zimmerman

Joint Standing Committee on the Parliamentary Library—Dr Freelander

Joint Standing Committee on Migration—Mr Crewther, Mr Drum, Mr Georganas, Mr Neumann, Ms Vamvakinou and Mr Wood

Joint Standing Committee on the National Broadband Network—Mr Broad, Mr Howarth, Mr Sukkar and Mrs Wicks

Joint Standing Committee on the National Disability Insurance Scheme—Mr KJ Andrews, Ms Husar, Ms Henderson, Ms Macklin and Mrs Sudmalis

Joint Standing Committee on the National Capital and External Territories—Ms Brodtmann, Mr Coulton, Mr Hastie, Mr Leeser, Mr Snowdon and Mr Sukkar

Joint Standing Committee on Northern Australia—Mr Entsch, Dr Freelander, Ms ML Landry, Ms Price and Mr Snowdon

Joint Standing Committee on Trade and Investment Growth—Mr Alexander, Mr Hill, Mr Khalil, Mr O’Dowd and Mr RJ Wilson.

Message no. 29, dated 10 October 2016—Parliamentary Joint Committee on Intelligence and Security—Mr Byrne, Mr Dreyfus, Mr Hastie, Dr MJ Kelly, Mr Sukkar and Mr Wood.

Message no. 30, dated 10 October 2016—Joint Standing Committee on the National Broadband Network—Ms Brodtmann, Ms McGowan, Mr BK Mitchell, Ms Rowland and Mr JH Wilson.

BILLS

Budget Savings (Omnibus) Bill 2016
Primary Industries Levies and Charges Collection Amendment Bill 2016
Corporations Amendment (Auditor Registration) Bill 2016
Customs Tariff Amendment (Tobacco) Bill 2016
Excise Tariff Amendment (Tobacco) Bill 2016
Statute Update Bill 2016

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.

COMMITTEES

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:46): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation as listed at item 19 of today’s Order of Business, together with the Hansard records of proceedings and documents presented to the committees. I move:

That the reports be printed.
Senator JACINTA COLLINS (Victoria) (17:47): Madam Deputy President, I am in your hands. I wish to speak briefly to the tabling of one of those reports. Should I do that now or on the next motion?

The DEPUTY PRESIDENT: The practice, Senator Collins, is that reports of the bills are not generally spoken to because you would do that during the debate on the bill.

Senator JACINTA COLLINS: Let me perhaps circumvent this by speaking on the motion that these reports be printed. Senators may have noted that similarly this morning some senators spoke on the tabling of reports when, as you have said, the practice would be that we ordinarily would not do so. The practice would be to make some remarks about the process of the Senate committee inquiry, rather than the actual substance of the report itself. I intend to deal with those substantive issues when we come to dealing with the legislation involved in the third of the reports that we are now moving be printed—that is the Education and Employment Legislation Committee report on the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill and a related bill. The related bill is a social services bill in relation to family tax measures.

The concern that I want to raise here, similarly to the contributions made earlier today in a separate tabling, is that the Selection of Bills Committee recommended that the inquiry and the reporting on this matter occur within a truncated period of time. At the time I understand that Senator Xenophon's contribution was to require that we would at least allow two days of hearings on this matter. There was the process of outsourcing the consideration of these measures to a separate Senate committee because of the workload of the Senate Education and Employment Legislation Committee, and then also there were some of the communication circumstances that occurred within that—no fault at all, I should say, of the committee secretariat or indeed the outsource committee secretariat but more so the fault of the limited timing that was eventually allowed. It is useful, particularly for crossbench senators who might be inclined to respond to government requests that a period of time be truncated, that the consequences of that be highlighted. On this occasion, the government is not proceeding with these bills in this sitting week, so there was no reason at all that we needed to truncate the reporting of this matter to today.

Secondly, the consequences of the limited time frame led to the situation like, but not completely akin to, what happened in the earlier matter today where non-government senators were told that there would be no assistance available to produce additional remarks or a dissenting report to the chair's draft report. This is a practice that has been occurring, as other senators have highlighted, in some areas because of the enormous workload being sent through the Senate committee process. But the consequences of this, I think again, do need to be highlighted. The consequence on this occasion is that it has allowed the government or the minister of the day to limit the public exposure of these measures. He has attempted, through a couple of episodes of chest beating, to distract public attention, not completely successfully, but he has been able to limit the amount of consideration and public consideration of these measures.

I mentioned that Senator Xenophon had been assured that there would be two hearing days. Indeed, there were only 1½ days, and we did not have sufficient time to question the Department of Education and Training in relation to the details of this measure and there was
not sufficient time for the department to respond adequately and for us to reflect on those responses in relation to questions on notice.

I wanted on this occasion to highlight to senators that continuing to agree to limited time frames through the Selection of Bills Committee is eroding and diminishing the standard of Senate committee reports, and the capacity for the Senate to examine in detail measures that come before the Senate is being diminished as a consequence.

I hope this is a rare exception. As you have said, Madam Deputy President, ordinarily senators would not speak at this stage in the consideration of a matter. But, akin to the discussion on a different reference this morning, I think it needs to be highlighted that our capacity to address legislation is being diminished and the quality of reports being produced is being diminished by matters moving through—and I think Senator Marshall has made this point—essentially with a rubber stamp on the government's agenda. That is not the role of the Senate. It is not the role of non-government senators, and we should not allow it to continue.

Question agreed to.

**BILLS**

**Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016**

In Committee

Bill—by leave—taken as a whole.

**Senator CAMERON** (New South Wales) (17:54): Minister, your interview with Mr David Speers on Sky News was generally described as an excruciating train wreck. Can you explain to the Senate what you could not explain to David Speers and take us to specific clauses in the UFU agreement which could result in the destruction of the CFA.

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (17:54): Senator Cameron, I am sure you are aware that Volunteer Fire Brigades Victoria have prepared a substantial document going through, on a clause-by-clause basis, what they say will be the impact on the CFA of the proposed clauses. So there is that document. I believe it would have been part of the Senate committee's documents. The committee would have already seen that document.

I can take you through some of the clauses that have been raised as being of particular concern to Volunteer Fire Brigades Victoria. For example, clause 21 sets out the extensive consensus based consultation process required under the agreement. The clause's operation means that in conjunction with, for example, clause 41 all current CFA policies will be reviewed and only remade through a process where union consensus is required. In terms of evidence given in particular to the recent Senate committee that inquired into the bill, volunteers questioned why the proposed agreement's consultation term gives the union a veto power over changes under the agreement, including policies directly relevant to volunteers.

I will take you through a number of other clauses shortly, but I will just take a step back. The first question one needs to ask is: what is an enterprise agreement and to whom does an enterprise agreement apply? I am sure you would be aware, Senator Cameron, that an enterprise agreement is an agreement that deals with the terms and conditions of the employees to which the enterprise agreement is relevant. Volunteer Fire Brigades Victoria
have obviously raised concerns about the impact of clauses in the agreement on the volunteers.

I will take you now to clause 44. Clause 44 sets out a minimum staffing level of four paid firefighters on appliances and prohibits cross-crewing of any appliance unless otherwise agreed by the parties. Volunteers have raised the concern that this clause specifically discriminates against them by providing that minimum crewing is undertaken by paid firefighters and that a United Firefighters Union veto can be exercised over cross-crewing arrangements.

In relation to another example of a clause about which concerns have been raised, I will take you to clause 35. Clause 35 of the proposed agreement sets out that all employees covered by the agreement shall only report to operational employees under this agreement at the rank of DCO or CO when responding to fire alarms or incidents under the agreement except in certain circumstances as defined by clause 35. Volunteers have raised concerned that this creates a fundamental change to incident control and management. They believe that transfer of control can affect and disrupt the tempo and effectiveness of the firefight and they believe that they will lose their authority at an incident.

Other clauses which Volunteer Fire Brigades Victoria have raised concerns in relation to include: clause 15.1, dealing with brigade support programs; clause 16, dealing with volunteer support programs; clause 60, which mandates peer support will only be drawn from paid firefighters; and something as simple as schedule 20, which will prescribe that volunteer firefighters and paid firefighters wear different items of clothing.

Senator Cameron, they are some of the clauses which have been raised in the evidence given to the Senate committee hearing. As I said, a document was prepared by Volunteer Fire Brigades Victoria which did a clause-by-clause analysis of the agreement.

**Senator CAMERON** (New South Wales) (17:59): Thank you, Minister; I will come back to some of the details that you have just outlined. But I want to just go briefly to your opinion piece in the *Herald Sun* dated 22 August 2016, where you attempted to inflame distrust and division between the volunteer and career firefighters by claiming that seven paid firefighters—that was union members—had to be present before the CFA personnel are able to be deployed to a fire. Minister, given you had to publicly retract this position, why did you make this statement in the first place?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:00): Senator Cameron, as you would be well aware, this dispute has now been ongoing for a number of years. There have been numerous iterations of the agreement and, certainly up until a few months ago, the specific clause that you are referring to was one that did require seven paid firefighters to be on the ground. A change was made to that clause because it was of such concern to the volunteers—so it was an admission by the United Firefighters Union that there were concerns with the clause. Concerns still do remain with the clause, I might add. The clause has been refined so that the clause now refers to seven paid firefighters needing to be 'dispatched' to the fire operations before the paid firefighters can commence the firefighting operations. But certainly, in numerous iterations of the agreement, the clauses you articulated were included in that agreement. It was only when it was absolutely acknowledged that this clause was a problem that the language was changed to 'dispatched'.

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**CHAMBER**
Senator CAMERON (New South Wales) (18:02): Senator Cash, when you made the statement, they was not the terms of the agreement, were they? The terms of the agreement clearly provided for 'dispatched'. So your position was wrong, and was designed to inflame distrust and mistrust. My question to you was: why did you make the statement in the first place? Simply saying that you read the agreement I do not think is good enough, because this was a political position that you adopted that was clearly wrong. If you cannot be trusted to have a look at the right agreement, how can you be trusted on any of the other issues that you are raising here when you are asking the Senate to support this bill?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:02): Senator Cameron, as I stated to you, it was not until the parties agreed that there was a lot of concern in relation to the clause as it had been written—which was that seven paid firefighters needed to be 'on the ground'—that it was a clear acknowledgement of the concerns that had been raised. But Senator Cameron, I would put to you that when you have a chief officer resign, when you have a minister from the left wing of the Labor Party stand aside because she cannot support the assault that the Andrews government is currently undertaking on the tens of thousands of fantastic men and women in Victoria who put their lives on the line, quite literally, so that Victorians can be safe, and when you have an entire board sacked by the Andrews government because they have the audacity to stand up and speak out—I think that speaks for itself, in relation to the political nature of this particular incident.

Senator CAMERON (New South Wales) (18:04): Minister, instead of the rhetoric, I would like to get you back to why you made this statement. Deputy President Roe made his final recommendation on this issue on 1 June 2016, and dealt with that issue, and it was on 22 August that you decided to go out there and actually do a written commentary on this agreement that was out of date—so it was clearly designed to inflame distrust and mistrust between the firefighters, both the paid firefighters—the career firefighters—and the volunteer firefighters. And while you are on your feet in relation to this issue, Minister, the firefighters have explained the reason why they want seven paid firefighters to be deployed in certain circumstances. Have you looked why that deployment was to take place—the reasons why there was an agreement between the CFA and the UFU on that deployment? It was basically about ensuring that if a firefighter goes into dangerous situation, there is enough back-up support there for that firefighter to be rescued if he or she ends up in trouble. Were you aware of that reasoning?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:06): Senator Cameron, if I could just of course raise with you that the clause that is currently in the agreement—'dispatched' as opposed to 'must be at the fire ground'—that is still of great concern to the VFBV. What it basically means is that paid firefighters cannot assist volunteers until at least seven paid firefighters have been dispatched. Senator Cameron, I understand you have been to the hearings. You would have heard the evidence given that, in relation to the paid firefighters and the volunteer firefighters, there are approximately—as you know—60,000 volunteer firefighters and approximately 800 operational paid firefighters. The paid firefighters are specifically, under the Victorian CFA legislation, there to assist the volunteer firefighters. That is how the Victorian situation is set up.
In relation to the clause, as it currently stands, there are still grave concerns highlighted by the VFBV. If I could take you to them, clause 43.2.7 and 77.5 of the proposed CFA enterprise agreement require that a minimum of seven professional firefighters are dispatched to fireground incidents before commencement of safe firefighting operations. So what do the volunteers—the men and women who for decades now have put their lives on the line to ensure that the communities in Victoria are safe—say the meaning of that, potentially, is? It means that volunteers can themselves begin fighting a fire. They can get to the fireground. If the fire is there, they can begin fighting the fire. But, in relation to paid firefighters, what will now occur is that paid firefighters cannot join them until seven paid firefighters are dispatched.

In terms of the practical effect of this clause on the ground, when you are in a situation of potential complete catastrophe, where a fire is burning, where you have a protocol that has been put in place, the practical impacts, as advised by Volunteer Fire Brigades Victoria, are:

- Flow on workload operational and fire ground safety implications for volunteers and volunteer brigades;
- Step up implications and additional workload implications for volunteer brigades and volunteers at integrated brigades.
- Impact on support availability to volunteer brigades currently supported by integrated brigades.

So, Senator Cameron, yes, you want to make political points. Yes, you do not want to stand up and side with some of the magnificent men and women who are sitting here today in the gallery watching these proceedings. They do not know what the calls they get tomorrow will be, but I am quite sure, Senator Cameron, that you and I would not want to receive those calls in a million years. The calls they get are the calls which say: 'Can you please get out there. There is an emergency, and we need you on the ground. Drop everything. Drop your day job and get out there and risk your life.' They have concerns with the practical impact of this clause.

Yes, Senator Cameron, you are right. The United Firefighters Union have put forward evidence in terms of why they say this particular clause is necessary. But the volunteers, who are the people on the ground every other day of the week, have serious concerns with that clause and the fact that, ultimately, it may compromise the firefighting operation on the ground.

Senator RHIANNON (New South Wales) (18:10): Minister, as you know, summer is around the corner. You have been going to a great deal of trouble for months now driving what is really a very divisive approach to emergency services. It is something that I find deeply troubling. I agree with you that our volunteers here are magnificent men and women, but so are our firefighters. Paid firefighters, like our volunteers, put their lives on the line. I find the language that you have been using deeply disturbing, and it further underlines how political what you are driving here is. The primary goal here is not public safety.

I think what is really necessary, now that we can get into the detail here, is that you point out the specific clauses in the agreement that are detrimental to volunteers. Can you name the clauses and what parts of the clauses are detrimental to volunteers. We need to get past the general statements and the rhetoric that there are some good people who fight fires—the implication being that there are some bad people who fight fires—and actually deal with
public safety. You need to identify the actual clauses and where they are detrimental to volunteers.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:12): Senator Rhiannon, I understand that you may have left the chamber for a very short period of time. But during that short period of time that was the exact question that Senator Cameron asked me. I took Senator Cameron through some of the clauses that are of concern or have been highlighted as being of concern to the volunteers. I also highlighted to Senator Cameron that Volunteer Fire Brigades Victoria had done a comprehensive analysis of the proposed enterprise agreement and had gone through each clause, on a clause-by-clause basis, to highlight where they believe there was going to be a clause of concern.

If you like, I am more than happy to take you through the answer that I gave to Senator Cameron, if that would assist you. In particular, there are a number of clauses that are of particular concern and have been raised as being of concern for some months now—in fact, for some time—and they were certainly raised by the Volunteer Fire Brigades Victoria at the Senate hearing, which I understand you may have attended.

Again, I will not go through them in detail, because I think I have really put that on the record for Senator Cameron, but of concern were: clause 21, in relation to the extensive, consensus-based consultation process required under the agreement; clause 41, in which current CFA policies will be reviewed and only remade through a process where union consensus is required; clause 44, in terms of the minimum staffing levels, in particular, the prohibition on cross crewing of any appliances, unless agreed by parties; clause 35, which sets out that all employees covered by the agreement shall only report to operational employees under the agreement or at the rank of DCO or CO when responding to fire alarms or incidents under this agreement, except in certain cases as defined by the clause. Just very briefly, other clauses which have been raised as of concern: clause 15.1, dealing with brigade support programs; clause 16, dealing with volunteer support programs; clause 60, which mandates that peer support will only be drawn from paid firefighters.

One of the other clauses—I think it is almost a great shame that it has to be raised as a clause of concern to the volunteer firefighters—is set out in schedule 20 to the proposed agreement, and it proposes that the volunteer firefighters and the paid firefighters will now have to wear different uniforms, so they are identified differently. So, to anyone in this chamber who stands up and says there is nothing divisive about this agreement, I would say that that clause alone—whereby you want to now specifically identify who is a paid firefighter and who is a volunteer firefighter and deliberately put a wedge between them—is enough in itself.

Senator Rhiannon, you may also be interested in this, and I am happy to read it out to the Senate: it is a letter dated 30 June 2016 from Peter Rau, Chief Officer of the Metropolitan Fire and Emergency Services Board. It was written to the Hon. James Merlino MP, the relevant minister. Mr Rau goes through in detail the impact that he says a number of these clauses have had on his own organisation and why it is dangerous for them to be carried on into the proposed agreement with the CFA. What he says is this:

I write to you as Chief Officer of the Metropolitan Fire and Emergency Services Board (MFB).

He goes on to talk about the agreement, and says:
I wish to raise with you my serious concerns regarding the negotiations with the United Firefighters
Union (UFU).

I am aware of the terms of the enterprise agreement that the UFU has proposed to the CFA … in the
context of its current bargaining. It is my understanding that the UFU expects any agreement negotiated
with the CFA to be substantially reflected in the terms of a new agreement to apply to the MFB.

He then goes on to talk about the bargaining period:
Throughout this bargaining period which commenced in April 2013, the MFB's position has been that
its own current agreement seriously impedes the delivery of effective fire prevention and suppression
services in Victoria. The fundamental concern relates to the requirements under the current agreement
that the Chief Officer must consult and reach agreement with the UFU in relation to operational matters.

So the issues that have been raised by those in the CFA dispute are the issues that Mr Rau is
talking about here. He continues:
I am concerned that, far from improving the already very troubling position that exists under our current
agreement, the proposed CFA provisions would further hinder my ability as Chief Officer to effectively
fulfil my statutory responsibilities as you and the community expect.

As the Chief Officer, I have to respond quickly and decisively to emergency situations. I am also
required to make strategic decisions to prepare for emergency situations. As the head of operations I
need to make decisions unimpeded by provisions within an industrial instrument requiring agreement
from a third party …

Which is exactly what we see happening here. Mr Rau continues:
The proposed CFA agreement would, if applied to the MFB, create even greater concerns.

He then goes on to say:
I wish to draw your attention to some examples under the current MFB enterprise agreement that
have led to—
—what he terms—
—unacceptable situations.

Senator Rhiannon, these are some of them:

For over two years, the MFB was unable to deploy new advanced appliances because the UFU
refused to agree to their deployment. This came to a head during a week-long heatwave when I needed
these appliances to be deployed to meet the MFB's responsibilities …

He needed the appliances to be deployed to meet the MFB's responsibilities, and he could not
get consensus from the union. He continues:
In this instance I had a direct request for support from Ambulance Victoria … Over a two day period
consultation occurred with the union…

Over a two-day period, in an emergency situation, consultation occurred with the union to
resolve the matter. This is an emergency situation where someone needs to make a decision
there and then. But because of a consultation clause in the agreement they are emasculated—
they are unable to make a decision. But it gets worse. He then goes on to say:
Due to the inability to reach agreement we sought the assistance of the Fair Work Commission (FWC)
and as such, in the middle of the heatwave, two Deputy Chief Officers spent a further afternoon and
evening at the FWC seeking a resolution to release these appliances into operations the following day,
distracting us from critical operational activities.

Senator Rhiannon, it goes on and it goes on and it goes on. His conclusion is:
The current Enterprise Agreement and its power of veto over my statutory responsibilities is unworkable and undermines community safety.

Senator Rhiannon, these are real life examples of what can occur when you utilise an enterprise agreement for purposes for which it was not intended. These are real life examples of where safety has been potentially put at risk because of the clauses that have been raised by the volunteer firefighters as being of concern.

Senator CAMERON (New South Wales) (18:21): I am glad that Minister Cash has raised this correspondence by Mr Peter Rau, because it was an issue that was discussed in the inquiry and questions were asked on notice of Mr Steve Warrington, the Chief Officer of the CFA, in relation to this very issue. Anyone listening should understand that what the minister has just gone through is the MFB. It is not the CFA. This is an issue that the MFB chief fire officer is raising, not the CFA. We are not talking about the MFB, but it again suits the minister to get into that approach of trying to mislead people about the issues. Anyone who was not aware of the details would think, 'Oh, that's a good point!' But the point is: this is not the MFB. We are talking about the CFA. They are two entirely different organisations.

Mr Warrington, the CFA Chief Officer, was asked to deal with the letter that you just read out. I will put on record what he said:

As requested, I have reviewed the letter that Mr Peter Rau, Chief Officer of the Metropolitan Fire and Emergency Services Board (MFB) sent to the Minister for Emergency Services, the Hon James Merlino MP, on 30 June 2016.

MFB and Country Fire Authority (CFA) are both Victorian fire services, but are governed by different pieces of legislation. The powers of the CFA Chief Officer (CO) and the MFB Chief Officer are expressed differently. Furthermore, CFA and MFB are culturally distinct organisations, in part because of CFA’s founding as a volunteer organisation with a large jurisdiction.

Due to the differences between CFA and MFB, I do not think that issues faced by MFB under its enterprise agreement can be extrapolated to CFA’s experience.

That is completely at odds with what the minister has just said. The minister just will not listen to the chief fire officer. He goes on to say:

I also make the following specific comments in response to issues raised by Mr Rau in his letter— and this is under subparagraph (a)—

Mr Rau details several occasions where the need to consult with the United Firefighters Union (UFU) prevented Mr Rau, as Chief Officer of the MFB, deploying resources and people during emergency events. I have a letter from the Chair of the CFA Board— and he enclosed it—

stating that:

‘… the Fair Work Act 2009 and any award or agreement made under it cannot interfere with or detract from (my) powers and obligations under the Country Fire Authority Act 1958 concerning directions to perform work relating to the provision of essential services or in situations of emergency.’

This letter has provided me with assurance that I will not be prevented from deploying resources in an emergency as required.

He goes on to say:

(b) Mr Rau referred to the requirement to consult and agree as a UFU ‘power of veto’. I do not agree with Mr Rau’s characterisation of the consult and agree provisions of the Proposed Agreement. The
agreement provisions require an agreement between the UFU and the CFA. This does not constitute a veto power for either party.

He goes on:

(c) Mr Rau expressed concern that arbitration by the Fair Work Commission (FWC) is not an effective mechanism to resolve disputes. As I stated in my evidence before the Committee, it has not been the experience of the CFA that I or the officers under my control have been 'locked away' at the FWC, attempting to resolve a dispute whilst we are in an emergency situation. Further, the CFA has negotiated a joint statement of intent with the UFU which, among other things, records the parties' intention to resolve disputes as quickly and efficiently as practicable …

(d) Mr Rau referred to the recommendation of Judge Lewis in relation to the clause 47 of the CFA Enterprise Bargaining Agreement 2002 dealing with "Uniforms and Equipment". The CFA consults with volunteer and career firefighters on uniform and personal protective equipment. Firefighting is a dangerous activity. The uniforms and equipment that firefighters wear and use is of critical importance. Decisions about these matters must be made carefully, with significant deliberation and research and with a process to take into account the views of those most directly affected—firefighters, whether they be career staff or volunteers.

(e) Mr Rau identified his need, as CO, to be able to immediately direct the deployment or relocation of resources as particularly important in the current evolving security and threat environment. I do not believe that, as CO, I would be prevented from deploying resources during an emergency event, which includes an emerging security threat.

Every point that Mr Rau raised, the chief officer, Mr Steven Warrington, says is not a problem for the CFA. So the arguments that the minister has put up do not hold any water. It is another example of this minister and this government trying to demonise the firefighters who are paid by the CFA. It is another example of this minister and this government trying to gain political advantage by arguing for division between the CFA volunteers and the paid firefighters, and the CFA Chief Officer has demolished every argument that the minister has put forward.

In relation to what she has just put to the Senate, anyone listening would think there is a problem with this agreement. The chief officer has constantly and continually said that this agreement will not take away from his power to look after the Victorian community. That is the bottom line, Minister. You are well aware of it. You certainly should not be continuing the propaganda—and that is all it was—that you peddled during the election campaign. You continue to peddle it here to try to diminish the rights of career firefighters, who, as anyone would argue, are as brave, courageous and committed to the Victorian public as any volunteer firefighter. In fact, in every station where they work together, they work together well, they deploy effectively together and they understand the issues faced by each other in relation to dealing with emergency situations. Minister, you should stop the propaganda and start dealing with the facts.

Sitting suspended from 18:30 to 19:30

Senator CAMERON: Just before the break I went through the correspondence from the chief officer, Mr Stephen Warrington, in response to the MFB chief officer, Mr Peter Rau, which clearly indicated that the chief officer of the CFA did not see any problems in the CFA that Mr Peter Rau—I think he is the former chief officer—claimed he had experienced. So I put that proposition on the record.
Senator Cash, I now want to turn to two other issues that you raised in your response to Senator Rhiannon. You spoke about cross-crewing. I am advised that the cross-crewing has nothing to do with whether volunteers cross-crew. Cross-crewing is about career firefighters being designated to two different trucks on station where each truck should be separately crewed. So it is a safety issue for the firefighters to deal with this. Again, Senator Cash, I will draw your attention to the fact that this agreement is not about volunteers; it is about firefighters who are employed by the CFA. It is the career firefighters. So this has nothing to do with the volunteers. There is no ban on volunteers cross-crewing. If you look at some of the evidence that we had from those volunteers who work with the career firefighters on a regular basis, they actually say that this is not a problem. So this will not affect volunteer firefighters. I want your views on that.

On peer support, again you would have to read the agreement in the context that the agreement is about career firefighters. It is about the paid employees. The career firefighters—the paid employees—have issues about peer support. When you talk about peer support in this document you are not talking about peer support for the volunteers; you are talking about peer support for the firefighters who are career firefighters. This is, I am advised, highly personal. It is about personnel getting peer support after traumatic incidents. As you would be aware, many of the career firefighters attend traumatic incidents and the career firefighters have set up in this agreement a proposition where their counselling—where their peer support—will be done by their peers. Can you just clarify your position on this in the context of you saying this is a problem for volunteer firefighters? Because the agreement is clear: this is an agreement between the paid firefighters and the CFA, and both the cross-crewing and the peer support is simply about the paid firefighters.

The third area is about different uniforms. The agreement says that volunteers and careers need to be separately identified so that the incident controller can immediately identify their skills and qualifications. I want to know whether there is a problem with that. Why would there be a problem with being able to identify by looking at someone’s uniform what skills and training they have had? Every career firefighter, I am advised, is fully trained for all seven roles on the fireground. Volunteers may or may not be fully trained for those seven roles. Many volunteers do not have breathing apparatus training or competency in that area. So it is vital, I am advised, that the incident controller can make instant decisions on the fireground and that different identifiers will do that. They can have the same uniform, it is just that there will be an identifier on the uniform. Are you aware of these issues, Minister?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (19:35): Thank you to Senator Cameron for this series of questions. In the first instance, in addressing the claims made by Senator Cameron that the enterprise agreement is only in relation to the employees or the terms and conditions of employment for those employees to whom it applies: Senator Cameron, that is what this whole dispute is actually about. You would be well aware that an enterprise agreement, which is an agreement that is made under the Fair Work Act, provides or should provide the terms and conditions of employment for those employees to whom it applies. The issue that has been confronting the volunteers in the CFA for some time now is that what is proposed by this enterprise agreement is that it is actually going to expand the
reach of the agreement into volunteer arrangements, certainly beyond what is contemplated by the Fair Work Act.

I have articulated a number of the concerns that the volunteers have in relation to the agreement. In relation to the necessary minimum staffing levels at clause 44, the volunteers have raised concerns about this clause, which prevents cross-crewing of fire trucks by volunteers and paid firefighters unless agreed with the union, and, further than that, about clause 44.14, which requires four professional career firefighters on all appliances. If you go back to what we were discussing prior to—

Senator CAMERON (New South Wales) (19:37): Minister, I am sorry to do this, but can you just clarify. Did you say 44.14?

Senator Cash: 15.

Senator CAMERON: Thanks. I may have to do this, because I just want to make sure that I am dealing with the exact same clause—44.15?

Senator Cash (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (19:38): As I said, if you go back to what we were talking about prior to the dinner break in relation to the letter that was written to the Hon. James Merlino, one of the fundamental concerns that have been raised by the volunteers is in relation to the consultation clauses as proposed by the agreement. You look at the actual examples that are given in relation to the MFB in terms of their agreement, which contains similar clauses. And what has actually happened? You are talking about a direct impact in relation to the ability of someone to make a decision there and then on the ground because a clause in an agreement states that that decision cannot be made without consulting with the union.

In terms of schedule 20 and the list of station wear, uniform et cetera, the volunteers question why the proposed agreement requires union agreement on what uniforms volunteers wear. Why would you need to consult the union about what the volunteers must wear? It requires that paid firefighter unions must be significantly visually distinguishable and will only be made available to paid firefighters. Again, this is a genuine concern raised by the volunteers. Why should the volunteers have to consult with the UFU in relation to the uniforms that the volunteers wear?

In relation to clause 16, the volunteer support programs, again the volunteers question why the proposed agreement gives the union power over volunteer support programs. Again, if you go back to the basic fundamentals of what an enterprise agreement is, an enterprise agreement provides for terms and conditions of employment for those employees to whom it applies. In that case, you are right: it is the paid firefighters. But this whole dispute is about expanding the reach of the enterprise agreement into volunteer arrangements, affecting approximately 60,000 fantastic men and women across Victoria who, as we all know, literally risk their lives to ensure that the community in Victoria is safe, and that reach is being expanded beyond what is contemplated by the Fair Work Act.

But, Senator Cameron, if you do not want to listen to anything that I say—and that is fair enough; I do not have an issue with that—perhaps we need to go through again what the former CFA chief executive officer Lucinda Nolan has said in relation to this agreement. She said:
It was not going to make the organisation a better place. It is destructive and divisive. I could not stay and oversee the destruction of the CFA.

She then went on to say:

I think this has the potential to negatively impact the organisation, community safety, our volunteers and our volunteer contribution …

She also went on to say:

I was given a clear alternative whether to sign the EB or to resign, and obviously I chose the latter.

Then, of course, the CFA board stood up to Daniel Andrews, the Premier of Victoria, and stated on the record their concerns in relation to the proposed agreement. This is what they said:

We have serious concerns many of these proposed clauses are unlawful and we have legal advice that indicates CFA would be in breach of its statutory obligations.

They went on to say:

Many of these clauses have no place in modern day workplaces and are out of step with today's society. Advice from the Victorian Equal Opportunity and Human Rights Commission is that some clauses do not comply with the Equal Opportunity Act and would be unlawful.

They then went on to say in a statement:

The proposed EBA undermines volunteers, our culture, allows the UFU operational and management control of CFA and are discriminatory.

We all know what, unfortunately, happened to the board that articulated its very serious concerns with what is occurring in Victoria, and that is, of course, expanding the reach of the agreement into volunteer arrangements—people who should not be caught by this agreement, because they are not employees. We all know what happened: when you do not like what a board is saying, you sack it, and that is exactly what the Victorian Labor government did.

Then we go on. The former Labor Minister for Police and Emergency Services during the Bracks government, Andre Haermeyer, said of the firefighters union:

… its attitude to volunteers has often been dismissive. Many of its demands in its current dispute with the CFA are Trojan horses that would sideline CFA volunteers and undermine their interests, with little or no real benefit for the paid firefighters the UFU represents.

It would also undermine the operational authority of the CFA’s Chief Officer and operational commanders as well as compromise the fiduciary responsibilities of the CFA’s Board under the Country Fire Authority Act. Full-time paid firefighters deserve to have their safety and interests protected, but so do volunteers.

And the list goes on. What did Andrew Ford, the CEO of Volunteer Fire Brigades Victoria, recently say? He said:

Our issues are not between paid firefighters and volunteers; they are about a broader union control than that industrial interference with CFA decision-making and an EBA that we submit effectively dismantles the legislated nature and operations of the CFA and therefore erodes the capacity of the CFA to manage their operations.

He also said:

If the constructive CFA is dismantled, if the respect for volunteers and the roles they do and can and have performed is eroded, and if the provision of support to them to perform their role well is eroded, then volunteers will walk.
Senator Cameron, that is a very serious statement to make. And, as I have already articulated, I have been alarmed—

\textbf{Senator Cameron:} Chair, on a point of order: I have been very patient. I have asked a number of questions. The minister has now gone completely off those questions. Really, the minister should be drawn to the questions that have been asked and, with seven minutes and 25 seconds left, actually try and address some of the questions.

\textbf{The TEMPORARY CHAIR (Senator Sterle):} Minister Cash.

\textbf{Senator CASH:} As I said, Senator Cameron, they are very, very serious statements to make. But what I think I am even more alarmed by is evidence given to the Senate committee that, because of this dispute, a number of volunteer firefighters on the border of Victoria and New South Wales are now seeking to transfer their membership into New South Wales. Senator Cameron, you may not have concerns with this agreement, and that is fine. If your concerns are therefore not realised, then what we are doing here today will have no impact at all on the enterprise agreement. But the volunteers have raised significant concerns over a number of years now. The letter from the MFB to Minister James Merlino clearly articulates the reality of some of those concerns. I am going to stand here and defend the volunteers and the CFA in Victoria every step of the way. As I said, I do not know what phone call they are going to receive tomorrow but I do know that, when they receive it, they will do everything to ensure that the community in Victoria is kept safe.

\textbf{Senator CAMERON (New South Wales) (19:47):} I did ask some serious questions and the minister has gone nowhere near them. I did ask whether she understood that the cross-crewing would not affect volunteers because cross-crewing was about a specific issue in the agreement between the CFA and employees—it was about an employees issue—and that has no implications for the CFA volunteers. I asked the minister for her view about the peer support clause because it deals with firefighters having their peers—that is, other paid firefighters—dealing with traumatic incidents and giving them peer support. The third question was in relation to uniforms. It is clear that the point firefighters have made is that it was raised at the royal commission into bushfires that there were communication problems and there had to be changes. One of the changes that has been agreed between the CFA and the paid firefighters is that they will be able to identify the training that paid firefighters have. No-one is saying in the agreement that the volunteers have to have the same identification. I am not a trained firefighter but it would seem sensible to me that if you are in a serious situation, an emergency situation, you are able to understand whether your colleague has been trained in breathing apparatus and at what level they have been trained to deal with an issue. I would have thought that was common sense, and that is one of the issues that the royal commission has raised.

So it is clear that these do matters do not affect firefighters. You can assert that it affects firefighters, which has been happening ever since we have been here, but assertions are not proof. You cannot simply come in and assert that this is the position. The problem is that Volunteer Fire Brigades Victoria has made lots of assertions with not a lot of substance. The problem we have here is that we have a government that have not deemed it appropriate to look at the facts of the issue. They have not deemed it appropriate to read the clauses and examine how they operate. They have simply adopted the same position of asserting an expansionary mode for the agreement without any factual evidence.
Another issue that was raised in the minister's response—which, again, did not go to any of the issues that I asked her to deal with; and I do not suppose we will get many answers tonight—was about the agreement being unlawful in relation to the Equal Opportunity Act. Minister, I am sure you are aware that that issue was dealt with, so maybe I should ask you whether the agreement does breach the Equal Opportunity Act. I am sure you understand that this is not something that can happen under either the Fair Work Act or the state act.

In your speech, Minister, when you were winding up your second reading debate, you spoke about a hostile union takeover and the handing of control to the UFU. Minister, could you go back to the questions I have asked you and try to address them without rhetoric? Perhaps you could actually address them on the basis of what the meaning of the agreement is, rather than simply assert that it is an expansionary clause when it is nothing of the kind? Could you also take up the issue about the handing of control to the UFU? I would like you to look at the Fair Work Act 2009, section 27, which outlines a number of state laws that are not excluded by section 27 of the act. You would be aware that section 27 excludes a number of state laws and this does not. One of the laws is in 1AB of the Fair Work Act, in section 27: the Equal Opportunity Act 2010 of Victoria. It does not matter what you put in an agreement, you cannot exclude equal opportunity. Minister, I am sure you are aware of that, but you continue to perpetrate the falsehood that equal opportunities will be excluded. You cannot do it. This is fearmongering. It is fearmongering in relation to equal opportunities and it has nothing to do with any hostile union takeover. So to start, Minister, if you do not mind, try to answer the questions I asked and maybe deal with the issue of the Fair Work Act 2009, section 27, and the clear position that, no matter what an enterprise agreement says, it cannot exclude the Equal Opportunities Act 2010 of Victoria. It cannot. Even if it is a clause that is not lawful, the clause is not applicable. That is the law.

You are a lawyer, Minister. You know these things, but you come here and you just assert falsehoods about this agreement. You assert issues that are not true. You argue an expansionary proposition when it is not true. So, Minister, how about actually dealing with the issues that are being asked here tonight instead of the rhetoric that you run? How about dealing with the issues of cross-crewing and actually accepting that it is not about volunteers? How about dealing with the issue of peer support and accepting that it is a proper and sensible thing to have in an agreement when firefighters are in such a dangerous occupation with traumatic incidents, some of them on a daily basis? And how about accepting the reality of the uniform proposition—that it is not about telling the volunteers how they would be dressed when they go to fight a fire? It is just not true. The EEO position is just not correct. How about dealing with those four issues, Minister, instead of giving us another rhetorical flourish that just does not go to the questions that we are asking? You have a responsibility to actually deal with the questions and not just take every assertion that has been made by the volunteers or every assertion that has been made by the former chief executive, who had no credibility in her evidence to the inquiry. Actually deal with the issues that are before us.

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (19:57): Senator Cameron, I think it is going to be a very long evening. You and I are going to ultimately have to agree to disagree on probably everything that you have just stated. In relation to examples of clauses constraining CFA decision-making, I take you to the majority report of the Senate Education
and Employment Legislation Committee. Of course, you sat on the inquiry. Attachment 6 at appendix 3 outlines, once again, a number of clauses where concerns are raised.

I go back to basics. Again, Senator Cameron, you need to look at why the issue has arisen and what a very small amendment will do to ensure the issue is resolved. I go back to: what is an enterprise agreement? An enterprise agreement is an agreement which governs the terms and conditions of employees that are covered by that agreement. There is no dispute in relation to that. The volunteer firefighters have always said that, in relation to the pay and conditions of the paid firefighters, they have no issue at all. There are, however, clauses in the agreement which do seek to expand the reach of the agreement beyond the employees, the paid firefighters, to which the agreement applies, to basically volunteer arrangements, and that of course is beyond what is contemplated by the Fair Work Act.

What you have here is a state government that is utilising federal legislation to override its obligations under its own state act—the CFA Act. All this amendment does—it is a very simple amendment—is amend the definition of an unlawful term to include an objectionable emergency management term. In relation to the terms in the agreement which the volunteers have concerns with, if they are found by the Fair Work Commission—because it is ultimately the Fair Work Commission that is the umpire in this case—to be objectionable management terms, the Fair Work Commission is unable to approve the agreement whilst those terms remain in the agreement.

Senator Cameron, I am happy to go through with you again the clauses that are of concern to the volunteers. As I said, you sat on the committee and you have seen the majority report in relation to examples of clauses constraining CFA decision making. We have gone through the letter to James Merlino from the MFB, which clearly sets out the concerns that they have in relation to, in particular, the consultation clause.

Senator Cameron: I didn't think you would go there again.

Senator CASH: Again, I hate to say it, but you and I have been here before. We are going to have to agree to disagree in terms of what you say the impact of the clauses are. We would not be here if concerns had not been raised. Even one of your own ministers, Jane Garrett—she is not one of our ministers, one of your own ministers in Victoria, from the left, amazingly—could not condone what was going on. She stood aside. A board was sacked. A CEO had to resign. You have literally had litany, after litany, after litany of people raising concerns. Then, quite literally, the Andrew's government took action against them. If the agreement only deals with terms and conditions of the employees to which the agreement applies, as I said, the volunteer firefighters have no issue with that. But this is an example of an agreement that is extending the reach of clauses in the agreement to the volunteers, and that is where the issues arise.

Senator RHIANNON (New South Wales) (20:01): Minister, senators have asked you tonight some very specific questions, asking you to provide details about what the clauses are that are detrimental to volunteers, and you keep giving the same answer—it is getting quite insulting actually—where you rely on telling us what an enterprise bargaining agreement is. It is just extraordinary that a minister is relying on such a simplistic way to avoid answering the question.
You have stated also within this, and Senator Cameron has commented on this and I have said previously that it is deeply insulting—you keep running this line, and are really pushing this wedge. You are the one pushing the wedge that you have some firefighters who are good, implying that there are some firefighters that are not good. That is so deeply damaging. At a time when we need to be rebuilding trust you are further damaging here tonight every time you get up and speak.

You are cherry picking quotes from documents where you can pick out pieces that you think back up your argument. Then what we are hearing from you when you get on to talking about the enterprise bargaining agreement is that it is about expanding the reach of the union into volunteer arrangements. And then you give us again that rave that you are just so fond of, making out that volunteers are so much better than the other firefighters. It is so damaging.

In the latest comment I noticed when you got onto talking about the EBA, you said that it was expanding the reach of unions into voluntary arrangements beyond what contemplated in the Fair Work Act.

**Senator McKenzie:** It is. It is. Have you read it, Senator Rhiannon?

**Senator RHIANNON:** This is where you do need to do your job, Minister, and your job at the moment in the committee stage, as you know, is answering the questions that are put to you.

**Senator McKenzie:** Tedious repetitions.

**Senator RHIANNON:** It is not good enough just to say, 'Well, we are going to disagree.' I acknowledge the interjections of the chair of the committee here. She has arrived and is now also hoping that she can get some promotion out of how she performs with this. But, Minister—

**Senator Cameron:** Not very well!

**Senator RHIANNON:** I am happy to acknowledge all of the interjections. Minister, there are some very simple, straightforward questions here. The Fair Work Commissioner, Julius Roe, stated in his final recommendations on the EBA:

> The role of volunteers in fighting bushfires and maintaining community safety and delivering high quality services to the public in remote and regional areas and in integrated stations is not altered by this Agreement.

Minister, there it is: 'not altered by this Agreement'. It negates everything you have said. This is from the Fair Work Commissioner, Julius Roe. You, yourself, have just said to us that the Fair Work Commission is 'the umpire'. So you need to answer this question, because if you cannot acknowledge that Julius Roe has said that it actually negates all the arguments that you have been trying to pull out of a hat by cherry picking quotes from different documents that are barely relevant to the debate that we are having here. If you cannot do that are you really then saying that you know better than a Fair Work Commissioner, or that you disagree with the Fair Work Commissioner—somebody that you have just told us is 'the umpire' in all this?

Also, we need to have some details. You have had questions from different senators tonight asking for clear details about the clauses. It is not good enough just to get up there and rattle off your usual comments. We are in committee. You should be identifying the clauses, quoting the bit that supports your argument and then explaining why it does. But you have failed time and time again. But here are some more opportunities.
There are these allegations around clothing and equipment. What we do know is that the UFU, the union, will be allowed consultation on these issues. There are dispute resolution offices if the parties do not agree. And what we also know is that time and time again benefits won by the UFU flow on to volunteers. So minister, do you acknowledge that is how the current system works? That it works in a cooperative way where you are seeing the benefits flow on—or are you going to still run the hard line that you are running about clothing?

Then there are these other allegations, that the career and volunteer crews cannot share trucks. Are you really going to continue that dishonest line? Volunteers and paid staff can share trucks. They do share trucks and they will continue to share trucks. We know that. We know that happens.

Then there is the allegation that paid staff can only report to paid staff. Again, that has been dealt with many times in this debate. Are you still going to run that line? Are you still going to deny the truth that volunteers can continue to be incident controllers, as occurs at present? The agreement clearly allows staff to report to incident controllers who are volunteers. Are you going to continue to deny that? This is where I again remind you, Minister—you have sat in this place long enough; you know what is supposed to happen in the committee stage—that this is the opportunity for senators to question ministers about the details of a bill. That is what you are failing to do.

And then there is one other area that you need to come in on because you paid a lot of attention to this tonight—that is, this issue of appliances and making out all these supposedly shocking things that the union has done in not allowing various appliances to be used. There is this allegation that no new appliances can be used without UFU approval. But you must know that the truth is that the process for volunteer procurement, including appliances, remains unchanged. That is why I will go back to the quote, because this is where you need to start your answer, Minister. This would be a way of short-circuiting it, if you could be truthful about what the Fair Work Commissioner Julius Roe has said. This is in his final recommendations on the EBA. He states:

The role of volunteers in fighting bushfires and maintaining community safety and delivering high quality services to the public in remote and regional areas and in integrated stations is not altered by the this agreement.

Do you agree with that statement, Minister?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:08): Thank you, Senator Rhiannon, for those questions. Perhaps, though, the better way for you to have started your line of questioning and your comments in relation to this bill would have been by at least disclosing the relationship that United Firefighters Union has with the Australian Greens. I expect it is one of the reasons that you are obviously well and truly behind Peter Marshall and the United Firefighters Union.

Perhaps I could, for the benefit of those who are listening in—it does not appear to be too many tonight because we are not broadcasting—and for the Hansard, just make sure that people understand why you are standing there articulating the comments you have made on behalf of, quite literally, Peter Marshall and the United Firefighters Union. If I could just quote from an article in The Sydney Morning Herald from 21 June 2013—so we have a long history here. It is a long history, not a short one. It is a nice long history here. The article's title
says 'Firefighters union backs Bandt'. Then there is a lovely photo—unfortunately the Senate cannot see this photo, but I will describe it for you—that says, 'Firefighters union head Peter Marshall says the union will back Greens candidate Adam Bandt'. There is a nice photo of Peter Marshall. The article then goes on to say:

The vocal firefighters union is backing Greens MP Adam Bandt for re-election at the September ballot, joining the National Tertiary Education Union in supporting the party's sole lower house member.

The United Firefighters Union supported Mr Bandt—
low and behold—
at the 2010 election when he first seized Melbourne from Labor's grasp.
UFU national secretary Peter Marshall – who is a member of the Australian Council of Trade Union executive – said Mr Bandt had been a loyal advocate of firefighters as well as—

oops, here we go—

being the union's lawyer for a decade.

So, Senator Rhiannon, perhaps before you made the comments that you made tonight, going in to back the United Firefighters Union—as you have every right to do, but at the expense of men and women sitting in the gallery tonight who have, for decades, put their lives on the line for the people of Victoria—you could have been honest and disclosed the relationship the Australian Greens has with Peter Marshall and the United Firefighters Union.

In relation to your comments on Commissioner Roe: throughout May 2016 Fair Work Commissioner Roe, who himself is a former Australian Manufacturing Workers' Union official, conducted a conciliation with the CFA and the union over the proposed enterprise agreement. CFA volunteers tried to be represented at these proceedings so that they could put their concerns on record—one might think that is completely reasonable given the nature of their concerns—however, Commissioner Roe determined that the volunteers did not have sufficient standing to be heard. At the end of these proceedings, Commissioner Roe issued a non-binding recommendation—non-binding, Senator Rhiannon—in which he expressed the view that the proposed agreement would only apply to paid professional firefighters and that it would not apply to volunteer firefighters or affect their role. Again, Senator Rhiannon, I reiterate: this was a non-binding recommendation.

You may be aware, Senator Rhiannon, that the former CFA board—they of course were the CFA board that stood up, articulated the concerns that they had with the clauses in the agreement—rejected the recommendation put forward by Commissioner Roe because it had no impact on and did not override the many specific clauses in the agreement that they had concerns with. The clauses that were of concern to the then CFA board, the CFA board that was sacked for articulating its concerns, are still in the agreement being proposed by the CFA—the CFA that is now there at the behest of Daniel Andrews, the government's CFA—and the United Firefighters Union, with which, as you know, the Greens have a very, very strong relationship.

You also mentioned, I think, clause 83.4, which went to the uniforms et cetera. Again, the concerns that the volunteers have is that the CFA and the United Firefighters Union must agree on all aspects of the following: at clause 83.4.1, 'articles of clothing'; at clause 83.4.2, 'equipment, including personal protective equipment'; and then it goes on to 'technology', 'station wear' and 'appliances'. Again, the very simple question is: why? Why does the
agreement dictate that the CFA, who is responsible for the volunteers, has to come to an agreement with the union in relation to, for example, these items?

Senator Rhiannon, before the dinner break—I am not sure if you were in the chamber at the time—I read out a number of concerns that the Chief Officer of the Metropolitan Fire and Emergency Services Board, Peter Rau, had in relation to their requirement to consult with the union and get agreement. He had written to the relevant minister, James Merlino, and clearly stated, 'I'm drawing your attention to some examples under the current MFB enterprise agreement that have led to unacceptable situations,' and those unacceptable situations were because they had to consult with the union and the union had taken their time or not given their consent.

Senator Rhiannon, just like Senator Cameron and me, we are going to have to agree to disagree in relation to the impact of these clauses on the agreement. But one thing you said that I will pick up is that you talked about a wedge between the paid firefighters and the volunteer firefighters. The CFA Act in Victoria specifically provides that the volunteer firefighters are supported by the paid firefighters. Senator Rhiannon, I have not come across any volunteer firefighters who have an issue with paid firefighters. I can assure you that no volunteers have an issue with paid firefighters. They have no issues at all about the pay that the firefighters will be getting under the agreement. They want to continue, as they have done for decades, to work alongside the paid firefighters, to work in tandem and in a constructive manner with them. The only people putting a wedge, and a deliberate wedge, between the paid firefighters and the volunteer firefighters are Daniel Andrews, the Premier of Victoria, and Peter Marshall, the former boss of Adam Bandt, who is your member in the other place. They are the only people putting a wedge between the volunteers and the paid firefighters.

Senator RHIANNON (New South Wales) (20:18): Interesting comments, Minister. You are still using quite slippery language and avoiding answering the questions. You talk about disclosing one's background, but you do not come in here and tell us about your work with Freehills and how you pursued construction unions, which is not a dissimilar approach to what you are showing now. Again, your double standards show time and time again. You cannot get away from that very clear statement from Commissioner Julius Roe in his final recommendations in the EBA. Again, I remind you that you said that the Fair Work Commission is the independent umpire, and a recommendation accepted by the government, the CFA and the union is an agreement. You can come up with all the language that you might have used when you were a solicitor, but it is clear—

Senator Cameron interjecting—

Senator RHIANNON: I am very happy to acknowledge those comments. You were giving full backing to the Fair Work Commission until you were caught out with some very clear statements that do not suit your line of argument. It is, again, your inability to answer the question because, if you are answering the question, you are either agreeing with the very clear statements coming from the Fair Work Commission or you are acknowledging that you are wrong, so I guess it is not surprising that you come up with the slippery language. But, to move on, Minister, can you guarantee that no police service and no ambulance service will be affected by this bill?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:20): Senator Rhiannon, I
can advise that police forces, ambulance services and hospitals, because hospitals have been raised, are not covered by the amendments and we have, as a government, no intention of covering them. Such bodies do not fall within the meaning of ‘designated emergency management bodies’ as set out in section 195A(4)(a)(i) of the amended Fair Work Act. Why? It is because they are neither firefighting nor state emergency services bodies. It also needs to be understood, in relation to the question that you have posed, that they would also need a precursor to basically come anywhere near falling within what this change to the Fair Work Act would do. The body that you are referring to would actually need to be covered by the Fair Work Act. The first precondition is the body needs to be covered by the Fair Work Act. The majority of states have not referred their workplace relations powers for the public sector, and, on that basis, they do not apply. As I said, the government has no intention of covering them.

**Senator Roberts** (Queensland) (20:22): Senator Cash, I do not mean to smear you, but I would prefer to use some facts. You are aware of a 4½-hour briefing that your staff gave to us going through the amendment, line item by line item. Not once though did I hear any of your staff mention the fact that the EA in Victoria is a vehicle for managing the CFA. The core issue, as I see it—and I would like your comments on this in a minute—is that the state government have abandoned statutory responsibility and, in the words of the minister in Victoria, they are using the new EA as a vehicle for implementing some of the royal commission’s findings and recommendations. That was startling, but it was backed up on 28 September by Peter Marshall, the Secretary of the UFU, in response to my questions. He reiterated that he sees the failure of the CFA to do its job as necessitating and justifying a 400-page EA that would take over the management of the CFA.

First of all, I would like to know if you are aware of those two statements and claims justifying a 400-page EA taking over the management because the CFA has not been able to fulfill its responsibilities. Secondly, as a manager and executive in a heavy industry—underground coalmining—I am aware that safety depends very much on a very clear chain of command, with well-defined accountability. By bringing the UFU into the management of that chain of command, surely this dilutes the responsibilities and muddies the accountability.

Senator Cameron said a little while before dinner that this is governed by state legislation. It certainly is, but the Minister for Industrial Relations in Victoria and the Secretary of the UFU have both admitted that it is not being managed and that they want the UFU to step in. Are you aware of the significance of this on safety? And are you aware that the state government and Peter Marshall have admitted that they are stepping in because the CFA has not been able to do its job?

**Senator Cash** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:24): Thank you, Senator Roberts, for those comments and for those questions. Certainly I am aware of the evidence in relation to Peter Marshall and the Victorian state government. I think you hit the nail on the head. What the Victorian state government are doing quite deliberately—and this is the reason we are proposing the amendment to the Fair Work Act—is utilising the Fair Work Act, and in this regard it is the agreement-making power, to circumvent their obligation under their own act, the Country Fire Authority Act, which specifically sets up the CFA. It is not and never was the intention of the Fair Work Act to allow a state government to deliberately abrogate
and undermine its own obligations under a state act. So very much what this amendment does—as you have articulated—is ensure that the state government itself has to comply with its own state legislation. We are very much here today because of what the Victorian government is doing.

In relation to your comments on safety, this is one of the very serious concerns which the volunteer firefighters have been raising for some time now. Again, I go back to the letter that was written by Peter Rau, the Chief Officer of the Metropolitan Fire and Emergency Services Board, because he articulated in his letter exactly the point that you have just made—that he as the chief officer has to respond quickly and decisively to emergency situations. He as the chief officer is required to make strategic decisions to prepare for emergency situations. Anything that compromises that ability—you are right—does have the potential to impact upon safety. So you raise and articulate very clearly a number of the concerns that have been raised by the volunteer firefighters but also by the MFB themselves in relation to the impact of the consultation clauses that they have to go through in their agreement.

Senator CAMERON (New South Wales) (20:27): I have a short question, Minister, are you aware that the CFA objected to the VFBV being part of the process before Commissioner Rowe and that the former chief executive, Ms Nolan, wrote a letter objecting to the VFBV being part of that process? If so, can you comment on why Ms Nolan may have done this?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:28): Senator Cameron, I cannot comment on what Ms Nolan may or may not have done. I understand she appeared before the Senate committee and I am assuming that you would have had the opportunity to question her in relation to that.

But one of the issues that has been raised is the ability of the VFBV to provide a submission to the Fair Work Commission. It was not able to in this case. That is why part of what we are doing here today will ensure that going forward volunteer bodies are able to provide submissions in cases like this.

Senator CAMERON (New South Wales) (20:29): I suppose the issue that this raises is the fundamental position put forward by the government that one of the reasons they needed to have changes to the act was to have the volunteers have access to the commission. I think everyone here knows—most would that have known me for some time—that I have had a long relationship with Commissioner Roe. He was the president of the AMWU, and I was the national secretary. There is no secret to that around the place. But I just want to indicate that Commissioner Roe is highly respected—a highly respected commissioner, both by unions and by employers—and that he has a reputation second to none in the commission.

What Commissioner Roe was faced with was the CFA—which basically comprised four volunteers and the board—Ms Nolan, who is supposedly the hero of the volunteers, writing to the commission and saying to the commission: 'Don't allow the volunteers to have a voice'. Now this is a fundamental issue—an absolutely fundamental issue. If Commissioner Roe had been advised by the CFA that they had no objection to the VFBV having a voice, then all the hullabaloo—all the nonsense that we have now—may not have been an issue. Because Commissioner Roe could have determined under the act that the VFBV could have had standing, and accepted that standing, and the fundamental basis of this bill would have fallen apart. But here we are now told that the chief executive of the CFA denied in writing any
agreement for the VFBV to have access to the commission. I would ask crossbenchers to think about this carefully, because what you are being asked to do is to put in rights of standing for the VFBV that the hero of the VFBV—the hero of the coalition—Ms Lucinda Nolan, denied them during the dispute. What is going on here? Well, I do know some things that are going on and they are not nice. They are not good.

Minister, you did not answer many of my questions—you have not answered any of them. But in relation to this fundamental point, do you agree that if the CFA had not denied the VFBV standing—well, it was the commissioner that denied standing, but they objected to the standing—and that if the commissioner had provided standing on the basis that the employer had agreed to standing, that could have meant that this bill would have been null and void, and not necessary?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:33): Thank you, Senator Cameron, for the questions, but also for disclosing your longstanding relationship with Commissioner Roe.

In relation to the question of giving volunteers the right to make submissions, personally, the only question that I would ask is: what is wrong with allowing standing to volunteers to be able to make representations? In terms of this particular case, CFA volunteers tried to be represented at the Fair Work Commission in May so they could put their concerns on the record. But Commissioner Roe determined that the volunteers did not have sufficient standing to be heard. We need to ensure that volunteer firefighters can have a say and present their views and concerns to the Fair Work Commission about any clauses in an enterprise agreement which could potentially impact on volunteers. As you know, Senator Cameron, volunteers are a significant stakeholder impacted by the CFA agreement. In terms of the figures that we have been talking about earlier this evening, there are around 800 paid firefighters employed by the Victorian CFA and nearly 60,000 volunteers, of which approximately 35,000 are operational firefighters. These amendments will give organisations representing volunteers the right to make submissions to the Fair Work Commission about enterprise agreements covering certain emergency service bodies that could affect the volunteers that they represent.

In terms of what the Fair Work Commission then does, that is a matter for the Fair Work Commission. But certainly, we believe that volunteers should have the right to make submissions. And as I said to you, Senator Cameron, the question I would ask is: what is wrong with allowing them standing?

Senator CAMERON (New South Wales) (20:36): Thanks; normally in this process the questions are from us to the minister. But given that the minister has steadfastly denied any opportunity to give an answer to any question, let me just tell you what the problems are. Firstly, it removes from the commission an important discretion to hear or not from intervenors, and it limits the capacity of the commission to regulate its own proceedings. That has been a longstanding position that has meant that even the minister herself can have standing, but only in very limited circumstances. That is the first point.

The second point is that it would require the commission and bargaining representatives to address submissions regardless of their merit and proper interest. Now, VFBV might think they have issues they want to take up, but there might be no merit in them. I do not see a lot of
merit in a lot of issues they raise. But that is not up to me. That should be up to the commission. That is what the commission has always done. It has always had the right to make sure that it can properly test the merit and the proper interest. That has gone under this proposal—gone.

The third point is that the limitation on the scope of the submissions is illusory in circumstances where the commission and bargaining representatives would need to address and assess any submission, if only for the purpose of determining whether or not the matter before the commission could affect the volunteers. This is going to another aspect of the bill. We have not even reached the bill yet, but we will get there, I promise you. We will get there. But this is one of the issues about 'could affect'. So what the commission will have to do is make a determination: could this affect the volunteers? The minister does not have the right to go and put that proposition to the commission. No-one else has the right to put it to the commission. But the VFBV has under this bill.

Now, I have to say to you that the VFBV do not come here as angels with halos around the heads. They do not come here like that—far from it. The submissions to the inquiry were clearly biased. The submissions to the inquiry were clearly about power and control for the VFBV, so do not think that it is a one-sided argument here. But what the government has done, for political purposes, is look at the numbers—and you hear the numbers all the time—and gone: 'Oh. Sixty thousand volunteers against 800 firefighters. Let's get the votes of 60,000 volunteers.' That is what this was about.

The VFBV do not come here with clean hands. To give them standing when they were in collusion with the old board of the CFA to diminish the union's capacity to bargain on behalf of its members, when they were in collusion with the old board of the CFA to destroy bargaining rights in the CFA—well, do not think that you have a bunch of angels sitting up in the bleachers this evening. All care but no responsibility; all good but no bad. It is not like that. Life is not like that. We know exactly what the VFBV are about. Some of the stuff that the VFBV put out during that election campaign was disgraceful, and it was designed to drive a wedge between the volunteers and the paid firefighters. So that is another reason why we should be very careful about this bill.

The fourth area is the rights that are being proposed extend to all stages and aspects of the enterprise bargaining process. So the VFBV can come in at any stage of the bargaining and seek intervention before the commission. It provides for a stranger to the bargaining process to intrude in the bargaining between the industrial parties. That does not happen anywhere else in the country. It just does not happen. The argument that it should happen, because they could not get standing, is bizarre, now that we know that the hero of the CFA, Ms Lucinda Nolan, opposed their application for standing before Commissioner Roe. If that had not happened and Ms Nolan had come in and argued that they should have standing, Commissioner Roe, as an honest and unbiased commissioner, may have made a different decision. But now we have bills in front of us based on an argument that the VFBV were denied standing, when we now find out that the CFA were opposed to that standing being given and actually put it in writing. So that is another reason.

Another reason is that it accords a private association greater rights of submission than is accorded even to the minister or state ministers. So you have this group of volunteers with more rights than a minister of the Crown. Now they might all be up there with little halos
above their heads, but we know that is not the reality. But, even if they did, it is not right that they should be given these special privileges available to no-one else in the country—not even the minister.

The other reason we should not agree with this is that it invites delay, disputation and complexity to the whole enterprise bargaining process. The bargaining representatives are supposed and intended by the act under section 171(a) to be simple, flexible and fair. The act determines that it should be simple, flexible and fair. I put it to the Senate that this is not simple. Even though, again, Minister Cash asserts certain things, it does not make them right. They are not simple; they are not flexible, and they are certainly not fair.

So, this revelation that Ms Lucinda Nolan, in writing, rejected the volunteers' application for standing is quite bizarre, because we have heard the minister tonight almost beatify Ms Nolan. And here we have the proposition that the whole basis of the act, of this bill that is before us, could have been fixed up if Ms Nolan had actually said to the commission, 'We agree, there should be some standing,' and outlined some reasons for the standing. But, no, she argued against that standing.

Minister, you asked me the question. I have given you seven reasons why we should not do that. I can keep going on; I can give you more. I am happy to answer all your questions on this stupidity we have before us—this political bill that is not about looking after Victorians leading up to a firefighting season, and that has nothing to do with getting proper relationships between the volunteers and the paid firefighters. Minister, this is about the coalition's fundamental hatred of the trade union movement. You are prepared to use volunteers and you are prepared to use firefighters, who put their lives on the line when they go out on the job, as punching bags in your hatred for the trade union movement in this country. These are valid reasons why this bill should not go ahead.

I hope that any senator who had previously made their mind up about this will now take on board that this could have been resolved simply and easily if the CFA had said, 'We want to do what this bill says should happen, and the VFBV should have its standing in that hearing.' It beggars belief that this is where we are and we have just found this out now. Minister, you asked the questions. There are the answers I am prepared to give you, but I ask you to now address each one of those seven points that I have raised as to why they should not get standing.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:47): Yet again, Senator Cameron, I think I am going to wildly disappoint you when I say that I am going to disagree with basically what you have said. I do think it is disappointing that you resort to smearing people and going off on the tangent of saying that the volunteers and this side of the chamber hate unions, because you know that is not the case. You know that the CFA, and in particular the volunteers, have worked alongside the paid firefighters for decades now. They take no issue at all with the fact that—under this agreement a union is trying to bring them into this agreement.
Senator Cameron, you asked the Senate—and I am certainly not going to verbal you, because you would be the first to jump up and tell me that I am—if it is unprecedented to give standing to volunteers in terms of being able to make a submission to the commission. The answer to that question, as I think you know, is no. Given your extensive history of being active within the industrial relations sphere, you would know that any person can seek leave to make submissions to the Fair Work Commission. You would also know that, in addition, the Commonwealth and state and territory ministers can make submissions, as of right, before a full bench of the Fair Work Commission and where it is in the public interest to do so. Therefore, you would also know that the Fair Work Act also enables other third parties to apply to the Fair Work Commission for orders to suspend or to terminate protected industrial action in certain circumstances. What this amendment does is merely an extension of the ability of the Fair Work Commission to hear from a broad range of interested parties.

Clearly you do have an issue with volunteers being able to articulate their concerns, but on this side of the chamber we believe that we must give volunteers the ability to make submissions in order to protect volunteers from parties seeking to use the Fair Work Act to limit the management of firefighting and state emergency service organisations. In relation to the claim that basically any volunteer organisation will be able to make a submission and this will just tie up the commission's time et cetera, the bill does not give volunteers an unfettered right to interfere in the employer-employee relationship.

Senator Cameron: Rubbish.

Senator McKenzie: It is true.

Senator Cameron: Chair, on a point of order: the last time Senator McKenzie was in the Senate she came in and was quite verbal and verbose in her interjections. Senator McKenzie has been around long enough to know now that she can sit anywhere she likes in the chamber during the committee process, but if she wants to intervene then she should go to her own seat. That is clearly in the standing orders. I am a bit sick and tired of Senator McKenzie waltzing in here and intervening from a seat that she is not entitled to be in. She should go to her own seat and then she can intervene as much as she likes. It will add to the show.

The TEMPORARY CHAIR (Senator Ketter): Thank you, Senator Cameron. I remind the chamber that all interjections are disorderly, particularly if they are not made from your own seat.

Senator CASH: As I was saying, the bill provides for a limited right of a body corporate that has a history of representing certain emergency service volunteers to make submissions on matters that are already before the Fair Work Commission and that arise under the enterprise agreement or workplace determination parts of the Fair Work Act, provided the matter affects, or could affect, the volunteers of a designated emergency management body. So, we have been quite specific and drafted a very narrow provision in relation to the ability of volunteers to make submissions.

The submissions themselves can be made orally or in writing. The conduct of proceedings is obviously governed by the Fair Work Act and is a matter for the Fair Work Commission, and this will not be changed by the bill. Obviously, the weight given to particular submissions is also a matter for the Fair Work Commission.
Senator XENOPHON (South Australia) (20:53): I have a series of—I hope—short, sharp questions in relation to this bill. One issue that has been put to me relates to the constitutionality of the bill. Professor Andrew Stewart stated in his evidence before the committee's inquiry—and I know that Senator McKenzie says he worked for the Gillard government, but—

Senator McKenzie: Yes, he did.

Senator XENOPHON: He did. You say it in such a pejorative way! He is a regular commentator on Leon Byner's show on FIVEaa, where he gives a pretty measured view, being critical of both sides of politics.

Notwithstanding that he committed the cardinal sin of working for the Gillard government, he said this to the inquiry:

The High Court has said in a series of decisions that it is perfectly okay for federal law to regulate the wages and employment conditions of state government workers or state government agency workers but there are limits. One of the limits articulated in a 1995 decision involving the Australian Education Union and also the Victorian government, as it happens, was that the Commonwealth cannot tell a state who or how many people it employs to do work. There is an argument that would be exactly what the Commonwealth would be doing with this legislation; it would be having a federal body, the Fair Work Commission, in effect overwriting the decisions of a state government body like the CFA when it decides how it wants to structure its relations with both its employees and its volunteers.

I know the government has said in broad terms that there are no issues about this, but that is a very pointed criticism by Professor Stewart. What does the government say about that specific criticism about the bill's constitutionality?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:55): The bill is within Commonwealth constitutional power. The Australian Government Solicitor has considered all of the issues raised by Professor Stewart and has concluded that the bill is constitutional.

In terms of the specific cases that you refer to, Commonwealth legislative power is limited so as not to interfere with the legislative power of the states. You referred to the cases that set in place the principle: the Melbourne Corporation principle and Re AEU. In terms of those two cases, the limitation prevents the Commonwealth from making laws that restrict or impair the states' capacity to function as governments. The amendments that are proposed by this bill will ensure that federal laws—the Fair Work Act in this case—are not misused to defeat state law obligations, and in this case the particular act is the CFA Act. Our bill reinforces, rather than undermines, the principles that are articulated in the two cases you raised. It prevents a state government from using a federal law to undermine its own legislation. Thank you for raising that, because there does appear to have been some misunderstanding by some parties in relation to that.

Senator XENOPHON (South Australia) (20:57): I thank the minister for her answer. Further to that, Professor Andrew Stewart, in his evidence to the Education and Employment Legislation Committee, also stated that he believed the bill would 'exacerbate the current dispute' and 'provide a vehicle for ongoing argument about the validity of key provisions in the agreement'. My question to the minister is: given what Professor Stewart says—whether you agree or disagree with him, he is an eminent scholar in this field—how does the government respond to that sort of concern from Professor Stewart? How, does the
government say, are the provisions in this bill going to help, rather than hinder, the resolution of this dispute?

The TEMPORARY CHAIR (Senator O’Sullivan): I call the minister.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:58): Thank you, Mr Temporary Chair. We have yet another change. Every time I look up there is a new face at the table.

Senator Williams: This is the prettiest one.

Senator CASH: It is the prettiest one to date, and he was forgotten about in question time today!

In terms of how the provisions of this bill are going to help, rather than hinder, the dispute, the concerns the volunteers have raised, as you would be aware, are in relation to the agreement expanding into volunteer arrangements as opposed to dealing just with the employer-employee relationship, and that is beyond what was contemplated by the Fair Work Act. The bill provides much-needed clarity for the parties to the agreement and for the Fair Work Commission when it is looking at the agreement. The bill itself makes clear that designated emergency management terms—and, as you would be aware, they are defined terms within the bill—are unlawful terms that cannot be included in an enterprise agreement. The bill also makes clear that a recognised volunteer body has a right to be heard by the Fair Work Commission in relation to agreements that affect it. These clarifications will provide much-needed certainty to help ensure that the agreement is determined as swiftly as possible.

Senator CAMERON (New South Wales) (20:59): Minister, just following up on the issues Senator Xenophon has raised: you would be aware that the matter is currently before the Supreme Court of Victoria. Professor Stewart, who is an acknowledged expert in industrial relations, has pointed out:

… if the Bill is enacted in its current form, its provisions could only become relevant to this dispute if an agreement were concluded that:

• had the support of both the CFA board and a majority of the CFA employees to be covered by the agreement—

So the first threshold is that there is an agreement between the board and a majority of the CFA employees. The second threshold is if an agreement:

• had been found by the Victorian Supreme Court to be consistent with the legislation governing the CFA … and

• met the other requirements of the FW Act, including that the agreement not contain terms that discriminate against employees on the basis of gender, family or caring responsibilities

Do you agree with that analysis from Professor Stewart?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:01): In relation to the current case before the Victorian Supreme Court, this is very important to understand: the Supreme Court is considering an issue that is separate from those that will be addressed by what we are doing here tonight—by the proposed amendments in our bill.
In terms of the action that has been taken by the VFBV in the Victorian Supreme Court, that action deals firstly with whether the failure to properly consult with volunteers and the terms of the proposed enterprise agreement itself conflict with the CFA board's responsibilities under the CFA Act; and secondly, if this is the case, whether this means the CFA board is operating beyond its statutory powers in seeking to enter into the agreement. That is separate to what our bill is going to do. Our bill will determine what clauses can be included in an enterprise agreement that is approved under the federal Fair Work Act and ensure that recognised volunteer bodies affected by the bill will be heard on such an agreement. So in terms of our proposal, the government's proposed amendments go directly to the issue.

Senator XENOPHON (South Australia) (21:02): I have a separate question. I am not sure whether Senator Cameron wanted to follow up on that. I want to go to the words of subclause 195A(1)(c) of the bill. The bill sets out what is and what is not an objectionable emergency management term. I would like to clarify one thing from the minister on this definition: in particular, the words in subclause 195A(1)(c) of the bill, which states:

(1) A term of an enterprise agreement is an objectionable emergency management term if … the term has, or is likely to have, the effect of:

… … …

(c) restricting or limiting the body’s ability to recognise, value, respect or promote the contribution of its volunteers to the well-being and safety of the community.

Can the minister please advise what sort of practical impact will the terms 'recognise', 'value', 'respect' and 'promote' have when deciding whether a term is an objectionable emergency management term? How does the government foresee that this will actually apply in practice? Putting a lawyer's cap on, it seems that this is something that may lead to some litigation. That is not unusual with a new piece of legislation; there is nothing wrong with that in itself, but I am just trying to understand what the government foresees as the scope of the words 'recognise', 'value', 'respect' and 'promote'.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:04): In relation to that particular term, just for your information, the term that we have used is similar to those used in the existing Country Fire Authority Act and would be applied in the same way. Basically, what we have done is pick up the wording from the CFA Act and had that reflected in the amendment that is currently before the committee. This is another way in which the bill ensures that state laws cannot be overridden by an enterprise agreement approved under the federal Fair Work Act.

Senator XENOPHON (South Australia) (21:05): I have one final question at this stage, which relates to clauses 254A and 281AA. The bill provides for an expressed entitlement for volunteer bodies to make submissions under clauses 254A and 281AA. Can the minister please clarify whether it is the intention of this provision to include all relevant bodies that advocate for volunteers within the emergency services sector or whether it is confined to the CFA?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:05): There are a number of preconditions that must be met before you become a volunteer body. Volunteer bodies that
will be able to make submissions under the bill are limited to those that are a body corporate and have a history of representing the volunteers—then you go to the defined term in the act—of a designated emergency management body. In addition, the volunteer body will only be able to make submissions where there is a matter before the Fair Work Commission, a party to that matter has volunteers and the matter on which the volunteer body makes submissions does affect or could affect that volunteer body. The first precondition that needs to be met is that you need to be a body covered by the Fair Work Act and it needs to be an enterprise agreement under the Fair Work Act.

Senator RHIANNON (New South Wales) (21:07): Minister, will you provide the Senate with a copy of the regulations that will be made after the bill passes? If you are not going to do that tonight, when will you do it?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:07): Thank you, Senator Rhiannon. We would follow the normal process in relation to the making of any regulations.

Senator Rhiannon: Could you explain what you mean by that, please. The 'normal process' is different every time, and you know that, Minister.

The TEMPORARY CHAIR (Senator O'Sullivan): Senator Rhiannon, you will have to wait for the call. Senator Rhiannon.

Senator RHIANNON (New South Wales) (21:07): Minister, could you explain what you mean by 'normal process'. 'Normal process' is very different every time, so 'normal' is variable. Could you explain what you mean, please.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:07): At this stage there is no intention by the government to make a regulation. I am assuming you are saying that we would add additional bodies. I am assuming that is what you are going to. As I have made clear—I think it was in response to you or Senator Cameron—the government has no intention of bringing in any other bodies and therefore will not be making any regulations.

In relation to the usual process that I was referring to, you would be aware that in any event, if a regulation is made, it is a disallowable instrument, and obviously it would be up to the Senate, in the normal course of business, as to whether it did or did not disallow the instrument. But I again go to the fact that the government has no intention of making regulations.

Senator CAMERON (New South Wales) (21:08): I just want to follow on from one of the issues Senator Rhiannon and Senator Xenophon have raised. Minister, you raised the issue of the CFA Act, and I am glad you did. You said that the bill is based on terms similar to the CFA Act. Are you aware that the CFA Act does not provide any veto power to the VFBV and that, in terms of the volunteers, the act at section 6G(b)—the section you are talking about—'requires that the Authority recognise, value, respect and promote the contribution of volunteer officers and members to the well-being and safety of the community'? This is in the Volunteer Charter, and the Volunteer Charter has no legal standing. The Volunteer Charter is simply a statement that has been made within the act but has no standing in terms of legally binding the state government.
So how can you move from a position where you have a Volunteer Charter with no legal standing to bind the Victorian state government? I think the Victorian state government were smart enough not to get themselves in a position where they would be legally bound by a volunteer organisation, and you lift aspects of this Volunteer Charter in the act, with no legal standing, and give it legal standing in the Fair Work Act. Why would you do that? What would possess you to actually try to get the commission to be dealing with issues of 'recognise, value, respect and promote'? What guidance is there for a commissioner or even a judge to be able to deal with what is just a feel-good statement, basically, in the Victorian Volunteer Charter? How can you then have any legal binding to this, and what are the legal implications of a commissioner having to try to deal with this? How would a commissioner actually make a decision that an agreement does not 'recognise, value, respect and promote' the contribution of a volunteer officer? How does that work?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:11): Senator Cameron, you continue to amaze me in terms of your hatred and undermining of the volunteers. In relation to—

Senator Cameron: Point of order: the minister should withdraw that statement. We are here debating a bill, and to say that I hate volunteers is demeaning me as a senator, it is unparliamentary and it should be withdrawn.

The TEMPORARY CHAIR: There is no point of order. Senator Cameron, on a further point of order?

Senator Cameron: Yes. I would ask then that you have a look at this, and I would ask that the President have a look at your ruling on this, because this opens up Pandora's box in this place if people can use terms such as 'hatred' against a senator. That is unparliamentary language, it is clearly against standing orders, and you must, Chair, operate under standing orders. If you are not prepared to operate under standing orders, I would then ask the President to have a look at this decision that you have just made.

The TEMPORARY CHAIR: Thank you, Senator Cameron. I will bring it to the President's attention and come back to the Senate if required.

Senator CASH: If you want, Mr Temporary Chair, perhaps I could assist you. If Senator Cameron is offended then I withdraw.

The TEMPORARY CHAIR: Thank you, Minister.

Senator CASH: I withdraw. In terms of the issue that you have raised, Senator Cameron, you will note that, in the particular clause of the agreement in terms of the definition of an objectionable emergency management term, it refers to a number of preconditions. But, in relation to precondition (c), if you go, in more general terms, to section 6H of the CFA Act, you will see that it provides that the CFA 'must, in performing its functions, have regard to the commitment and principles set out in the Volunteer Charter'.

Senator CAMERON (New South Wales) (21:13): Thank you. You are a lawyer, you are a senator, but I am just a humble fitter and machinist who happened to be a union official for some time, and I know that 'have regard' has no power. So what does 'have regard' mean? It has no legal standing. It places no binding legal obligations on the state government. So
maybe you can explain why you would say that section 6H is the argument to underpin this bill, because it has got me a bit bemused.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:14): Again, I would merely state that section 6H of the CFA Act also provides that:
The Authority must, in performing its functions, have regard to the commitment and principles set out in the Volunteer Charter.

In terms of the amendments we are proposing, ultimately it is a matter for the Fair Work Commission—as it is in terms of determining whether or not there is an objectionable management term.

Senator ROBERTS (Queensland) (21:15): Minister, I am told that the current UFU enterprise agreement is around 120 pages long—and someone else says it is around 200 pages. How can it possibly be padded out to 400 pages of terms and conditions of employment when, simply, it really includes managerial responsibilities as the Victorian government and the UFU admit. Isn't the core point here that a lazy state government will not face up to its statutory responsibility and is willing to further weaken this vital service provider by substituting the CFA statutory responsibilities with an EA?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:15): Thank you, Senator Roberts, for that question. Yet again, your observation is a correct one. As you have correctly articulated, our bill is going to prevent a state government from using a federal law to undermine its own legislation. In relation to the 400 pages and the managerial responsibilities, as you would be aware—I think you attended a number of the Senate hearings into this matter—one of the huge concerns that the CFA does have is in relation to the managerial responsibilities and the impact of a number of clauses on their managerial responsibilities. Yet again, you have hit the nail on the head.

Senator CAMERON (New South Wales) (21:16): Minister, I am interested in the answer you have just given to Senator Roberts—that you would prevent the state government from undertaking any actions that would undermine a state act. Can you point to where the state act would be undermined? Section 27(1) of the CFA Act says:
Subject to the general powers and directions of the Authority every brigade or group of brigades and all officers and members of brigades or group of brigades shall be under the order and control of the Chief Officer.

Section 29(c) of the CFA Act—and I am sure this was done before they ever thought about a woman becoming the chief fire officer—says:
He shall at all times have the charge and control of all apparatus and other property of the Authority and shall cause the same to be kept in a fit state at all times …

And section 30 of the CFA Act makes it clear that the chief officer has complete control in any emergency. Are you saying that any of these aspects of the Country Fire Authority Act are undermine by an employer and an employee reaching an agreement that, in the words of the chief fire officer, does not give him any problem in carrying out his duties? Can you take us to the parts of the act that you say the government may not be properly dealing with and could be undermining by reaching this agreement?
Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:19): Senator Cameron, of course powers need to be exercised in accordance with the enterprise agreement. In terms of what you are going to, the amendment that we are putting forward sets out what an objectionable management term is and why this will not be able to be in place in an enterprise agreement. It says that an enterprise agreement that covers a designated emergency body cannot include an objectionable emergency management term—that is, a term that has, or is likely to have, the effect of restricting or limiting the body’s ability engage or deploy its volunteers; provide support or equipment to those volunteers; manage its relationship with, or work with, any recognised emergency management body in relation to those volunteers; otherwise manage its operations in relation to those volunteers; or requiring the body to consult, or reach agreement with, any other person or body before taking action for the purposes of any of the above; or requiring or permitting the body to act other than in accordance with a law of a state or territory, so far as the law confers or imposes on the body a power, function or duty that affects or could affect its volunteers.

That is the whole point of the CFA Act. It goes directly to what Senator Roberts has articulated each time he stands up, and that is very much the managerial responsibility. That is the whole point of these amendments—to ensure that the CFA Act, under which the CFA manages its volunteers, is not compromised by what they are trying to do in utilising the Fair Work Act.

Senator CAMERON (New South Wales) (21:21): Minister, I am not sure that you actually heard my question, because I was asking about the Country Fire Authority Act and specific aspects of the Country Fire Authority Act. You moved immediately to the bill and just verbatim read parts of the bill, but that is not really answering my question, and that was: where does this agreement undermine the Country Fire Authority Act? The minister in Victoria does not think it does; the chief executive of the Country Fire Authority does not think it does; the chair of the board does not think that is the proposition; and the chief fire officer has said clearly that his powers are not undermined by the agreement. We have a position where the underlying basis of why you want this bill seems to change in every answer. When you were out there with the rhetoric during the election campaign, it was about the safety of Victorians. We have not heard you mention the safety of Victorians once tonight, because you know that the chief fire officer in Victoria has clearly outlined that his powers and his capacity to deal with an emergency situation are not undermined.

Senator Roberts: Mr Temporary Chairman, I rise on a point of order. Please pardon my inexperience, but I have clearly heard Senator Cash discuss safety tonight and make it a core point of this amendment, and yet Senator Cameron says otherwise.

The TEMPORARY CHAIR (Senator O'Sullivan): Senator Roberts, that is a debating point, not a point of order.

Senator CAMERON: Again, we have Senator Cash coming in and parroting parts of the act without really going to the implications and not being able to, in any way, shape or form, bring them back to the Country Fire Authority Act. The minister has raised the act. She has raised the issues that go to the charter. I put to you that, in legal terms, the charter is a best endeavours approach. It has no legal binding on the state government. No-one has argued that point to the committee. I have not heard that being argued here tonight, and yet here we have
a best endeavours clause, a clause that has no legal binding on the state government. It is being used as an argument to bind the participants in a bargaining process under the Fair Work Act and, in the process of doing that, put certain limitations on the Fair Work Commission in terms of how it can determine, under the current act, the validity or otherwise of an agreement. The government has form in this area. Whenever it wants to try to diminish union bargaining powers in this country, it brings in a bill, loads it up with rhetoric, misrepresents the facts, puts forward a flawed bill and hopes that they con the senators in this place that there is a valid reason for the bill.

If you look at 6G under the Country Fire Authority Act, in recognition of the volunteer charter it says:

... is a statement of the commitment and principles ...

... requires that the Authority recognise, value, respect and promote the contribution of volunteer officers ...

These are all statements of commitment and principles. They are not legally binding. It is a big jump to take a statement of commitment and principles and then turn it into a bill and have this place seek to turn that into an act based on the flawed arguments, or the lack of arguments mainly, that we have had tonight from the minister. The minister fully understands the implications of this, because the minister is about continuing the process that has been undertaken by conservative governments for years: to attack workers’ rights to collectively bargain. That is what this is fundamentally about. It is not about the volunteers; it is not about people who may be affected by fires. It is about an opportunity taken during an election campaign, when the Prime Minister was flailing around looking for issues, in a weakened position day by day as the election wore on, and moving to the holy old chestnut of union bashing. That is the genesis of this bill. As we are aware, given evidence that came before the inquiry, the Liberal Party of Australia had even set up a website to create animosity, disunity and dysfunction in the CFA. What an obnoxious position for the Liberal Party to take on the basis of trying to get a political advantage during an election campaign.

There are not only huge constitutional problems with this bill. I have not gone to Professor Stewart's arguments yet. I will get there before the end of the night. Minister, how do you expect a commissioner or a court to analyse whether an agreement restricts or limits a body's ability to recognise, value, respect or promote the contribution of its volunteers?

How does a commissioner deal with this issue of recognition? These are vague issues that are about commitments and principles. They are not about legally-based law. They are not about a bill. They are not about an act. They are about commitments of principles with no legal binding. And yet, if this bill becomes an act you are about to impose an obligation on an industrial commissioner to actually be able to determine whether a clause in an agreement recognises values and respects and promotes the contribution of volunteer officers. How does a commissioner do that?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:30): Senator Cameron, you and I have actually had this discussion, but in relation to different bills. They will make their determination after reviewing all of the evidence from the parties, as they would do on any other issue. And given, as you have clearly articulated, the very wide experience of the commissioners, I do not see this as being an issue.
Senator CAMERON (New South Wales) (21:31): Minister, can you also go to the issue that firefighters will only have access to a model consultation term? Can you also advise us what your definition of 'terms and conditions' is when you are talking about firefighters? What are 'terms and conditions'? I think you argue, as have the volunteer firefighters and the VFBV argued, that firefighters should have access to wages and conditions. Why can a worker in the manufacturing industry bargain in their agreement for safety gear? Why can cleaners bargain for safety gear in their agreement? Why can workers in the oil industry bargain for equipment to protect their safety, and yet you cannot do it if you are a firefighter? Can you explain that?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:32): You are wrong. The bill does not prevent that at all. In relation to the consultation term, the bill does not prevent enterprise agreements from including a consultation term that is developed to meet the particular needs of an emergency services body. An employer that is covered by the bill and its employees will still be able to bargain about and include appropriately tailored consultation arrangements in their enterprise agreement.

Senator ROBERTS (Queensland) (21:33): In my presence volunteers have repeatedly stated support for the terms and conditions of paid firefighters, and they are not opposed to them negotiating that through an EA. Firstly, could you tell me what the length is of a typical and effective enterprise agreement across Australia? I know that will be a very broad answer. Secondly, could a typical EA be more effective at 20 pages? Thirdly, could it be that more than 20 pages introduces possibly superfluous clauses, and what would 400 pages in an EA indicate?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:33): Again you have hit the nail on the head, quite literally. I am a big fan of streamlining. Streamlining and simplicity normally get us where we need to go. Yet again you have rightly articulated in relation to the agreement that it is page, after page, after page, after page, which has caused serious confusion amongst people.

In relation to the terms and conditions, you are correct. The volunteer firefighters have no issue at all in relation to what the paid employees are negotiating—in particular, in relation to their pay. It is when there is overreach of the agreement and it brings in the volunteers and their ability to manage their organisation that the concerns are then raised. Certainly, in relation to streamlining, I would agree with your comments.

Senator CAMERON (New South Wales) (21:34): I want to go back to the volunteer charter. The volunteer charter does not affect any of the powers of the chief officer. The proposition that you would bring the volunteer charter or aspects of the volunteer charter into a bill before the federal parliament again is a significant problem, I believe, in terms of the commission being able to understand what it is supposed to do when it is dealing with an objectionable emergency management term. So I do not think you have gone anywhere near answering effectively the concerns that the Senate would have.

If we want to pass a bill, we do not want that bill to end up being continually in legal argument—even up to the High Court or on constitutional grounds. The evidence before the committee was clear that this bill is easily challengeable on constitutional grounds, even
though you argue that you have had it checked. That has happened before, and we have seen
the outcome of that. Can you advise me: how do you see workers—that is what paid
firefighters are, they are workers in the state of Victoria? Why are they being treated
differently to other workers around the country, who you have just conceded can bargain in
relation to their safety equipment? Why can a firefighter not bargain with their employer?
Why can a firefighter not make sure that the equipment that they are using is good equipment,
effective equipment and equipment that will not put their lives in danger?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public
Service, Minister for Employment and Minister for Women) (21:37): Senator Cameron, I
disagree with the fundamental premise of your assertions. What our bill does is introduce a
new objectionable term. It is in relation to the Fair Work Act being used for purposes that it
should not be used for. The workers, as you put it—and I assume you mean paid firefighters,
because it is the paid firefighters who are obviously covered by the agreement; the
employees—can continue to bargain. Nothing is changed by the bill.

Senator ROBERTS (Queensland) (21:37): Clarity of purpose—and I refer to the words
'recognise, value, respect or promote'. In my experience, when I graduated from university I
worked for three years as an underground coalface miner so that I could gain some valuable
experience. I have worked through to executive levels in the mining industry, and I have also
worked in voluntary organisations as a volunteer. It seems to me that whether paid or
voluntary, volunteers receive their reward, like paid employees, from diligent and effective
service. That is weakened, is it not, and diluted and in places sabotaged by intervention of a
third and irrelevant party pushing its own agenda—separate, in this case, from the CFA and
the communities. Doesn't this intervention of a third party with volunteers, controlling those
volunteers, destroy the cohesion, breed dismay and dissolve or dilute a volunteer's purpose in
work?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public
Service, Minister for Employment and Minister for Women) (21:38): Thank you, Senator
Roberts, for those comments. Again, you raise what are very serious issues. They were
obviously raised by volunteer after volunteer after volunteer, in particular at the Senate
hearings but certainly also over a number of months now in relation to this agreement. You
are right, and that is why we have this bill before the Senate. An enterprise agreement should
not be able to include terms that undermine the capacity of volunteer emergency service
bodies to properly manage their volunteer operations. That is the purpose of this bill.

More than that, one of the real concerns that I have, and one of the real fears that I have,
particularly in relation to the impact of the dispute on the volunteers is the evidence that was
given by the New South Wales fireys—and you would have heard this, Senator Roberts, in
the Senate inquiry—that on the border a number of the Victorian CFA volunteers are so
despondent they are now going across the border and saying, 'Can we come and fight with
you?' Giving up on Victoria and going over to New South Wales. So, yet again, yes, you do
articulate what are some real concerns that have been raised by the volunteers.

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

The committee divided. [21:45]

(The Chair—Senator Lines)
Ayes ..................37
Noes ..................31
Majority .............6

AYES
Abetz, E
Bernardi, C
Brandis, GH
Bushby, DC
Cash, MC
Calleton, RN
Fawcett, DJ
Fifield, MP
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B
O'Sullivan, B
Paterson, J
Reynolds, L
Ruston, A
Scullion, NG
Smith, D (teller)
Xenophon, N
Back, CJ
Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fieravanti-Wells, C
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Payne, MA
Roberts, M
Ryan, SM
Sinodinos, A
Williams, JR

NOES
Bilyk, CL
Cameron, DN
Dastyari, S
Dodson, P
Gallacher, AM
Hanson-Young, SC
Lambie, J
Ludlam, S
McAllister, J
McKim, NJ
Polley, H
Rhiannon, L
Siewert, R
Urquhart, AE (teller)
Watt, M
Wong, P
Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallagher, KR
Ketter, CR
Lines, S
Marshall, GM
McCarthy, M
Moore, CM
Pratt, LC
Rice, J
Sterle, G
Waters, LJ
Whish-Wilson, PS

Question agreed to.
Bill reported without amendments; report adopted.

Third Reading

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:48): I move:
That this bill be now read a third time.
The PRESIDENT (21:48): The question is that motion be agreed to.
The Senate divided. [21:50]
(The President—Senator Parry)

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

AYES

Abetz, E
Bernardi, C
Brandis, GH
Bushby, DC
Cash, MC
Cullen, RN
Fawcett, DJ
Fifield, MP
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B
O’Sullivan, B
Paterson, J
Reynolds, L
Ruston, A
Sculion, NG
Smith, D (teller)
Xenophon, N

Back, CJ
Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Payne, MA
Roberts, M
Ryan, SM
Sinodinos, A
Williams, JR

NOES

Bilyk, CL
Cameron, DN
Dastyari, S
Dodson, P
Gallacher, AM
Hanson-Young, SC
Lambie, J
Ludlam, S
McAllister, J
McKim, NJ
Polley, H
Rhiannon, L
Siewert, R
Urquhart, AE (teller)
Watt, M
Wong, P

Brown, CL
Chisholm, A
Di Natale, R
Farrell, D
Gallagher, KR
Ketter, CR
Lines, S
Marshall, GM
McCarthy, M
Moore, CM
Pratt, LC
Rice, J
Sterle, G
Waters, LJ
Whish-Wilson, PS

Question agreed to.
Bill read a third time.

ADJOURNMENT

The PRESIDENT (21:52): It being post 9.50 pm, I propose the question:
That the Senate do now adjourn.

Whitrow, Mr David Lawrence

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (21:52): Tonight I want to pay tribute to a father, grandfather and husband, a long-time contributor to this nation's political landscape and a friend of mine, David Lawrence Whitrow. Sadly, David passed away just two months ago, less than six months after he retired from 20 years of service as a staff member to various members of parliament. I want to pay my respects to the long service that David gave to our country and offer my sincere condolences to David's family.

I am sure most members of parliament appreciate the arduous efforts of their staff and that those staff often do not get the credit they deserve. David was the template for an effective, hardworking and supportive leader among the staff that make this parliament work. If there was one word to sum up what David brought to our team it would be that David was unflappable. It would not matter the situation or the crisis, David would be calm, he would be even-handed and he would be fair. I often wondered if it was David's habit to sneak off for the odd cigarette that gave him this calmness and even-handedness. When I started working here, I soon took up that evil habit myself again but soon realised that it was not the cigarettes that helped; it must have been something else. I think it was David's dry sense of humour that kept him sane in this place; it is something that I think we all need from time to time.

In some senses David was my first boss. I came here to work for Senator Barnaby Joyce, but, at the time, David was the Chief of Staff to the Leader of the Nationals, Warren Truss. I know it is hard to believe but sometimes my boss, Barnaby, would get himself into the odd scrape. He would get into a bit of trouble. He would say things in slightly the wrong way or go out on a topic where angels feared to tread. I would get angry and urgent phone calls from some shadow ministerial offices. But David's rebukes would always be subtle: 'He could have expressed that better' or some such. Sometimes a velvet glove has more impact than an iron fist.

Our families sacrifice so much so that we can pursue careers in this place. As Tony Abbott once eloquently put it: we are the volunteers but our families are the conscripts. After volunteering more than most, the veterans of political careers look forward to retirement at home, with their families. David had earned that rest. He deserved that respite, and his family were due much more time to enjoy his company than has tragically occurred. David was a devoted and loving husband to his wife, Margie, and was similarly devoted to his family—his brother, John, and his wife, Deidre; son, James and his wife, Alex; son, Justin; daughter, Melissa, and her husband, Damien, and their children, Sadie and Charlie, who had David as their wonderful 'Grandpa'. My sincerest condolences go to them all.

David was born in Adelaide. His first job around politics was working for the Australian Mining Industry Council, and he was head of the Tasmanian Chamber of Mines—an industry that I now have the honour of representing. I am always astounded that, 20 years after he left working for the mining industry, there are still people who remind me of his character and of his legacy to the industry.

David loved a punt. He had an uncanny ability to leave a casino or other gaming establishment well in front—much to the chagrin of his fellow gamblers, who would often
leave with nothing. He was an avid golfer and gardener. He received a Hole in One award at the Federal Golf Club in 2012. I hope I might get that one day, but I probably never will. He took a great interest in the lives of his children and grandchildren. He was a master at barbequing. He and Margie put on the best backyard barbeques in Canberra. He loved walks with Molly, his golden retriever. He loved to travel. He also loved working for Warren Truss, who was more than a boss to David. He was a loyal friend and confidant. I know Warren and Lyn were deeply saddened with the loss of David. Warren gave a great eulogy at David's funeral a couple of months ago.

He was respected by all sides of politics, and close to half the cabinet attended his funeral. He is missed keenly by many of us in this place. It was a loss to us all earlier this year when he retired and was no longer just down the corridor or in the courtyard sneaking 'another'. Now that he is not on the phone or just around the corner, his loss is felt so much more deeply.

He was a mentor to many within the National Party. Many staff who have risen to lead offices as chiefs of staff had often previously worked for David or would call on him for advice. He was a humble but passionate man who fought hard for National Party values and worked behind the scenes to achieve significant outcomes. He always had an open-door policy, and, despite his calm, kind and welcoming manner, he was very much a warrior for the coalition and held pivotal roles in five federal election campaigns at coalition headquarters. He was chief of staff to the former Minister for Resources and Energy, Senator Warwick Parer, and the Minister for Regional Services, Territories and Local Government, the Hon. Wilson Tuckey MP—someone else who used to get into the odd scrape.

As chief of staff to the Deputy Prime Minister, David was a key part of the Nationals and coalition leadership teams. He worked on many high-level government committees, including the Expenditure Review Committee. He was part of the daily morning leadership conferences and held a key position on the Staff Selection Committee. Being on the budget committee meant that he was at the heart of how the government approached tough economic decisions, and his sphere of influence was not confined to the areas within only the National Party ministers' portfolio responsibilities.

He worked seamlessly with three federal presidents and two federal directors, always offering frank and sound advice and his full support, without seeking any particular recognition for himself. David was presented posthumously with a Nats Wombat at his funeral. During election campaigns, David held court on infrastructure issues, particularly funding for roads, highways, bridges, range crossings, railway corridors and decisions on intermodal hubs and dams. He worked closely with his coalition partners. As far as David was concerned, there were no boundaries between the Nationals and the Liberals, especially when it came to making tough decisions—everyone owned those tough decisions.

Some of his greatest achievements would often never be attributed to his behind-the-scenes work—whether it be on aviation security post September 11; combatting rising petrol prices; working on the Murray Darling Basin agreement; being the architect for assistance to so many packages for the agriculture sector, with various packages for the sugar and dairy industries and, more recently, drought assistance policies at the height of Australia's worst-ever drought. He found money for our national highway in times when there was no money to spare. And
he persisted with trade agreements at times when there was not much light at the end of the tunnel.

It was much of this behind-the-scenes work where David was at his best. He valued the relationship governments need to have with their departments and industry, and he worked constantly to build confidence, trust and respect. He had close working relationships with departmental secretaries and their deputies. He also worked closely with the chief financial officers of government departments to get the most out of their budgets, especially in the months leading into the budget when many of the decisions are made. I could certainly use some of his talents now.

David retired earlier this year in March. I spoke to him only a few months ago to get some advice myself as I put a ministerial office together. He was clearly enjoying his time away from Parliament House and was planning a major holiday with his wife. I counted David as a close friend. I would seek his advice and trusted it. His life was tragically cut too short but then his achievements and legacy are long.

The Australian political landscape is much less greener for the loss of David Whitrow. We are indebted to him for his contribution and service. He will remain an example to all staff in this place. He lived up to those eternal worlds from Rudyard Kipling. He kept his head while other lost theirs, he did not deal in lies or give away to hating. He walked with kings but kept the common touch. He was a man, and a man worth following. Vale David Lawrence Whitrow.

**Palliative Care Tasmania**

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (22:01): This is the third time in two months that I have risen to speak about Palliative Care Tasmania and the dire future facing them. Even though my petition was tabled in the parliament last sitting week, I continue to receive signatures on the electronic petition despite no longer asking for them. Over a thousand Tasmanians are now calling on the Turnbull government to extend Palliative Care Tasmania’s funding.

Since the last time I spoke on this issue I have received a response from the Minister for Health and Aged Care, Minister Ley, to my letter of 5 August. The minister's letter points out that the entire Better Access to Palliative Care Program, through which Palliative Care Tasmania delivered one component, was funded through the Tasmanian Health Assistance Package. The minister says that the Tasmanian Health Assistance Package is not an ongoing program, although some initiatives have been extended past 30 June 2016 to allow for expenditure of unspent funds within existing allocations. For example, Palliative Care Tasmania had their funding extended to 30 September 2016.

I am pleased that the minister was able to get these facts right, because she failed dismally when her office was quoted in response to an article in Hobart's *Mercury* newspaper on 20 September. A spokesperson for the minister said that Palliative Care Tasmania received $63.2 million funding over four years from 2012—that is wrong. As a matter of fact, this was the funding provided by the previous Labor government to the entire Better Access to Palliative Care Program, of which Palliative Care Tasmania received $2.67 million. The spokesperson went on to say that their funding agreement was extended to September this year in order to
give them more time to achieve their outputs. I hate to tell you this, but that is wrong again. As a matter of fact, Palliative Care Tasmania had well exceeded their targets.

The minister's letter is disappointing for a few reasons. Firstly, it says that there are no opportunities to receive additional funding under the Tasmanian Health Assistance Package. That much is clear. I understand that the Tasmanian Health Assistance Package was a one-off program. But surely that could not stop the Turnbull government from looking at the program delivered by Palliative Care Tasmania's community education program on its own merits? After all, this is what Labor committed to before the last election. We committed to spending $2.3 million to fund the program for a further three years and to evaluate it for a national rollout.

We made that commitment recognising the incredible contribution this community education program has had to improved outcomes for palliative care patients, their families and their carers. Together with other aspects of the Better Access to Palliative Care program, this program has resulted 26 per cent of Tasmanians being able to die at home in accordance with their wishes, compared with the national average of 14 per cent. This is well short of the 70 per cent who wish to die at home, but certainly is a significant improvement.

I mentioned earlier that Palliative Care Tasmania had well exceeded their targets. They had a contract to educate 1,000 Tasmanians, yet they managed to educate more than 13,000. This is a more than a 1,200 per cent improvement on their target, while still underspending their allocated funds enough to extend the program another three months. During that three month extension, Palliative Care Tasmania will have delivered another 35 education sessions—and they have a waiting list.

So while Minister Ley is telling me, in her response to my letter, that there are no opportunities for Palliative Care Tasmania to receive further funding, she has said nothing to acknowledge the excellent outcomes this program has achieved, nothing to acknowledge the vastly improved end-of-life experience that hundreds of Tasmanians have had as a result of this program and nothing to acknowledge the potential savings to the Tasmanian acute healthcare system from having more palliative care services delivered in the home rather than in hospital.

To give you an idea of why this organisation is so greatly valued, just the other day, I attended a fundraising event at a local residential care facility called Oakdale Lodge. While I was there, I was talking to the CEO of the organisation that runs Oakdale Lodge, and we got onto the subject of palliative care. Through this conversation, I found out that Liviende Veranto, the organisation, had received funding from Palliative Care Tasmania for a research project to look into the palliative care needs of people with disability and life limiting illnesses. Liviende Veranto conducted a series of consultations with people with disability, their families and disability service providers. Until this project was undertaken, very little was known about the palliative care needs of people with disability in Tasmania.

What they found, through their research, was that there was a need for more conversations with people with disability about death, dying and grief, and about their end of life care needs. There was a need for more training of disability care sector workers about how to have those conversations. At the same time as expressing a need to be heard about end of life care, the project participants also expressed how empowering it was to be listened to when it came to their wishes. This one project has had a profound impact on the way we approach palliative
care for people with disability in Tasmania, and this is just one of more than 70 projects that have received grants from Palliative Care Tasmania.

I mentioned there are a few things that are disappointing about the minister's response to my letter. One is the failure by the minister to acknowledge the amazing outcomes Palliative Care Tasmania has been able to achieve. Another is the minister's assertion that there are no further opportunities for funding under the Tasmanian Health Assistance Package, and the Turnbull government's refusal to look at this program on its merits. I am also very disappointed that the minister points to the National Palliative Care Strategy as if it will fill the gap left by the closure of Palliative Care Tasmania's community education program. It will not.

But the fourth and final thing I find disappointing is that there is a huge, gaping contradiction in the minister's response. The minister mentions that the Better Access to Palliative Care Project is being evaluated for its 'appropriateness, effectiveness, efficiency and impact' and that this evaluation is expected to be completed in December. If the door is open to extending funding to some aspects of the BAPC program, then why not Palliative Care Tasmania? After all, the BAPC program is an integrated package, of which Palliative Care Tasmania's services are a key component. Surely the minister's statement that there are no opportunities for further funding also apply to the remainder of the BAPC program? And, if this is the case, why bother with an evaluation at all? And what if the evaluation confirms my belief that the BAPC program, including Palliative Care Tasmania's community education program, is delivering in spades? Is the government simply going to ignore it?

I am going to quote from an editorial that was published in Hobart's Mercury, which said of the pending closure of Palliative Care Tasmania:

In a world where talking about death and dying remains somewhat taboo, the education, information and advocacy services provided by Palliative Care Tasmania are critical. The vacuum created by its demise will undoubtedly suck in other care providers that are already stretched for resources. Palliative Care Tasmania, thankfully, has been able to survive beyond the end of September, and might—just might—be able to stretch their funding until the end of the year. But in order to do so they have had to close their main office, cut the hours of all their staff and sell a vehicle.

The minister's and the government's response to this issue just goes to show that they do not understand or appreciate how much Palliative Care Tasmania's community education program is valued by Tasmanians. So I challenge the minister to come down to Tasmania and talk to the staff at Palliative Care Tasmania, and to talk to all the organisations that have benefited from their services. Minister, look the staff of Palliative Care Tasmania in the eye and tell them that their organisation—their jobs—are not worth saving, or that they do not carry out a most important service. Talk to stakeholders like Council on the Ageing, Aged and Community Services Tasmania or Liviende Veranto. Explain to the 1,000 Tasmanians who have signed my petition, or the 13,000 Tasmanians that this program has helped educate, why you have failed to understand what this service means to them. Explain it to the hundreds of people whose terminally ill friends and family members have had a better end-of-life experience because of Palliative Care Tasmania. Have the guts to tell those people that the services provided by Palliative Care Tasmania do not merit further funding.
The minister's failure to acknowledge the excellent work that Palliative Care Tasmania is doing— and her refusal to even consider an extension of funding based on the merits of this program— shows a lack of understanding about what this organisation has delivered, and a callous disregard for the palliative care needs of the people of Tasmania. I will continue to fight for this program because, unlike Minister Ley, I understand the importance of the outcomes it is delivering for end-of-life care in Tasmania.

**Pork Industry**

**Senator LEYONHJELM** (New South Wales) (22:10): Despite being a retailer, a business previously known as shopkeeping, Coles apparently believes it knows enough about pig production to tell pig farmers how to produce their pigs. And if they do not do as they are told, Coles will not sell their pork. This leads to results that are bad for pig farmers, bad for the pig industry, bad for animal welfare and even bad for Coles's customers who eat pork.

A few years ago a product known as IMPROVAC came on the market. It is a simple injection given to male piglets when they are small which blocks the production of male hormones. IMPROVAC is innovative technology, an immunological product similar to a vaccine. It is not like a traditional chemical or a hormone. It leaves no residues, it has no side effects and it has no negatives for the environment or consumers. The same technology is starting to be used in other species.

Coles tells its pork suppliers not to use IMPROVAC. That is not because it has superior scientific knowledge to the regulator, the APVMA, which approved IMPROVAC, and not because it knows more about pig farming than pig farmers; it is so it can say to consumers, 'We don't sell pork that contains things'—things it knows nothing about, but which it thinks sound bad. It feeds on ignorance and bigotry about agriculture.

The reason pig farmers want to use IMPROVAC, and indeed should use it, is that it blocks the production of androgenic hormones in young male pigs. As they reach puberty, male pigs become aggressive and fight each other, similar to teenage boys. This is not harmless fun. They end up covered in bites and cuts. Some are more seriously injured. They are seriously stressed. And, because they are so busy fighting each other, they eat less food and do not grow as fast. A pen of adolescent female pigs, by contrast, is placid, with very little fighting.

Another consequence of the upsurge in the production of male hormones is that they cause an unpleasant taste in the meat, known as boar taint. Not everyone cares about it, but there are many consumers who have unwittingly bought pork, encountered boar taint, and sworn never to buy pork again. Some meat buyers insist on pork from female pigs. Asian markets are particularly sensitive to boar taint and, in the past, some pork export markets have insisted that the meat must only come from female pigs. Obviously, this is not something to be encouraged. Pig farming would not be viable if only female pigs were used.

In the past, pig farmers had two options. One was to surgically castrate male pigs prior to puberty so that the hormones were not produced. This was effective, but has obvious animal welfare issues. We are not talking about an operating theatre and peaceful anaesthetic. It also has an economic effect: the shock of castration stops growth for a while, and then the loss of the anabolic effect of male hormones means the pigs do not grow as fast as they would if they remained entire. The other option was to slaughter male pigs at a young age prior to puberty.
kicking in. This is far from ideal in terms of the type of pork produced and not very efficient either.

So what Coles has is a policy that is bad for pig welfare, because it results in unnecessary pain and suffering due to injuries from fighting, plus it promotes castration. It has a policy that is bad for pig farmers. They miss out on the benefits that IMPROVAC offers of faster growth rates and lower costs of production. It has a policy that is bad for the pig industry, which loses customers who are turned off by boar taint. And, last but not least, it has a policy that is bad for its customers. Pork is a wonderful product yet, because Coles rejects IMPROVAC, it is more likely consumers will encounter boar taint and be turned off it or go elsewhere in the hope that the pork will not be tainted. Coles does not actually care about pig welfare or the pig industry or its own customers. It just wants to be able to tell a nonsense story to gullible consumers. It perpetuates the myth that agricultural production involves the use of dodgy products and that shopkeepers have the competence to avoid that. It is a disgrace.

Walker, Mr Max Henry Norman

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (22:16): I rise tonight to pay tribute to a much-loved Australian cricketer, raconteur, commentator and writer, one who was born in and spent his formative years in my home state of Tasmania. On Wednesday, 28 September, our nation said goodbye to one of its greats. At the age of 68, Max Henry Norman Walker lost a two-year battle against myeloma.

Walker was a character larger than life. His presence played an important role in the highly successful Australian cricket teams in the 1970s and upon his retirement from cricket Walker charmed audiences with his colourful commentary as he became a celebrity on radio and television. He had a talent for embellishing even the most mundane tale to the point where it turned into a side-splitting yarn.

Born on 12 September 1948 in West Hobart, Tasmania, Walker was the son of 'Big Max Walker', who ran the then Empire Hotel in North Hobart. Anyone who has read one of his bestsellers, A Chip Off the Old Block, would have had a bellyaching insight into Walker's Hobart childhood. Growing up, 'Little Max' would play cricket in the car park behind the club and hone his skills against unsuspecting patrons game enough to play with him. He refined his bowling technique trying to bowl out his late sister, Lexie, of whom it was said was an even greater batter. He attended The Friends' School in Hobart, where he dominated interschool sport in footy, cricket and athletics. His talent did not go unnoticed and, on turning 17 in 1966, legend Demon's coach Norm Smith came to the Walker household to sign him up.

Walker's dad encouraged him to further his studies as well. So the following year he crossed the Bass Strait to study architecture at RMIT and to play football in what was then known as the VFL. For the next several years he played footy during winter and cricket during summer, both at the MCG whilst working there as a maintenance man and scoreboard operator. This was despite his footy coach's protestations, as he was not too keen on the idea of his footballers dividing their attention by playing cricket in the summer. In any case, Walker went on to play 94 senior games with the Melbourne Football Club throughout 1967 to 1972. But, in the end, Walker's passion for cricket won out and, while he did not win many Brownlow votes in the VFL—as he himself would point out—he did bring with him fitness
and stamina and the ability to forbear injury, as is showcased by him breaking his nose five
times.

In 1972 he played his last VFL football match and in December of that same year he took
up the baggy green cap to play his first test match against Pakistan, making his and my home
state proud as the first Tasmanian to be picked for a test since C.L. Babcock in 1936. Walker
proved himself in that game and the next, where Pakistan needed 159 for a victory and Max
bowedled with the ferociousness of a fast bowler and the cunning of a class spinner, destroying
the visitors taking six for 15 off 16 overs.

A tour of the West Indies followed, where Walker was a big contributor to Australia
winning the series, having to fill the gap alongside Jeff Thomson due to Dennis Lillee and
Bob Massie falling to injury and to illness. Walker himself had heels and ankles so bruised he
could hardly put his boots on and at the ground he stuffed masses of foam rubber into his
boots, laced them up and muttered 'That'll do'. He proceeded to bowl 38 overs in the first
innings and 23 in the second, taking five wickets and the famous near-impossible catch.

During the first test of that series against Jamaica at the Sabina Park cricket ground,
batsman Maurice Foster sent the ball flying with Walker in hot pursuit, putting in all the
speed he could muster in an attempt to catch the ball. At the final moment, Walker
manoeuvred a magnificent dive action catching the ball and gleefully turned to the roaring
crowds. But the crowds went silent and, realising something was amiss, Walker turned to Ian
Chappell, who was yelling at him that it was a no ball and the batsmen had just completed
three runs.

Australian test cricket was in a golden era at this time under the captaincy of Ian and Greg
Chappell, perhaps second only to Sir Donald Bradman's 1948 'Invincibles'. Walker played 34
tests for Australia, taking 138 wickets as a right-hand medium-fast bowler. His wrong-footed
bowling action earned Walker the nickname 'Tangles' and his style of swinging his right arm
over his left earhole was imitated by backyard cricket players right across Australia. This,
along with his handle-bar moustache and down-to-earth larrikin style, made him a genuine
crowd favourite, even bringing a smile to the Queen in the 1977 Centenary Test match against
England. The Queen was introduced to the Australian team in alphabetical order and, on
Walker's turn, after a general enquiry about how he was feeling in the heat and with England
piling up 130-odd runs, Walker returned with a 'Geez, ma'am, I'm bloody hot!'

Between 1977 and 1979, the face of international cricket underwent significant
transformation as Kerry Packer launched a cricket revolution. World Series Cricket was born
and Walker was in the thick of it playing six super tests, bowling 26 wickets at an average of
23.7 and scoring 144 runs. During his cricket career, Walker also played 70 Sheffield Shield
games for Victoria as a fast bowler, providing his adoptive state 249 wickets, and 17 One Day
Internationals.

A week into retirement from cricket, Walker began his career in entertainment when he
joined ABC radio with Drew Morphett and Alan McGilvray as a cricket commentator.
Following this, in 1982, he was invited to become Channel 7's expert on the World of Sport.
Later he joined the Nine Network hosting Wide World of Sports and The Sunday Footy Show
alongside legends such as Ted Whitten, Sam Newman, Mal Brown, Lou Richards, Simon
Madden, Simon O'Donnell and Sam Kekovich.
He was also part of Channel Nine's cricket commentary team between 1986 and 1991. He was a natural, achieving success through wit and intelligence. He had a natural presence on stage, and his ability to tell a good yarn made him a crowd favourite.

Walker also appeared in many television ads. Who can forget the iconic series of 'World's Worst' Toohey's 2.2 Light Beer ads where Walker appeared alongside Doug Walters, or promoting Aerogard with a young boy wishing him the classic 'Avagoodweekend Mr Walker'?

Walker had a way with words both on screen and in writing. After his spell on Channel Nine, Walker went on to write 14 books, seven of them No. 1 bestsellers. He had a canny ability to bring energy and emotion to his stories and went on to sell over a million copies. How to Kiss a Crocodile, How to Puzzle a Python, How to Hypnotise Chooks and other great yarns all became much-loved Father's Day presents.

Not one to stick to convention, Walker self-published and promoted his books personally. He would load up his car with copies of his latest title and take off all over Australia, ensuring that he visited cities and small country towns alike. That was typical of Walker. Despite his success and celebrity status, he remained down to earth and big-hearted throughout his career. Rather than use his celebrity for personal gain, he used his exalted status to assist his charity work with numerous organisations, many revolving around youth and social work.

He also played a big role in promoting men's health. His 'mo' became an early drawcard for Movember. On 13 June 2011, Walker was awarded the Member of the Order of Australia for service to cricket at a national and international level as a player and commentator and for his service to the community.

Just as we are about to enter summer and enter another season of Aussie cricket, it is fitting that we salute this great gentleman and give our condolences to his wife, Kerry; his three sons, Tristan, Keegan and Shelden; and two daughters, Alexandra and Isabella.

Senate adjourned at 22:24

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.]

A New Tax System (Goods and Services Tax) Act 1999—


Goods and Services Tax: Recipient Created Tax Invoice Determination (No. 36) 2016 for Recyclers [F2016L01524].


Goods and Services Tax: Recipient Created Tax Invoice Determination (No. 41) 2016 for Australian Financial Services Licensees and their Representatives [F2016L01533].


*Aboriginal Land Grant (Jervis Bay Territory) Act 1986*—Aboriginal Land Grant (Jervis Bay Territory) Regulation 2016 [F2016L01585].

**Aged Care Act 1997**—

Aged Care (Subsidy, Fees and Payments) Amendment (Increasing Consumer Choice) Determination 2016 [F2016L01495].

Aged Care (Subsidy, Fees and Payments) Amendment (September 2016 Indexation) Determination 2016 [F2016L01451].

Prioritised Home Care Recipients Principles 2016 [F2016L01493].


**Aged Care (Transitional Provisions) Act 1997**—


Aged Care (Transitional Provisions) (Subsidy and Other Measures) Amendment (September 2016 Indexation) Determination 2016 [F2016L01456].


**Anti-Money Laundering and Counter-Terrorism Financing Act 2006**—Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2016 (No. 1) [F2016L01444].


**Australian Education Act 2013**—Australian Education Amendment (2016 Measures No. 2) Regulation 2016 [F2016L01545].


**Australian Prudential Regulation Authority Act 1998**—Australian Prudential Regulation Authority (Confidentiality) determination—No. 2 of 2016 [F2016L01471].

**Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011**—Australian Transaction Reports and Analysis Centre Industry Contribution Determination 2016 (No. 1) [F2016L01449].


Banking, Insurance and Life Insurance (prudential standard) determination No. 4 of 2016 – Prudential Standard 3PS 310 – Audit and Related Matters [F2016L01437].

Banking, Insurance and Life Insurance (prudential standard) determination No. 6 of 2016 – Prudential Standard CPS 231 – Outsourcing [F2016L01436].


Banking, Insurance and Life Insurance (prudential standard) determination No. 8 of 2016 – Prudential Standard CPS 510 – Governance [F2016L01432].

Banking, Insurance and Life Insurance (prudential standard) determination No. 9 of 2016 – Prudential Standard CPS 520 – Fit and Proper [F2016L01440].


Civil Aviation Act 1988—

Civil Aviation Legislation Amendment (Miscellaneous Measures) Regulation 2016 [F2016L01448].

Civil Aviation Safety Regulations 1998—

Exemption — basic instrument flight training—CASA EX143/16 [F2016L01458].

Exemption — Flight examiners if authorised by CASA—CASA EX146/16 [F2016L01547].

Main Landing Gear Wheel Axle—AD/A320/21 Amdt 1 [F2016L01470].

Prescription of aircraft and ratings — CASR Part 61 (Edition 2) [F2016L01509].

Repeal of Airworthiness Directives—

CASA ADCX 017/16 [F2016L01460].

CASA ADCX 018/16 [F2016L01499].

Repeal of exemptions — eligibility for certification as unmanned aerial vehicle controller—CASA EX148/16 [F2016L01540].

Wing Attach Fittings, Bolts and Nuts—AD/BEECH 300/8 Amdt 2 [F2016L01472].

Cocos (Keeling) Islands Act 1955—Cocos (Keeling) Islands Utilities and Services Ordinance 2016—Cocos (Keeling) Islands Utilities and Services (Electricity Supply and Services Fees) Determination 2016 [F2016L01574].

Commissioner of Taxation—Public Rulings—

Class Rulings—


Fuel Tax Determination FTD 2016/1.


Corporations Act 2001—

ASIC Corporations (Amendment and Repeal) Instrument 2016/895 [F2016L01486].

ASIC Corporations (Amendment and Repeal) Instrument 2016/914 [F2016L01543].

CHAMBER
ASIC Corporations (Audit Relief) Instrument 2016/784 [F2016L01542].
ASIC Corporations (Charitable Investment Fundraising) Instrument 2016/813 [F2016L01532].
ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968 [F2016L01565].
ASIC Corporations (Property Rental Schemes) Instrument 2016/870 [F2016L01474].
ASIC Corporations (Qualified Accountant) Instrument 2016/786 [F2016L01541].
ASIC Corporations (Repeal and Transitional) Instrument 2016/396 [F2016L01497].
ASIC Corporations (Repeal) Instrument 2016/810 [F2016L01528].
ASIC Corporations (Repeal) Instrument 2016/819 [F2016L01525].
ASIC Corporations (Repeal) Instrument 2016/842 [F2016L01504].
ASIC Corporations (Repeal) Instrument 2016/882 [F2016L01484].
ASIC Corporations (Repeal) Instrument 2016/885 [F2016L01477].
ASIC Corporations (Repeal) Instrument 2016/887 [F2016L01482].
ASIC Corporations (Repeal) Instrument 2016/890 [F2016L01483].
ASIC Corporations (Repeal) Instrument 2016/892 [F2016L01491].
ASIC Corporations (Repeal) Instrument 2016/894 [F2016L01487].
ASIC Corporations (Repeal) Instrument 2016/896 [F2016L01475].
ASIC Corporations (Repeal) Instrument 2016/898 [F2016L01488].
ASIC Corporations (Repeal) Instrument 2016/909 [F2016L01480].
ASIC Corporations (Repeal) Instrument 2016/969 [F2016L01566].
ASIC Corporations (Repeal) Instrument 2016/970 [F2016L01539].
ASIC Corporations (School Enrolment Deposits) Instrument 2016/812 [F2016L01536].
ASIC Corporations (Serviced Apartment and Like Schemes) Instrument 2016/869 [F2016L01476].
ASIC Corporations (Transfer of Division 3 Securities) Instrument 2016/893 [F2016L01479].
ASIC Corporations (Wholly-owned Companies) Instrument 2016/785 [F2016L01538].
Customs Act 1901—Customs Amendment (Excluded Goods) Regulation 2016 [F2016L01550].
Defence Act 1903—Army and Air Force (Canteen) Regulation 2016 [F2016L01455].
Defence Regulation 2016 [F2016L01568].
Inspector-General of the Australian Defence Force Regulation 2016 [F2016L01558].
Navy (Canteen) Regulation 2016 [F2016L01454].

Section 58B—


Education Services for Overseas Students Act 2000—Education Services for Overseas Students (TEQSA Registration Renewal Application Period) Determination 2016 [F2016L01589].

Environment Protection and Biodiversity Conservation Act 1999—
Amendment of List of Exempt Native Specimens – Freshwater and Marine Animals (28 September 2016)—EPBC303DC/SFS/2016/27 [F2016L01572].
Amendment to the list of migratory species under section 209 (26 August 2016) [F2016L01439].
Amendment to the list of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (EC131) (26 August 2016) [F2016L01442].
Amendment to the list of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (EC144) (26 August 2016) [F2016L01443].

Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Regulation 2016 [F2016L01556].

Excise Act 1901—
Excise Concessional spirit approvals guidelines 2016 (No. 2) [F2016L01554].
Excise (Denatured spirits) Determination 2016 (No. 3) [F2016L01523].
Excise (Mass of CNG) Determination 2016 (No. 2) [F2016L01522].
Excise (Volume of Liquid Fuels – Temperature Correction) Determination 2016 (No. 2) [F2016L01519].
Excise (Volume of LPG – Temperature and Pressure Correction) Determination 2016 (No. 2) [F2016L01520].
Excise (Volume – recycled waste oil) Determination 2016 (No. 1) [F2016L01517].


Federal Financial Relations Act 2009—
Federal Financial Relations (General purpose financial assistance) Determination No. 88 (July 2016) [F2016L01590].
Federal Financial Relations (General purpose financial assistance) Determination No. 89 (August 2016) [F2016L01569].

Federal Financial Relations (General purpose financial assistance) Determination No. 90 (September 2016) [F2016L01570].

Federal Financial Relations (National Partnership payments) Determination No. 110 (August 2016) [F2016L01582].

Federal Financial Relations (National Partnership payments) Determination No. 111 (September 2016) [F2016L01586].

*Financial Framework (Supplementary Powers) Act 1997*—

Federal Financial Relations (Supplementary Powers) Amendment (Agriculture and Water Resources Measures No. 3) Regulation 2016 [F2016L01576].


Federal Financial Relations (Supplementary Powers) Amendment (Defence Measures No. 1) Regulation 2016 [F2016L01584].

Federal Financial Relations (Supplementary Powers) Amendment (Education and Training Measures No. 4) Regulation 2016 [F2016L01583].


Federal Financial Relations (Supplementary Powers) Amendment (Treasury Measures No. 1) Regulation 2016 [F2016L01575].

Federal Financial Relations (Supplementary Powers) Amendment (Veterans’ Affairs Measures No. 1) Regulation 2016 [F2016L01577].

*Financial Sector (Collection of Data) Act 2001*—


Financial Sector (Collection of Data) (reporting standard) determination No. 24 of 2016 – RRS 320.1 Debt Securities Held [F2016L01511].

Financial Sector (Collection of Data) (reporting standard) determination No. 25 of 2016 – RRS 320.2 Equity Securities Held [F2016L01512].


Financial Sector (Collection of Data) (reporting standard) determination No. 27 of 2016 – RRS 320.4 Bill Acceptances [F2016L01521].

Financial Sector (Collection of Data) (reporting standard) determination No. 28 of 2016 – RRS 320.5 Securities Subject to Repurchase and Resale and Stock Lending and Borrowing [F2016L01510].

Financial Sector (Collection of Data) (reporting standard) determination No. 29 of 2016 – RRS 331.0 Selected Revenues and Expenses [F2016L01513].

Financial Sector (Collection of Data) (reporting standard) determination No. 30 of 2016 – RRS 332.0 Statement of Economic Activity [F2016L01514].

Financial Sector (Collection of Data) (reporting standard) determination No. 31 of 2016 – RRS 391.0 Commercial Finance [F2016L01515].

Financial Sector (Collection of Data) (reporting standard) determination No. 32 of 2016 – RRS 392.0 Housing Finance [F2016L01535].
Financial Sector (Collection of Data) (reporting standard) determination No. 33 of 2016 – RRS 393.0 Lease Finance [F2016L01502].

Financial Sector (Collection of Data) (reporting standard) determination No. 34 of 2016 – RRS 394.0 Personal Finance [F2016L01500].

*Fisheries Management Act 1991*—Bass Strait Central Zone Scallop Fishery (Closure) Direction No. 2 2016 [F2016L01562].


*Greenhouse and Energy Minimum Standards Act 2012*—

Greenhouse and Energy Minimum Standards (Exemption) Instrument (No. 4) 2016 [F2016L01453].


*Health Insurance Act 1973*—Declarations of Quality Assurance Activity under section 124X—

QAA 11/2016 [F2016L01591].

QAA 12/2016 [F2016L01592].


*Jervis Bay Territory Acceptance Act 1915*—Administration Ordinance 1990—Electricity Supply Fees Determination 2017 (Jervis Bay Territory) [F2016L01587].

*Legislation Act 2003*—


Legislative Instruments (Deferral of Sunsetting—Child Care Benefit Instruments) Certificate 2016 [F2016L01467].

List of legislative instruments due to sunset on 1 April 2018.


*Marriage Act 1961*—Marriage Amendment Regulation 2016 (No. 1) [F2016L00303]—Replacement explanatory statement.

*Migration Act 1958*—

Direction under section 499—Order for considering and disposing of Family visa applications—No. 72.


*National Health Act 1953*—

National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2016 (No. 10)—PB 85 of 2016 [F2016L01567].

National Health (Growth Hormone Program) Special Arrangement Amendment Instrument 2016 (No. 1)—PB 87 of 2016 [F2016L01553].
National Health (Highly specialised drugs program) Special Arrangement Amendment Instrument 2016 (No. 9)—PB 84 of 2016 [F2016L01559].

National Health (Immunisation Program – Designated Vaccines) Variation Determination 2016 (No. 2) [F2016L01468].

National Health (IVF Program) Special Arrangement Amendment Instrument 2016 (No. 3)—PB 86 of 2016 [F2016L01552].

National Health (Listed drugs on F1 or F2) Amendment Determination 2016 (No. 9)—PB 88 of 2016 [F2016L01546].

National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2016 (No. 9)—PB 81 of 2016 [F2016L01560].

National Health (Originator Brand) Amendment Determination 2016 (No. 7)—PB 89 of 2016 [F2016L01537].

National Health (Pharmaceutical benefits – early supply) Amendment Instrument 2016 (No. 8)—PB 83 of 2016 [F2016L01561].

National Health (Price and Special Patient Contribution) Amendment Determination 2016 (No. 7)—PB 82 of 2016 [F2016L01563].


Private Health Insurance Act 2007—

Private Health Insurance (Benefit Requirements) Amendment Rules 2016 (No. 5) [F2016L01446].

Private Health Insurance (Benefit Requirements) Amendment Rules 2016 (No. 6) [F2016L01463].

Private Health Insurance (Complying Product) Amendment Rules 2016 (No. 4) [F2016L01447].

Private Health Insurance (Complying Product) Amendment Rules 2016 (No. 5) [F2016L01464].

Private Health Insurance (Prostheses) Amendment Rules 2016 (No. 3) [F2016L01596].


Public Governance, Performance and Accountability Act 2013—

Public Governance, Performance and Accountability Amendment (Miscellaneous Measures No. 1) Rule 2016 [F2016L01531].

Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2016-2017 [F2016L01466].

Public Lending Right Act 1985—Public Lending Right Scheme 2016 [F2016L01549].


Taxation Administration Act 1953—
PAYG Withholding Variation: Labour Hire reimbursements and allowances [F2016L01580].
Withholding Schedules Correction October 2016 [F2016L01506].
Therapeutic Goods Act 1989—
Poisons Standard October 2016 [F2016L01505].

Tabling
The following documents were tabled pursuant to standing order 61(1) (b):
[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]
Aged Care Complaints Commissioner—Report for the period 1 January to 30 June 2016, including final report of the Aged Care Commissioner for the period 1 July to 31 December 2015. [Received 5 October 2016]
Aged Care Pricing Commissioner—Report for 2015-16.
Auditor-General—Audit reports for 2016-17—
No. 17—Performance audit—Design and monitoring of the Rural Research and Development for Profit Programme: Department of Agriculture and Water Resources; Department of the Prime Minister and Cabinet. [Received 20 September 2016]
No. 18—Performance audit—Confidentiality in government contracts: Senate order for entity contracts (calendar year 2015 compliance): Across entities. [Received 27 September 2016]
No. 19—Performance audit—Managing contracts at Parliament House: Department of Parliamentary Services. [Received 27 September 2016]
Australian Radiation Protection and Nuclear Safety Agency—Quarterly reports for the period—
1 January to 31 March 2016.
1 April to 30 June 2016.
Defence Abuse Response Taskforce—Final report to the Minister for Defence and the Minister for Justice, dated March 2016.
Department of Foreign Affairs and Trade—Report for 2015-16.
Department of Immigration and Border Protection—Report for 2015-16.
Departmental and agency appointments and vacancies—Budget estimates 2016-17—Letter of advice pursuant to the order of the Senate of 24 June 2008—Agriculture and Water Resources portfolio. [Received 5 October 2016]
Estimates hearings—Unanswered questions on notice—Statements pursuant to the order of the Senate of 25 June 2014—
Additional estimates 2015-16—
Department of Defence. [Received 7 October 2016]
Industry, Innovation and Science portfolio. [Received 7 October 2016]
Budget estimates 2016-17—
Agriculture and Water Resources portfolio. [Received 7 October 2016]
Australian Public Service Commission. [Received 5 October 2016]
Australian Trade and Investment Commission. [Received 6 October 2016]
Communications portfolio. [Received 29 September 2016]
Department of Defence. [Received 7 October 2016]
Department of Infrastructure and Regional Development. [Received 7 October 2016]
Department of Veterans' Affairs. [Received 30 September 2016]
Education and Training portfolio. [Received 30 September 2016]
Employment portfolio. [Received 28 September 2016]
Finance portfolio. [Received 29 September 2016]
Immigration and Border Protection portfolio. [Received 28 September 2016]
Industry, Innovation and Science portfolio. [Received 7 October 2016]
Special Minister of State. [Received 7 October 2016]
Tourism Australia. [Received 6 October 2016]
Treasury portfolio. [Received 5 October 2016]

Fair Work (Building Industry) Act 2012—Commonwealth Ombudsman's report on reviews conducted under Division 3—Report for 2014-15. [Received 22 September 2016]

Final budget outcome 2015-16—Report by the Treasurer (Mr Morrison) and the Minister for Finance (Senator Cormann), dated September 2016.

Indexed lists of departmental and agency files for the period 1 January to 30 June 2016—Statements of compliance pursuant to the order of the Senate of 30 May 1996, as amended—

Agriculture and Water Resources portfolio. [Received 20 September 2016]

Comcare and Seafarers Safety, Rehabilitation and Compensation Authority. [Received 6 October 2016]

Department of Education and Training. [Received 20 September 2016]

Fair Work Commission. [Received 22 September 2016]

Fair Work Ombudsman. [Received 29 September 2016]

Finance portfolio. [Received 20 September 2016]

Indigenous Australians—

Deaths in custody—Ms Dhu—Letter to the President of the Senate from the Western Australian Attorney General (Mr Mischin), dated 19 September 2016, responding to the resolution of the Senate of 31 August 2016.

Incarceration rates—Justice targets—Letter to the President of the Senate from the South Australian Minister for Correctional Services (Mr Malinauskas), dated 6 September 2016, responding to the resolution of the Senate of 19 April 2016.

Medical Training Review Panel—Report for 2014-15. [Received 5 October 2016]

National Environment Protection Council (NEPC)—Report for 2014-15. [Received 21 September 2016]

NBN Group—Report for 2015-16. [Received 20 September 2016]

Rural and Regional Affairs and Transport References Committee—Report—Implications of the restriction on the use of fenthion on Australia's horticultural industry—Government response, dated September 2016. [Received 5 October 2016]


COMMITTEES

Rural and Regional Affairs and Transport References Committee

Government Response to Report

The following document was tabled pursuant to standing order 61(1)(b):

COMMITTEE REPORTS AND GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS PRESENTED OUT OF SITTING SINCE 15 SEPTEMBER 2016

[reports and responses will be recorded in the Journals of the Senate and available for consideration on Tuesday under standing order 62(4)]

Government responses to parliamentary committee reports (pursuant to Senate standing order 166)

Australian Government response to the Rural and Regional Affairs and Transport References Committee report: Implications of the restriction on the use of fenthion on Australia's horticultural industry

SEPTEMBER 2016

GOVERNMENT RESPONSE TO THE RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE REPORT

Implications of the restriction on the use of fenthion on Australia's horticultural industry

This response has been prepared by the Department of Agriculture and Water Resources in consultation with the Australian Pesticides and Veterinary Medicines Authority (APVMA), Department of the Environment and Energy, Department of Health and Food Standards Australia New Zealand (FSANZ). The Government would like to thank the Rural and Regional Affairs and Transport References Committee (the Committee) for the time and effort contributed to this inquiry.

Introductory Statement

On 12 December 2013, the Senate referred the following matter to the Committee for inquiry and report by 25 June 2014:

The implications of the restriction on the use of fenthion on Australia's horticultural industry, including:

- the roles and responsibilities of relevant departments and agencies of Commonwealth, state and territory governments in relation to the regulation of pesticides and veterinary chemicals
- the short- and long-term impact of the decision on stakeholders
- the effectiveness and sustainability of chemicals other than fenthion to manage fruit fly
- transition arrangements following the restriction on the use of fenthion, including Area Wide Management, and
- any related matters.

The report Implications of the restriction on the use of fenthion on Australia's horticulture industry (the Report) was published on 31 July 2014.

The Report outlined eight recommendations, to which the Government provides the following response.
Recommendation and response

Recommendation 1
2.65 The Committee recommends that all relevant Commonwealth, state and territory agencies be encouraged to cooperate to better convey their respective roles and responsibilities in relation to the regulation of agvet chemicals to stakeholders.

Recommendation 2
2.66 The Committee recommends that all relevant Commonwealth, state and territory agencies be encouraged to undertake a collaborative communications program which clearly and simply communicates their respective roles and responsibilities in relation to the regulation of agvet chemicals to stakeholders.

The Government agrees in principle to the recommendations.

The Government agrees clear communication of roles and responsibilities for the regulation of agricultural chemicals and veterinary medicines (agvet chemicals) is important.

There are a number of forums for strategic policy discussions between the Department of Agriculture and Water Resources, APVMA and the state and territory governments, including the Agvet Chemical Task Group established under the Agriculture Senior Officials Committee. Roles and responsibilities of the various agencies are considered through these forums. These forums can also consider the most effective way of communicating information to stakeholders and the broader community.

The APVMA is conducting information sessions with user groups to explain recent changes to legislation, the impact of those changes on the conduct of chemical reconsiderations and how user industries can be involved in contributing information to the APVMA when it is planning or carrying out reconsiderations.

The APVMA will continue to consult regularly with state and territory chemical coordinators about any reviews undertaken by the APVMA, including possible actions that may be taken.

The Department of Agriculture and Water Resources has updated its website to include clearer information on roles and responsibilities (agriculture.gov.au/ag-farm-food/ag-vetchemicals/regulation). FSANZ has also recently updated information on its website pertaining to the respective roles and responsibilities of the APVMA and FSANZ (foodstandards.gov.au/code/changes/limits/Pages/default.aspx). The roles of the Department of Agriculture and Water Resources and state and territory governments in the monitoring and enforcement of agvet chemical residues in foods are also mentioned at (foodstandards.gov.au/consumer/chemicals/maxresidue/pages/default.aspx).

Recommendation 3
2.67 The Committee recommends that the Commonwealth, state and territory governments review arrangements, legislation and regulations relating to agvet chemicals, with the aim of simplifying and streamlining, but not weakening, the regulation of agvet chemicals, and providing greater certainty and transparency to stakeholders.

The Government agrees in principle to the recommendation.

The Australian Government's Agricultural Competitiveness White Paper 2015 outlines its commitment to reforming regulation of agvet chemicals, including $20.4 million to streamline approvals.

The Government is putting in place a new approach for the APVMA to streamline access to products and better manage the risks these products can pose, while ensuring human health protection. Through these changes, the Government will cut unnecessary and excessive costs for industry. This will reduce
delays for users and remove disincentives for registering chemicals for more uses in the Australian market.

The Government in consultation with industry is scoping changes, with the aim of:

- improving access to agvet chemicals
- improving regulatory efficiency
- better protecting human, animal and environmental health, and
- better aligning regulatory effort with chemical risk.

Legislative reforms have already been achieved delivering on the recommendation of the Committee. Beginning from 21 July 2014 reforms through the *Agricultural and Veterinary Chemicals Legislation Amendment Act 2013* provided improved transparency and certainty in chemical review processes. These included publication of work plans for all chemical reviews identifying the opportunities for stakeholder input. Reforms introduced in the *Agricultural and Veterinary Chemicals Legislation Amendment (Removing Re-approval and Re-registration) Act 2014*:

- improved the APVMA’s ability to secure information about the safety of chemicals supplied in the market
- streamlined access to information about approvals and registration in the APVMA’s files
- gave effect to the Government’s commitment to remove the requirement for administrative requirement agvet chemicals to be periodically re-approved and re-registered in the absence of any identifiable concern, and
- provided for less frequent renewal.

The APVMA is developing a policy on use of international data, assessments, standards and decisions to provide guidance on the use of assessments conducted by similar international regulators to help reduce the time taken to conduct assessments.

The APVMA has also commenced a risk assessment framework project to identify and implement practical improvements and incorporate more efficient processes in the way the APVMA manages applications.

The APVMA recognises the potential impact of chemical reviews on user groups and is seeking to implement greater stakeholder engagement as part of planning for reviews before they commence. The APVMA is currently consulting on the chemical review priorities for future reviews. In addition, the legislative reforms for the conduct of chemical reviews have been implemented and include:

- mandatory time frames for chemical reviews, and
- work plans with dates of expected milestones to be provided to all affected holders.

FSANZ consults regularly with its stakeholders regarding agvet chemicals and has recently developed guidance for submitting requests to amend Standard 1.4.2—Maximum Residue Limits ([foodstandards.gov.au/publications/Pages/Guide-for-Submitting-Requests-for-MRLProposals.aspx](http://foodstandards.gov.au/publications/Pages/Guide-for-Submitting-Requests-for-MRLProposals.aspx)). This guidance helps in providing greater certainty and transparency to stakeholders.

**Recommendation 4**

4.94 The Committee recommends that the maximum twelve month transition period allowed under the *Agricultural and Veterinary Chemicals Code Act 1994* be initiated by the APVMA, that fenthion be permitted for sale during the first half of that period, and that the APVMA allow fenthion to be used during the full transition period, subject to appropriate 'conditions of use'.

The Government agrees to the recommendation.

On 16 October 2014 the APVMA published its final regulatory decision into the reconsideration of the insecticide fenthion. The decision removed all uses for fenthion products other than post-harvest
dipping of tropical and subtropical inedible peel fruits and as an insecticide dust in cracks and crevices. Subsequently, following the finalisation of the fenthion review, the active constituent 44383-Fenthion was cancelled at the request of the registration holder on 3 November 2014. Consequently, the registrations of all remaining products containing fenthion were also cancelled. The APVMA applied a 12 month transition period for the possession or use of fenthion and products containing fenthion after consultation with the product registration holder, states and territories. The active constituent and all remaining products were cancelled on 3 November 2014 and on 3 November 2015 it became an offence to supply fenthion or to have possession or custody of fenthion with the intention to supply.

**Recommendation 5**

4.102 The Committee recommends that state and territory governments consider developing legislation which enables relevant authorities to compel landowners to manage their properties to an acceptable standard that does not pose a biosecurity risk to neighbouring properties and surrounding regions.

**The Government notes the recommendation.**

Current legislative arrangements provide that states and territories are responsible for on farm matters.

**Recommendation 6**

4.103 The Committee recommends that, when undertaking its review of the National Fruit Fly Strategy, the Advisory Committee take into consideration the following important issues:

- abandoned orchards;
- encouraging community involvement in fruit fly management;
- ways of providing funding for local government initiatives (in relation to fruit fly management); and
- the value of conducting research into minor use programs.

**The Government agrees to the recommendation.**

The National Fruit Fly Strategy Advisory Committee, of which the Commonwealth Government was a member, considered these issues in its review of the National Fruit Fly Strategy Implementation Action Plan. The revised Action Plan includes specific projects to:

- develop an online forum that provides the ability to obtain input from stakeholders (more than just a public forum)
- investigate efficacy of current field control and pre-harvest measures and postharvest disinfestation measures
- investigate systems approaches for fruit fly management, and
- develop a national communications program.

In addition, the National Fruit Fly Strategy Advisory Committee oversaw the finalisation by the Plant Biosecurity Cooperative Research Centre, of the National Fruit Fly Research, Development and Extension Plan. This plan provides a comprehensive assessment of challenges for managing fruit fly in Australia and recommends a number of areas for research, development and extension investment, including:

- registration of new chemicals and new uses for existing registered chemicals
- integrating infield controls into an integrated pest management framework, and
- engaging the broader community in fruit fly management.
Implementation of the Action Plan and monitoring progress against the National Fruit Fly Research, Development and Extension Plan is now the responsibility of the National Fruit Fly Council, which superseded the Advisory Committee in October 2015.

Recommendation 7
4.104 The Committee recommends that the findings of the National Fruit Fly Strategy Advisory Committee be considered by government in a timely fashion, to allow the implementation phase to go ahead without delay.

The Government agrees to the recommendation.

The Commonwealth, state and territory governments are represented on the National Fruit Fly Council (the successor body of the National Fruit Fly Strategy Advisory Committee) which is responsible for implementing the Action Plan in a timely manner.

Council members are required to provide updates at each Council meeting to ensure momentum in implementing the Action Plan is maintained.

Recommendation 8
4.105 The Committee recommends that, following the National Fruit Fly Strategy Advisory Committee's review, the Commonwealth Government provide adequate ongoing funding—and seek matching funds from states, territories and industry—to promote an immediate implementation of the Strategy.

The Government agrees to the recommendation.

The National Fruit Fly Strategy Advisory Committee was co-funded by the Commonwealth Government, state and territory governments and industry for an 18 month period through to the end of September 2015.

The successor group—the National Fruit Fly Council—continues the collaboration between Commonwealth, state and territory governments, industry, research bodies and funding organisations. The Commonwealth has provided funding for the Council through Horticulture Innovation Australia. The Council will continue to promote implementation of the National Fruit Fly Strategy.