Senate

Official Hansard

No. 14, 2014
Wednesday, 29 October 2014

FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

BY AUTHORITY OF THE SENATE
INTERNET
The *Journals of the Senate* are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
http://parlinfo.aph.gov.au

<table>
<thead>
<tr>
<th>SITTING DAYS—2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Month</strong></td>
</tr>
<tr>
<td>February</td>
</tr>
<tr>
<td>March</td>
</tr>
<tr>
<td>May</td>
</tr>
<tr>
<td>June</td>
</tr>
<tr>
<td>July</td>
</tr>
<tr>
<td>August</td>
</tr>
<tr>
<td>September</td>
</tr>
<tr>
<td>October</td>
</tr>
<tr>
<td>November</td>
</tr>
<tr>
<td>December</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

- **ADELAIDE** 972AM
- **BRISBANE** 936AM
- **CANBERRA** 103.9FM
- **DARWIN** 102.5FM
- **HOBART** 747AM
- **MELBOURNE** 1026AM
- **PERTH** 585AM
- **SYDNEY** 630AM

For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

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

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator the Hon Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Leader of the Australian Greens—Senator Christine Anne Milne
Leader of the Palmer United Party in the Senate—Senator Glenn Patrick Lazarus
Deputy Leader of the Palmer United Party in the Senate—Senator Jacqui Lambie
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
   The Nationals Whip—Senator Barry James O'Sullivan
   Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
   Australian Greens Whip—Senator Rachel Siewert
   Palmer United Party Whip—Senator Zhenya Wang
   Deputy Palmer United Party Whip—Senator Jacqui Lambie

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Back, Christopher John</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Bernardi, Cory</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Bilyk, Catryna Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Birmingham, Hon. Simon John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Brandis, Hon. George Henry, QC</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Bullock, Joseph Warrington</td>
<td>WA</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Bushby, David Christopher</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Cameron, Hon. Douglas Niven</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Canavan, Matthew James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cash, Hon. Michaelia Clare</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Collins, Hon. Jacinta Mary Ann</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Conroy, Hon. Stephen Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cormann, Hon. Mathias Hubert Paul</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Dastyari, Sam</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Day, Robert John</td>
<td>SA</td>
<td>30.6.2020</td>
<td>FFP</td>
</tr>
<tr>
<td>Di Natale, Richard</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Edwards, Sean</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Fawcett, David Julian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fierravanti-Wells, Hon. Concetta Anna</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Hon. Mitchell Peter</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Gallacher, Alexander McEachian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Hanson-Young, Sarah Coral</td>
<td>SA</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Johnston, Hon. David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Ketter, Christopher Ronald</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Lambie, Jacqui</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Lazarus, Glenn Patrick</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Leyonhjelm, David Ean</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LDP</td>
</tr>
<tr>
<td>Lines, Susan</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Ludlam, Scott</td>
<td>WA</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Madigan, John Joseph</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>IND</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>McGrath, James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>LNP</td>
</tr>
<tr>
<td>McKenzie, Bridget</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>McLucas, Hon. Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Milne, Christine Anne</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Muir, Ricky Lee</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AMEP</td>
</tr>
<tr>
<td>Nash, Hon. Fiona Joy</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>--------------------</td>
<td>--------------</td>
<td>-------</td>
</tr>
<tr>
<td>O’Neill, Deborah Mary (1)</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>O’Sullivan, Barry James</td>
<td>QLD</td>
<td>30.6.2020</td>
<td>NATS</td>
</tr>
<tr>
<td>Parry, Stephen Shane</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Hon. Marine Ann</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Peris, Nova Maree OAM</td>
<td>NT</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Polley, Helen Beatrice</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Reynolds, Linda Karen CSC</td>
<td>WA</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Rhiannon, Lee</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Rice, Janet Elizabeth</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ruston, Anne Sowerby</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ryan, Hon. Scott Michael</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Hon. Nigel Gregory</td>
<td>NT</td>
<td>30.6.2020</td>
<td>CLP</td>
</tr>
<tr>
<td>Seselja, Zdenko Matthew</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Siewert, Rachel Mary</td>
<td>WA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Singh, Hon. Lisa Maria</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Sinodinos, Hon. Arthur</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Dean Anthony</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Urquhart, Anne Elizabeth</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Wang, Zhenya</td>
<td>WA</td>
<td>30.6.2020</td>
<td>PUP</td>
</tr>
<tr>
<td>Waters, Larissa Joy</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Whish-Wilson, Peter Stuart</td>
<td>TAS</td>
<td>30.6.2020</td>
<td>AG</td>
</tr>
<tr>
<td>Williams, John Reginald</td>
<td>NSW</td>
<td>30.6.2020</td>
<td>NATS</td>
</tr>
<tr>
<td>Wong, Hon. Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2020</td>
<td>ALP</td>
</tr>
<tr>
<td>Wright, Penelope Lesley</td>
<td>SA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Xenophon, Nicholas</td>
<td>SA</td>
<td>30.6.2020</td>
<td>IND</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Territory</th>
<th>Senator</th>
<th>Party</th>
<th>Senator</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Capital Territory</td>
<td>Lundy, K.</td>
<td>ALP</td>
<td>Seselja, Z.M.</td>
<td>LP</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Scullion, N. G.</td>
<td>CLP</td>
<td>Peris, N.M.</td>
<td>ALP</td>
</tr>
</tbody>
</table>

(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>(Leader of the Government in the Senate)</td>
<td>The Hon Luke Hartsuyker MP</td>
</tr>
<tr>
<td>Assistant Minister for Employment</td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td></td>
</tr>
<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon George Brandis QC</td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
<td>The Hon George Brandis QC</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Minister for Justice</td>
<td>The Hon Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Bruce Billson MP</td>
</tr>
<tr>
<td>Acting Assistant Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Minister for Agriculture</strong></td>
<td>The Hon Barnaby Joyce MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Agriculture</td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td><strong>Minister for Education</strong></td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>(Leader of the House)</td>
<td></td>
</tr>
<tr>
<td>Assistant Minister for Education</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Education</td>
<td>Senator the Hon Scott Ryan</td>
</tr>
<tr>
<td><strong>Minister for Industry</strong></td>
<td>The Hon Ian Macfarlane MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Industry</td>
<td>The Hon Bob Baldwin MP</td>
</tr>
<tr>
<td><strong>Minister for Social Services</strong></td>
<td>The Hon Kevin Andrews MP</td>
</tr>
<tr>
<td>Assistant Minister for Social Services</td>
<td>Senator the Hon Mitch Fifield</td>
</tr>
<tr>
<td>(Manager of Government Business in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Minister for Human Services</td>
<td>Senator the Hon Marise Payne</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Social Services</td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td><strong>Minister for Communications</strong></td>
<td>The Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Communications</td>
<td>The Hon Paul Fletcher MP</td>
</tr>
<tr>
<td><strong>Minister for Health</strong></td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td><strong>Minister for Sport</strong></td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td>Assistant Minister for Health</td>
<td>Senator the Hon Fiona Nash</td>
</tr>
<tr>
<td>Title</td>
<td>Minister</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
<td>Senator the Hon David Johnston</td>
</tr>
<tr>
<td>Minister for Veterans’ Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Assistant Minister for Defence</td>
<td>The Hon Stuart Robert MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon Darren Chester MP</td>
</tr>
<tr>
<td><strong>Minister for the Environment</strong></td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
<td>Senator the Hon Simon Birmingham</td>
</tr>
<tr>
<td><strong>Minister for Immigration and Border Protection</strong></td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Assistant Minister for Immigration and Border Protection</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Minister for Finance</strong></td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance</td>
<td>The Hon Michael McCormack 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.
<table>
<thead>
<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Hon Bill Shorten MP</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Cabinet Secretary</td>
<td>Senator the Hon Jacinta Collins</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition</td>
<td>Hon Tanya Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs and International Development</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Women</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Manager of Opposition Business (Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Centenary of ANZAC</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Leader of the Opposition in the Senate</td>
<td>Senator the Hon Penny Wong</td>
</tr>
<tr>
<td>Shadow Minister for Trade and Investment</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition in the Senate</td>
<td>Senator the Hon Stephen Conroy</td>
</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Minister for Veterans' Affairs</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence</td>
<td>Gai Brodtmann MP</td>
</tr>
<tr>
<td>Shadow Minister for Infrastructure and Transport</td>
<td>Hon Anthony Albanese MP</td>
</tr>
<tr>
<td>Shadow Minister for Cities</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Tourism</td>
<td>Hon Julie Collins MP</td>
</tr>
<tr>
<td>Shadow Minister for Regional Development and Local Government</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Development and</td>
<td>Hon Alannah MacTiernan MP</td>
</tr>
<tr>
<td>Infrastructure</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Western Australia</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>equity for External Territories</td>
<td></td>
</tr>
<tr>
<td>Shadow Treasurer</td>
<td>Hon Chris Bowen MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer</td>
<td>Hon Dr Andrew Leigh MP</td>
</tr>
<tr>
<td>Shadow Minister for Competition</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Minister for Financial Services and Superannuation</td>
<td>Hon Ed Husic MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Treasurer</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Finance</td>
<td>Hon Tony Burke MP</td>
</tr>
<tr>
<td>Manager of Opposition Business (House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Environment, Climate Change and Water</td>
<td>Hon Mark Butler MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Environment, Climate Change</td>
<td>Senator the Hon Lisa Singh</td>
</tr>
<tr>
<td>Shadow Minister for Higher Education, Research, Innovation and</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Vocational Education</td>
<td>Hon Sharon Bird MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Higher Education</td>
<td>Hon Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Manufacturing</td>
<td>Tony Zappia MP</td>
</tr>
<tr>
<td>TITLE</td>
<td>SHADOW MINISTER</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
<td>-------------------------------------------------------</td>
</tr>
<tr>
<td>Shadow Minister for Communications</td>
<td>Hon Jason Clare MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Communications</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Attorney General</td>
<td>Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Shadow Minister for the Arts</td>
<td></td>
</tr>
<tr>
<td>Deputy Manager of Opposition Business (House)</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Minister for Justice</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Attorney General</td>
<td>Graham Perrett MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Arts</td>
<td>Hon Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Minister for Education</td>
<td>Hon Kate Ellis MP</td>
</tr>
<tr>
<td>Shadow Minister for Early Childhood</td>
<td></td>
</tr>
<tr>
<td>Shadow Assistant Minister for Education</td>
<td>Hon Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Education</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Minister for Agriculture</td>
<td>Hon Joel Fitzgibbon MP</td>
</tr>
<tr>
<td>Shadow Minister for Rural Affairs</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Northern Australia</td>
<td>Hon Gary Gray AO MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern Australia</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Minister for Health</td>
<td>Hon Catherine King MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Health</td>
<td>Stephen Jones MP</td>
</tr>
<tr>
<td>Shadow Minister for Mental Health</td>
<td>Senator Hon Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Sport</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Health</td>
<td>Nick Champion MP</td>
</tr>
<tr>
<td>Shadow Minister for Families and Payments</td>
<td>Hon Jenny Macklin MP</td>
</tr>
<tr>
<td>Shadow Minister for Disability Reform</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Human Services</td>
<td>Senator the Hon Doug Cameron</td>
</tr>
<tr>
<td>Shadow Minister for Housing and Homelessness</td>
<td>Senator the Hon Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Carers</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Shadow Minister for Communities</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Families and Payments</td>
<td>Senator Carol Brown</td>
</tr>
<tr>
<td>Shadow Minister for Immigration and Border Protection</td>
<td>Hon Richard Marles MP</td>
</tr>
<tr>
<td>Shadow Minister for Citizenship and Multiculturalism</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Affairs</td>
<td>Hon Shayne Neumann MP</td>
</tr>
<tr>
<td>Shadow Minister for Ageing</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Indigenous Affairs</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Aged Care</td>
<td>Senator Helen Polley</td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Hon Brendan O'Connor MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment Services</td>
<td>Hon Julie Collins MP</td>
</tr>
</tbody>
</table>
CONTENTS

WEDNESDAY, 29 OCTOBER 2014

Chamber

DOCUMENTS—
  Tabling................................................................................................................. 8061

COMMITTEES—
  Foreign Affairs, Defence and Trade References Committee—
  Select Committee on Health—
  Meeting ............................................................................................................. 8061

BILLS—
  Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014—
    In Committee.................................................................................................... 8061

COMMITTEES—
  Scrutiny of Bills Committee—
    Report.............................................................................................................. 8084

BILLS—
  Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014—
    In Committee.................................................................................................... 8084
    Third Reading.................................................................................................... 8112

STATEMENTS BY SENATORS—
  Albany Convoy Commemoration ....................................................................... 8113
  Aged Care ............................................................................................................ 8116
  Coal Seam Gas ..................................................................................................... 8118
  Coal Seam Gas ..................................................................................................... 8121
  Australian National University ........................................................................... 8121
  Trade with China ................................................................................................. 8122
  Australian Security Intelligence Organisation ................................................... 8125
  Russia ................................................................................................................... 8125
  Shipping .............................................................................................................. 8127
  Goods and Services Tax ..................................................................................... 8129

DISTINGUISHED VISITORS .............................................................................. 8130

QUESTIONS WITHOUT NOTICE—
  Fuel Prices .......................................................................................................... 8130

DISTINGUISHED VISITORS .............................................................................. 8132

QUESTIONS WITHOUT NOTICE—
  Higher Education ................................................................................................ 8132
  Australian Defence Force .................................................................................... 8134
  Indigenous Employment ....................................................................................... 8136
  Building and Construction Industry ..................................................................... 8137
  Defence Procurement .......................................................................................... 8140
  Defence Procurement .......................................................................................... 8141
  Economic Competitiveness ............................................................................... 8143
  Minister for Defence ............................................................................................ 8145
  Aged Care ............................................................................................................ 8147

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
  Fuel Prices .......................................................................................................... 8148
  Indigenous Employment ....................................................................................... 8154
CONTENTS—continued

NOTICES—
Withdrawal ........................................................................................................... 8155
Presentation .......................................................................................................... 8155
BUSINESS—
Leave of Absence ................................................................................................. 8159
NOTICES—
Postponement ...................................................................................................... 8159
COMMITTEES—
Legal and Constitutional Affairs References Committee—
Reporting Date ...................................................................................................... 8159
BILLS—
Civil Law and Justice Legislation Amendment Bill 2014—
Counter-Terrorism Legislation Amendment Bill (No. 1) 2014—
First Reading ........................................................................................................ 8159
Second Reading .................................................................................................... 8160
MOTIONS—
Housing Affordability .......................................................................................... 8163
DOCUMENTS—
Ebola—
Order for the Production of Documents ............................................................ 8164
Broadband—
Order for the Production of Documents ............................................................ 8164
MOTIONS—
Carbon Pricing ..................................................................................................... 8164
International Brain Tumour Awareness Week ....................................................... 8165
International Day of the Girl Child ....................................................................... 8165
Sunswift University of New South Wales Solar Racing Team ......................... 8166
Trans-Pacific Partnership Agreement ................................................................. 8167
MATTERS OF URGENCY—
Ebola ...................................................................................................................... 8168
DOCUMENTS—
Australian Charities and Not-for-profits Commission ........................................ 8182
Australia Council .................................................................................................. 8183
COMMITTEES—
Scrutiny of Bills Committee—
Report .................................................................................................................. 8184
Regulations and Ordinances Committee—
Delegated Legislation Monitor ............................................................................ 8185
Joint Standing Committee on Treaties—
Report .................................................................................................................. 8185
Foreign Affairs, Defence and Trade References Committee—
Report .................................................................................................................. 8186
Community Affairs References Committee—
Report .................................................................................................................. 8191
DOCUMENTS—
Darfur—
Tabling .................................................................................................................. 8198
CONTENTS—continued

COMMITTEES—
Joint Standing Committee on Treaties—
Report................................................................. 8198

DOCUMENTS—
Asylum Seekers—
Tabling.................................................................... 8200

COMMITTEES—
Membership.................................................................. 8200

BILLS—
Private Health Insurance Amendment Bill (No. 1) 2014—
First Reading............................................................ 8200
Second Reading........................................................ 8200
Parliamentary Entitlements Legislation Amendment Bill 2014—
First Reading............................................................ 8201
Second Reading........................................................ 8201

ADDITIONS BY WORLD LEADERS—
Prime Minister of the United Kingdom......................... 8203
President of the People's Republic of China..................... 8203
Prime Minister of the Republic of India......................... 8203

BILLS—
Higher Education and Research Reform Amendment Bill 2014—
Second Reading........................................................ 8204

ADJOURNMENT—
Fallof the Berlin Wall: 25th Anniversary .......................... 8219
University of Newcastle: Central Coast Campus.................. 8221
Western Australia: Sharks............................................. 8224
Freedom of Religion..................................................... 8226

DOCUMENTS—
Tabling........................................................................ 8228
Order for the Production of Documents............................. 8229
Wednesday, 29 October 2014

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 9:30, read prayers and made an acknowledgement of country.

DOCUMENTS

Tabling

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

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

COMMITTEES

Foreign Affairs, Defence and Trade References Committee
Select Committee on Health

Meeting

The Clerk: The following committees have proposed to meet during the sitting of the Senate:

Foreign Affairs, Defence and Trade References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 3.45 pm, to take evidence for the committee’s inquiry into abuse in Defence.

Select Committee on Health—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 3.30 pm.

The PRESIDENT (09:31): I remind senators that the question may be put on any proposal at the request of any senator.

BILLS

Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

In Committee

Debate resumed.

The CHAIRMAN (09:32): The committee is considering Australian Greens amendment (12) on sheet 7594 moved by Senator Wright. The question is that that amendment be agreed to.

Senator WRIGHT (South Australia) (09:32): I would like to recap what is happening in this debate. Late last night, the government was ramming through laws that they say will make Australians safer. But we know that they involve a fundamental weakening of the rights and freedoms that make Australia one of the world's top democracies.

The government’s approach to this bill has been rushed, and the bill is flawed. The Greens have said it, the country's top legal experts have been saying it and, as we saw yesterday, even the government-dominated Parliamentary Joint Committee on Human Rights has said it. Yesterday afternoon, Senator Smith, the Chair of the Parliamentary Joint Committee on Human Rights, stood in this chamber and told the Senate that parts of this bill are likely to be incompatible with human rights. That was a unified position that the committee took. I am on
the committee and I know that, for the committee, that is as strong as it gets: parts of this bill are likely to be incompatible with human rights.

It is a damning review. The human rights committee has found the new declared area zones offence to be incompatible with human rights. Other parts of the bill have caused the committee to raise concerns about the right to freedom of expression, the right to freedom of movement, the right to freedom from arbitrary detention, the right to privacy and the right to a fair trial, as well as the right to a presumption of innocence. And yet this bill—if the government, aided by Labor and some of the crossbench, have their way—will pass this place in three short hours, by 12.30 pm today. In the committee stage of this debate, we can see there are still so many questions about how it will really affect people into the future and what the implications are.

Late last night, the Attorney-General was at pains to reassure us that the concerns raised about this bill by some of the country's top legal experts in the area of human rights and civil liberties—the Gilbert + Tobin Centre of Public Law, the Law Council of Australia, the Castan Centre for Human Rights Law, Human Rights Watch, Professor Ben Saul and the Human Rights Commission—should not worry us. But in the cold hard light of day, once again we have to remember and take stock of what this bill is seeking to do and, if passed, what it will do. It will change whether and where people in Australia travel; it will change the circumstances in which people can be detained and questioned by ASIO, customs and police; it will change the kind of personal information that is captured and stored at the airport; and the kind of public commentary or reflection on controversial issues that is legal. As we saw with the first tranche of national security legislation, it is simply too late to ponder the consequences and, in some cases, to rue them, once the legislation has been passed. I know that if this law is to be passed in haste we will regret it at leisure. Over time we will come to fully realise the freedoms we have traded away for a situation that many say will not actually make us safer.

Coming to the offence of advocating terrorism, this is a new offence where a person will be guilty of the offence if they intentionally counsel, promote, encourage or urge the doing of a terrorist act or the commission of a terrorist offence and the person is reckless as to whether another person will engage in a terrorist act or commit a terrorist offence. It is a serious offence; it carries a maximum penalty of five years in prison. The Australian Greens' first amendment, item (12) on the sheet, substitutes 'an intention'—a fault element of intention—to commit the act for 'recklessness'. The Australian Greens say that this amendment is necessary because the offence of advocating terrorism in this bill duplicates and unnecessarily expands what are already-existing criminal offences which capture conduct or speech that advocates the commission of terrorist acts. For instance, there is already an offence on Australia's statute books to urge another person to engage in intergroup violence or violence against members of groups. There is already an offence to recruit others to join terrorist organisations or organisations engaging in hostile activities against foreign governments. There are already incitement offences which cover a person who urges the commission of an offence, such as a terrorist-related offence. It is already an offence to be a member of, or provide support to, a terrorist organisation. This Greens amendment seeks to tighten the scope of this new proposed offence to ensure that it will only apply to those who intend to cause another to engage in a terrorist act or commit a terrorist offence. This amendment is needed because this serious
criminal offence, as it is currently drafted, only requires a person to be reckless as to whether another person will engage in a terrorist act or commit a terrorist offence.

The legal commentators from whom we have sought advice, and whose position is similar to the position that the Australian Greens are taking in relation to this, are the Gilbert + Tobin Centre of Public Law, the Law Council of Australia and Human Rights Watch. I have a question to put to the Attorney-General. It has been suggested that the new offence of advocating terrorism duplicates and unnecessarily expands existing criminal offence provisions, and contains terms that are so broadly defined that they will pose problems for prosecutors, as well as potentially encroaching on freedom of speech. Attorney-General, can you please explain, in clear terms, what the term 'promotes means in the context of this offence?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (09:39): Let me respond to a few of the observations that have come from Senator Wright. First of all, Senator Wright, I wish you would not falsely claim that this legislation was rammed through the chamber last night. Each of the amendments—government, opposition, Green and Senator Leyonhjelm's—were dealt with by the chamber in an orthodox parliamentary debate, subject to no time limitation. There are time limitations in place later in the day, but last night's debate was not limited or circumscribed or foreshortened in anyway. You know that, Senator Wright, so why you would choose to say it was rammed through the chamber when in fact it proceeded in a routine, regular and orthodox parliamentary way I have no idea. Perhaps it is because you do not want to come to terms with the substance of the legislation that you make remarks like that.

Senator Wright, it is still not clear to me what your concern is. You seem to be saying in one breath that the problem with this new provision is that it duplicates existing law and therefore is unnecessary, and then in the very next breath you say it unnecessarily expands existing law and therefore takes the law beyond where it ought to be. You cannot have it both ways. You cannot say on the one hand that the provision is otiose because it merely restates what is already in the law and then in the next breath say the provision is dangerous because it takes the law too far beyond where it already is. It is not clear to me what your complaint is but, as I say, you cannot have it both ways.

The lacuna in the law that this provision seeks to fill is where the advocacy of terrorism is not caught by the existing law relating to the incitement of violence. That is the answer to your question. That is not merely my opinion; it is also the unanimous opinion of the Parliamentary Joint Committee on Intelligence and Security, which in its review of this bill observed—I am quoting from its report:

… the current incitement offence is not appropriate to capture the range of activity being encountered and investigated …

Senator Wright, I think you are a lawyer, are you not?

Senator Wright: I think you know I am, yes.

Senator BRANDIS: I thought you were. So you would be aware that the existing criminal law of incitement to violence requires a very direct correlation between the words that constitute the incitement and the violent act. But when we are dealing with the advocacy of
terrorism—terrorism, as you know, is a defined term in the act—the immediacy of that correlation which the existing criminal offence requires is not always there. It is not necessarily there. This legislation seeks to address that area where the existing offence of incitement of violence is not available to prosecutors. It does that by saying:

(1) A person commits an offence if:

(a) the person advocates:

(i) the doing of a terrorist act; or

(ii) the commission of a terrorism offence … and

(b) the person engages in that conduct reckless as to whether another person will:

(i) engage in a terrorist act; or

(ii) commit a terrorism offence …

A terrorism offence is one of the existing terrorism offences set in part 5.3 of the Criminal Code. 'Advocates' is a defined term. 'Advocates' is not a term of art. It is not a term with a particular technical legal meaning, so it is defined by subclause 2 of the proposed section in these terms:

… a person advocates the doing of a terrorist act or the commission of a terrorism offence if the person counsels, promotes, encourages or urges the doing of a terrorist act or the commission of a terrorism offence.

What those words, those synonyms, seek to capture is the essence of advocacy, the essence of advocacy being an attempt by language or other verbal forms to persuade someone to do something. The relevant event being caught here is 'the doing of a terrorist act or the commission of a terrorism offence'. Now, Senator Wright, if you and your colleagues from the Greens party want to go out into the public space of Australia and say it should not be against the law to advocate the doing of a terrorist act or the commission of a terrorist offence, you go right ahead, Senator Wright. But the government believe, the opposition believe as well and most of the crossbench senators to whom I have spoken also believe that it should not be lawful in this country to advocate the doing of a terrorist act or the commission of a terrorist offence.

Lastly, Senator Wright, let me address what you said about freedom of speech. The Australian Greens having led the campaign against freedom of speech in the early part of this year, it seems to me, Senator Wright, that it is beyond bizarre that you would now be posing as a champion of freedom of speech. But, that being said, there is all the difference in the world between advocating the doing of a terrorist act or the commission of a terrorism offence, and expressing an opinion, bearing in mind that terrorism is defined in terms of violence or causing fear, on the one hand, and expressing a point of view, on the other hand. There is not a word in this bill—not a word—that impinges upon or restricts freedom of opinion. If a person wants to express radical views, if they want to promote or proselytise a radical view of the world or a non-mainstream view of the world, they are perfectly free to do so.

What they are not free to do and what they should not be free to do is to advocate the commission of a terrorist act or the commission of a terrorism offence, because that goes beyond merely the expression of an opinion. What that involves is encouraging or promoting or urging other people—almost always vulnerable people, I might say, who are susceptible to
the injunctions of these predators—to do harm or violence to innocent people and, indeed, in many cases, to themselves. If, Senator Wright, that is okay with you, then that is a matter between you and your conscience. But I think most of the Australian people would agree with the government that it ought not to be lawful in this country to do so.

Senator WRIGHT (South Australia) (09:47): Attorney-General, I will pick up on a couple of things you said. First of all, I think you are a lawyer; is that right? Is my memory serving me correctly that you are a lawyer too?

Senator Ian Macdonald interjecting—

Senator WRIGHT: I did not start this, Senator Macdonald—so, a bit of respect, Senator Brandis. I do not think you would want to mislead either this chamber or the public who might be listening to this debate. First of all, let me make it really clear: at no time has this amendment sought to remove that provision. We are working with the bill that the government has drafted, but we are reflecting genuine and widespread concerns about the broad and risky potential of this offence to have unintended consequences for freedom of expression in Australia.

At no point did I say in my comments earlier that we should remove the term 'advocates'. I specifically referred to the word 'promotes' and I asked you a specific question about how that would be defined—and I allow you as a lawyer to tell us what would in fact amount to 'promoting' under this bill so that people who are listening have some idea of the type of behaviour or speech they may not be able to be involved with if the bill is passed.

I will say a couple of other things. One of them is that you quibbled with me about using the words 'ramming through' about these laws. Certainly, last night there was debate about various amendments that were being put up by the Australian Greens, by Senator Leyonhjelm and by the government. But the sad reality is that the time allowed for this debate has been truncated; there is a guillotine hanging over us—at 12.30. So, much as I would have liked to ask further questions about the amendments that were being moved last night, I had to be very careful, knowing that I had other, substantive matters to deal with today. That has been hanging over my head and, no doubt, over the heads of other people who might want to engage in the debate today.

So that is why the Australian Greens say that there was no justifiable reason to have an arbitrary guillotine that allowed less than eight hours of debate in the Senate.

I will go to the question that I put to you, and I do not think I received an answer, because you went off to suggest that the Australian Greens somehow do not care about the safety of Australians and that we perhaps are not concerned about people who might be in the community advocating some form of violence against others in the form of terrorism. So I will come back to my question: can you please as a lawyer explain in clear terms what the term 'promotes' means in the context of this offence, given that 'promotes' is one of the words used to define the term 'advocating' or 'advocacy'.

Senator IAN MACDONALD (Queensland) (09:50): Before the minister answers that, I have a similar question about definitions, and perhaps he could address both at the same time. I am wondering if the minister could indicate what the term 'reckless' means in the passage that he read out here.
Before I elaborate on that, could I say I am flabbergasted that Senator Wright should be complaining about guillotining bills and restricting debate when I sat through six years of dysfunctional government supported by Senator Wright and her party, when no fewer than 150 bills were guillotined, some of them very important bills, with not one word of debate, Senator Wright. Where was your holier-than-thou opposition at that time? You were part of it. You and your party were part of that disgraceful episode in Australian politics where important legislation was indeed rammed through with not one word of debate. For you to get up and say that two days of debate is restriction really shows the hypocrisy of the Greens political party.

I support the general thrust of the government's legislation. I just want to indicate to the minister that, whilst some people say this does perhaps have restrictions on things that we might have been able to do in the past, I am one of those—and I think I speak for the majority of Australians here—who are prepared to forgo just a little bit of the freedoms that I would otherwise have had if it means that I and my family and the people that I know, love and respect are a little safer in their daily events and lives.

This is a situation which the government and the majority of Australians have not created, but it is a real situation. We are, I guess, lucky—and perhaps you make your own luck here. We are well prepared and we have in place a number of agencies and facilities that allow us to stop these terrorist acts before they happen. But I think that, when I and all Australians—indeed, all citizens of the world—see again just what happened in Canada last week, we cannot help but think that could happen here.

I have to say that for years I have left my front door of my office in Parliament House open, because I always want my office to look like it is welcoming. If people want to pop in and see me, they do it. I have to say that in the last few weeks I have started to shut the door in case someone comes through.

Senator Leyonhjelm: Mr Chairman, on a point of order: Senator Macdonald is continuing the second reading debate. The issue before the chair currently is the amendment moved by the Greens. We are operating under a guillotine—a time limit—and I think it would be appropriate if we return to the matter at hand.

Senator IAN MACDONALD: Mr Chairman, on the point of order: if Senator Leyonhjelm is that concerned, perhaps he should have taken the same point of order on Senator Wright when she was giving what was clearly a second reading debate speech.

The CHAIRMAN: Senator Leyonhjelm, I understand the point you are making, but it is not a point of order that I can rule on. I think the debate is still within the realms of the question before the Chair.

Senator IAN MACDONALD: I will be brief. I am conscious of the need to deal with a lot of amendments from all sides and I do want the minister to explain to me how the term 'reckless' is defined and how it operates in this context. Senator Leyonhjelm is quite right: I did not take part in the second reading debate because I did not want to take 20 minutes as most contributing speakers did, therefore restricting others from the debate. I think it is appropriate in dealing with Senator Wright's amendment to indicate my view generally on her amendment, on the amendments being proposed by the government and, indeed, the whole bill, which I hope will be passed as amended. I repeat that most Australians are prepared to
forgo some of the rights we have had throughout our existence if it means that people who might otherwise be harmed or killed are protected in this country.

Over the years I have had bits to do with ASIO, the Crimes Commission and the Australian Federal Police through the different committees I have been involved in. They do a magnificent job but they always abide by the rules—the rules that are passed by parliament. The people whom they are competing against—the organised crime, the terrorist cells, those who would harm Australians—never follow one rule. They do not worry about human rights or getting warrants or unlawful killings—all that just happens as a matter of course. We have to give our agencies the maximum powers that a democracy can possibly give them to enable them to fight—not for anything they might get out of it—to protect me, my family and all other Australians. I think it is essential that, within the constrained limits that the Attorney-General has spoken about and that do understand the way Australian democracy and freedoms work, we do have to give them maximum amount of powers. If that means giving up a little of what we always thought we had in the way of freedoms, then most Australians—I think I can speak for them—are prepared to forgo them in return for keeping themselves, their families and their loved ones safe.

Minister, in answering Senator Wright's question, I wonder if you could address the issue of how 'reckless' is interpreted.


Senator JACINTA COLLINS (Victoria) (09:57): I thought it might be useful for the opposition to deal with our position before we go into what might be a more lengthy question-and-answer discussion. Senator Wright, we have reached the provisions in the bill that deal with the very important issue of advocating terrorism. During my second reading contribution and others from the Labor Party—we did have a rather limited second reading debate—I did not cover the full detail of Labor's concerns about this area to assist the committee stage consideration or, indeed, the amendments that we will be moving. I will do that when we come to our amendments, but in relation to this particular amendment (12) I should indicate, as I think Senator Brandis has already noted in his comments, that Labor supports a new offence for counselling or urging the commission of a terrorist act. We believe that it is right that this offence goes no further than existing incitement crimes which would apply already where someone urges or counsels a terrorist act intending that act to be committed. Senator Wright, that is our specific concern in relation to your amendment (12).

On some broader issues, I understand that, like Senator Macdonald, Senator Dastyari did not have an opportunity to contribute to the second reading debate but also wants to highlight to the government some of the important issues around concerns in the community about how we need to get advocating terrorism right in this bill. I hope there will be some small scope in this committee consideration for Senator Dastyari to cover a few points for the opposition as well, appreciating the limited time that we have available.

Senator LEYONHJELM (New South Wales) (10:00): I do not want to unduly delay consideration of this amendment, but I do want to place on the record that I will support Greens amendment (12) moved by Senator Wright. I will also support Greens amendment (13). I will support the Labor amendments along the same lines. The intention of each of
those is to limit the scope of the bill in relation to advocating terrorism, with various attempts to bring it closer to the definition of 'incitement', which I think is the appropriate approach. The Attorney-General says that 'incitement' is not appropriate. I am not a lawyer, just to make things clear, but I do think that something close to 'incitement' is the appropriate definition for this. I do not intend to speak on these amendments again, but I will be supporting each of these amendments—those of Labor and the Greens—to bring the definition of 'advocating terrorism' to something that I think we can live with.

I have to say that if it comes down to it I am probably an advocate of terrorism in terms of overthrowing the regime in North Korea and perhaps in Zimbabwe as well. We really are talking about specific circumstances in relation to this bill, yet the bill is not specific to those circumstances.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:01): Let me deal with the questions that have been put to me by Senator Macdonald and Senator Wright. Senator Macdonald, you ask for a definition of 'recklessness'. I know, Senator Macdonald, that you are a lawyer and, from my recollection—because we have known each other for a very long time—a much respected lawyer in North Queensland before you turned your career to public service. So, Senator Macdonald, as you would be aware, recklessness is a term with a technical legal meaning as well as a common-speech meaning. The concept of recklessness involves doing something heedless as to the consequences of one's conduct. So it is something more serious than negligence but something less serious than intention, because it does not involve the element of volition but it does involve the element of doing something heedless of the consequences for others of your conduct.

It is given a reasonably architectural definition in division 5 of the Commonwealth Criminal Code, which I might read, just to give you a complete answer. Section 5.4 of the Commonwealth Criminal Code defines recklessness in these terms:

(1) A person is reckless with respect to a circumstance if:
   (a) he or she is aware of a substantial risk that the circumstance exists or will exist; and
   (b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.

(2) A person is reckless with respect to a result if:
   (a) he or she is aware of a substantial risk that the result will occur; and
   (b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.

(3) The question whether taking a risk is unjustifiable is one of fact.

Senator Macdonald, what we are dealing with here is recklessness in relation to the commission of a terrorist offence or performing a terrorist act. The way in which the provisions of section 5.4 of the Criminal Code would be attracted, particularly subsection (2), recklessness as to a result, could be seen in a case like this.

Let it be said that somebody advocates the doing of a terrorist act. If, in their advocacy, they were aware that there was a substantial risk that that would occur—that is, the terrorist act they advocate—and, having regard to the circumstances known to them, it was unjustifiable to take that risk—that being a question of fact to be determined objectively by a jury—that is where the recklessness element would be satisfied, and that is what it means. So, to put flesh on the theoretical bones here, we have all seen instances—whether directly or on
social media—of hate preachers advocating, and saying, particularly to young people, 'Go out and commit a terrorist act.' Now that is not the offence of incitement to violence, as I tried to explain to Senator Wright, because there is not the immediacy of the connection between the words and the act. But I think, Senator Macdonald, an experienced lawyer like yourself would well understand that that is a circumstance of recklessness. If you are a person who advocates to impressionable, radicalised youth, that they should go out and commit a terrorist act—a terrorist act being defined elsewhere, of course, as an act of violence for a religious, political or ideological cause—then it may very well be that a jury would conclude: 'You were reckless as to the consequences. You were more than negligent; you were reckless—because in those circumstances, there was a very substantial risk that the audience whom you were addressing would go and do the very thing that you were advocating.' I hope that satisfies your inquiry, Senator Macdonald.

Senator Wright asks what is the definition of promotion. Senator Wright, with respect, you asked the wrong question, because what is being prohibited here is 'advocacy', and 'promotes' is one of the four verbs that are used to define advocacy. So it is the 'advocacy' of a terrorist act or the commission of a terrorist offence, that attracts the operation of the new offence provision. To deal with your question directly, a court would read or interpret that word in the context of the words that appear around it, applying ordinary canons of statutory interpretation. So the word 'promotes' would take its meaning from the words around it in the statute: 'counsels, encourages or urges'. None of which, I see, you seek to omit. You are probably aware, Senator Wright, that there are certain areas of the law where the word 'promotes' does have a more technical meaning—for example, in the promotion of companies. But that is an entirely different area of law. So the word 'promotes' can have a technical legal meaning but in this case it does not; it has its ordinary, common-speech meaning, derived from the words that appear adjacent to it in the statute: 'counsels, encourages or urges'. None of which, I see, you seek to omit. You are not evidently familiar with it—

Senator Wright: No; I am familiar with it.

Senator BRANDIS: Well, then why did you ask the question, Senator Wright, if you are familiar with it?

Senator Wright: I can explain that.

Senator BRANDIS: However, let me read it to you:

The terms ‘promotes’ and ‘encourages’ are not defined. The ordinary meaning of each of the relevant expressions varies, but it is important that they be interpreted broadly to ensure a person who advocates terrorism does not escape punishment by relying on a narrow construction of the terms or one of the terms. However, some examples of the ordinary meaning of each of the expressions follow: to ‘counsel’ the doing of an act (when used as a verb) is to urge the doing or adoption of the action or to recommend doing the action; to ‘encourage’ means to inspire or stimulate by assistance of approval; to ‘promote’ means to advance, further or launch; and ‘urge’ covers pressing by persuasion or recommendation, insisting on, pushing along and exerting a driving or impelling force. That is the way in which these expressions are treated in the replacement explanatory memorandum. But, as the explanatory memorandum also says—and as I said—the expressions will have their ordinary language meaning. Therefore, Senator Wright, you do not have to be a lawyer to know what these words mean. They have the same meaning in this
section as they have in common speech. The courts and juries, I believe, given the guidance that this provision gives them, can be relied upon to decide whether or not conduct amounts to encouraging, urging, counselling or promoting.

Lastly, Senator Wright, because you did make some rather extravagant claims, I emphasise a point that is too often lost in this debate. We are criminalising conduct. You could not work out before whether this was unnecessary because it was already covered by the law or it was extravagant because it was not already covered by the law. But I think you settled on saying it goes too far because it is not already covered by the law. Whenever the parliament declares something to be unlawful and, indeed, a crime which is not currently a crime, it should do so after careful deliberation, which is why we are having this debate and why the Parliamentary Joint Committee on Intelligence and Security looked at this so exhaustively. But we should always remember that the ordinary principles of criminal law are not suspended. That means that the burden of proof lies on the prosecution to prove every element of the offence, including the recklessness element.

But, secondly, the criminal standard of proof also applies. Let’s never forget that. In all of these debates we have about the language of particular statutes and safeguards, the greatest safeguard of all is a principle of English criminal law going back centuries—namely, that the standard of proof for a crime for every element of an offence is beyond reasonable doubt. That is the greatest safeguard of the law. It has been part of our law, as inheritors of the English legal system, for centuries. Every element of this offence, like any other criminal offence, needs to be proved beyond reasonable doubt.

Senator DASTYARI (New South Wales) (10:12): I think it is important that I begin by saying that, much like Senator Leyonhjelm, I am not a lawyer. Only in the rarefied air of the Australian Senate, Senator Leyonhjelm, do we have to apologise for not being lawyers! But I assure you that, while in this place we apologise for not being lawyers, once we leave the Senate chamber it is they who have to apologise for being lawyers!

I have a few questions for Senator Brandis, but I wanted to touch on something that Senator Macdonald said that I think was unintentionally clumsily phrased. Senator Macdonald made the point that he is prepared to give up some of his freedom for security and safety. That is the kind of language and debate that we have heard a lot in recent times when we talk about these things. While I see the point that Senator Macdonald is making, I always get concerned when people use that kind of language because I hold—and I know others in this chamber do as well; maybe almost everyone in this place does—a slightly more sophisticated view, which is that our safety stems from our freedom, not the other way around. I do not like the characterisation that we sometimes make in this place or in simplistic media commentary that there has to be some kind of trade-off between being free and being safe and that there is somehow an equilibrium. While I understand in a practical sense that they sometimes can come into conflict with each other, I think we have to be more sophisticated and more intelligent in how we approach these debates and start talking about how we can have an environment in which we are safe and secure that makes us more free, not less free. That is the challenge that we have in this place.

I also want to note that I have a lot of sympathy for where Senator Wright is going with her amendments. I am going to explain a bit about why I slightly disagree with her. The point that is being made here—that is, making sure the bar is high—is the right one. I did not have a
chance to speak in the second reading debate and I do want to speak specifically to the amendments, but in doing so I will ask for a tiny bit of indulgence from the Senate to talk around the issues that relate to the amendment as well as the wording of the amendments. Senator Brandis, I think it is really important as we go forward and look at the amendments in this debate that we acknowledge the real obligation here is not just what we do as law-makers to set the regulations but how we engage with the communities themselves—the Muslim communities in particular, which are obviously more directly impacted by some of the debates that are happening—and how we create an environment of engagement with them. I want to note and put on the record the incredible work of adult Muslim leaders around Australia, in particular, as I come from Sydney, people like Samier Dandan from the Lebanese Muslim Association, people like Dr Jamal Rifi, people like Maha Abda from the Muslim Women's Association and Muslim community leaders who have actually stepped up and said, 'This isn't part of our community. There is no place for this in our society. We do not support this.' When we have these debates we have a real responsibility to acknowledge and respect the fact that those Muslim community leaders at the coalface who are confronting these issues on a regular and daily basis deserve our encouragement and our acknowledgement of the work they do.

We talk about who the victims are of those who are out there inciting or encouraging or promoting—whatever language you want to use—terrorism. I do not want to forget the fact that the victims of this are not just those people in Syria, Jordan, Iraq and the Middle East region where foreign fighters go to fight. They are the victims, of course, but in a lot of cases you have impressionable young people at a very delicate age who are, let us face it—I would like to use the word that Senator Leyonhjelm used on the outside of parliament, but I do not believe that the word beginning with the letter 'd' and ending in the word 'head' is parliamentary, so I will not use it. We forget that they also can be victims of this. The community becomes a victim. Their families also become victims. In a lot of cases they are impressionable youth, a lot of whom come from south-west Sydney, and—I want to be honest here—a lot of their life experiences up to a certain point were not all that different from some of my life experiences. That makes me wonder about and question what influences they have had and what community influence has at times led those impressionable youths to make those kinds of decisions.

Those in the Senate chamber know me well. I was four when I came to Australia. I came from that part of the world. I was born in a small fishing village in northern Iran. I look at the incredible opportunity and experience that this country has given me and, when I see a 17-year-old youth on the front page of The Daily Telegraph out there making ridiculous statements halfway across the world, I question what led to that happening. Why I support a lot of this is that part of what these laws are doing is acknowledging that the people who also have a responsibility are the people who incite, who encourage, who promote and who push impressionable youth to make foolish and ridiculous decisions. I would say to Senator Brandis that where this legislation is going on that front is a good step and that the implicit acknowledgements we can make are that there are many victims of terrorism, that there are many victims of this kind of behaviour and that the community itself and the families of these people also become victims. The responsibility should and needs also to lie with them. Do not get me wrong: if people travel halfway around the world to participate in horrible, brutal acts they deserve to be punished and as they commit crimes they deserve to have the full force of
the law thrown at them. But the people who are inciting them, the people who are pushing
them, the people who are promoting them, the people who are using their positions of power
over impressionable youth to make them make these foolish and improper decisions also
deserve to have punishment. The wording of the amendment concerns me, Senator Wright. I
understand the intention of what you are trying to achieve. I have a very strong view that
these impressionable youths can also at times be victims, based on the information that they
are being provided.

On the idea about how much time there is for the debate, I think Senator Wright makes a
fair point about the guillotine and deliberations. I am not an expert in Senate procedure; I do
not pretend to be. I do not know what is an appropriate amount of time.

Senator Jacinta Collins: You're not even a lawyer!

Senator DASTYARI: I'm not even a lawyer; that's right. I think what has been a good
part of this process—I have spoken to other senators as they were going through the
parliamentary committee process and the recommendations were being developed—has been
the ability to have had some of this debate out there.

Senator Wright interjecting—

Senator DASTYARI: What is important is that there be more of this kind of debate. I will
take the interjection from Senator Wright, who made the point that my party was part of those
deliberations and through the committee process her party was excluded. If that is the case,
that does not allow for good legislation. The opportunity to have those kinds of debates in the
committee environment as a rule leads to better legislation and better amendments. I
acknowledge that Senator Brandis has really gone out of his way to make sure that, from the
perspective of the Labor Party, we were fully engaged in this debate. I think that adds to it.

I also acknowledge the real work that a lot of not just the Muslim community leaders that I
mentioned earlier but the parliamentarians who have been engaging with the Muslim
community. I was at Lakemba mosque on Saturday morning with Scott Morrison. That is not
something that most people can say they have done. It was good to see the Minister for
Immigration and Border Protection go there. I acknowledge that Senator Fierravanti-Wells in
particular has spent a lot of time engaging with the emerging communities of Sydney and the
Sydney Muslim communities. We have to be careful in the language we use in this chamber
and about the message we send. I am not going to get into a debate now about things like the
debate we had on the burqa and whatnot, but we have to be very careful that we are not
sending the wrong signal to the sections of the community that are doing their best to try to
engage, who want to be part of this process. We have to empower them, speak highly of them
and bring them in as part of the process. I know the law enforcement agencies have really
gone out of their way—they deserve our congratulations—to try to engage with the
community. If the real issue here is a group of impressionable, young, mostly, men—I think
almost all are men—from a Middle Eastern background, some of whom were born here, many
of whom came here while they were quite young, as I did, then the best people to counter the
narrative that they are getting, of hate and of the incitement of violence, are those within their
own community. It is about empowering those kinds of voices.

Senator Brandis, turning more specifically to the question, I hope this question is not too
far from the amendment so that it is one you can answer. I would not mind if you are able to
touch on, while we talk about the specifics and the wording of this amendment, what the government is doing not just in the letter of the law but to try and make sure that we are engaging with Muslim community leaders and empowering them. When we talk about the issue of those who incite and those who encourage reckless behaviour we must talk not just about punishing those who have committed the crime but encouraging those who on the opposite end are trying to send the right kind of message to the community.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:24): The very message we are trying to send to the community is a message to discourage its members, particularly its young members, from engaging in this kind of conduct. In a sense, Senator Dastyari, once a person has been radicalised and once a person has travelled to Syria or northern Iraq to fight with ISIL—as, sadly, we have seen some young Australian men doing in media reports in recent days—in most cases, frankly, they are lost. They are lost. One aspect of social conduct that is very troubling is how swiftly apparently ordinary, everyday Australian youths can be radicalised. There have been many instances of individuals being radicalised in a very short span of time that we know about. That, Senator Dastyari, by the way is why we need to have this advocacy of terrorism offence. I do not seem to be able to get through to some members of the Senate, but I am sure you understand, Senator Dastyari, that, when you create a climate in which the advocacy of terrorism is acceptable, then you constrain your capacity to prevent those who by advocating terrorism encourage young men—sometimes unsure of their identity, sometimes unsure about the path or the course of their life, sometimes unsure about their belief system and where they fit into family or social structures—to embrace this radical solution.

So, Senator Dastyari, preventing young people becoming radicalised by measures, such as the measure we are now debating, is absolutely critical. The measures for the advocacy of terrorism are not directed, at least primarily, at the vulnerable young men who are the targets; they are directed to the evil old men who are the proselytisers, the predators and the advocates who seek to ensnare young men in this false, perverted and distorted version of the Islamic faith.

Another important element, Senator, is our engagement with Islamic communities. I am glad you were at Lakemba the other day with my friend Scott Morrison. He, Senator Fierravanti-Wells, I and many other members of the government in our own electorates and our communities have spent a lot of time—as I am sure opposition members of parliament like you have done as well—reaching out to these communities. I spoke in the debate last night about the many meetings I have had with leaders of the Islamic community to engage them as our partners in this task. They are some of the most enthusiastic supporters of this legislation—they are because they know it is designed to address a problem that arises, in particular, in their communities. It is intensely, deeply threatening to those communities and threatening to the vulnerable young people in their communities. We will continue to engage. When the Prime Minister and I announced a suite of measures on 5 August, one of the most important of those measures was a very substantial sum of money to invest in our Countering Violent Extremism programs, which are being delivered through the Australian Federal Police, through state police agencies and other government agencies.
There are other things that civil society does and can do. Only recently, on the day before the AFL Grand Final, I went to Melbourne to present the Bachar Houli Cup, which is a wonderful initiative promoted by the AFL in Melbourne. It recruits young Muslim men who want careers as AFL football players into a scholarship and mentoring program inspired by Australia's first great AFL player who professes the Islamic faith, Bachar Houli—it was my great privilege to meet him that morning—and engage them through sport. I can say, as a former sports minister, that engagement of young people through sport is one of the best possible ways of avoiding alienation and promoting a sense of belonging and inclusion. In a broad sense that is what the Prime Minister means whenever he uses the term 'Team Australia'—that we are all part of the team. In a narrow sense, that is what the AFL is doing, by saying to these young men who are participants in the Bachar Houli program, 'You are part of our particular team'—which is but an element of the great variety of the many community groups to which people feel a sense of belonging and which, in aggregate, amounts to 'Team Australia'.

Senator, the observations you have made are very wise, if I may say so. I know you have been very constructive in your own communities and networks, and have been a very constructive force in promoting this agenda of inclusion in trying to prevent young men feeling so alienated that they become radicalised and prey to the false doctrines of those who would seek to recruit them for evil purposes, to do violence to themselves and to others. The legislative element of this is only one element of a whole-of-government approach, and I appreciate the Labor Party supporting and seeing the wisdom of having this element securely in place.

**Senator WRIGHT** (South Australia) (10:31): I have a couple of very brief comments to make in response to the answers that the Attorney-General gave to my question about the meaning of 'promotes' earlier.

I would also like to seek the guidance of the chair. Last night, when I began to address this amendment (12) on sheet 7594, I indicated that I would like to move this amendment separately to amendment (13), although they are amendments that relate to the same offence of advocating terrorism. In the interests of time, I am wondering if it would be possible to deal with these two amendments together.

**The TEMPORARY CHAIRMAN** (Senator Bernardi): Senator Wright, that is entirely appropriate, if you would like to. Is leave granted for Senator Wright to move amendment (13)?

**Senator Jacinta Collins:** Leave is granted, but I want to address amendment (13), which I have not yet addressed.

Leave granted.

**Senator WRIGHT** (South Australia) (10:32): I move Australian Greens amendment (13) on sheet 7594:

(13) Schedule 1, item 61, page 64 (line 1), omit "promotes."
The TEMPORARY CHAIRMAN: We are now considering amendments (12) and (13) on sheet 7594 standing in the name of the Australian Greens.

Senator WRIGHT: I would like to do that; indeed, we have been discussing the second amendment inadvertently anyway, which is removing the word 'promotes' from the definition of advocating terrorism. We have been having a relevant discussion about that particular amendment.

If I could come back to the question that I posed to the Attorney-General, which was asking for what the meaning of the word 'promotes' is. The Attorney-General suggested that it takes its ordinary meaning. In that case, I guess any of us in the chamber would probably be equipped to try to define what 'promotes' means.

The Attorney-General tried to reassure me about the concerns that I was expressing, but that have also been expressed by many legal commentators, about the broadness of the word 'promotes' and the uncertainty that that would create, in terms of understanding whether particular behaviour would be defined to be promoting terrorism. The Attorney-General was wanting to reassure us that if it went to a court case and a prosecution, then the burden of proof is 'beyond reasonable doubt'. However, one of the concerns raised is that, when we are dealing with laws that do not define particular behaviours with certainty and clarity, there is a chilling effect on those people who do not want to end up in a court where the prosecution has to be put to the standard of proof of beyond reasonable doubt. The risk is that people will pull right back from what would, potentially, be considered to be legitimate activity—because they are justifiably fearful about the consequences.

The Attorney-General also sought to reassure us that the government's view on what 'promotes' might mean is set out in the explanatory memorandum. But—as Senator Leyonhjelm has pointed out several times in this debate already—courts, in interpreting legislation, will only have recourse to the explanatory memorandum if they feel it necessary to do so. In fact, it is quite rare. They would generally prefer to look at the wording of the offence itself in the legislation. That is why it is also desirable to have clarity and certainty about what words and terms mean.

An example that has been raised by legal commentators to illustrate the risks associated with having terms like 'promotes'—where it is not really clear how far they extend—is that of a person who 'likes' a Facebook comment which contains a favourable reference to terrorist activity. Would that fall within the definition of 'promoting or advocating terrorism to others'? What about someone who is wearing a T-shirt with an ISIL symbol on it? Although that is not a T-shirt that would be in my wardrobe, and I would not be encouraging my kids to wear it—it would be abhorrent to me—that would be, arguably, a legitimate form of political expression in Australia. I think most of us would be reluctant to prevent it—someone indicating an allegiance to something that we do not necessarily agree with. But there are serious issues here about freedom of expression and how far that freedom of expression may be affected by this legislation. So in absolute good faith, that is the reason that, if we cannot get clarity about the word 'promotes', the Greens will be seeking to have the word 'promotes' removed from the definition of 'advocating terrorism'. That is all I intend to say in this debate. I seek leave to move these amendments together.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:36): Chairman, could I respond to that, before Senator Collins makes her contribution?

The TEMPORARY CHAIRMAN: Yes.

Senator BRANDIS: Senator Wright, I have told you and I have pointed out to you the relevant paragraph of the explanatory memorandum. The word 'promotes' has its common-speech meaning, so please do not say to the chamber that I cannot tell you what it means, when I have just told you what it means and I have just directed you to a longish discussion about the meaning in the explanatory memorandum. Frankly, Senator Wright, because it has its common-speech meaning you need look no further than the Oxford English Dictionary or the Macquarie Dictionary to satisfy yourself what the word means if you do not already know.

There is no useful purpose to be served by imagining hypothetical instances of what may or may not be caught by a statutory definition expressed in common English, because that is what courts do. We have a separation of powers in this country. It is not for the parliament to define, by legislation or by regulation, every single imaginable instance. That would be bad legislative practice. It is not for the parliament to set out in an act of parliament whether, for example, a T-shirt or a particular form of words is caught by a general statutory prohibition. That is what courts do. They apply the generic language of statutes to the facts of particular cases.

I think we can rely upon and trust the judges and juries to apply this clear statutory language to particular instances. The debate is not served by imagining instances which could conceivably come before the courts and ask, 'What does the statute have to say about that?' That is not our job. It is not my job as the Attorney-General and the person moving this bill; it is not your job or our jobs as senators deliberating upon this bill; it is the job of the courts to apply the law.

Senator Wright, I do not think I need go beyond that. I have already made the point. I do not want to be tedious and repeat myself, but it does not seem to be getting through to you that this is not about freedom of expression. This is about the advocacy of terrorism. The advocacy of terrorism is not the expression of an opinion; it is the injunction to an act of violence. If you cannot see the distinction, Senator Wright, I suspect most senators can.

Senator JACINTA COLLINS (Victoria) (10:39): As I indicated before, I am happy for the Greens to move amendments (12) and (13) together. However, my earlier comments were quite discrete with respect to amendment (12). Whilst I indicated that we were now dealing with the 'advocating terrorism' element of the bills and that we had circulated amendments to deal with that issue, I would like to deal with Labor's position in more detail at that stage.

I should now, for the benefit of the Senate, indicate that Labor has circulated revised and further amendments because, through further consideration and discussions, we have determined to take a different approach to dealing with this issue. I will come to the detail of those when I receive advice as to where in the running sheet we should address those amendments.

With respect to Greens amendment (13), which was similar to our previous approach, in the amendments that we first provided, I should indicate that on the basis of Labor's new
approach addressing this issue we would be opposing amendment (13) with respect to removing the word 'promote'.

I appreciate the Greens' concern here. Indeed, up until recently we had sought to address the issue in a similar way. On the basis of further advice—senators will see our changed position in amendments on sheet 7605—we believe that this approach ensures that our concerns that the breadth of these provisions not touch behaviour which would not be reasonably regarded as advocating terrorism are dealt with in this new fashion.

The TEMPORARY CHAIRMAN (Senator Bernardi): The committee is considering the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 and amendments (12) and (13) on sheet 7594 standing in the name of the Australian Greens and moved by Senator Wright. The question is that the amendments be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: We will now move to opposition amendments. Is it appropriate, Senator Collins, for us to deal with opposition amendment (1) on sheet 7601 (revised) and opposition amendment (1) on sheet 7605 concurrently, now?

Senator JACINTA COLLINS (Victoria) (10:43): At this stage I hope to proceed simply with amendment (1) on sheet 7605. I move the amendment:

(1) Schedule 1, page 64 (after line 14), after item 61, insert:

61A After subsection 80.3(1)

Insert:

(1A) Without limiting subsection (1), section 80.2C does not apply to a person who engages in good faith in public discussion of any genuine academic, artistic, scientific, political or religious matter.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A). See subsection 13.3(3).

61B Subsection 80.3(2)

After "subsection (1)", insert "or (1A)".

As I mentioned before, these deal with our further considered approach in relation to managing our concerns about advocating terrorism. As we have indicated, we are concerned about the breadth of the new 'advocating terrorism' offence. In our consultation with the Australian community—and especially with representatives of the Muslim community, that I think Senator Dastyari has covered today—we have heard concerns that this new offence might capture quite legitimate speech on controversial political matters or that it might capture legitimate religious discussion, debate or preaching.

Labor agrees with the need for an offence addressing conduct which might cause others to engage in terrorism. We know that there is a line to be carefully drawn. We would never want to criminalise legitimate religious conduct or to cause the Muslim community to fear that honest religious activity would be criminalised. That would be completely contrary to our purpose.

Labor's amendment would expand the existing good faith defence in section 80.3 of the Criminal Code as it applies to the new advocacy of terrorism offence to make it clear that those who engage in good faith in public discussion of any genuine academic, artistic, scientific, political or religious matter will be protected from liability. We think this strikes
the right balance. We support the new offence, but we want to make sure that it does not capture innocent conduct. We think that this amendment will make sure that this new offence does not go too far.

I am in the hands of the Senate as to whether, given that these amendments have been recently circulated, we might want to defer consideration to a later stage in the committee stage of debate to allow some consideration of the detail of these. Maybe I will add some humour to the debate at this stage. I also am not a lawyer. It might entertain senators to understand that Senator Brandis, many years ago, had assumed I was a lawyer, to which I laughed and indicated that it might have been my major in logic!

Senator Brandis interjecting—

Senator JACINTA COLLINS: This was many years ago, Senator Brandis, I think in the context of the 'children overboard' investigation. That said, I obviously have been dealing with making laws for many years. I appreciate that some time to consider the new approach that Labor has taken on this issue might be important to other senators, so I am in their hands as to whether they might seek to defer dealing with these amendments until later in the debate, if some further consideration is warranted.

Senator WRIGHT (South Australia) (10:46): I am in a position to indicate to the opposition that the Greens would be happy to deal with this now and that we would be supporting the amendment.

Senator LEYONHJELM (New South Wales) (10:46): I also wish to advise that I will support this amendment. It is very well drafted, very well thought through and I think it would be difficult for the government to oppose it. Bear in mind that we have had the word 'bipartisan' used a great deal in the debate about this bill and also the national security bill that we considered last month. I just make the comment that I think bipartisanship works both ways.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:47): The government opposes the Labor Party's amendment. This is, as Senator Collins has said candidly, the second position the Labor Party has taken on this issue. There has been some reconsideration evidently within the Labor Party's inner circles. I welcome the fact that the initial amendment has been withdrawn, but nevertheless the government cannot support this amendment. We do not support the amendment for a very simple reason, Senator Collins: it is entirely unnecessary because what the amendment does is provide—we are talking about 7605 at the moment?

The TEMPORARY CHAIRMAN (Senator Bernardi): No, Senator Brandis. We are dealing with 7601.

Senator BRANDIS: I am sorry.

Honourable senators interjecting—

The TEMPORARY CHAIRMAN: No, I beg your pardon, senators. We are dealing with 7601.

Senator BRANDIS: That is not what Senator Collins was talking about. She was talking about 7605.
Senator Jacinta Collins: Amendment (1) on 7605.

Senator BRANDIS: Senator Collins and I understand each other. We are dealing with a proposed amendment to subsection 80.3(1) of the Commonwealth Criminal Code, by which the opposition would include a provision specifying that section 80.2C—that is, the advocacy of terrorism offence—does not apply to a person who engaged in good faith in public discussion of any genuine academic, artistic, scientific, political or religious matter. The government opposes this amendment for a couple of reasons. On a narrow reading it is unnecessary because what section 80.2C would do is make it an offence to advocate terrorism—to advocate the commission of a terrorist offence or to engage in a terrorist act. It is inconceivable that a person could, if they are advocating the commission of a terrorist offence or engagement in a terrorist act, be merely acting bona fides in a public discussion of political or religious matters.

The amendment that Senator Collins has moved, for reasons I explained to Senator Wright earlier in the morning, is quite unnecessary. There is nothing in the proposed advocacy of terrorism offence which would capture the expression of political or religious opinions, unless they were to trespass beyond being merely the expression of opinions and become the advocacy of violence. That is what this captures. The distinction between the expression of opinions and the advocacy of violence is a very clear distinction. So the Labor Party amendment, on a strict view, is unnecessary.

It is also invidious for another reason. You will recall that I said to Senator Wright before that we should always conduct these debates about the introduction of new criminal offences mindful of the fact that the onus of proof lies on the prosecution to prove beyond reasonable doubt before a jury that every element of the offence has been committed, and the jury must also consider any defences that might be raised. The very vagueness of the terms 'academic', 'political' or 'religious' matters as such could very well cause confusion in the minds of jurors. I would not expect that the typical juror would be a scholar of the Koran. Let us say that, in relation to a particular prosecution in which terrorism was advocated, it was said by an expert witness, 'This is really consistent with a particular passage of an Islamic holy book.' There are a variety of claims made about every religious faith. There are a variety of contestable claims made about what constitutes the doctrine of every religious faith. I have said from start to finish in this debate that Islam is a religion of peace and that those who preach the doctrines of ISIL and Jabhat al-Nusra and the other radical deviants from that religion do not represent the views of that religious faith. But let us say that in a prosecution a particular scholar with a particular point of view were to contend to the contrary. Does that mean that a jury could not be satisfied beyond reasonable doubt that there should be a prosecution even though what was involved constituted the advocacy of terrorism? So I think, from a technical point of view, this amendment is unnecessary, but from a practical point of view, from the point of view of giving effect to the amendment in the real-world circumstances of a criminal prosecution, it may very well defeat the effect of section 80.2, and that is why the government oppose it and we call on the crossbenchers other than the Greens—who, of course, would support this—to oppose it as well.

The TEMPORARY CHAIRMAN (Senator Bernardi): For the purpose of the committee, I called upon 7601 when I called Senator Collins, but we will deal with 7605. Senator Collins, I would now invite you to move that amendment formally.
Senator JACINTA COLLINS (Victoria) (10:53): Thank you, Chair. I am happy to move as you suggested, but I understood that, when encouraged to deal with 7601 and 7605, I said I sought to just proceed with 7605.

The TEMPORARY CHAIRMAN (Senator Bernardi): That is fine.

Senator JACINTA COLLINS: I have moved it, but I am happy to do so again if it clears that up. As I think I said previously, I was prepared to defer consideration of this, but the senators in the chamber have indicated their positions. The government has too. I am quite disappointed that, given the consultation and effort that has been put into settling this matter, the government has indicated that it will oppose these amendments. Although senators on the crossbench may not have been party to those discussions, into which some considerable effort has been put overnight, to try to reach an acceptable understanding, I would encourage them to understand that these amendments represent a move from Labor's first approach to address this very important issue, as was highlighted by Senator Dastyari. The Australian community's concern is that we get this balance and this provision right, since it is important to our multiculturalism, to our nation and to protecting Australians, whatever their race or creed. I encourage senators on the crossbench, even reflecting on the reservations that Senator Brandis may have made, to err on the side of caution and to support these amendments on that basis.

The TEMPORARY CHAIRMAN: I invite you to move the amendments, Senator Collins.

Senator JACINTA COLLINS: I thought I had moved them twice now.

The TEMPORARY CHAIRMAN: No. The first time, Senator Collins, you put it to the Senate about deferring the amendment and you never actually moved it, that I recall.

Senator JACINTA COLLINS: I do so move.

The CHAIRMAN: The question is that opposition amendment (1) on sheet 7605 be agreed to.

The committee divided. [11:00]

(As of 11:00)

Ayes ...................... 31
Noes ...................... 34
Majority ............... 3

AYES

Bilyk, CL (teller)
Bullock, J.W.
Collins, JMA
Dastyari, S
Faulkner, J
Hanson-Young, SC
Leyonhjelm, DE
Ludlam, S
Marshall, GM
Milne, C
O'Neil, DM
Rhiannon, L
Siewert, R

Brown, CL
Cameron, DN
Conroy, SM
Di Natale, R
Gallacher, AM
Ketter, CR
Lines, S
Lundy, KA
McLucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Question negatived.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:04): by leave—I move government amendments (17), (18) and (21) together:

(17) Schedule 1, page 64 (after line 16), after item 62, insert:

62A Subsection 100.1(1) of the Criminal Code

Insert:

engage in a hostile activity has the meaning given by subsection 117.1(1).

(18) Schedule 1, item 71, page 66 (lines 24 and 25), omit "(within the meaning of subsection 117.1(1))".

(21) Schedule 1, item 73, page 67 (lines 11 and 12), omit "(within the meaning of subsection 117.1(1))".

These amendments are technical amendments. Amendment (17) inserts a definition for the term 'engage in a hostile activity' into section 100.1 for the purposes of part 5.3 of the Criminal Code. Amendment (21) is a consequential amendment to amendment (17). The effect of the amendments would be to provide that for the purposes of part 5.3 of the Criminal Code...
Code 'engage in a hostile activity' has the same meaning as it has where it is defined in the new section 117.1(1) of the Criminal Code. The amendments amend the need to cross-reference that subsection each time the expression is used.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:05): by leave—I move government amendments (19), (20) and (22) to (24) together:

(19) Schedule 1, item 71, page 66 (line 26), omit "or a foreign country".

(20) Schedule 1, item 71, page 66 (after line 29), at the end of paragraph 104.2(2)(b), add:

; or (iv) been convicted in a foreign country of an offence that is constituted by conduct that, if engaged in in Australia, would constitute a terrorism offence (within the meaning of subsection 3(1) of the Crimes Act 1914).

(22) Schedule 1, item 73, page 67 (lines 13 and 14), omit "or a foreign country".

(23) Schedule 1, item 73, page 67 (line 17), omit "and", substitute "or".

(24) Schedule 1, item 73, page 67 (after line 17), after subparagraph 104.4(1)(c)(iv), insert:

(v) that the person has been convicted in a foreign country of an offence that is constituted by conduct that, if engaged in in Australia, would constitute a terrorism offence (within the meaning of subsection 3(1) of the Crimes Act 1914); and

These amendments implement recommendation 9 of the Parliamentary Joint Committee on Intelligence and Security by separating the grounds for requesting, making, confirming and varying a control order on the basis of a conviction for a terrorism related offence in Australia, on one hand, and a foreign offence. These amendments also limit the ground in relation to foreign convictions to circumstances where the conduct that resulted in the conviction would be a terrorism offence if it occurred in Australia. The practical effect of the amendments is to require a correlation between a foreign conviction and conduct that would be considered a terrorism offence in Australia. As such, these amendment seek to provide confidence that the control order regime will apply only in relation to the recognised Australian standards of criminal law.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:07): I move government amendment (25):

(25) Schedule 1, page 69 (after line 20), after item 81, insert:

81A Subsection 104.23(1) of the Criminal Code

Repeal the subsection, substitute:

(1) The Commissioner of the Australian Federal Police may cause an application to be made to an issuing court to vary, under section 104.24, a confirmed control order, by adding one or more obligations, prohibitions or restrictions mentioned in subsection 104.5(3) to the order, if the Commissioner:

(a) suspects on reasonable grounds that the varied order in the terms to be sought would substantially assist in preventing a terrorist act; or

(b) suspects on reasonable grounds that the person has:
(i) provided training to, received training from or participated in training with a listed terrorist organisation; or

(ii) engaged in a hostile activity in a foreign country; or

(iii) been convicted in Australia of an offence relating to terrorism, a terrorist organisation (within the meaning of subsection 102.1(1)) or a terrorist act (within the meaning of section 100.1); or

(iv) been convicted in a foreign country of an offence that is constituted by conduct that, if engaged in in Australia, would constitute a terrorism offence (within the meaning of subsection 3(1) of the Crimes Act 1914).

This amendment further implements recommendation 9 of the Parliamentary Joint Committee on Intelligence and Security by separating the grounds for requesting a variation of a control order on the basis of a conviction for a terrorism-related offence in Australia on the one hand and a foreign offence. It is, in a sense, an analogue of the previous amendments.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:07): by leave—I move government amendments (28), (29) and (30) together:

(28) Schedule 1, item 94, page 72 (lines 10 and 11), omit the item, substitute:

**94 Paragraph 105.8(6)(a) of the Criminal Code**

Repeal the paragraph, substitute:

(a) any of the following:

(i) the true name of the person in relation to whom the order is made;

(ii) if, after reasonable inquiries have been made, the person's true name is not known but an alias is known for the person—the alias of the person in relation to whom the order is made;

(iii) if, after reasonable inquiries have been made, the person's true name is not known and no alias is known for the person—a description sufficient to identify the person in relation to whom the order is made; and

(29) Schedule 1, page 72 (after line 20), after item 95, insert:

**95A Subsection 105.8(8) of the Criminal Code**

After "must", insert "as soon as reasonably practicable after the order is made".

(30) Schedule 1, item 96, page 72 (lines 21 and 22), omit the item, substitute:

**96 Paragraph 105.12(6)(a) of the Criminal Code**

Repeal the paragraph, substitute:

(a) any of the following:

(i) the true name of the person in relation to whom the order is made;

(ii) if, after reasonable inquiries have been made, the person's true name is not known but an alias is known for the person—the alias of the person in relation to whom the order is made;

(iii) if, after reasonable inquiries have been made, the person's true name is not known and no alias is known for the person—a description sufficient to identify the person in relation to whom the order is made; and

**96A Subsection 105.12(8) of the Criminal Code**

After "must", insert "as soon as reasonably practicable after the order is made".
These amendments implement recommendation 11 of the Parliamentary Joint Committee on Intelligence and Security by providing that an initial preventative detention order can only be made in relation to an alias or by using a description of the person where the person's true name is not known and the description is sufficient to identify the person. The effect of the amendment is to ensure that a preventative detention order can only be made using an alias or description of a person where the issuing authority is confident that the alias or description satisfactorily identifies the person.

Question agreed to.

Debate interrupted.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator POLLEY (Tasmania) (11:08): by leave—I present a further report from the Scrutiny of Bills Committee on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014.

Ordered that the report be printed.

BILLS

Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

In Committee

Debate resumed.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:09): I move government amendment (33):

(33) Schedule 1, item 109, page 76 (after line 17), after subsection 106.5(4), insert:

(4A) Section 104.23, as amended by Schedule 1 to the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014, applies to variations of control orders, where the relevant interim control order is requested after that commencement.

This is an application provision. It provides that the amendments to section 104.23 of the Criminal Code, which authorise the Australian Federal Police commissioner to seek a variation of a control order on any of the grounds for requesting a control order, include the new foreign-fighting and terrorism conviction grounds. The effect of the application provision is to ensure that the ability to vary a control order applies only to a control order requested after the bill comes into operation.

Question agreed to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:10): by leave—I move government amendments (34) to (39) together:

(34) Schedule 1, item 110, page 77 (line 23) to page 78 (line 14), omit the definition of engage in a hostile activity in subsection 117.1(1), substitute:
engage in a hostile activity: a person engages in a hostile activity in a foreign country if the person engages in conduct in that country with the intention of achieving one or more of the following objectives (whether or not such an objective is achieved):

(a) the overthrow by force or violence of the government of that or any other foreign country (or of a part of that or any other foreign country);

(b) the engagement, by that or any other person, in action that:
   (i) falls within subsection 100.1(2) but does not fall within subsection 100.1(3); and
   (ii) if engaged in in Australia, would constitute a serious offence;

(c) intimidating the public or a section of the public of that or any other foreign country;

(d) causing the death of, or bodily injury to, a person who is the head of state of that or any other foreign country, or holds, or performs any of the duties of, a public office of that or any other foreign country (or of a part of that or any other foreign country);

(e) unlawfully destroying or damaging any real or personal property belonging to the government of that or any other foreign country (or of a part of that or any other foreign country);

(35) Schedule 1, item 110, page 78 (lines 15 and 16), omit the definition of engage in subverting society in subsection 117.1(1).

(36) Schedule 1, item 110, page 78 (after line 31), after the definition of recruit in subsection 117.1(1), insert:

serious offence means an offence against a law of the Commonwealth, a State or a Territory that is punishable by imprisonment for 2 years or more.

(37) Schedule 1, item 110, page 79 (lines 8 and 9), omit paragraph 117.1(2)(b), substitute:

(b) the engagement, in Australia or a foreign country allied or associated with Australia, in action that falls within subsection 100.1(2) but does not fall within subsection 100.1(3); or

(38) Schedule 1, item 110, page 79 (line 12), after "relations", insert "(within the meaning of section 10 of the National Security Information (Criminal and Civil Proceedings) Act 2004)".

(39) Schedule 1, item 110, page 79 (line 13) to page 80 (line 7), omit subsections 117.1(3) and (4).

Amendments (34) to (39) implement recommendations 15 and 16 of the Parliamentary Joint Committee on Intelligence and Security by replacing the phrase 'engages in subverting society,' which is one of the elements of the definition of 'engage in hostile activity,' with a cross-reference to the conduct contained in the definition of 'terrorist act' in section 100.1 of the Criminal Code. These amendments also constrain that element to conduct that would be a serious offence—one that carries at least two years imprisonment if undertaken within Australia. The two-year threshold is consistent with the definition of 'serious offence' in section 3C of the Crimes Act.

Question agreed to.

Senator WRIGHT (South Australia) (11:11): I just want to seek the guidance of the chair. The Australian Greens also have amendments in this particular area. We have a series of amendments, but the first amendment that we would be moving would be to oppose the section of the act which creates the declared areas zone. I ask leave of the committee to that extent, to move the Australian Greens amendment first so that we can be clear on whether or not the committee is willing to support that amendment. It would just make sense logically to deal with that first and then move to the opposition's amendments.
The CHAIRMAN: I think that does make sense, but I have been following the order on the running sheet. I will just get some guidance from Senator Collins on whether she objects to that and also from the minister. There does not seem to be any objection. Senator Wright, if you could now move amendment (16).

Senator WRIGHT: I would like to speak to that briefly, but I do appreciate indulgence of the committee on this. Thank you.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:13): Senator Wright, could I ask some clarification, please? I think your amendments (16) and (17) are related, and I think amendments (18) and (19) might be as well. Are you just moving (16)? Or should we deal with all of your amendments on declared areas at the same time?

Senator WRIGHT: I am really at the indulgence of the committee. I am not wishing to gazump the debate, so I would be interested to know if Senator Collins would be prepared to agree to that. I would be happy to do that because it might be more efficient. Otherwise, we will just move the aspects of our amendments which would seek to knock out the no-go zones.

The CHAIRMAN: If I could just intervene. Amendments (16) and (17) have to be put separately, anyway. I am happy if the debate goes across the three of them, if it is the will of the committee at the time. Maybe if you just move (16) and, if people want to talk to the three amendments, that will be fine.

Senator WRIGHT (South Australia) (11:14): The Australian Greens oppose schedule 1 in the following terms.

(16) Schedule 1, item 110, page 82 (line 1) to page 85 (line 10), sections 119.2 and 119.3 to be opposed.

On moving item (16), being Australian Greens amendment to remove the declared areas offence in the bill, the bill seeks to create a new offence of entering or remaining in a declared area, which would be punishable by 10 years imprisonment, so it is a significant offence. Under the provision, if it were to be passed, areas in a foreign country can be declared by the Minister for Foreign Affairs, by way of legislative instrument, if he or she is satisfied that a listed terrorist organisation is engaging in a hostile activity in that area of the foreign country. Declarations can last for a maximum of three years.

There is a narrow legitimate purpose defence available for those charged with the substantive offence. The Australian Greens amendment (16) would remove the proposed no-go-zone offence from the bill because it is considered that this offence will unnecessarily and disproportionately restrict freedom of movement in Australia. Certainly views have been expressed and the Greens are of the view that this is potentially an extremely counterproductive outcome. It risks entrenching feelings of isolation and alienation in the very communities in Australia that we rely upon to assist in this fight against terrorism and in order to build social cohesion and inclusion in the Australian community because this offence, if it stays, will criminalise what is perfectly legitimate travel. It will make it punishable by 10 years imprisonment for a person to travel to a declared area and because there is no fault element required, it has the practical—if not the technical—effect of reversing the onus of proof. It would require anyone who is charged with the offence after having travelled to a
declared area to bring their own evidence to demonstrate that their travel was not only to fall within a narrow list of legitimate purposes but also that that travel was solely for that reason. For instance, an elderly couple who are travelling to a declared area to visit a dying friend or a young person who is travelling to a declared area to study, or a business person who remained in an area, after it had become a declared area, to conclude a business deal, there is no need to establish any criminal intent. Those people would be subject to potential prosecution upon returning to Australia. Even where there is a legitimate purpose provided for in the offence such as a journalist, they remain liable to be charged with the offence, brought before a criminal court and required to bring evidence to prove that journalism was the sole reason for their travel to escape conviction.

The legal experts we have been paying attention to have stated that this is yet one more example of a completely unnecessary new offence. The expert advice in this area which we would be referring to is advice from the Law Council of Australia, the Gilbert and Tobin Centre for Public Law, the Australian Human Rights Commission, Professor Ben Saul, Human Rights Watch and the Human Rights Law Centre. The Parliamentary Joint Committee for Human Rights has also expressed concerns about the potential incompatibility of this provision with human rights in Australia.

Australia's criminal laws, which we asked the chamber to consider, already cover well and truly circumstances where a person leaves Australia in order to participate in hostile or terrorist activities overseas, as well as circumstances where a person encourages or urges another person to engage in such activities or a person who financially or otherwise supports terrorist or criminal organisations. That is the reason that the Australian Greens are moving to have this offence removed from the bill. I have some questions to which I really would appreciate the Attorney-General's response. The first I will put to the Attorney-General in relation to the offence as it stands in the bill at this stage is why the government has chosen to frame this offence in such a way that departs so significantly from the type of established criminal law and rule of law principles that the Attorney has a tradition of vigorously defending.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:19): Thank you for the compliment, Senator Wright, but I do not for a moment share your view that this is a departure from traditional rule of law principles. This is a new offence which is being created. I will wait until you have asked whatever questions you want to ask me before speaking at length about the desirability of the provision, but this is no departure from established rule of law principles merely to create a new criminal offence, a very narrow one, subject to the ordinary defences which are provided for in the generic provisions of the Commonwealth Criminal Code, transparent on the face of the statute with no reverse of the onus of proof, no reduction in the standard of proof and beyond the generic defences a series of specific defences which in the government's view deal with legitimate reasons for travel to declared areas. There is nothing unusual about this. How you think merely because it is a newly expressed offence that that is a departure from the rule of law escapes me.

Senator WRIGHT (South Australia) (11:20): I am happy to elaborate on why the Australian Greens and certainly other legal commentators are of the view that it is a significant departure from established principles and that is the offence has been drafted in
such a way as to have the same effect, without being semantic, as a reversal of the onus of proof because, while the prosecution has to prove that a person was in the declared area, that is all they have to prove initially and the defendant is then guilty of the offence unless the defendant brings evidence to demonstrate that the travel was solely for one of the listed legitimate purposes—if you want to respond to that first, Attorney-General.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:21): I am happy to, Senator Wright. This is a red–herring argument which has been raised many times. There is no reversal of the onus of proof here at all. The way the criminal law works is that an offence—let us assume we are talking about statutory offences—is defined and the prosecution bears the onus of proving every element of that offence beyond reasonable doubt. Then defences are provided for. If an accused person seeks to rely upon a defence then they have to bring forward evidence to discharge what, as you would know as a lawyer, Senator Wright, is known as 'the evidential onus', to show that there is sufficient material upon which that defence may be invoked. That is not a reversal of the onus of proof. It is merely to say that, if a criminal defendant seeks to rely upon a defence, he or she has to bring sufficient facts before the court to demonstrate the availability of that defence. That has never been regarded as a reversal of the onus of proof.

Senator JACINTA COLLINS (Victoria) (11:22): Given the way the committee is moving, I think it might be opportune for Labor to indicate its position in relation to the declared areas matter, rather than waiting until I formally move my amendments, in response to these amendments moved by Senator Wright, because we have now moved through the first of Labor's main concerns, which were those in relation to the issues that we dealt with around advocating terrorism. The second main area where we had concerns arising out of the intelligence committee's consideration was this declared area provision. The third major area in which we had concerns was that around the provisions with respect to welfare measures. I should indicate that we appreciate the government’s cooperation in relation to those third measures, and we will come to those subsequently if we have time in the debate, but if we do not have sufficient time I want to indicate that we have appreciated the government's cooperation in accepting our concerns there. We would, however, like them to consider what we are now addressing in our amendments regarding declared areas. I will come to those in a moment.

As to these Greens amendments which would remove the entirety of the declared areas offence, we believe that the approach that we have circulated in revised schedule 7601 renders it a workable and useful tool for our agencies. So we obviously accept, with the intelligence committee's advice, that such a tool is warranted. Our concern about protecting the rights of the accused is what we will be dealing with in our amendment.

As we know, the bill creates a new offence in relation to people who travel to areas declared by the foreign minister. A number of members of the intelligence committee were unsatisfied with the prescription and limited range of excuses available to persons accused of travelling to or remaining in such a declared area. These committee members argued that a general exclusion should be available to those with a wholly legitimate purpose for being in a declared area. Specifically, the intelligence committee stated, at 2.387 of their report:
Committee members had different views about whether the declared area offence as currently drafted would be an effective and workable provision. Some members of the Committee questioned whether the legitimate concerns presented in evidence had been adequately addressed, particularly in relation to the evidential burden and the limited range of legitimate purposes for travel to declared areas. The Committee notes that the proposed INSLM—

the proposed security monitor—

and Parliamentary Joint Committee on Intelligence and Security reviews leading into the sunset provision will enable this to be more fully explored.

At 2.388, the committee reflected that:

Some members of the Committee believed that, given the seriousness of offences arising under this section that it is appropriate for there to be a ‘wholly legitimate purposes’ general provision in the legislation.

So, in accordance with these comments of the intelligence committee, Labor will be moving amendments to provide a general defence of wholly legitimate purposes for those accused of travelling to or remaining in a declared area. We do not believe that it is possible for the parliament to anticipate in advance every possible legitimate reason for a person to travel to a declared area.

Our amendment to this provision will recognise the critical role that the third arm of government, our judiciary and the criminal justice system, plays in our democracy. We think that it is entirely appropriate for the courts to determine whether a person travelling to a declared area has done so for a solely legitimate purpose. Labor believes that it is entirely appropriate and just for a judge or a jury to decide whether a person has travelled to a declared area for a sole and legitimate purpose, assuming that the police and the DPP have decided to charge that person with that offence. To expect that the parliament can, here and now, anticipate all legitimate reasons for a person to be in a declared area is a serious mistake that could potentially create a very unjust law. Our amendment, creating a general defence for a sole legitimate reason for travelling to a declared area, does not fix all of the problems with this offence, but it at least provides a more just and appropriate defence to those who may be charged, and our amendment recognises the critical role that the judiciary and our courts have in administering our criminal laws rather than trying to circumvent that role, as the government’s more prescriptive approach clearly seeks to do.

Senator WRIGHT (South Australia) (11:28): I did not want to necessarily jump in ahead of the Attorney-General, if he wanted to respond, but I had some further questions for the Attorney-General, to make sense of how this would actually work in practice. As to being accused of using hypothetical examples: I think it is actually very much the role of this chamber to be saying: ‘This is the law you want us to pass. How will it actually work on the ground? How will it be interpreted? What are the likely consequences, and the effects on people’s lives?’

Attorney-General, you were saying that this is not a departure from traditional legal principles of criminal law. You have not acknowledged that what it does effectively do is to criminalise something that is without any intention on the part of a person. It criminalises something that would have been perfectly legitimate before the offence became law. But I am interested specifically to ask why the offence departs so significantly from the Attorney-
General's Department's own guide to drafting Commonwealth offences which provides, for example, that:

The requirement for proof of fault is one of the most fundamental protections in criminal law. This reflects the premise that it is generally neither fair, nor useful, to subject people to criminal punishment for unintended actions or unforeseen consequences unless these resulted from an unjustified risk (i.e., recklessness).

In this case, I am genuinely trying to understand what the fault is if you are going to criminalise what is perfectly legitimate travel. Is that the fault? Is the fault being in the declared area and staying there, or going into a declared area when in fact no malice or wrong intentions are necessary to create the offence? It is just a matter of having to prove when you come back that you had what the government considers to be a legitimate purpose. And we will go into the inadequacies in what legitimate purposes are in a minute.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:30): That is a very good question, if I may say so, and I am happy to be able to provide you with the answer. The provision does not depart from the Attorney-General's Department's recommended guidelines. It does make clear the fault elements. There are two aspects to it. The fault element in relation to travel to or remaining in a declared area is intention, so that the prosecution must prove beyond reasonable doubt that the person intended to travel to or intended to remain in the particular locality.

The fault element in relation to the person's knowledge of whether or not the locality was a declared area is recklessness. Earlier on in the debate I read to Senator Macdonald the Criminal Code's definition of 'recklessness' for the purposes of the generic fault provisions of that statute, and you were in the chamber when I did that, so I will not waste time reading them to you again. So, that is the answer to your question. A fault element in relation to travel or remaining there is intention. The fault element in relation to awareness of whether or not that particular locality is declared is recklessness.

While I am on my feet, Senator, I might point out, particularly since you have frequently invoked the Australian Human Rights Commission in support of your position, that the Australian Human Rights Commission, in its commentary on this provision, some of which I acknowledge is critical, actually acknowledged that there was no reversal of the onus of proof. The Human Rights Commission acknowledged that the position is exactly as I have explained to you: that a person seeking to invoke one of the defences has an evidential onus to bring forward the facts before the court so that the court can be possessed of the facts constituting the defence. But in relation to all of the elements that constitute the offence, there is no reversal of the onus or proof.

Senator WRIGHT (South Australia) (11:33): I did actually say, and I made it quite clear, that it is an effective reversal of the onus of proof, not a technical one. When we consider the fault element you are relying on, the fault is travel or remaining in the geographical area. That is the fault at the heart of this offence. I would say that that is actually a serious departure from established criminal law principles, in that traditionally crimes have been actions or behaviour that have an element that is inherently negative, malicious or harmful to other people. It is actually quite unprecedented through the enactment of a provision, through the writing of a new offence, to criminalise something that on its own is perfectly legitimate.
Indeed, freedom of movement is an important human right. To talk about the fault element of the travelling or remaining in an area as being within the scope of ordinary criminal law is nonsensical. There is no inherent harm or wrongful behaviour in people exercising their right to travel. There has not been previously, and the Australian Greens and many others are very concerned at the precedent this is setting.

What I am interested in following up is what will happen to a person who is already in an area when it is declared. How will they find out that they are committing a criminal offence by remaining in that area, if they are not aware that it has been declared, and are at risk of criminal punishment upon their return to Australia.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:35): I am afraid that the law of evidence is by its nature a very technical area. So, Senator Wright, with respect it gets you nowhere to say, 'Well, Senator Brandis, you might be technically right about the law of evidence, but effectively this is a reversal of the onus of proof.' This is a technical area, and when you say 'Well, although you are technically right, effectively it is different,' you are coming very close to a Dennis Denuto like observation about it being 'the vibe'. The fact is that the law of evidence—and the principles by which courts determine where the onus of proof lies, and the distinction between the persuasive onus and the evidential onus—is a very technical area. Let us not try to mask our refusal to accept the technicality of the area by reverting to non-technical language.

Senator Wright, contrary to what you say—that this is unprecedented or unknown to the law—it is very common for our law to say that it is prohibited to go to a particular area. Let me give you a few examples. It is against the law of Australia to go to certain areas in South Australia that are used for the purposes of the Australian Defence Force. Indeed—even though I am thinking of that particular example inspired by the presence behind me of the distinguished Senator Fawcett—in general it is against the law for a person to go to a military base or to attend upon a military base, without authority to do so. It is against the law, in many instances, for a person to go into Indigenous territories without appropriate permissions. It is, I think you will find, Senator Wright, against the law for people to go to certain areas of the Australian Antarctic Territories without permission. The idea that it is unknown to the law that there should be a prohibition on a person visiting a particular place is, with respect, quite erroneous. It is a perfectly commonplace form of prohibition and a prohibition of that kind has been extended in this particular case to areas declared by the Minister for Foreign Affairs as satisfying the statutory tests as being no-go zones for Australian travellers. This is essentially because those areas are areas where Australians have no place being, because they are areas under the control of terrorist armies. In a practical sense, that is the way this legislation is going to operate. There are exceptions and defences, as you have acknowledged, but I challenge utterly the suggestion that it is unusual for the law to prohibit a person visiting certain specified localities. That is just not right at all.

Senator WRIGHT (South Australia) (11:39): Attorney-General, I think you might have forgotten the question that I asked at the end of that, which was: what will happen to a person when they are already in an area when it is declared and how will they find out that they are at risk of criminal punishment upon return to Australia?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:39): If a person is in an area when it is declared, they commit the offence by intentionally remaining there and they commit the offence if the recklessness element of having reckless disregard as to whether or not the area is a declared area is made out by the prosecution beyond reasonable doubt. The Department of Foreign Affairs and Trade will, in the event that an area were to be declared, take extensive steps to publicise that matter, including on the web and through social media.

Senator WRIGHT (South Australia) (11:39): How will a person demonstrate that his or her travel is solely for a listed legitimate purpose? And how will the prosecution rebut such a defence if it is raised? This requirement of 'solely' has been causing a great deal of concern among legal commentators.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:40): It would not be causing a great deal of concern among legal commentators who are familiar with testing 'sole purpose'. It might cause vexation to Professor Ben Saul—Professor Saul is an international lawyer—but it would not be causing a lot of concern to practitioners and legal commentators who understand that, in many areas of the law, courts are every day seized of determining the question of purpose in determining the question of state of mind. That includes determining whether or not a person's purposes in engaging in a particular act are a sole purpose or one of a variety of purposes. This is not hard, Senator.

Let me give you an example in a practical sense of why it is necessary to have a sole purpose test if one is to invoke one of the variety of exemptions. One of the exemptions in proposed section 119.23(g) is making a bona fide visit to a family member. I imagine, Senator Wright, that you think that it should be all right for a person who makes a bona fide visit to a family member not to be caught by this prohibition. But let us say that a person would have travelled to a declared area and, in the course of making a bona fide visit to a family member, were also to facilitate the travel to, let us say, a township in northern Iraq under the control of ISIL, were also to facilitate the travel of foreign fighters to that township or were also to provide financial or other material sustenance to ISIL. Then, unless we have a sole purpose test, the ordinary law would be that as long as it was a substantial purpose, then the defence would be available. So if the person in the hypothetical case I have given were to say: 'It may well be that I travelled to this particular township in order to assist ISIL but, as it happens, my brother lives in this township and I actually did visit him and my desire to visit my brother was a bona fide desire to make a family visit.' We cannot have what I think we both acknowledge to be a legitimate exemption used as a mask or a pretext or a ruse to conceal purposes which, I am sure you would agree with me, ought not to be legitimate. But unless we have a sole purpose test, that could happen.

Senator WRIGHT (South Australia) (11:43): I suppose a different example that has been brought to my attention would be for us to perhaps imagine an elderly couple, who have been living in Australia for a long time, who return to see family, perhaps for the last time before they die. While they are there making a bona fide visit to a family member, because they are returning to an area where they have perhaps grown up, they are invited to go to a wedding of people who are not family members but who are in another town and they travel there for that.
Again, I do not want to be accused of raising hypothetical examples, because these are the very live examples and fears that people have who need to take account of this legislation. My concern is that, even if in the end you say that a court will interpret this, a court will give people the benefit of the doubt and so on, the real concern here is that this restriction will have a chilling effect. Those people will not even potentially take the risk of going or will not take up an opportunity like that, of attending a wedding of a friend in a different village, which would seem to be perfectly legitimate, perfectly harmless, perfectly reasonable and perfectly understandable.

Senator Brandis (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:44): The courts are very practised, as I said a moment ago, in determining state of mind, and part of that forensic process is to determine whether a purpose is a sole purpose or one of a multiplicity of purposes.

In the example you have given, it would seem to me that, if there were a trivial, incidental event that was not the sole purpose of the travel but was engaged in while the person was travelling to a declared area for the sole purpose of, in the example you have just instanced, making a bone fide family visit, that would not defeat their reliance on the defence. We can quibble at the margins. You know the old legal maxim ‘de minimis non curat lex’? Trivial, incidental examples would not defeat the operation of this principle, but the principle is important: a person must be travelling solely for that legitimate purpose. Now, if while they are there they do something entirely incidental that is not the sole purpose or even a purpose of their travel, I would not think that that would defeat them.

Senator Wright (South Australia) (11:46): I will come back to an operational question now, about the way the offence would operate in practice. How would areas be declared in such a way as to be responsive to the fluidity of war and conflict? For example, would a new declaration be made each time a new Syrian city or region is embroiled in conflict, or is it envisaged that a blanket declaration would be issued?

Senator Brandis (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:46): That would be a judgement for the Department of Foreign Affairs and Trade to make. Obviously, because we are talking about geography here, areas will be defined by descriptions of a location. In my view, the description of the location should be as specific as possible to give people as much guidance as possible. I take your point about the mobility of modern warfare. There is, of course, a lot of immobility in warfare as well, as we have seen in more recent wars, but, in a highly mobile environment where, for example, the front changes often, obviously that will require a judgement to be made on a case-by-case basis as to whether or not a particular locality should be added to the list.

I think we are a little bit jumping at shadows, Senator Wright. I said at the initial press conference with the Prime Minister on 5 August that I expected a provision like this would be used very sparingly. I remain of that view. It is, as you rightly say, an unusual provision. A decision, not by me but by the foreign affairs minister, to make such a declaration would be made on the best advice of the Department of Foreign Affairs and Trade and perhaps, I dare say, the Department of Defence and the description of the area would be a geographical description.
The CHAIRMAN: Senator Wright, before I give you the call, it was with the indulgence of the chamber that we moved away from the running order and I wonder if you might give an indication of what time you think we will bring this question to a close.

Senator WRIGHT (South Australia) (11:48): Thank you, Mr Chairman. That is a fair question and I was about to indicate that. I thought I would speak briefly to the consequential amendments so that I will not need to speak about those again, and then I will ask that this amendment, regarding the removal of the offence, be put to the chamber for decision. Then I imagine that Senator Collins will move her further amendment.

The CHAIRMAN: Yes, I then want to go back to that amendment.

Senator WRIGHT: Given that we have now, in a sense, moved in the debate to the other aspects of the amendments that the Greens will be moving, I will not need to speak to those later. I totally understand your concerns about the time. I will speak briefly about those amendments and then I will have nothing more to say on this.

I indicate that the consequential amendments that the Greens will be moving, if the first Greens' amendment is not successful, will add an element of intent to the offence—that is item 1 on sheet 7598—and to expand the definition or broaden the range of legitimate behaviour defences for this offence by expanding the range of legitimate purposes, to allow for the making of a bona fide visit to a friend or personal or business associate, to provide legal advice, or to perform a bona fide business, teaching or research obligation such as archaeology or some kind of research at an educational or teaching institution.

Finally, the Greens' amendment to deal with legitimate purposes in the way a court may interpret those is to create a provision whereby the court would ultimately have discretion—any other purpose that the court determines is legitimate in all the circumstances—which would, in the Greens' view, appropriately give the decision making about what is a serious criminal offence to the judiciary.

Certainly, the Attorney-General has reassured us that this provision would not be used very often, he envisages, and that we really need to trust that this is a sensible provision that will not be misused. Unfortunately, what we know is that, once there is a provision on the books—once legislation is there—governments come and go, attorneys-general and ministers for foreign affairs come and go, and the provision is there, able to be relied upon. Some kind of suggestion that we should just be reassured that it will not be abused is not actually satisfactory for many people because, if it is there, it can be used. That is why, ultimately, the Greens' third amendment suggests that we should allow the judiciary to be able to respond to circumstances which may not be envisaged in the other legitimate purposes that have been set out.

The CHAIRMAN: The question is that sections 119.2 and 119.3 in item 110 of schedule 1 stand as printed.
The committee divided. [11:56]
(The Chairman—Senator Marshall)

Ayes ..................... 38
Noes ..................... 11
Majority ............... 27

AYES
Bernardi, C            Brandis, GH
Bullock, J.W.         Bushby, DC
Cameron, DN          Canavan, M.J.
Collins, IMA         Day, R.J.
Edwards, S           Fawcett, DJ (teller)
Fifield, MP          Gallacher, AM
Heffernan, W         Ketter, CR
Lambie, J             Lazarus, GP
Lines, S              Lundy, KA
Macdonald, ID         Madigan, JJ
Marshall, GM         McGrath, J
McKenzie, B          McLucas, J
Muir, R               O'Neil, DM
O’Sullivan, B        Reynolds, L
Ruston, A             Singh, LM
Sinodinos, A         Smith, D
Sterle, G            Urquhart, AE
Wang, Z               Williams, JR
Wong, P               Xenophon, N

NOES
Di Natale, R          Hanson-Young, SC
Leyonhjelm, DE        Ludlam, S
Milne, C              Rhiannon, L
Rice, J               Siewert, R (teller)
Waters, LJ            Whish-Wilson, PS
Wright, PL

Question agreed to.

The CHAIRMAN (11:59): Senator Wright, given that Greens amendment (17) was contingent on the successful passage of that amendment in reverse, for you, can you indicate that you do not intend to move that amendment?

Senator WRIGHT (South Australia) (11:59): Yes; if that is contingent, certainly.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (11:59): I, and also on behalf of Senator Collins, move opposition amendment (1) on sheet 7601 revised:

(1) Schedule 1, item 110, page 82 (line 18) to page 83 (line 8), omit subsection 119.2(3), substitute:

Exception—entering or remaining for a legitimate purpose

Example: A legitimate purpose may include, but is not limited to, a purpose in the following list:
(a) providing aid of a humanitarian nature;
(b) satisfying an obligation to appear before a court or other body exercising judicial power;
(c) performing an official duty for the Commonwealth, a State or a Territory;
(d) performing an official duty for the government of a foreign country or the government of part of a foreign country (including service in the armed forces of the government of a foreign country), where that performance would not be a violation of the law of the Commonwealth, a State or a Territory;
(e) performing an official duty for the United Nations or an agency of the United Nations;
(f) making a news report of events in the area, where the person is working in a professional capacity as a journalist or is assisting another person working in a professional capacity as a journalist;
(g) making a bona fide visit to a family member.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3).

I want to make some brief comments, not only on that amendment but also because I was away yesterday, on the broader issue of the bill.

As a general proposition, the Labor Party has taken a strongly principled and responsible approach to national security legislation. We on this side of the chamber do understand it is a fundamental responsibility of government to keep citizens safe. That is why we support appropriate resources and powers being given to our national security agencies to keep Australians safe from threats at home and abroad. At the same time, Labor recognises that such powers must be accompanied by the appropriate safeguards, by oversight of the security agencies. This is to ensure that the rights and liberties of citizens are not infringed.

Senator Collins has said our bipartisan assistance to the government on matters of national security is never a blank cheque. That is why the opposition sought significant changes to this bill. Labor worked tenaciously, as Senator Collins has outlined, to improve this bill. We sought to ensure that it assists our agencies in addressing risks posed by foreign fighters and we have insisted on necessary safeguards for fundamental democratic freedoms.

The government's original bill went to the Parliamentary Joint Committee on Intelligence and Security, where members and senators from the Labor Party, and our parliamentary colleagues, closely scrutinised the bill and tested the case for each new measure.

I would make this point that the experience of Labor senators and members who were involved in the scrutiny of this bill is considerable. Three of the four members of Labor's federal parliamentary leadership team—Ms Plibersek, Senator Conroy and I—are members of this committee. We are joined by Mr Anthony Byrne who has served on this committee and its predecessor for the majority of the last decade, including three years as chair. The committee membership also includes Senator John Faulkner—and anyone who heard Senator Faulkner's contribution to the second reading debate on this bill yesterday would be left in no doubt about the experience, knowledge and insights he brings to this area. I do take this opportunity to particularly commend Senator Faulkner for his work not only on this inquiry and in the debate on this bill but also on his recent paper, 'Surveillance, intelligence and accountability'.

As a number of contributors to the debate have identified, the report of the inquiry of the PJCIS into this bill made 36 substantive recommendations. Those have resulted in substantial amendments being proposed by the government to this bill. I want to emphasise the impact of the committee's report and the resulting amendments that have been proposed as compared
with the original bill. I would also like to point out that when the Attorney-General released his original response to the recommendations of the committee, stating that all of the recommendations had been accepted, closer examination found this was not the case, in some measures. For example, the committee explicitly recommend it in recommendation 14 that its functions be extended to encompass the counter-terrorism activities of the AFP. The government response, while saying the recommendation was accepted, did not rule this out. I am pleased that through the work particularly of the shadow Attorney-General, Mr Mark Dreyfus QC, amendments have now been made to give effect of this recommendation in full.

One of the areas that was the subject of concern in many submissions to the committee's inquiry and consumed a considerable amount of time in the public hearings was the proposed sunset clauses. The original bill proposed to extend the operation of the control-order regime for a further 10 years, to December 2025, preventative-detention-order regime for a further 10 years to the same month, December 2025, and to stop search-and-seizure powers relating to terrorism offences the same period. The questioning-and-detention-warranting regime under the ASIO Act was proposed to be extended for a further 10 years, to 22 July 2026.

Labor believed these provisions were unacceptable and made that clear. We are pleased that the committee agreed and unanimously recommended that all of these clauses proposed for sunset will do so—that is, will sunset during the life of the next parliament. That is a much more limited period prior to the sunset provisions coming into effect. We are also pleased that the government and the Attorney-General in particular has agreed in substance to this recommendation, with amendments proposing set dates for the sunset to take place. Further, all sunset clauses are accompanied by mandated review by the Parliamentary Joint Committee on Intelligence and Security and the Independent National Security Legislation Monitor.

We are pleased that we were able to put forward, successfully, that these sunset provisions are accompanied by mandatory reviews ahead of their expiry. As was noted in a number of submissions to the committee and in evidence, the whole purpose of sunsetting provisions is undermined if appropriate reviews are not conducted. In relation to the Independent National Security Legislation Monitor I note that earlier this year the government claimed this oversight position just added red tape and sought to repeal the legislation establishing the position. I welcome the government's change of heart and I would ask—if it has not already been indicated—if the Attorney-General has an indication as to the time frame for the filling of that position, which has been vacant since April.

Labor has also improved human-rights protections in the bill's provision in relation to the use of overseas evidence in terrorism prosecution in Australian courts. We sought amendments to clarify that torture can never be accepted under our law and are pleased that the joint committee recommendations dealt with this and other matters in relation to foreign evidence.

I now wish to turn to the defences in relation to the 'declared areas offence', which is the subject of the amendment that I have now moved on behalf the opposition. Labor recognises the policy reason behind the declared areas offence. However, we believe we need to ensure that Australians are not being prosecuted for these offences when they are in declared areas for an entirely legitimate purpose. What is intended by this offence is to capture nefarious purposes, which have been the subject of discussion not only in this chamber but also in the context of the committee inquiry.
You cannot identify in legislation every possible legitimate or non-nefarious reason that a person might have for travelling to a particular place in the world. Accordingly, it is our view that this legislation needs to include a general defence or exception for cases where a person enters or remains in a declared area for a legitimate purpose.

The parliamentary joint committee noted:

... the Committee accepts that there are likely to be some legitimate reasons for travel to an area that are not covered in the proposed grounds of defence listed in subclause 119.2(3) of the Bill. It may be inconsistent, for example, for persons to be allowed to travel to a declared area for a social visit to a family member, while prohibiting travel to a declared area to visit a close friend who is dying. The Committee supports the inclusion in the Bill of a provision to allow additional legitimate purposes to be prescribed by regulation if needed. The Committee encourages the Attorney-General’s Department to review the evidence provided by participants to this inquiry to identify legitimate purposes that could be added to the regulations in this manner, without reducing the deterrent effect of the offence.

Further, the committee stated in its report:

Committee members had different views about whether the declared area offence as currently drafted would be an effective and workable provision. Some members of the Committee questioned whether the legitimate concerns presented in evidence had been adequately addressed, particularly in relation to the evidential burden and the limited range—

the very limited range—

of legitimate purposes for travel to declared areas.

The committee went on to state:

Some members of the Committee believed that, given the seriousness of offences arising under this section that it is appropriate for there to be a ‘wholly legitimate purposes’ general provision in the legislation.

This is the subject of the amendment I have now moved on behalf of the opposition. I believe—Labor believes—that courts should have the discretion to determine the appropriateness of a person's defence that they were in a declared area for a wholly legitimate purpose. That is not a special job we are asking the courts to do. Judges and courts are appropriately placed to hear evidence and make decisions—and make such decisions responsibly. It is not a sensible way to proceed to have parliament seek to set out the factual circumstance of every defence to this offence. It is entirely consistent with a responsible approach to this offence—and a responsible approach to legislating—to enable the courts to have the discretion to consider factual circumstances which this parliament may not be able to contemplate.

So Labor has sought to remedy the short-comings of the defences listed by proposing amendments to widen the scope. In this amendment I wish to highlight the inclusion of some examples in our amendment, which include the provision of humanitarian aid—

Senator Brandis: It's already in the bill.

Senator WONG: The Attorney-General correctly indicates that that is in the original legislation. Other examples include working in a professional capacity as a journalist, performing an official duty of the United Nations or an agency of the United Nations, or making a bona fide visit to a family member.

This goes to a broader question—I appreciate that the Attorney-General's advice is different—which is about the roles of the legislature and the courts. Are we seriously saying
that we do not trust the courts to assess the particular factual circumstance that is presented to it, and make an appropriate judgement as to whether those facts ground a legitimate basis for the defence that parliament has prescribed? I think we should give the courts that opportunity. I commend the amendment to the chamber.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:11): Let me make a couple of preliminary observations and then deal with the Labor Party amendment. It is not correct to say that the government's acceptance of all 37 recommendations from the Parliamentary Joint Committee on Intelligence and Security was misleading. We accepted all 37 recommendations.

In relation to some of the recommendations, there was a variety of ways in which they could be given effect to, because only in a minority of cases—I think it was in some dozen cases—did the PJCIS recommend legislative amendment. Most of the changes that were recommended were administrative changes in the way in which, for example, the PJCIS works and interacts with the government.

The example that Senator Wong gave, of the recommendation that the counter-terrorism function of the Australian Federal Police should be transferred from the legislative oversight of the Joint Parliamentary Law Enforcement Committee to the Joint Parliamentary Intelligence and Security Committee, was accepted by the government. The manner in which that was given effect to depended upon soliciting the views of the Parliamentary Joint Committee on Law Enforcement, which is what I did. I spoke to the chairman of that committee, Mr Bert van Manen MP, to solicit his views about the transfer of that important responsibility from his committee to another committee. Mr van Manen was good enough to say to me that he, on behalf of the committee, was content for that to happen.

Senator Wong has come into the chamber—evidently not fully briefed on this issue; there were a number of errors in her contribution—and has claimed that somehow the government was being misleading in claiming that it had accepted a recommendation without having done so, merely because I paid the committee from whose jurisdiction a particular function was to be transferred the courtesy of inquiring of their views before giving effect to that recommendation. That is a little mendacious, I must say.

This has not been a particularly partisan debate, and it disappointed me to hear Senator Wong constantly say that the Labor Party has done this or that. The fact is that the improvements to this legislation, which the government has accepted wholly, came from a committee of the parliament, the Parliamentary Joint Committee on Intelligence and Security—on which I had the honour to serve for some years when in opposition—which always acts in a collaborative and bipartisan way. I think that if the Australian public could see its deliberations it would be proud of the way that committee acts. It is unlike the way in which virtually every other committee of this parliament acts.

The recommendations were the product of the joint effort, the joint careful thought, of Labor Party and Liberal Party and National Party members of that committee, working collaboratively as parliamentarians, working in a bipartisan fashion as patriots. It was not the work of one side of politics; it was the work of all sides of politics. So let me correct the regretfully partisan tone that Senator Wong just injected into the debate.
Dealing with the Labor Party's amendment that is before the chair, the government opposes the amendment. Let me explain why. I might point out that this is the second iteration of this amendment that we have seen today, but, nevertheless, ultimately the Labor Party, through its own internal councils and processes, has arrived at a final position after quite a lot of uncertainty during the course of the debate. The government opposes the Labor amendment for several reasons. Let me put them in the context of the purpose of this provision. The purpose of this provision, quite candidly and openly and unashamedly, is to say that there are some areas of the world—under the control of terrorist armies which are at war against their own populations, as they are in northern Iraq, which are engaged in genocide and religious persecution and subversion of legitimate governments—to which Australians should not travel. The government makes absolutely no apology for saying that there ought to be a law enabling in certain circumstances the Australian government, through the Minister for Foreign Affairs and on the advice of her department, to say that, because of the particular circumstances of a particular locality or region of the world, this is a place to which Australians should not be permitted to go, just as there are many other places to which Australians are not permitted to go by existing laws. I gave some examples to Senator Wright before. Nevertheless, the government accepts that there may be special circumstances which necessitate travel to such an area.

In the bill we set out seven particular cases where, if a person can lead evidence before a court to show that they were there solely for that purpose, then that constitutes a defence to the charge of being in a declared area. Let me take the one that I was discussing with Senator Wright before—making a bone fide visit to a family member. That, I suspect, is the exemption which would be most often availed of. We accept that if, for example, a relative of an Australian happens to live in an area somewhere in Syria or northern Iraq which may have become a centre of terrorist operations, but, nevertheless, let us say that the person had a sick relative for whom they felt a need to travel to care for, to visit that area should not be caught within this offence. There are other examples given as well.

The Labor Party seems to accept the spirit of this provision, but it wants to change the way in which it works by replacing seven specific grounds, which constitute defences to the offence of visiting a declared area, with a generic discretion which the courts would exercise, saying, 'If you travel for a reasonable purpose, then that is a defence.' There are three reasons in particular as to why that is a very bad idea. The first reason is that it is appalling statutory drafting. We are dealing here with a crime, and in particular, for the purposes of this discussion, with the defences available to a person who is charged with a crime. Senator Wright raised the issue of the importance of the rule of law before. It is, as Senator Wright well knows, one of the fundamental tenets of the rule of law that, if a person is to be exposed to a criminal liability, then the nature and extent of that criminal liability should be known as certainly as can be known and expressed as certainly as it can be expressed in the statute. To say that a person is guilty of a crime and then draft a defence that gives no guidance whatsoever as to whether or not that defence will be available to the person is a fundamental violation of that principle of the rule of law—that the grounds of criminal liability have to be expressed with as much specificity as possible. How could anyone know whether or not they are going to be in breach of the criminal law merely because there is a generic defence that says, 'If a court decides you had reasonable grounds to be there', and gives no guidance whatever as to what the reasonable grounds might be? That is all they have to go by. So,
applying your own principle, Senator Wright, to which I subscribe of course, this is a very, very, very bad piece of legislative drafting and it is a shocking example, in particular in a criminal statute, of creating a liability of uncertain dimension.

The second reason the government opposes this amendment is that it actually removes the sole purpose test. Senator Collins, in her contribution before, perhaps was unaware of this, because Senator Collins did say that it was important that a person should have the defence if it could be demonstrated that they travelled to a declared area solely for one of the legitimate purposes, though she said it would need to be solely for the generic purpose, not for one of the specified purposes. Nevertheless, she did say in her contribution that the sole purpose test should apply. But, if you look at the Labor Party's amendment, the sole purpose test is gone. If the sole purpose test is gone, then the ordinary provisions of the Criminal Code apply and, as long as the purpose is one of a multiplicity of purposes, that is enough. So to give the example I gave a little earlier: if a person were to visit a declared area and one of their purposes was to make a bona fide family visit and another one of their purposes was to engage in the facilitation of terrorism, then they would be able to avail themselves of that defence. This does not work unless the sole purpose test remains and the Labor Party's amendment would remove the sole purpose test.

Lastly, the other thing that the Labor Party's amendment would remove is paragraph (h) of proposed subsection (3), which gives the minister the power to proscribe by regulation another purpose. So there is flexibility in this statute through a regulation-making power conferred on the minister to specify other purposes. So let us say, for example, that it became apparent that, in listing seven specified purposes, the government had got it wrong, that it had overlooked something that ought to be a legitimate purpose. That could be corrected by a legislative instrument under the regulation-making power in subparagraph (3)(h), but the Labor Party amendment would remove that as well.

So the Labor Party amendment fails the test of specificity—it is vague when it should be precise; it fails the test of purpose, because it abandons the sole purpose test, which is central to the capacity of this provision to operate; and it abandons the regulation-making power, so it fails the test of flexibility as well. For all of those reasons, the government opposes the Labor Party's amendment, and it looks to the good sense of the crossbenchers, excepting the Greens, of course, to do so as well.

Lastly, let me say this: this was not one of the recommendations of the Joint Parliamentary Committee on Intelligence and Security. The Joint Parliamentary Committee on Intelligence and Security supported the provision that the government seeks to enact. That was the bipartisan view of Senator Wong and Senator Faulkner and Senator Conroy and Ms Tanya Plibersek and Mr Anthony Byrne from the Labor Party. They actually endorsed the government's position. This is one respect in which the Labor Party, having changed its position here, now seeks to walk away from the bipartisan report of the Joint Parliamentary Committee on Intelligence and Security. If this provision were to be passed for the various reasons I have expressed, it would defeat the entire purpose of an important reform to the criminal law, which the PJCI has unanimously, in a bipartisan report, endorsed.

Senator DAY (South Australia) (12:26): I have wrestled with this bill, and the discomfort I have felt has been exacerbated by the haste with which this debate has been forced to a conclusion. I have followed and appreciated the contributions of all, particularly my colleague
Senator Leyonhjelm, who spoke eloquently in a 'shining' contribution to the debate yesterday. I appreciate the briefings from government and meetings with the Attorney-General on this bill, and I have put to him some of the arguments I am putting forward now—and they are serious.

I recall an old Peanuts cartoon, where Charlie Brown shoots an arrow into a fence and then proceeds to paint circles around the arrow to show that he had hit the target. I am concerned that the target of this legislation is already known in the form of those people under surveillance who may have come back from the ISIS conflict already. That target may well be justified but I am very concerned about laws drafted to target specific individuals. I am also concerned that censoring and incarcerating people who are preaching hatred may not suppress but, in fact, fan the fire of fanaticism. Putting radical preachers, activists and would-be terrorists in prison gives them a captive audience, so to speak. Radical preaching that promotes bombings and beheadings and other gross acts of violence against innocent Australian citizens—men, women, children, the elderly—is utterly abhorrent and contrary to not only Australian values but Australian citizenship and eligibility for residency.

I trust that my colleagues in this place will be as watchful and vigilant in these matters as those law enforcement officials who protect us to ensure recently enacted powers and the powers proposed in this bill are not exceeded. Having stated those reservations and given strong cautions to those who might use these laws in ham-fisted or wrongful ways, I say that Family First will be supporting this bill.

Senator WRIGHT (South Australia) (12:28): In the two minutes remaining for debate on this bill, I want to say that this is exactly why—I welcome Senator Day's contribution; he has not spoken before in the committee stage—it is a farce to have an agreement to push this significant counterterrorism law through this parliament by 12.30. There are still important, significant, unexplained and unexplored provisions like stopping welfare, suspension of travel documents, and cancellation and suspension of visas that have not even been touched on in the debate in this chamber today.

I do not think anyone can suggest that there has been any filibustering going on with this. Legitimate concerns and queries have been raised. Not many members of the Senate even had an opportunity to engage in the debate on this. Legitimate questions have been put. Often clear answers have not been given, and those answers have had to be explored. And here we are with the gagging of the debate, and the amendments from various parties and the opposition and the government will be put through as a job lot without any ability to talk to them, to explain them, to understand them. And this is going to be the national security law that Australia will be saddled with after this finishes.

The CHAIRMAN: Order! The time allocated for consideration of this bill has expired. The question is that opposition amendment (1) on sheet 7601 revised be agreed to.
Wednesday, 29 October 2014

SENATE

The committee divided. [12:35]

(The Chairman—Senator Marshall)

Ayes ...................... 29
Noes ...................... 33
Majority ............... 4

AYES

Bilyk, CL (teller) ............................................
Bullock, J.W. ..........................................
Carr, KJ ..........................................
Di Natale, R ..........................................
Gallacher, AM ..........................................
Ketter, CR ..........................................
Lines, S ..........................................
Lundy, KA ..........................................
Milne, C ..........................................
Polley, H ..........................................
Rice, J ..........................................
Singh, LM ..........................................
Urquhart, AE ..........................................
Whish-Wilson, PS ..........................................
Wright, PL ..........................................

NOES

Back, CJ ..........................................
Birmingham, SJ ..........................................
Bushby, DC ..........................................
Colbeck, R ..........................................
Day, R.J ..........................................
Fierravanti-Wells, C ..........................................
Heffernan, W ..........................................
Lazarus, GP ..........................................
Madigan, JJ ..........................................
McGrath, J ..........................................
Muir, R ..........................................
O'Sullivan, B ..........................................
Ronaldson, M ..........................................
Ryan, SM ..........................................
Sinodinos, A ..........................................
Wang, Z ..........................................
Xenophon, N ..........................................

PAIRS

Collins, JMA ..........................................
Dastyari, S ..........................................
Ludwig, JW ..........................................
McEwen, A ..........................................
McLucas, J ..........................................
Moore, CM ..........................................
Peris, N ..........................................

Parry, S ..........................................
Cash, MC ..........................................
Johnston, D ..........................................
Seselja, Z ..........................................
Fawcett, DJ ..........................................
Abetz, E ..........................................
Reynolds, L ..........................................

CHAMBER
Question negatived.

The CHAIRMAN (12:37): Senators, I now intend to deal with the rest of the outstanding amendments in this way: I will first deal with government amendments and then I will deal with Greens amendments. The government amendments will be put in two questions, as one question is opposing a schedule. And then we will deal with all of the amendments. The first question to deal with the remaining government amendments is: that part 2 of schedule 2 stand as printed:

(67) Schedule 2, Part 2, page 122 (lines 1 to 16), to be opposed.

Question negatived.

The CHAIRMAN: The question now is that the remaining government amendments on sheet ZA358 be agreed to:

(41) Schedule 1, item 110, page 84 (lines 7 to 14), omit subsection 119.3(2), substitute:

(2) A single declaration may cover areas in 2 or more foreign countries if the Foreign Affairs Minister is satisfied that one or more listed terrorist organisations are engaging in a hostile activity in each of those areas.

(2A) A declaration must not cover an entire country.

(42) Schedule 1, item 110, page 85 (after line 10), at the end of section 119.3, add:

Review of declaration

(7) The Parliamentary Joint Committee on Intelligence and Security may review a declaration before the end of the period during which the declaration may be disallowed under section 42 of the Legislative Instruments Act 2003.

(43) Schedule 1, item 125, page 100 (line 21) to page 101 (line 7), omit subsection 27D(2), substitute:

(2) Foreign material or foreign government material is not admissible if the court is satisfied that the material, or information contained in the material, was obtained directly as a result of torture or duress.

(44) Schedule 1, item 125, page 101 (lines 11 to 13), omit paragraph (b) of the definition of duress in subsection 27D(3), substitute:

(b) is a threat to imminently cause one or both of the following unless material or information is provided:

(i) death or serious injury of the person, a member of the person's family or a third party;

(ii) damage to, or loss by the person of, the person’s significant assets; and

(45) Schedule 1, item 125, page 102 (after line 5), after section 27D, insert:

27DA Warning and informing jury

(1) If foreign material or foreign government material is admitted in a terrorism-related proceeding conducted before a jury, and a party to the proceeding so requests, the judge is to:

(a) warn the jury that the material may be unreliable; and

(b) inform the jury of matters that may cause it to be unreliable; and

(c) warn the jury of the need for caution in determining whether to accept the material and the weight to be given to it.

(2) The judge need not comply with subsection (1) if there are good reasons for not doing so.

(3) It is not necessary that a particular form of words be used in giving the warning or information.

(4) This section does not affect any other power of the judge to give a warning to, or to inform, the jury.
(46) Schedule 1, item 129, page 103 (line 2), omit "ASIO", substitute "The Director-General of Security".

(47) Schedule 1, item 129, page 103 (line 4), omit "ASIO", substitute "the Director-General".

(48) Schedule 1, item 129, page 103 (lines 11 to 16), omit subsection 15A(2), substitute:

(2) If the Minister has made an order under section 16A in relation to a person's foreign travel documents, another request under subsection (1) of this section relating to the person must not be made unless the grounds for suspicion mentioned in that subsection include information first obtained by the Director-General of Security or an officer or employee of ASIO more than 14 days after the Minister made the order.

(3) The Director-General of Security may, in writing, delegate his or her power under subsection (1) to a Deputy Director-General of Security (within the meaning of the Australian Security Intelligence Organisation Act 1979).

(4) In exercising power under a delegation, the delegate must comply with any directions of the Director-General of Security.

(49) Schedule 1, item 131, page 103 (lines 25 to 27), omit subsection 16A(1), substitute:

(1) The Minister may, on request under section 15A relating to a person's foreign travel documents, order the surrender of the documents.

(50) Schedule 1, page 104 (after line 30), after item 131, insert:

Independent National Security Legislation Monitor Act 2010

131A After subsection 6(1A)

Insert:

(1B) The Independent National Security Legislation Monitor must complete the review under paragraph (1)(a) of the following counter-terrorism and national security legislation by 7 September 2017:

(a) Division 3 of Part III of the Australian Security Intelligence Organisation Act 1979 and any other provision of that Act as far as it relates to that Division;

(b) Division 3A of Part IAA of the Crimes Act 1914 and any other provision of that Act as far as it relates to that Division;

(c) Divisions 104 and 105 of the Criminal Code and any other provision of the Criminal Code Act 1995 as far as it relates to those Divisions;

(d) sections 119.2 and 119.3 of the Criminal Code and any other provision of the Criminal Code Act 1995 as far as it relates to those sections.

(51) Schedule 1, items 132 and 133, page 104 (line 32) to page 105 (line 2), omit the items, substitute:

131B Section 3

Insert:

AFP means the Australian Federal Police.

132 Paragraph 29(1)(ba)

Repeal the paragraph, substitute:

(baa) to monitor and to review the performance by the AFP of its functions under Part 5.3 of the Criminal Code; and

(bab) to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the AFP or connected with the performance of its functions under Part 5.3 of the

CHAMBER
Criminal Code to which, in the opinion of the Committee, the attention of the Parliament should be directed; and

(bac) to inquire into any question in connection with its functions under paragraph (baa) or (bab) that is referred to it by either House of the Parliament, and to report to that House upon that question; and

133 Paragraph 29(1)(bb)
Omit "22 January 2016", substitute "7 March 2018".

133A Paragraph 29(3)(g)
Omit "or ONA", substitute "ONA or AFP".

133B At the end of subsection 29(3)
Add:
; or (i) reviewing sensitive operational information or operational methods available to the AFP; or
(k) reviewing particular operations or investigations that have been, are being or are proposed to be undertaken by the AFP.

133C At the end of section 30
Add:
; (d) the Commissioner of the AFP.

133D Clause 1A of Schedule 1 (definition of agency)
Omit "or ONA", substitute "ONA or AFP".

133E Clause 1A of Schedule 1 (at the end of the definition of agency head)
Add:
; or (e) the Commissioner of the AFP.

133F Clause 1A of Schedule 1 (definition of staff member)
After "employee of the agency," insert "a member or special member of the agency within the meaning of the Australian Federal Police Act 1979).".

133G Application of amendments
The amendments of the Intelligence Services Act 2001 made by this Schedule apply in relation to the performance of the AFP of its functions under Part 5.3 of the Criminal Code, whether those functions are performed before or after this item commences.

(52) Schedule 1, page 105 (after line 7), after item 135, insert:
Parliamentary Joint Committee on Law Enforcement Act 2010

135A At the end of subsection 7(2)
Add:
; or (g) monitoring, reviewing or reporting on the performance by the AFP of its functions under Part 5.3 of the Criminal Code.

135B Application of amendment
The amendment of the Parliamentary Joint Committee on Law Enforcement Act 2010 made by this Schedule applies in relation to the monitoring, reviewing, or reporting on, after this item commences, of the performance of the AFP of its functions under Part 5.3 of the Criminal Code (whether those functions are performed before or after this item commences).

(53) Schedule 2, item 1, page 108 (before line 6), before the definition of Foreign Affairs Minister, insert:
**Attorney-General's Secretary** means the Secretary of the Department administered by the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

(54) Schedule 2, item 1, page 108 (after line 7), after the definition of Foreign Affairs Minister, insert:

**Human Services Secretary** means the Secretary of the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*.

(55) Schedule 2, item 2, page 110 (after line 21), at the end of section 57GJ, add:

(3) Before giving a notice under this section, the Attorney-General must have regard to the following:

(a) the extent (if any) that any payments of family assistance of the individual are being, or may be, used for a purpose that might prejudice the security of Australia or a foreign country, if the Attorney-General is aware of that extent;

(b) the likely effect of the operation of section 57GI on the individual's dependants, if the Attorney-General is aware of those dependants.

(4) The Attorney-General's Secretary must:

(a) seek the advice of the Human Services Secretary in relation to paragraph (3)(b); and

(b) inform the Attorney-General of that advice.

(5) Subsection (3) does not limit the matters to which regard may be had.

(56) Schedule 2, item 2, page 111 (after line 34), after section 57GN, insert:

**57GNA Annual review of security notice**

Before the end of the following periods, the Attorney-General must consider whether to revoke a security notice (if it has not already been revoked):

(a) 12 months after it came into force;

(b) 12 months after the Attorney-General last considered whether to revoke it.

(57) Schedule 2, item 3, page 113 (before line 8), before the definition of Foreign Affairs Minister, insert:

**Attorney-General's Secretary** means the Secretary of the Department administered by the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

(58) Schedule 2, item 3, page 113 (after line 11), after the definition of Foreign Affairs Minister, insert:

**Human Services Secretary** means the Secretary of the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*.

(59) Schedule 2, item 4, page 114 (line 31), before "The", insert "(1)".

(60) Schedule 2, item 4, page 115 (after line 4), at the end of section 278C, add:

(2) Before giving a notice under this section, the Attorney-General must have regard to the following:

(a) the extent (if any) that any payments of parental leave pay or dad and partner pay of the person are being, or may be, used for a purpose that might prejudice the security of Australia or a foreign country, if the Attorney-General is aware of that extent;

(b) the likely effect of the operation of section 278B on the person's dependants, if the Attorney-General is aware of those dependants.

(3) The Attorney-General's Secretary must:

(a) seek the advice of the Human Services Secretary in relation to paragraph (2)(b); and

(b) inform the Attorney-General of that advice.
(4) Subsection (2) does not limit the matters to which regard may be had.

(61) Schedule 2, item 4, page 116 (after line 11), after section 278G, insert:

**278GA Annual review of security notice**

Before the end of the following periods, the Attorney-General must consider whether to revoke a security notice (if it has not already been revoked):

(a) 12 months after it came into force;

(b) 12 months after the Attorney-General last considered whether to revoke it.

(62) Schedule 2, item 5, page 117 (before line 9), before the definition of *Foreign Affairs Minister*, insert:

**Attorney-General's Secretary** means the Secretary of the Department administered by the Minister administering the *Australian Security Intelligence Organisation Act 1979*.

(63) Schedule 2, item 5, page 117 (after line 10), after the definition of *Foreign Affairs Minister*, insert:

**Human Services Secretary** means the Secretary of the Department administered by the Minister administering the *Human Services (Centrelink) Act 1997*.

(64) Schedule 2, item 6, page 118 (line 25), before "The", insert "(1)".

(65) Schedule 2, item 6, page 118 (after line 30), at the end of section 38N, add:

2 Before giving a notice under this section, the Attorney-General must have regard to the following:

(a) the extent (if any) that any social security payments of the person are being, or may be, used for a purpose that might prejudice the security of Australia or a foreign country, if the Attorney-General is aware of that extent;

(b) the likely effect of the operation of section 38M on the person's dependants, if the Attorney-General is aware of those dependants.

3 The Attorney-General's Secretary must:

(a) seek the advice of the Human Services Secretary in relation to paragraph (2)(b); and

(b) inform the Attorney-General of that advice.

(4) Subsection (2) does not limit the matters to which regard may be had.

(66) Schedule 2, item 6, page 120 (after line 5), after section 38S, insert:

**38SA Annual review of security notice**

Before the end of the following periods, the Attorney-General must consider whether to revoke a security notice (if it has not already been revoked):

(a) 12 months after it came into force;

(b) 12 months after the Attorney-General last considered whether to revoke it.

(68) Schedule 3, item 6, page 124 (line 24), omit "4 hours", substitute "2 hours".

(69) Schedule 3, item 8, page 125 (line 25), omit "4 hours", substitute "2 hours".

(70) Schedule 5, item 3, page 133 (line 16), omit "authority", substitute "officer".

(71) Schedule 5, item 3, page 133 (lines 21 to 26), omit paragraph 166(1)(d), substitute:

(d) if under paragraph (a) the person presents evidence to an authorised system—provide to the authorised system a photograph or other image of the person's face and shoulders.

(72) Schedule 5, item 7, page 134 (line 9), omit "or (d)".

(73) Schedule 5, item 8, page 134 (line 12), omit "paragraphs (1)(c) and (d)", substitute "paragraph (1)(c)".
(74) Schedule 5, item 15, page 135 (lines 11 to 16), omit paragraph 170(1)(d), substitute:
   (d) if under paragraph (a) the person presents evidence to an authorised system—to provide to the
   authorised system a photograph or other image of the person's face and shoulders.
(75) Schedule 5, item 19, page 136 (line 3), omit "or (d)".
(76) Schedule 5, item 20, page 136 (line 6), omit "paragraphs (1)(c) and (d)", substitute "paragraph
   (1)(e)".
(77) Schedule 5, item 28, page 137 (lines 9 to 14), omit paragraph 175(1)(d), substitute:
   (d) if under paragraph (a) the person presents evidence to an authorised system—provide to the
   authorised system a photograph or other image of the person's face and shoulders.
(78) Schedule 5, item 32, page 138 (line 1), omit "or (d)".
(79) Schedule 5, item 33, page 138 (line 4), omit "paragraphs (1)(c) and (d)", substitute "paragraph
   (1)(e)".

Question agreed to.

The CHAIRMAN: That concludes the outstanding government amendments. We will now move to Australian Greens amendments. They will also be put in two questions. The first question is that item 133 of schedule 1 and schedules 2 and 5, as amended, be agreed to and that schedule 6 stand as printed:

(18) Schedule 1, item 133, page 105 (lines 1 and 2), to be opposed.
(19) Schedule 2, page 108 (line 1) to page 123 (line 30), to be opposed.
(25) Schedule 5, page 133 (line 1) to page 143 (line 21), to be opposed.
(26) Schedule 6, page 144 (line 1) to page 150 (line 3), to be opposed.
(9) Schedule 2, Part 2, page 122 10 (lines 1 to 16), to be opposed.

Question agreed to.

The CHAIRMAN: The question to deal with the remainder of the Greens amendments is that amendments numbers (1) to (3) and (20) to (24) on sheet 7594, and amendments (1) to (3) on sheet 7598, and amendments (1) to (8) on sheet 7599 be agreed to:

(1) Clause 2, page 2 (table item 2, column 1), omit "Schedules 1 and 2", substitute "Schedule 1".
(2) Clause 2, page 2 (table item 3, column 1), omit "Schedules 3 to 5", substitute "Schedules 3 and 4".
(3) Clause 2, page 2 (table item 4), omit the table item.
(20) Schedule 4, item 4, page 128 (line 25), before "The", insert "(1)".
(21) Schedule 4, item 4, page 128 (line 25), omit "must", substitute "may".
(22) Schedule 4, item 4, page 129 (lines 4 and 5), omit "a risk to security (within the meaning of section
    4 of the ASIO Act)", substitute "a serious risk to security".
(23) Schedule 4, item 4, page 129 (after line 8), at the end of section 134B, add:
   (2) In this section:
   serious risk to security has the meaning given by regulations made for the purposes of this section.
(24) Schedule 4, item 4, page 131 (after line 21), at the end of section 134F, add:
   (3) When exercising the discretion under subsection (2), the Minister must have regard to the
   relevant human rights Conventions to which Australia is a party, including the Convention on the
   Rights of the Child.
(1) Schedule 1, item 110, page 82 (line 13), at the end of subsection 119.2(1), add:
; and (d) the person enters the area with the intention of engaging in a terrorist act, a hostile activity or an activity prescribed by the regulations.

(Amendments (2) and (3) will only be considered if amendment (1) is not agreed to.)

(2) Schedule 1, item 110, page 83 (after line 5), after paragraph 119.2(3)(g), insert:
   (ga) making a bona fide visit to a friend or personal or business associate;
   (gb) providing legal advice;
   (gc) performing a bona fide business, teaching or research obligation;

(3) Schedule 1, item 110, page 83 (line 6), at the end of subsection 119.3(3), add:
   ; (i) any other purpose that the court determines is legitimate in all the circumstances.

(1) Schedule 2, item 2, page 110 (after line 21), at the end of section 57GJ, add:

3 In deciding whether to give a notice under this section in relation to an individual, the Attorney-General must have regard to the following matters:
   (a) whether there are reasonable grounds to suspect that the individual is or will be directly involved in activities which are prejudicial to security;
   (b) whether there are reasonable grounds to suspect that the individual's family assistance payments are being or will be used to support those activities;
   (c) the necessity and likely effectiveness of cancelling the individual's family assistance payments in addressing the prejudicial risk, having regard to the availability of alternative responses;
   (d) the likelihood that the prejudicial risk of the individual to security may be increased as a result of issuing the security notice.

(2) Schedule 2, item 2, page 110 (before line 22), before section 57GK, insert:

57GJA Review of decision to give security notice

1 An application may be made to the Administrative Appeals Tribunal for review of a decision to give a notice under section 57GJ.

2 A review of a decision to give a notice under section 57GJ must be conducted by the Security Appeals Division of the Administrative Appeals Tribunal.

3 Section 39A of the Administrative Appeals Tribunal Act 1975 applies to a review of a decision to give a notice under section 57GJ of this Act as if:
   (a) a reference in section 39A of the Administrative Appeals Tribunal Act 1975 to a security assessment were a reference to the notice; and
   (b) a reference in section 39A of the Administrative Appeals Tribunal Act 1975 to the Director-General of Security were a reference to the Attorney-General.

3 Schedule 2, item 4, page 114 (line 31), before "The", insert "(1)".

4 Schedule 2, item 4, page 115 (after line 4), at the end of section 278C, add:

2 In deciding whether to give a notice under this section in relation to a person, the Attorney-General must have regard to the following matters:
   (a) whether there are reasonable grounds to suspect that the person is or will be directly involved in activities which are prejudicial to security;
   (b) whether there are reasonable grounds to suspect that the person's parental leave pay or dad and partner pay are being or will be used to support those activities;
   (c) the necessity and likely effectiveness of cancelling the person's parental leave pay or dad and partner pay in addressing the prejudicial risk, having regard to the availability of alternative responses;
(d) the likelihood that the prejudicial risk of the person to security may be increased as a result of issuing the security notice.

(5) Schedule 2, item 4, page 115 (before line 5), before section 278D, insert:

**278CA Review of decision to give security notice**

1. An application may be made to the Administrative Appeals Tribunal for review of a decision to give a notice under section 278C.

2. A review of a decision to give a notice under section 278C must be conducted by the Security Appeals Division of the Administrative Appeals Tribunal.

3. Section 39A of the *Administrative Appeals Tribunal Act 1975* applies to a review of a decision to give a notice under section 278C of this Act as if:

   a. a reference in section 39A of the *Administrative Appeals Tribunal Act 1975* to a security assessment were a reference to the notice; and

   b. a reference in section 39A of the *Administrative Appeals Tribunal Act 1975* to the Director-General of Security were a reference to the Attorney-General.

(6) Schedule 2, item 6, page 118 (line 25), before "The", insert "(1)".

(7) Schedule 2, item 6, page 118 (after line 30), at the end of section 38N, add:

2. In deciding whether to give a notice under this section in relation to a person, the Attorney-General must have regard to the following matters:

   a. whether there are reasonable grounds to suspect that the person is or will be directly involved in activities which are prejudicial to security;

   b. whether there are reasonable grounds to suspect that the person's social security payments are being or will be used to support those activities;

   c. the necessity and likely effectiveness of cancelling the person's social security payments in addressing the prejudicial risk, having regard to the availability of alternative responses;

   d. the likelihood that the prejudicial risk of the person to security may be increased as a result of issuing the security notice.

(8) Schedule 2, item 6, page 118 (before line 31), before section 38P, insert:

**38NA Review of decision to give security notice**

1. An application may be made to the Administrative Appeals Tribunal for review of a decision to give a notice under section 38N.

2. A review of a decision to give a notice under section 38N must be conducted by the Security Appeals Division of the Administrative Appeals Tribunal.

3. Section 39A of the *Administrative Appeals Tribunal Act 1975* applies to a review of a decision to give a notice under section 38N of this Act as if:

   a. a reference in section 39A of the *Administrative Appeals Tribunal Act 1975* to a security assessment were a reference to the notice; and

   b. a reference in section 39A of the *Administrative Appeals Tribunal Act 1975* to the Director-General of Security were a reference to the Attorney-General.
The committee divided. [12:41]
(The Chairman—Senator Marshall)

Ayes ......................11
Noes ......................43
Majority .................32

AYES

Di Natale, R
Leyonhjelm, DE
Milne, C
Rice, J
Waters, LJ
Wright, PL

NOES

Back, CJ
Bilyk, CL (teller)
Brandis, GH
Bullock, J.W.
Cameron, DN
Carr, KJ
Collins, JMA
Fawcett, DJ
Fifield, MP
Heffernan, W
Lambie, J
Lines, S
Macdonald, ID
Marshall, GM
McKenzie, B
O'Neil, DM
Payne, MA
Ruston, A
Seselja, Z
Smith, D
Uqahart, AE
Xenophon, N

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS
Bernardi, C
Birmingham, SJ
Brown, CL
Bushby, DC
Canavan, M.J.
Colbeck, R
Day, R.J.
Fierravanti-Wells, C
Gallacher, AM
Ketter, CR
Lazarus, GP
Lundy, KA
Madigan, JJ
McGrath, J
Muir, R
O'Sullivan, B
Polley, H
Scullion, NG
Sinodinos, A
Sterle, G
Wang, Z

Question negatived.

The CHAIRMAN (12:44): That question has dealt with all outstanding amendments. The question now is that the bill, as amended, be agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

The PRESIDENT (12:45): The question is that the remaining stages of this bill be agreed to and the bill be now passed.
The committee divided. [12:46]
(The President—Senator Parry)

Ayes .......................... 43
Noes ........................... 12
Majority...................... 31

AYES

Back, CJ
Bilyk, CL
Brandis, GH
Bushby, DC
Carr, KJ
Collins, JMA
Edwards, S
Fierravanti-Wells, C
Gallacher, AM
Ketter, CR
Lazarus, GP
Lundy, KA
Madigan, JJ
McGrath, J
Muir, R
O’Sullivan, B
Payne, MA
Ruston, A (teller)
Seselja, Z
Sinodinos, A
Sterle, G
Wong, P

Bernardi, C
Birmingham, SJ
Bullock, J.W.
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Fifield, MP
Heffernan, W
Lambie, J
Lines, S
Macdonald, ID
Marshall, GM
McKenzie, B
O’Neill, DM
Parry, S
Polley, H
Scullion, NG
Singh, LM
Smith, D
Wang, Z

NOES

Di Natale, R
Leyonhjelm, DE
Milne, C
Rice, J
Waters, LJ
Wright, PL

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

Question agreed to.
Bill read a third time.

STATEMENTS BY SENATORS

Albany Convoy Commemoration

Senator SMITH (Western Australia) (12:50): This coming weekend and in particular this Saturday, 1 November, will mark a moment of both enormous pride and enormous solemnity in a very special part of regional Western Australia. This Friday and Saturday, the City of Albany on Western Australia’s southern coast will be the focus of national and international attention, as tens of thousands of people gather to commemorate the 100th anniversary of the
departure of those troops whose bravery and commitment gave birth to a tradition that continues to inspire a nation.

The morning of 1 November 1914 saw 36 merchant ships anchored in the waters of Albany's King George Sound, joined by two newly-born Royal Australian Navy ships, HMAS Melbourne and HMAS Sydney, along with HMS Minotaur, which had escorted ships from New Zealand. Aboard the merchant ships were some 27,000 troops from the Australian Imperial Force and the New Zealand Expeditionary Force, along with 26 nurses from the Australian Army Nursing Service. Although they could not have known it at the time, these men and women were beginning a journey that would transport them not only to the other side of the world but into the realm of legend, for they were the Anzacs.

Today, the phrase 'the Anzacs' carries totemic weight. Even those Australians who take little or no interest in military matters or history nonetheless understand 'Anzac' to be a byword for service, for selflessness and for sacrifice. It is my hope that, as a result of this weekend's commemorative events being held in Albany and the extensive media coverage they are receiving, many more Australians will gain a deeper understanding of just how significant that sacrifice was.

All told, 41,265 Australians and New Zealanders departed from Albany and Fremantle in 1914, the first convoy departing on 1 November and the second departing on 31 December that year. Those in Albany leading up to the departure of the first convoy report the air as being thick with excitement rather than foreboding. The Albany Advertiser noted that waiting troops came ashore 1,500 at a time, along with 'bands and regimental mascots in the form of all conceivable breeds of dogs. Night and day, the scene was pulsating with life.' The departure of the convoy was several times delayed by unfavourable weather, which only served to build the sense of anticipation, on the ships and on the shore.

Also in town to join the departing convoy as a war correspondent for The Sydney Morning Herald was Banjo Paterson, already famous as an Australian balladeer and a poet of renown. He wrote: 'Each day there was a report that we were to sail on the following day, but day after day passed, and no move was made by any of the ships. At last, on Saturday October 31, word passed round in the mysterious way in which word does pass round at sea that the transports would leave the next morning.'

Charles Bean, who had narrowly beaten Keith Murdoch for the right to serve as official AIF war correspondent, was one of those aboard. He crisply noted on 1 November: 'At 6.26 am, with the harbour glassily smooth, the Minotaur and Sydney up-anchored and moved out between the sun-bathed hills to sea.'

Banjo Paterson, with his lyrical touch, set the scene more poetically: 'A red sun rises behind a long island away out seaward, on which is a lighthouse, sharply silhouetted against the sky. Not a sound, nor any movement of any living thing, comes from the frowning hills on either side of the waterway. The sea is dull, still grey, without a ripple. A vague electric restlessness is in the air. As each big vessel clears the gateway of the harbour, she too swings around the west and after her leader, and seems to dip her head into the waves with a sort of enjoyment at being once more on the trail.'

It took around three hours in total for all the ships in the convoy to clear Princess Royal Harbour and King George Sound that day. Another aboard, Lieutenant Alan Henderson,
wrote to his family about his experience: 'A red letter day in truth. I haven't got any black ink, but this deserves red. We left Albany at about 8:30 this morning. It was a glorious morning, sunny and calm. I snapped the shore as we passed the lighthouse. Then we deployed in three long lines about a mile apart, with 800 yards distance between the ships. It was a beautiful sight. We steamed along the shore till about 6 pm when we turned north-west. This is, I think, the last of Australia. God bless us all while we are away.' Sadly, for Lieutenant Henderson it was indeed the last of Australia. Like so many others aboard the convoy, he was killed in fighting at Gallipoli. Indeed, one third of those aboard the convoys never returned home, meaning that, for many, Albany's dramatic coastline and the spectacular King George Sound afforded a final glimpse of their homeland.

What happened at Gallipoli shaped our nation in a great many ways, but it gave rise to a marked shift in this nation's attitude to war. The horror of what unfolded at Anzac Cove in April 1915 was without precedent in the Australian experience. Our young nation was forced to grow up and to learn hard lessons about the realities of war. In the aftermath of Gallipoli, reportage of troop departures to other conflicts would not feature the word 'excitement' prominently. In that spirit, the events that will take place in Albany this weekend are a commemoration, not a celebration.

The most lasting legacy of this weekend's commemorative activities comes in the form of the brand new National Anzac Centre, which will be officially opened on Saturday. This will mean that, finally, there will be a place for Australians, overseas visitors and—perhaps most importantly—the generations that follow to go, reflect and be immersed in the personal stories of the men and women whose service and valour our nation will always honour.

Fittingly, the National Anzac Centre is perched atop Mount Adelaide, and looks out over the waters of King George Sound, where the story began. Inside, visitors will be able to view a range of interactive exhibits that deepen our understanding of the Anzac experience. An especially moving aspect of the centre is a contemplative water feature, which will continuously screen the names of all who departed on the Anzac convoys. To watch the full cycle of names just once would take over 50 hours.

The National Anzac Centre complements Albany's other significant World War I memorial, the Desert Mounted Corps Memorial, which sits atop Mount Clarence, not far from the site of the of new centre. This memorial was opened by Prime Minister Robert Menzies when he visited Albany in October 1964, and it is fitting that, fifty years later, Prime Minister Tony Abbott will be in Albany this weekend to take part in these commemorative events. His Excellency the Governor-General will also be present, along with the Leader of the Opposition, and representatives from many other states and foreign governments.

With around 60,000 people expected to visit Albany to take part in the various commemorative events, the next 96 hours will be among the most momentous in the community's long history. Among the highlights, in addition to those events I have already discussed, will be a re-enactment of the convoy's departure, comprising ships from the Royal Australian Navy, along with ships sent from our friends and allies internationally to take part. There will also be a troop march and formal commemorative services, as well as films and live concerts that will showcase the ongoing influence of the Anzac experience in Australia today.
None of this, of course, has come together by chance. The series of moving commemorative events we are about to witness in Albany is the culmination of many years of collaborative effort from federal, state and local governments, as well as tremendous amounts of planning and hard work from the local community and, most particularly, the local Returned Services League group.

During my 2½ years as a senator for Western Australia, an absolute highlight has been working cooperatively with Mayor Dennis Wellington and his fellow councillors; Mr Laurie Fraser MBE, OAM, and Mr Peter Aspinall of the Albany RSL—and countless others in the local community that time does not permit me to name. They, together, have helped to make sure that this weekend's events are a fitting tribute to those who gave so much.

Along with many other Western Australians, I very much look forward to being in Albany this weekend as our nation pays tribute to our Anzacs and their enduring spirit, described best, I think, by Charles Bean as standing for: 'reckless valour in a good cause, for enterprise, resourcefulness, fidelity, comradeship, and endurance that will never own defeat.'

**Aged Care**

**Senator POLLEY** (Tasmania) (12:59): I rise to speak today about some of the outstanding work being undertaken by people committed to improving the lives of older Australians—people whose work often sadly goes unrecognised. Recently I was fortunate enough to meet with the acting CEO of Wintringham Specialist Aged Care, Michael Deschepper, and the manager of one of the facility's outfits in Coburg, Kate Rice. Wintringham is an organisation that certainly deserves to be spoken of in the highest possible terms. It was established some quarter of a century ago in response to the frustrations of watching older men and women die in homeless persons' night shelters, unable to access mainstream aged care services. The main aim of this organisation from the outset was simple: its clients were considered 'aged and homeless' rather than 'homeless and aged' and deserved to spend their final years in peace and comfort, where they felt safe.

The problem that Brian Lipmann, the founder and now CEO of Wintringham, realised when he was a social worker was that many residential services were unwilling to take people who did not have the money for an accommodation bond. So, beginning with two hostels Wintringham flourished into the imposing specialist aged care organisation it is today, with 280 beds across several suburbs, including Williamstown, Coburg and Avondale Heights, in Victoria. Their commitment to social justice is unparalleled and I could not agree more with their belief that aged care services should not be deemed a privilege but rather a fundamental human right. Such services should not be dependent on one's bank balance. This is the inspiring social justice prerogative that drives Wintringham.

What they achieved is nothing short of extraordinary. The organisation has found that as soon as older people are given a home their life expectancy and general health soars. But of course it is about much more than that. What Wintringham provides is a sense of purpose to continue living, with a future to look forward to. These people no longer live in fear of being attacked, of having to scramble to find their next meal, unsure of what will happen to them.

What is incredible about Wintringham is that it actually expanded the services it offers beyond residential care to community work as well, helping people to maintain tenancies and providing outreach to those who are struggling to find a home. Their subsidiary company,
Wintringham Housing, manages and develops their significant holdings of independent living units. These housing units are reserved for people over the age of 50 who meet particular criteria and what this means is Wintringham provides a continuum of care that they can be proud of. In the process they are setting an example that I certainly hope is followed in other states and territories around Australia. It is of course a hard model to replicate because of the low margins of the business and the staffing skills required due to client behaviours. But really if we want to ensure that older homeless people are properly looked after then we need others to follow suit.

Wintringham has a dedicated clinical team to assist with the health and well-being outcomes of older homeless people as well as an in-house meals production team. Their staff are prepared for all contingencies. They are trained to deal with people who exhibit challenging and sometimes violent behaviours. What impressed me upon visiting one of the residential facilities in Coburg was not only the outstanding level of care provided to residents but the positivity and enthusiasm exhibited by staff. It was clear that they enjoyed working there and I was told one of the reasons for this was the generous conditions they enjoy and the strong sense of purpose their work provides.

Their client work is very different to other aged care service providers. As I told Michael when we were touring, I have always believed that an important measure of any society is how it looks after its most vulnerable citizens, and older people without a permanent home are indeed amongst our most vulnerable and at-risk. The 550 home care packages and 605 housing units that the body runs certainly extend the lives of many older people. It improves their physical condition and, to put it simply, it provide a home until stumps. This homeless cohort of people in residential care have been hit severely by this government's heartless cut to the dementia supplement, which was so important for looking after these clients. It is yet another example of this government's heartless actions since it came to office.

I was also fortunate enough recently to visit the National Ageing Research Institute in Parkville, Melbourne, and what an experience it turned out to be. For the past four decades, this institute has been bringing research to life to improve health outcomes that change the lives of older Australians. NARI is committed to enhancing aged care practice as well as to guiding policy to invest in solutions for positive ageing for senior Australians. I was particularly interested to learn that they are the largest independent ageing research organisation in Australia and that they work on such a diverse range of matters that affect senior Australians. One area of research that NARI has been involved in, and it is of particular interest to me, is its work on tele-health solutions, and I have spoken about tele-health on many occasions in this place.

What we want and what we need to do is confront the challenges that Australia faces with an ageing population. We need to innovate and embrace the full potential of new technologies, something that is beyond the scope of this government. Reducing health spending will not be easy. Cuts to health funding or further cost-shifting to consumers could have a severe impact on the lives of many Australians. What we need to do is investigate and invest in tele-health, because that can transform people's lives. Instead of admissions to hospital or residential aged care facilities, we can have monitoring of older Australians in their own homes. They can live where they want, where they feel comfortable, where they can
have communication and where they have community support. That will all help to combat the social exclusion that many unfortunately suffer within our community.

The technology has come along in leaps and bounds. CSIRO's Geoff Haydon has said that modern equipment enables professionals to:

… Manage and monitor people as though they were in a retirement village, while they're still in their own home.

NARI have engaged in numerous telehealth projects, which I learnt about during my visit, and the work they have done demonstrates the benefits of embracing this technology.

Their Ageing Well at Home with Broadband project involved the development of a home exercise program using gaming technology delivered via the National Broadband Network. Done in conjunction with numerous bodies including the Moreland City Council, Microsoft and the Institute for a Broadband-Enabled Society, the 18-month project enabled older people to engage in virtual exercise classes of 20 people. The project reduced their need for healthcare services, extended their active life and promoted social inclusion—something, as I said before, that is currently sadly lacking in our community. The sky is the limit for the hardworking people at NARI. I was also particularly impressed with their Rural Carers Online project, which experimented with a computer intervention, aimed at reducing social isolation and depression amongst older carers. Depressive symptoms were reduced amongst participants. They identified many other social, psychological and physical benefits. They well and truly benefited from this particular program. The main recommendation from this study was to conduct a larger, randomised controlled trial of the interventions and I certainly hope that more work is undertaken in this vital area.

Of course NARI's work extended far beyond telehealth. They have conducted some fascinating work on how we can detect whether a person will develop dementia before they actually start exhibiting symptoms. I certainly intend to stay abreast of this research, which is asking whether we can one day use evidence of tangles in the brain to halt the disease before it takes hold. In my role as shadow parliamentary secretary for aged care, I will continue to work closely with the shadow ageing minister, Shayne Neumann, to change the attitude about ageing and to ensure that older people are engaged in these discussions and be the beneficiaries. I will continue to hold this government to account for its lack of heart, concern and interest in aged care and ageing in this country. (Time expired)

Coal Seam Gas

Senator WATERS (Queensland) (13:09): I rise as a senator for Queensland who has seen our communities, our farmland and our environment devastated by coal seam gas extraction. I am deeply concerned that this industry is on the verge of an enormous expansion in other states right across the nation. That is why, earlier this month, I travelled to western Victoria to talk to locals about the threats of this dangerous industry. Today I would like to pay tribute to the courageous communities of western Victoria which have already begun to resist.

In my home state of Queensland, the big coal seam gas companies got in early and they swamped farmers and communities, despite their best efforts to protect their land, their water, the climate and their communities from the dangerous coal seam gas. It is truly devastating to see areas of south-west Queensland from the air, where the landscape resembles Jarlsberg cheese—pockmarked with gas wells, as far as the eye can see. It is even more heartbreaking...
to hear the stories of farmers who have had their lives turned completely upside down by the onslaught of the big gas companies. The locals from across the Darling Downs at Dalby, Chinchilla and Tara, from the Scenic Rim at Boonah, Kerry, Croftby and Rathdowney, to as far west as Roma and Emerald have fought long and hard to protect their land, water and local environment from coal seam gas companies.

In spite of their efforts, over 8,000 coal seam gas wells have been drilled in Queensland and approval has been given for up to 30,000 gas wells. Governments, both Labor and Liberal, under Premiers Beattie, Bligh and Newman, have never refused an application for coal seam gas. Those communities are carrying on their heroic efforts and they are now sounding a warning to their friends in New South Wales, Victoria, South Australia, the Northern Territory and Western Australia.

The communities of western Victoria and Gippsland are facing off against a very powerful adversary: the unconventional gas-fracking industry. They are responding with an inspiring display of grassroots, participatory democracy and their momentum is building. At last count, 43 communities across Victoria, including 11 in western Victoria, have declared themselves 'gasfield free'. In total, there are 70 communities across the state at some stage in that process of making those declarations. These communities deserve better than the weasel words that they have been getting from the Liberal government in Victoria and from the Labor opposition. The Liberal Napthine government have placed a temporary moratorium on fracking, which is due to expire in July next year. They are refusing to tell Victorians what they will do after that—if, of course, they retain office after the election. The Labor opposition are refusing to give a commitment either way. They are handballing the issue to some future parliamentary inquiry. Methinks both parties are trying to get this off the election agenda. Only the Greens are taking a clear policy to the coming Victorian state election. We would ban all fracking and unconventional gas—no weasel words, no deception. Our farmland, our water, our climate, our sustainable industries and our communities deserve that.

In western Victoria and the Otway Basin they have something really special. It is a wonderful, fertile area with good rainfall in many areas and the capacity to be a powerhouse for sustainably producing food and fibre for the country and for the world. It was a pleasure to see this part of the world a few weeks ago with my colleague Senator Richard Di Natale and our Greens candidate for the western region, Lloyd Davies. Lloyd would work with local communities rather than against their interests and would work to avoid some of the mistakes that Queensland, sadly, has made in rolling out the red carpet to the gas-fracking industry.

In particular, I would like to acknowledge the incredible work that many of the community groups have been doing in that western Victorian region: Gasfield Free Portland deserve congratulations; Glenelg Shire Council, which covers that area, has unanimously supported an unconventional gasfield-free zone; Frack Free Geelong, where along with successful community declarations, the Council of Greater Geelong has voted to reject onshore gas and fracking, and for a permanent ban; and Gasfield Free Torquay, who have just formed and are doing a magnificent job at protecting the stunning coastal regions of Torquay and Anglesea. It is unbelievable to me that anyone would think of ruining these stunning places, but they are subject to a gas exploration lease. There are too many community groups to list, but Frack Free Moriac also deserve a mention.
It was a real honour to meet many of the community members in the dozens of townships that we visited who have banded together, had these conversations in their community and undertaken surveys. Many have recorded between 97 and 99 per cent support for gasfield-free communities. We travelled to Birregurra, to Colac, to Camperdown, to Warrnambool, to Portland, to Drumborg, to Hamilton and to Geelong. Victorian communities in the western region who want to be gasfield free include many of those areas but also some additional ones: Dartmoor, Drumborg, which we visited, Lyons, Hotspur, Freshwater Creek, Moriac, Boonah, Bambra and Geelong area rural communities including Deans Marsh, where Senator Richard Di Natale hails from, Mount Moriac and Paraparap.

On that recent trip, the Greens announced our bill, which I will soon be reintroducing into this place after two earlier attempts which, sadly, received no support from the other parties in this place. Our new bill will give all landholders the right to say no to unconventional gas and it will include a ban on fracking for unconventional gas. I call on all parties to support that bill and I call on all parties in Victoria to respect the grassroots, democratic, community led declarations, instead of trying to weasel their way out of unconventional gas with either empty commitments or silence. I call on Victorians to heed Queenslanders’ warning and to back our call for a ban on fracking and all unconventional gas exploration and production.

We have renewable alternatives to gas—clean, green, renewable energy that does not risk farmland, does not risk groundwater or surface water, does not divide communities and actually creates more jobs. That is the sort of future that the Greens see for western Victoria and for the rest of the nation, not dangerous, unconventional gas.

It was wonderful on that trip to be able to share the experience of the Queensland communities, who, in the face of this onslaught to their land and their water, really did band together and resist as much as they possibly could the might of this very well heeled, very well resourced, mostly multinational company driven gas industry. As well as I could, I shared the learnings that Queenslanders have, sadly, now had to learn about the dangers of letting the gas industry get their claws into what is our best food-producing land. I urge those western Victorian communities that we visited, who are already so well organised, so strong in their opposition and so across the dangers of this unconventional gas industry, to keep up their fight, keep having those conversations in their communities and keep doing those wonderful surveys where they declare themselves gasfield free. We know that there is no legal implication that flows from that, but it is an incredibly powerful statement of community sentiment and community vision for those towns. It will be a very bold government or opposition that ignores that really strong community sentiment in western Victoria that says, ‘We don't want unconventional gas fracking here. We love our farmland. We value our clean water. We have other renewable energy alternatives. You're not welcome here.’ It was a great honour to undertake that trip and to share those learnings.

I am confident that ultimately, despite the intransigence of the current government in this place and their absolute disregard for clean, green, renewable energy, the momentum for renewable energy is unstoppable. Not even this Abbott government can stop the broad support for renewables that the industry is experiencing and that the public know. I am confident that we will be able to stop this dangerous and unnecessary unconventional gas fracking industry in Australia. We have clean alternatives. We have solar; we have wind; we have tidal power; we have geothermal—we have a whole raft of options that other countries would be very
envious of. That is where we should be investing. That is what will protect our farmland across the nation, including in western Victoria. That is what those committees want. That is what the Greens are taking to the Victorian state election. I very much look forward to giving those communities their voice on polling day and, hopefully, to the election of our western Victorian candidate, Lloyd Davies.

Coal Seam Gas
Australian National University

Senator EDWARDS (South Australia) (13:19): It is quite fitting that I follow Senator Waters's contribution here in this chamber because I do not actually believe that fairies live in the bottom of the garden. The issue of gas and how we get it is a very big issue for Australians. Unfortunately, we have just heard a contribution that made not one mention of cost, not one mention of inexpensive energy, not one mention of global competitiveness and not one mention of consumers' cost of living—because all of the things she spoke about would increase the cost of living. But that is Greens ideology. They do not care how much it costs because they will never have to balance a budget—hopefully not in my lifetime in this place, anyway.

It is because of this Greens ideology that I rise to speak to you, Mr Acting Deputy President, and to the others listening to this contribution, particularly about how it affects South Australia, my home state. Of course, that does flow on—excuse the pun—to all those connected to the gas pipeline of the Moomba gasfields in South Australia. We hear talk not such as Senator Waters's contribution but of extending the capacity of our gas, because gas is one of the future fuels of this country and we must have it to remain competitive. I have met many farmers and I have travelled through Queensland. Senator Waters eloquently and fondly spoke of her trip and I speak of my trip into Queensland fondly. Yes, I did speak to many people who were not enamoured in any way with coal seam gas; however, I met a lot of people, as many people, who saw it as an opportunity to increase their living standards and a way of securing their families' future. It is a way in which they could create a future as Australians in Australia.

That takes me now to the main reason for my contribution: the Australian National University's recent divestment of seven resources companies, including South Australia's own Santos. It is presented as an act of social responsibility, just as Senator Waters' contribution made no mention of any of the benefits of inexpensive energy to our country. It was put to the country that this was an act of considered responsibility, but it is truly an act of social recklessness for very questionable gains.

An underlying belief in the essential evil of business is a fantasy that envelopes the modern green movement, and a divestment action such as this is just a conspicuous fashion statement. I would like to see the intelligentsia of the ANU acknowledge the overwhelming social good of a single company that employs 4,160 South Australians, that spends $10 million a year on sponsorship in that state and that pays more than $300 million annually in royalties and taxes. The Cooper Basin alone has delivered $1.5 billion in royalties to the state of South Australia.

The ANU's divestment action is Greens-inspired posing, but do not take my word for it. The ANU's own Professor Warwick McKibbin, the eminent former RBA board member, told The Australian Financial Review:
I think if the issue is dealing with the environment and particularly climate change, that sort of policy will not address the problem.

He called it a token gesture. It is a token gesture that is also a blunt threat to one of South Australia's most important corporate citizens. The ANU divesting $16 million worth of stocks from seven resources companies may not produce direct material damage to the companies concerned, but they were after the reputational damage, I can only assume.

To denigrate one of South Australia's most important corporate citizens is to do the same to the thousands who draw a Santos pay cheque. It is a threat to the company's downstream suppliers, it jeopardises Santos' sponsorship spend, it shows disregards for their taxation and royalty contributions and it directly or indirectly affects most citizens of the state of South Australia. Santos has supported South Australian causes and groups including the Adelaide Symphony Orchestra, the Adelaide Botanic Garden, the Come Out festival, the OzAsia Festival, the Adelaide Zoo, Santos Stadium, the Tour Down Under, The Smith Family, and the Australian School of Petroleum at the University of Adelaide. Santos is Australia's largest domestic gas producer, and it is a supplier to all mainland states as well as a significant exporter. Santos operations at the Cooper Basin are the main gas supplier to the eastern seaboard.

It will be interesting to see where the ANU chooses to invest that money instead. I assume it will not be in renewables, given the track record of those who have trodden that path already. ANU's view is that the divestment program is for the public good, but a prosperous economy is the ultimate social good, as we know. Where there is an absence of economic growth, there is poverty and there is hardship. Economic prosperity raises living standards, creates jobs and invites investment. In South Australia, Santos does all of this. This is a message no doubt echoing in the ears of the ANU's Vice-Chancellor, Ian Young, at the moment, given the number of voices that have joined me to voice their opposition. I urge him to reconsider the full impact of his decision.

Incidentally, I congratulate the staff of Santos on the occasion of the company's 60th birthday, and I very much look forward to conveying the same sentiment to the CEO, David Knox, in person. Santos: a great South Australian company.

Trade with China

Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:27): I rise today to speak on the China free trade agreement. Labor strongly supports trade liberalisation because it is good for economic growth, exports, jobs, living standards and competitiveness. We support high-quality trade agreements that are in Australia's national interests. That is why we are concerned that the Abbott government is at risk of signing up to a substandard free trade agreement with China.

The reality is that the Prime Minister, Mr Abbott, has made a tactical blunder in his approach to trade negotiations with Beijing. By setting a deadline of securing a deal this year, the Prime Minister has put Australia's negotiators under pressure to accept a deal—any deal—at any cost. Even his own agriculture minister, Mr Joyce, has publicly distanced himself from this negotiating tactic. A genuinely liberalising agreement with China has the potential to deliver significant benefits to Australia. By contrast, a poor-quality deal struck to meet a self-imposed deadline would lock in second-best outcomes for Australian businesses for years to come in one of our most important markets.
The fact is that Australian business is concerned that the Abbott government will cut a substandard deal. A recent survey by the Australian Industry Group found that a majority of its member companies said they believed the FTA with China would have a negative impact on their businesses. Ai Group's Innes Willox told ABC Radio National's breakfast program on Monday of this week—that is, 27 October—that there is concern that more is going to be given away than gained to get the FTA. Mr Willox also said that the government was being secretive about the negotiations, that business was not being kept in the loop and that there needs to be more consultation. We agree.

It has been reported that Mr Abbott hopes to sign an FTA with President Xi Jinping at the time of the G20 summit next month. If an agreement is announced it will be important to look through the spin and the media releases and assess the substance of the deal. Labor believes a high-quality free trade agreement with China should meet the following benchmarks. On agriculture, any deal must be 'New Zealand-plus'. It should ensure that Australian farmers are on a competitive footing with their Kiwi counterparts under New Zealand's FTA with China. This will require China agreeing to eliminate or significantly reduce its tariffs on a wide range of Australian farm goods.

Organisations representing red meat producers, including the Cattle Council and the Australian Meat Industry Council, have called for the China FTA to eliminate all tariffs on Australian livestock, red meat and co-products. They point out that, under the China-New Zealand FTA, Chinese tariffs on New Zealand beef and sheepmeat will be completely eliminated by 2016. Australia must at least match, and preferably improve on, that outcome otherwise our meat producers will be locked into a competitive disadvantage with their New Zealand counterparts in the Chinese market. The same logic goes for Australian farm goods like dairy products, grains, sugar and cotton.

On industrial goods, any FTA must eliminate or significantly reduce Chinese tariffs on Australian manufactured products. This must include the immediate removal of the punitive new tariffs China recently announced on coal. For services there must be commitments to remove discrimination and to open the Chinese market to Australian services ranging from banking and insurance to environmental and mining services. But the FTA will need to go further by tackling the significant impact of non-tariff barriers in China in relation to Australian exporters. This will require greater transparency in Chinese domestic regulations and the non-discriminatory application of Chinese regulations to Australian businesses as compared with their Chinese competitors. An FTA with China will also need to ensure Australian businesses do not face unfair competition from subsidised Chinese goods, so it must not weaken Australia's dumping, countervailing duties and safeguards arrangements.

On investment, the agreement should encourage greater flows of capital between China and Australia. As I have said previously, we believe that the agreement should increase the threshold for Foreign Investment Review Board screening of Chinese investments in Australia in non-sensitive sectors to just over $1 billion in line with the threshold for investment that is applicable to investment from the United States, New Zealand and, as agreed, with Korea and Japan.

Labor believes the Abbott government should resist pressure from the National Party to impose lower thresholds for Chinese investment in agriculture. In return, China should ease its restrictions on Australian investments into China, especially in the minerals sector which
discriminate against Australian businesses by making it more difficult for them to develop high-quality resources. There should be no investor-state dispute settlement provisions in any FTA with China. These provisions in trade agreements give foreign companies and investors greater legal rights in Australia than local companies. They are a concern not only for the Labor Party but for many in the community. I would make the point that even the Chief Justice of the High Court of Australia has expressed concern about the impact of these provisions.

Provisions on movement of people must strike the right balance between fostering employment opportunities for Australians while ensuring businesses can secure the skills they need. That means Australia should retain the ability to require employers to show there are skill shortages if they wish to fill job vacancies using temporary migration provisions under a Chinese FTA. In free trade agreements negotiated by Labor, Australia reserved the right to require labour market testing for appropriate occupations and skill levels. Labour market testing simply means that the employer needs to show that they cannot find local employees to fill a position. That can be demonstrated, for example, by simply advertising the job locally, or through providing other evidence that there are no local workers available with the skills needed. Labour market testing is an important safeguard for the integrity of Australia's temporary migration system.

Labor have already raised concerns about the Korean free trade agreement's provisions on movement of people. The government agreed to remove Australia's right to require labour market testing where Korean nationals are to be employed in Australia using temporary migration arrangements like section 457 visas. The China FTA should either retain labour market testing for appropriate occupations and skills, or it should include acceptable alternative safeguards for the integrity of our temporary migration system. This is important in order to ensure that the benefits of economic growth and expansion in trade flow through to Australian job seekers. It is sound policy and it will also contribute to community acceptance of a trade agreement which is in Australia's long-term interests. It is the approach China and New Zealand took in their free trade agreement. Under that agreement New Zealand retains safeguards on temporary migration. These include labour market testing for some trade, technical and professional occupations, and numerical quotas for a range of other occupations.

I also draw the Senate's attention to comments by the Prime Minister, Mr Abbott, on 14 October 2014 at a media conference in which he announced the government's new industry policies, including temporary migration arrangements. He was asked by a journalist, 'There are changes in here about the 457 visa program. I just wanted to check, will you be making any changes on labour market testing?' The Prime Minister replied, 'On the 457s, labour market testing will remain, but we want it to be easier to engage in.' The Prime Minister has, therefore, very clearly committed to retain labour market testing requirements for temporary migration. Labor will hold the Prime Minister to that commitment in the context of the China free trade agreement. If the China FTA dispenses with labour market testing it will amount to yet another broken promise from Mr Abbott.

Let me summarise the tests for a high-quality free trade agreement with China: New Zealand-plus market access outcomes for Australian farmers and other exporters; elimination or significant reductions in tariffs on Australian industrial goods; retention of Australia's anti-dumping safeguards; major improvements in market access for Australian services; reducing
red-tape and other barriers to Chinese investment in Australia and to Australian investment in China; no provisions which give Chinese companies operating in Australia superior legal rights to those enjoyed by Australian companies; and retention of labour market testing or comparable safeguards on temporary migration. If Mr Abbott's China free trade agreement falls short of these benchmarks, it will be another case of the Prime Minister talking big only to bring home a second-rate deal.

Australian Security Intelligence Organisation

Russia

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (13:37): I rise to address a matter that was raised in the media this morning regarding an alleged ASIO report which was leaked to Fairfax journalist Peter Hartcher. Today I have written to the Director-General of Security for ASIO, Mr David Irvine, and referred this matter to him for investigation. In the interests of openness and transparency, I will share that letter with the people of Tasmania and Australia. The letter is as follows:

Dear Director,

I draw to your attention to the news stories run today by Fairfax Media and authored by journalist Peter Hartcher. The front page of the Sydney Morning Herald features a picture of a woman wearing a burqa with the headline;

"ASIO warns against banning the burqa"

Another headline in the Canberra Times page 8 reads: "ASIO finds burqa ban would fuel extremists"

Allegedly, the ASIO report in the possession of Fairfax Media, claims that, "there is no valid security reason to ban the burqa. And the only security consequences of banning the burqa would likely be predominately, if not wholly, negative."

In order to write and publish these articles, Mr Hartcher and others clearly have had access to, as he reports or claims, to a "confidential ASIO Report".

Can you please confirm for me as soon as possible and preferably by the close of business today, that the "confidential ASIO Report" is authentic?

I don't however expect the "ASIO" report that Fairfax Media has obtained to be authentic and I apologize in advance for wasting your time.

I expect in the course of your investigation, that you will find that it is a fraudulent document or a fake. (I've recently caught out Fairfax Media reporters misleading the public by omitting important facts in the burqa debate and deliberately publishing statements that they know are misleading.)

However, if you did confirm that the document used by the media as the basis of their story was an authentic and an ASIO confidential report, it would then raise serious questions regarding the unbiased political nature, integrity and trustworthiness of ASIO—one of this country's most powerful departments.

The immediate question that would come to mind, if the report were from ASIO is:

How could a confidential ASIO Report, politically favorable to the Government and unfavorable to myself, find its way into the possession of a journalist a day after I announce that I was going to create legislation that would ban the burqa?
You would appreciate, if this confidential ASIO Report is proved authentic, that the question about whether ASIO considers the banning of the burqa a positive or negative thing is irrelevant, in the context of an officially confirmed leak of a confidential document.

The important questions are:
1. How did ASIO lose control of a confidential report?
2. Could it happen to other confidential ASIO Reports?
3. Has it happened in the past to other confidential ASIO Reports?
4. Is it likely to happen again to future confidential ASIO Reports?
5. Are you confident that the process for drafting, managing, storing and tracking confidential ASIO Reports is good enough to protect Australia's national security?
6. Who leaked the confidential ASIO Report?
7. Did the person or persons responsible for the leak of the confidential report commit a crime?
8. Will they be held to account for their actions?
9. Who is responsible for holding them to account?
10. Given the obvious political nature and timing of the leak of the confidential ASIO Report—has there been unwarranted or illegal political interference with the day-to-day running of ASIO?

These questions would be raised at a time when the Parliament is about to pass laws which will further increase the already significant powers of ASIO at the expense of basic civil and human rights.

It also comes at a time when the Parliament is about to pass new laws, which effectively lessen the ability of the media, public and politicians to scrutinize the activities of ASIO.

You will also be aware that yesterday I announced that I had sent to the office of Parliamentary Council a report and request to draft Private Members' Legislation titled *Full Face Coverings Prohibition in Public Places (Summary Offences) Bill 2014*.

My Legislation, if passed by the Parliament, would effectively allow for a prohibition on the wearing of the burqa in Australia.

My public and political campaign to gather support for my Private Members' Legislation, if the media reports are accurate - will have been adversely affected by the leaking of an authentic, confidential ASIO document to the Australian media.

If the report referred to by the media is authentic—and the leak is found to be deliberate, then I would have to take expert advice and consider if this act was an example of ASIO trying to interfere with the free and fair performance of a member of parliament?

Or in other words—I would have to ask the serious question: Is ASIO in contempt of parliament?

The other important matter that would be raised should this document be authentic and generated by ASIO is the relevance and trustworthiness of the advice found in the Report.

I note that the Report is supposed to have been authored in 2010 or 2011. This of course is at a time before the extraordinary rise of today's Islamic extremist movement, which our country is effectively at war with.

The current 2014 crop of extremist, Islamic psychopaths we're trying to kill in Iraq and Syria before they butcher more innocents, I understand—views the Burka and Niqab as important symbols or flags for their religious / political movement.

When they see the Burka or Niqab being worn in public by subservient women, I'm of the understanding that the extremists regard that a great ideological and political victory.
And the sight of women with full-face coverings, boosts the Islamic extremists morale and fighting spirit because it is a strong indicator that their Sharia Laws and ideological values have begun to take hold in that particular society?

Of course that's only my views, you and your agency are the experts when it comes to the ideology, motives and reasons why these Islamic extremists want to butcher innocent people, take over the world and fly their flag on our Parliament.

I'm happy to take your advice—and would be keen to find out your personal views on the information found in the 2011 "confidential ASIO Report" cited by Fairfax Media.

I'm also happy to take a briefing from your agency on their current up-to-date views of the wearing of the burqa and other items or so called religious garb.

Given that this potential ASIO leak could be viewed as a political attack on a Senator of the Australian Parliament, and therefore an attack by one government power on another - I would expect a report or personal briefing on this matter in 24 hours - by 12 noon tomorrow.

I turn to another matter that does not deal with allegedly leaked ASIO reports—although it could, so I am going to get in first. Yesterday I met with the Russian ambassador, a very charming man indeed. Before another confidential ASIO report is leaked to the media, I take this opportunity to inform the parliament and people of Tasmania about our conversation and meeting. On behalf of the people of Tasmania, I presented the Russian ambassador with two bottles of vodka made at Hellyers Road Distillery near my home town of Burnie. He kindly accepted these gifts and indicated that he would like to visit Tasmania with a view to strengthening relationships and exploring new business opportunities with Tasmanian companies.

In addition, I also presented His Excellency with a T-shirt from the Ulverstone Judo Club. The club's executive—consisting of its president, John Deacon; Chris Palmer; Jamie Dodd; and Terry Von Bibra—and its members would like the Russian ambassador to pass the T-shirt on to President Putin, with their best wishes of course, and request that he agree to be the club's honorary patron. Many members of the judo club have expressed admiration for President Putin because of his promotion of the sport of judo. They think a match between President Putin and Prime Minister Abbott would be a great fundraiser—and they would have their money on President Putin. A barbecue, beers and a couple of vodkas from Hellyers Road Distillery afterwards would also be on the agenda—and great for international relations with a nuclear superpower.

**Shipping**

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (13:46): I fear my topic is somewhat more mundane than Senator Lambie's, but I would like to speak to the chamber today about the costs and impacts of coastal shipping on industry and business here in Australia, particularly about the impacts of the so-called reforms brought in by the previous Labor government which have catastrophically failed to achieve their set objectives while doing nothing but hurt Australian industry. Given that my home state of Tasmania is so dependent on shipping for movement of goods on and off the island, that impact has been significantly compounded for us. Even setting that to one side, the impact on a national basis has been quite striking.

The Labor Party, when they brought these measures in, said that they wanted to build an Australian shipping industry. That has failed. There are in fact 64 per cent fewer vessels on...
the Australian coastline. Capacity has fallen significantly since these measures came in. We are actually moving less freight around the Australian coastline following the introduction of these reforms. Why would there be more vessels when the amount of freight being moved around the Australian coastline is declining? It is moving to the roads, increasing congestion on our highways, instead of being moved in a more efficient and much less carbon intensive way around the Australian coastline. There are also fewer voyages by foreign flagged vessels moving around the coastline—and two million tonnes less freight. The bottom line of all this is significant cost to Australian shippers.

Last night I was talking to a colleague from South Australia, where they have a significant timber industry. They want to get that timber into the Brisbane market. It is not viable for them to do that because of the cost of coastal shipping. It puts Australian businesses out of the market and promotes the import of timber from New Zealand and other overseas countries. Here we are with a resource and perhaps some of the most efficient timber mills in the country—they are global-scale mills—but they cannot compete in the Australian market because of the cost of logistics. It is absolutely absurd.

For Bell Bay Aluminium in the north of Tasmania the cost of sending their product from Tasmania to Queensland, prior to the coastal shipping laws coming in, was $18.20 per tonne. It is now $29.70. It has gone up by over 50 per cent, yet the rate offered by a foreign vessel remains at $17.50. Where previously the local vessel was at least close to the rate of an international vessel—and the international vessel cannot work on the run with the flexibility it did before because of the absurd regulatory regime which sits in place now—it is now costing that business an extra $4 million a year, an increase of 63 per cent. Why are we doing that to Australian businesses? It is no wonder that that business is considering its future—as so many others in this country are doing.

Then there is another business, one which has had a lot of publicity in Tasmania in recent times—Simplot Australia. They have had an additional $550,000 a year added to the cost of their shipping as a result of the coastal shipping changes. They have lost markets. Again, product is coming in from overseas when it could quite reasonably be supplied out of Australia—out of Tasmania. It is not being supplied out of Australia because of the changes the Labor Party made to the coastal shipping arrangements. Why did the Labor Party make those changes? Quite simply, it was a sop to their union mates. The changes that were made were a complete and utter boondoggle. They were not necessary, they do not achieve anything—in fact they work against what they were supposed to be achieve—and they are disadvantaging Australian businesses.

The submission by the Australian Peak Shippers Association, representing companies like Sunrice and Bega, said:

When it is cheaper to buy product in New Zealand and land it in Brisbane for blending than it is to purchase the equivalent Australian raw material from Victoria and ship to Brisbane, or indeed when it is cheaper to ship product in containers from Melbourne to Singapore than it is to ship the same from Melbourne to Brisbane, it is not hard to realize that our Australian exports, who are competing with Singapore based companies for the same export market are finding it tough to do so.

It is cheaper to bring product from New Zealand to Brisbane than it is to bring it from Melbourne to Brisbane, and so Australian businesses are losing out. Another Tasmanian business that has had an additional cost to shipping because of these changes of $1 million a
year has told me that it is cheaper for them to bring the equivalent product from New Zealand to every single port in Australia except Melbourne than it is to take it from Tasmania—and they get freight equalisation from Tasmania as well. This is what the changes have done to the cost of shipping around the country.

How do I say to my businesses in Tasmania that we want them to be competitive, we want them to be conducting best practice, when the cost of their getting product off the island is so uncompetitive internationally? We have to get rid of this boondoggling. We need to do something about it. It cannot be that we are talking about a $29.70 per tonne rate for shipping from Launceston to Brisbane or to Gladstone when the international rate is $17.50. Our logistics have to be internationally competitive, otherwise all we are doing by our regulatory process is imposing cost into the supply chain that puts our businesses out of business. It makes them uncompetitive. They are losing markets. That business talked to me about their $1 million additional cost and it being cheaper to bring product from New Zealand to every port in the country except Melbourne than it is to bring it from Tasmania. It is absurd that you can bring product from another country to every port in this country cheaper than you can bring it from Tasmania. They have consequently lost markets. What does that do to their structural affordability? Of course they lose productivity, their overhead costs as a proportion of their overall business costs go up and it makes them less competitive in the market—and then they reconsider their business. That is exactly what Simplot is doing right now.

By reducing these costs we can make our own businesses here in Australia more competitive in the market. Whether you are bringing timber from South Australia to the burgeoning housing market in Brisbane, whether you are bringing dairy product from Melbourne to blend into manufactured product in Brisbane, whether you are taking vegetables from Tasmania to any port in the country or whether you are taking other products from Tasmania to any port in the country and you cannot do it cheaper than you can from New Zealand, it is absurd. It is time we made some changes to this boondoggle.

The Labor Party promised us a bigger shipping industry but we have fewer ships. We are moving less freight around the Australian coastline. We are putting our Australian businesses at a competitive disadvantage. Why do we allow this to continue? We as a government say that we want to help Tasmanian industry and business grow. One of the first things that we need to do as part of that process is get rid of the absurd regulations that provide a disincentive for competitive shipping on the Australian coastline. We need to have the most competitive services available—that is what the market ought to be doing, but it is not. In fact, the measures put in place by the previous government are hurting Australian business, they are hurting Australian industry, and they are keeping Australian business and Australian industry out of the Australian market, which is a complete absurdity. It needs to be changed.

**Goods and Services Tax**

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (13:56): I want to use this time to again highlight the real risks to Tasmania of Tony Abbott's broken promise to not change the GST. Tasmania stands to lose around $700 million if a per capita model is introduced. At a time when the state Liberal government is hell-bent on cutting 800 public sector workers out of Tasmania over the coming months, the Tasmanian people and the economy in Tasmania cannot afford any more savage Liberal cuts. It would be a $700 million cut if the GST were changed to a per capita model and that would mean job losses, on top of...
the 800 public sector workers that the current Liberal government is choosing to cut, equating to 800 doctors, 3,000 nurses, 500 allied health professionals and 100 child protection staff combined.

The member for Braddon, Mr Brett Whiteley—despite being more than happy to beat his chest in March of this year when a minor party was promoting the per capita distribution model—was alarmingly silent when his own Prime Minister put changing the GST back on the table. It is time for Mr Whiteley to come out of hiding and fight against a move that could strip the Tasmanian economy of $700 million a year. Before the election Mr Tony Abbott gave a firm commitment to the existing GST arrangements. He said:

The Coalition fully supports the existing GST arrangements. We will not change them.

But after the election Mr Abbott yet again walked away from an election commitment. Make no mistake, the threat to Tasmanian public service jobs of Tony Abbott and the Liberals fiddling around with the GST is very real. Now, more than ever, we need a strong response from the Tasmanian Liberals. The most fundamental duty of a member of parliament is to fight for the interests of the people who elected them. Mr Whiteley, the member for Braddon, now has to come out against the Prime Minister—he needs to be strong and vocal, not silent, about these repressive GST changes and ensure that the government of which he is a member does not implement changes that will affect the long-term viability of Tasmania or, if there is a change to a per capita model, he needs to ensure that we do not lose 800 doctors, 3,000 nurses, 500 allied health professionals and 100 child protection staff combined. That is too much of a risk to my state of Tasmania and we need to make sure that the representative from Braddon, Mr Whiteley, is on top of this issue and fighting against that change.

The PRESIDENT: The time for senator's statements has expired.

DISTINGUISHED VISITORS

The PRESIDENT (14:00): I inform honourable senators of the presence in the President's gallery of a delegation from Malawi, led by the Hon. Richard Msowoya, Speaker of the Malawi parliament. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Fuel Prices

Senator CAMERON (New South Wales) (14:00): My question is to the Minister for Finance, Senator Cormann. I refer to the government's petrol tax ambush and the comments by senior Liberal senator Ian Macdonald, who is totally opposed to the measure and thinks it is wrong and unfair. Is Senator Macdonald correct?

Senator CORMANN (Western Australia—Minister for Finance) (14:01): Senator Macdonald is right on very many things, but on this particular issue we happen to disagree. Guess what? On our side of the chamber individual senators are actually entitled to disagree. In the Labor Party you get thrown out. In the Labor Party, if you cross the floor against the edict of the Labor caucus, you get thrown out.

Senator Conroy interjecting—
The PRESIDENT: Pause the clock. Senator Conroy, we are only 15 seconds into the answer and you are interjecting. Please, can we have some quiet. Senator Cormann, you have the call.

Senator CORMANN: Let us be very clear about what it is the government is doing. In the budget the government announced that we would reintroduce regular indexation of the fuel excise. Indexation of the fuel excise was abolished, as senators would be aware, back in 2001. At that point, the value of the excise as a percentage of the price on fuel at the pump was worth about 42 per cent. That has fallen to 25 per cent today. The decision we made is that we wanted to preserve the real value of the excise on fuel moving forward, that the deterioration on the back of inflation of the value of the excise on fuel needed to stop. That is why we very openly and transparently set out in the budget that we would reintroduce that fuel excise indexation. That will have a modest impact on households. The typical household, using about 50 litres of fuel a week, will pay about 40c a week more for their fuel by the end of the financial year. There will be an additional cost of 40c a week for the typical household. This will enable us to make a significant additional investment in road infrastructure—job-creating, productivity-enhancing infrastructure—helping us to build a stronger, more prosperous economy so that everyone can get ahead. It will raise, in net terms, about $2.2 billion over the forward estimates, $19 billion over the next decade. If the Labor Party is opposed to it they should tell us where the money is going to come from, given that they are going to bring the budget back to surplus sooner. (Time expired)

Senator CAMERON (New South Wales) (14:03): Mr President, I ask a supplementary question. I refer again to comments by senior Liberal senator Ian Macdonald, who said the hike on the petrol tax 'increases the cost of living and is bad for people in regional Australia'. Is Senator Macdonald correct?

Senator CORMANN (Western Australia—Minister for Finance) (14:04): Senator Macdonald is an outstanding senator for the great state of Queensland. He has done an outstanding job serving the people of Queensland in this place. Of course, Senator Macdonald and I have stood shoulder to shoulder working to abolish the Labor-Green carbon tax, which was hurting people right across Australia, which was hurting people across regional Queensland, which was hurting people in regional communities right across Australia. We have taken that burden off the shoulders of families, pensioners and small businesses right across Australia.

When it comes to the excise on fuel, we have very transparently put forward the position of the government. We have explained how we are going to give effect to that position.

Opposition senators interjecting—

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

Senator Cameron: Mr President, on a point of order, I asked specifically about Senator Macdonald's comments that the petrol tax would increase the cost of living and is bad for people in regional Australia. I am simply trying to find out from the minister whether it will increase the cost of living and whether he agrees with Senator Macdonald that it is bad for people in regional Australia.

The PRESIDENT: Senator Cameron, the only question was, 'Is Senator Macdonald correct?' The minister has 15 seconds left to answer the question. If there were a bit more
quiet on my left I would be able to hear the entirety of the answer. Senator Cormann, you have the call.

Senator CORMANN: I understand the political point that Senator Cameron is trying to make. On this side of the chamber, unlike in the Labor Party, individual senators are actually entitled to their views. They are entitled to act in accordance with their views. Of course, the government have been very transparent about our views. (Time expired)

Senator CAMERON (New South Wales) (14:05): Mr President, I ask a further supplementary question. I refer again to comments by senior Liberal senator Ian Macdonald, who said that rather than hiking the petrol tax the government should abandon the Paid Parental Leave scheme. Is Senator Macdonald correct?

Senator CORMANN (Western Australia—Minister for Finance) (14:06): I have already explained the position of the government when it comes to fuel excise indexation, and our position is different to that of Senator Macdonald. But let me point out to the chamber that I am also aware of the views of a former senior Labor cabinet minister, none other than Craig Emerson. There was a time there when I could not switch on the television without Craig Emerson popping up and telling us how this is good sound economic policy, how this is a sound fiscal structural reform. There was a time when in the Labor Party there were sensible economic managers. There was a time when in the Labor Party there were some people with economic credibility. They have long gone.

The PRESIDENT: Pause the clock.

Senator Cameron: Mr President, a point of order again on relevance. I asked was Senator Macdonald correct when he said that the government should abandon the Paid Parental Leave scheme and not hike up the petrol tax?

The PRESIDENT: The minister has almost 20 seconds left to answer the question.

Senator CORMANN: The problem we have in Australia today is that Bill Shorten has not got the strength to stand up to the left of the Labor Party. People like Craig Emerson who are pursuing sensible economic policy, promoting regular indexation of the fuel excise, are right and it is time that Bill Shorten listened to them. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:08): I draw the attention of honourable senators to the presence in the chamber of the President of the German Bundestag, Professor Norbert Lammert. On behalf of all senators, I wish you a warm welcome to Australia and in particular the Senate. With the concurrence of honourable senators, I would ask that the President take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

Professor Lammert was then seated accordingly.

QUESTIONS WITHOUT NOTICE

Higher Education

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:08): My question is to the Minister for Human Services, Senator Payne, representing the Minister
for Education. Will the minister inform the Senate how the government's higher education reforms will benefit students?

Senator PAYNE (New South Wales—Minister for Human Services) (14:09): I thank Senator Ruston for her question and her interest in this issue. The government's higher education reform package will bring very significant benefits for Australian students. As we all know, no student will have to pay a cent up-front for their course and no-one will need to repay a cent until they are earning over $50,000 a year. What universities and other higher education providers will have to do is to compete for students and that will be to the benefit of students, frankly. For the first time, the Commonwealth will be supporting all Australian undergraduate students in all registered higher education institutions in their higher education diplomas, advanced diplomas and associate degrees as well as in bachelor degrees. For the first time, all of those students will be supported by the Commonwealth.

The expansion of the demand-driven system in that way will benefit over 80,000 students a year by 2018. And another 80,000 students who are studying in vocational education and training will benefit through the abolition of the 20 per cent loan fee for VET FEE-HELP. We are abolishing the 25 per cent loan fee for FEE-HELP as well which will benefit another 50,000 students. Of course, the Commonwealth scholarship scheme will provide what will be the largest scholarship support in Australia's history for students from disadvantaged backgrounds. These reforms mean that students will be able to get the education of the quality they want, a truly world-class education in the courses they want, with the support they want, at a price they are willing to pay. It is a complete mystery to me why those opposite want to deny Australian students that chance and that opportunity.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:11): Mr President, I ask a supplementary question. Could the minister further advise the Senate how supporting all Australian higher education undergraduates for the first time will benefit students?

Senator PAYNE (New South Wales—Minister for Human Services) (14:11): I think it is important to put on the record what people like Belinda Robinson, CEO of Universities Australia, have said about the reforms.

Senator Lines interjecting—

Senator PAYNE: There is a certain irony there! It is simply not possible to maintain the standards that students expect or the international reputation that Australia's university system enjoys without full fee deregulation. Senator Lines might disparage Belinda Robinson, but she knows what she is talking about in relation to universities, unlike Senator Lines. As I said earlier, under the reforms an extra 80,000 students a year will be supported by the Commonwealth. In supporting all students in higher education diplomas, advanced diplomas and associate degrees for the first time, we will be supporting students in pathways into higher education and in courses that will actually provide them with skills for jobs. Those pathways will equip students to do well at university and reduce the dropout rates. (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:12): Mr President, I ask a further supplementary question. Will the minister advise the Senate how Commonwealth scholarships will benefit students?

Senator Kim Carr interjecting—
Senator Ronaldson interjecting—

Senator PAYNE (New South Wales—Minister for Human Services) (14:12): Mr President, the clock.

The PRESIDENT: Order on both sides! Minister, you have the call.

Senator PAYNE: I thank Senator Ruston again for the question in relation to the scholarships. The reforms will require higher education institutions to spend one dollar in every $5 of additional revenue on Commonwealth scholarships to help disadvantaged students. It will be the largest scholarship support for students in Australian history and it can be used for fees or to cover living costs for students. For example, the University of Sydney has announced that with fees at less than half what those opposite have been saying, they will offer scholarships for a third of their undergraduates. This will increase the number of students with scholarships at the University of Sydney from 700 to 9,000—at one university alone and those opposite will not support it. They will not allow the students to win those scholarships. They will not allow students to get the sorts of opportunities that they think should be given to a privileged few who are now not all supported by the Commonwealth. That is their position and it will fail. (Time expired)

Australian Defence Force

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:14): My question is to the Minister for Defence. I refer the minister to reports that Australian soldiers in the Middle East have condemned the government's offer of a real pay cut to ADF personnel, with a senior non-commissioned officer saying: 'No change would have been better. [Expletive deleted] pay decrease more like it.' Given that the minister told the Senate yesterday that 'We're not cutting the pay of ADF personnel' who is correct, the front-line soldier or the minister?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:15): I must say, I am very pleased with this question. At estimates last week we glossed over what is a very important subject that was dealt with very parsimoniously, may I say, by a thoroughly disinterested shadow minister.

A government senator: He didn't even turn up!

Senator Conroy: Ten pages of Hansard!

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator JOHNSTON: The fact Senator Conroy would not want to come to terms with is that for the first time in six years the Australian government has put proper resourcing on the table for the Defence portfolio, with a view to rebuilding—particularly the capital account that was so viciously savaged by the incompetence of the last government. What the CDF—if the senator had the capacity to understand the way the Defence Force Remuneration Tribunal works—has sought to do is balance his budget in confronting a number of significant challenges—

Senator Conroy: Is a frontline soldier right, or are you?

Senator JOHNSTON: given that Labor took Defence as a share of GDP down to 1.56 per cent—
The PRESIDENT: Pause the clock.

Senator Moore: Mr President, a point of order on direct relevance: Senator Conroy’s question was about the quantum of the pay rise and whether the serving soldier was correct or the minister in his statement.

The PRESIDENT: I have noticed, in recent days, when questions are being asked in relation to who is correct, a context has to be put around that. The minister is putting context around that question. In relation to that context, he is addressing the material parts of the question.

Senator Wong: Mr President, on the point of order: I would respectfully—

Senator Ian Macdonald interjecting—

The PRESIDENT: Order! Senator Macdonald; I will determine that.

Senator Wong: Thank you, and I appreciate the leniency from the chair, Mr President.

A government senator: Indulgence!

Senator Wong: Indulgence—whatever you would like me to call it.

A government senator interjecting—

The PRESIDENT: Order, please!

Senator Wong: You are so gracious, aren’t you? Mr President, I understand the point that you have made. I would ask you to consider whether or not a reference to the capital account, which has nothing to do with wages, a reference to Defence expenditure as a share of GDP, which is not about wages, can possibly be appropriate context to a question about whether or not a front-line soldier or the minister is correct on wage cuts.

The PRESIDENT: Thank you, Senator Wong. They are not matters for me to determine. I am here to facilitate the questions—

Senator Wong interjecting—

The PRESIDENT: Order! Senator Wong, you are reflecting on the chair at the moment.

Senator Wong interjecting—

The PRESIDENT: If you want me to explain, you have to listen and not constantly interject. Context has to be given to the answer of a question. It is not for me to determine the exact nature or the detail of the context. The mere fact is the minister has been, in my view, relevant to the question. The question had a lot of preamble, in relation to that question, with references. The minister has been referring to those references that I heard in the question. Minister, you have the call.

Senator JOHNSTON: As I was saying, what the CDF has had to confront in this very difficult financial, challenging time is that his budget was taken down to 1.56 per cent of GDP. The last time it was there was 1938.

Senator Conroy interjecting—

Senator JOHNSTON: The shadow minister does not understand the way the system works, because if he did he would know the decision has been reserved. There has been no decision.

Senator Conroy: Ten pages of Hansard! It’s your policy.
Senator JOHNSTON: So getting up and saying there is a cut discloses that you are continually dripping in ignorance.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:19): Mr President, I have a supplementary question. I refer the minister to Senate estimates last week. When asked whether the new ADF pay deal was fair, the minister answered, 'Yes, it is.' Given the concerns of front-line soldiers, does the minister stand by his statement at Senate estimates?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:19): In the context of the financial mess that was bequeathed to us by the most incompetent financial managers this country has ever seen, I have got to say, what the Abbot government does with finance today is almost a modern miracle, given where we have come from. Below base trajectory to $666 billion worth of debt—

Senator Conroy: Paid cuts!

Senator JOHNSTON: This minister alone has wasted $30 billion. He is a gold-medal prospect in financial Olympic mismanagement. There he has the audacity to jump up and ask me a question about the way we run and try to repair Defence budgets—when they savaged it, attacked it, ripped it off and treated Defence with utter contempt.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:20): Mr President, I have a further supplementary question. I refer the minister to the Returned and Services League national president, who said the RSL is 'very disappointed' with the measly ADF pay offer. Given that serving front-line soldiers are outraged by the pay decrease and the RSL are against it, when will the minister use his powers, under section 58B of the Defence Act, to intervene and get a better deal for ADF personnel?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:21): If you were to look at section 58H you would know that I have no powers. But, of course, you cannot even read the statute. Worse than that, I know what the head of the RSL said about the notes he gave you to ask the questions at Senate estimates and, may I say, he is extremely disappointed!

Senator Cameron: You've got the weakest bunch ever. What a joke!

Senator Back interjecting—

The PRESIDENT: Order! Senator Cameron and Senator Back.

Indigenous Employment

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:22): My question is to the Minister for Indigenous Affairs, Senator Scullion. It relates to reports today that unemployed Aboriginal people in remote communities will be subjected to harsher employment participation requirements and work-for-the-dole requirements. My question is: will sanctions and mutual obligations on unemployed Aboriginal people in remote areas be different to sanctions and obligations on other unemployed Australians? If so, what are the differences and what will the sanctions be?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:22): I am aware of the reports this morning, Senator, in the media. What I can say is that we are working to ensure that people of working age who are
able to work are working, and preferably for a wage. Getting people into work, as you would be aware, is one of this government's top priorities in Indigenous affairs, along with getting children to school and ensuring that communities are safe.

We need to ensure that job seekers in remote Australia are work ready and able to secure jobs. I will just touch on the fundamental element, which was: would we be treating Aboriginal people differently from any other Australian? Certainly we have not made decisions with regard to all of this, but on that particular point, no.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:23): I have a supplementary question. If you are not going to be treating Aboriginal people differently, does that mean you are going to be increasing the sanctions placed on all unemployed Australians? Are you going to be increasing the mutual obligations on all unemployed Australians, and are you going to be increasing the work-for-the-dole requirements beyond what has already been included in the release of the new employment participation process?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:24): All of those questions go to matters that are being actively considered by the government at this stage. The government will be making some announcements in regard to all of those questions in the future.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:24): I have a final supplementary question for the minister, following up on an issue with respect to the RJCP process. The difference between the employment outcomes for 13 weeks and 26 weeks is substantial. Has the minister looked into the reasons for that difference?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:24): When we assumed office most people recognised, I suspect, that it was for reasons of the speed under which the previous government attempted to implement RJCP. In some cases there was less than a week to implement the entire contract, get staff and get cars. It was very difficult to do that, and I think they had some 277 26-week outcomes for their investment.

We have significantly improved that; there is no doubt about that. There is no doubt that to achieve a 13-week outcome is, one would think, a lot easier to achieve than a 26-week outcome, but fundamentally the system failed to engage for 26 weeks because it simply was not a system that had the capacity to engage for that period of time. The system has been more focused on doing interviews then delivering outcomes.

Building and Construction Industry

Senator McKENZIE (Victoria) (14:25): My question is to the Minister for Employment, Senator Abetz, and relates to the government's intention to re-establish the Australian Building and Construction Commission. Can the minister advise the Senate how the proposed compulsory examination powers of a re-established ABCC compare with equivalent powers of other government agencies?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:26): I thank Senator McKenzie for her question. The proposed compulsory examination powers of the Australian Building and Construction Commission are both reasonable and employed by a broad range of government agencies such as the Australian Competition and Consumer...
Commission, the Australian Prudential Regulatory Authority, the Australian Securities and Investment Commission, the Australian Taxation Office, Centrelink and Medicare. All of them had these powers to compulsorily examine witnesses throughout Labor's government over the past six years.

In almost every respect the existing powers of these agencies are comparable to, if not stronger, than those proposed for the ABCC. For example, the ABCC would not be permitted to exercise its powers unless it 'had reasonable belief relating to a specific investigation'. In contrast, ASIC only needs a reasonable suspicion that relates to an anticipated investigation. Examination notices issued by the ABCC must provide at least 14 days written notice, whereas ASIC may lawfully exercise its powers without a single day's notice.

On penalties, if a person fails to comply with a notice issued by the ABCC the penalty is potentially six months imprisonment. With ASIC it is up to 24 months imprisonment and a maximum fine of $17,000. It is worth noting that the ABCC would be the only government agency of those previously mentioned, where the right to have a lawyer is expressly included in the legislation. Together with conduct money—(Time expired)

Senator Lines: How generous of you!

Senator ABETZ: This shows the very tempered approach we have taken.

Senator McKenzie (Victoria) (14:28): I have a supplementary question. Will the minister inform the Senate why it is necessary for a re-established ABCC to be vested with these compulsory examination powers?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:28): As Senator McKenzie might be aware, it is important that these powers be granted to the ABCC. One example is a flyer being distributed on building sites by the CFMEU, which I seek to table. According to the flyer distributed by the patron union of the Victorian Leader of the Opposition, 'If FWBC inspectors come to your site, don’t approach or talk to them, don’t take part in an interview. Your employer cannot direct you to take part in an interview.' It is totally unacceptable that under the weakened laws introduced by Labor the CFMEU are actively obstructing FWBC investigations into serious and unlawful industrial activity.

Senator Lines interjects and says: 'What's the matter with that advice?' Every single responsible Australian citizen has a responsibility to co-operate with the law enforcement agencies of this country—(Time expired)

The PRESIDENT: Minister Abetz, were you tabling a document?

Senator ABETZ: Yes, I was. Thank you.

Senator McKenzie (Victoria) (14:29): Mr President, I ask a further supplementary question. Is the minister aware of any misinformation being propagated about the proposed compulsory examination powers? If so, what is the government's response to those claims?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:30): I am regrettably aware of deliberate misrepresentation that the ABCC will have the power to drag innocent witnesses off the street and into secretive interviews. This is simply untrue, false, incorrect. The ABCC will be required to issue a written notice at least 14 days in advance
setting out the time, place and manner in which the examination will take place, with the 
ability to have a lawyer present. A transcript and video recording of the examination will then 
be provided with a report to the Commonwealth ombudsman for oversight. These safeguards 
will ensure public transparency and accountability and give the community confidence in the 
work that the ABCC—

**Senator Williams:** Mr President, I rise on a point of order. I am trying to hear the answer 
to my colleague Senator Bridget McKenzie's question and all I am getting is double-dutch, or 
'double-scotch', from Senator Cameron over there—

**The PRESIDENT:** Thank you, Senator Williams. Could I ask senators on all sides to 
respect the answer and respect the question that has been asked.

**Senator ABETZ:** I do sympathise with Senator Williams, because Senator Cameron was 
chief defence counsel for all the corrupt activities of the CFMEU during Senate estimates.

**The PRESIDENT:** Pause the clock.

**Senator Cameron:** Mr President, I rise on a point of order. Senator Abetz should 
withdraw that. That is a reflection that is completely untrue.

**The PRESIDENT:** Senator Abetz, it would assist the chamber if you did withdraw.

**Senator ABETZ:** Mr President, we have two choices, if I may, on the point of order. We 
have two choices here: one, Senator Cameron objects to being called defence counsel, and I 
am happy to withdraw that—

**The PRESIDENT:** No, you cannot debate this, Senator Abetz.

**Senator ABETZ:** but, in relation to corrupt activity of the CFMEU, I will not withdraw.

**The PRESIDENT:** Senator Abetz, I will not entertain a debate on that issue. Senator 
Abetz, it would assist the chamber if you withdrew the remark concerning Senator Cameron 
and continue with your answer.

**Senator ABETZ:** Mr President, in that case, I will withdraw the comment that Senator 
Cameron was the chief defence counsel at the Senate estimates. Mr President, let me make no 
apology for saying that the CFMEU is a corrupt organisation.

**The PRESIDENT:** Order! Senator Moore, are you raising a point of order?

**Senator Moore:** Yes, Mr President. I will cede to Senator Wong.

**Senator WONG:** Mr President, I rise on a point of order. As I understand, the imputation 
that is problematic and which ought be withdrawn is the suggestion of corruption on behalf of 
Senator Cameron.

**Senator ABETZ:** No—

**Senator Wong:** Rather than engaging in 'he said, she said', perhaps if there were any such 
inference that could be withdrawn.

**The PRESIDENT:** Thank you, Senator Wong. What has not assisted is that, every time I 
have attempted to ask Senator Abetz to consider the comment and that it would assist the 
chamber if he withdrew, the cacophony of noise coming from—

*Senator Conroy interjecting—*
The PRESIDENT: Order, Senator Conroy! This is half the problem. Have some respect for the chamber and have some respect for the chair. That goes to all sides. The Senate is deteriorating, sadly, into a state where we cannot have a question asked or an answer given without constant interjections. It is becoming an embarrassment, quite frankly.

Senator Wong interjecting—

The PRESIDENT: Order, Senator Wong! That applies to everyone at the moment. Senator Abetz, I did ask, and I would respect it, if you could at least accede to my request of withdrawing. It would assist the chamber in this space at this time. You have four seconds remaining to continue to answer the question.

Senator ABETZ: I withdraw.

The PRESIDENT: Thank you, Senator Abetz.

Senator ABETZ: I restate: the CFMEU is a corrupt body and Senator Cameron went to their defence at Senate estimates. (Time expired)

Defence Procurement

Senator GALLACHER (South Australia) (14:35): My question is to the Minister for Defence, Senator Johnston. I refer the minister to evidence given to the Senate by submarine expert and retired Commodore, Paul Greenfield, who said:

An Australian build should be no more expensive than an overseas build. The sail away cost of $20 billion for 12 submarines built in Australia is entirely feasible.

Given that the Senate has also heard evidence that it is possible to undertake the competitive tender process and avoid a capability gap, will the minister now commit to one?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:36): This is a very complex program, a complex project, that has fallen completely into disrepair over the last six years. It went before NSC in 2008. There were promises given. The former Labor government promised in 2007 that there would be, in fact, a first pass for 12 submarines in 2011. Where does that failure leave us? Prime Minister Gillard in 2012 said there would be a first pass in 2013-14. Guess what—nothing happened. Labor promised a decision for a land based test site for submarine propulsion by 2012. Guess what—nothing happened. The fact is that, for the last six years, your state, which prides itself as being a defence state, has sat on its hands, grizzling and whingeing about what this government might do, but has said nothing for six years. When you were in government you said nothing about submarines. Indeed, all of your South Australian colleagues just sat there. All you could mouth was: '12 submarines for Adelaide.' Walt Disney himself could not have come up with a submarine to fit the bill that you designed in 2009. When I was down in Adelaide talking about what we wanted to do with submarines, I said—and if you want to read it, you can see it—'Unless the options put on the table by the then minister were fantasy, we would go with the work that I perceived that he had honestly done'. He had done no work, and you shut up about it. You never said a word. (Time expired)

Senator GALLACHER (South Australia) (14:38): Mr President, I ask a supplementary question. I refer the minister to Mr Mark Thomson of the Australian Strategic Policy Institute, ASPI, who said, 'competition gives you the ability to negotiate the best price, ensures you get the submarine you need with the best technologies we can afford and also enables you to get
the best on-through life-support.' Why is the minister ignoring industry and defence experts when it comes to such a vital defence acquisition?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:38): The simple answer is that I am struggling to work out what technology we need, because you did no work. After six years, I do not have a contract; I do not have an obligation. I showed you the design yesterday of Labor's new submarine—a beautiful blank piece of paper. That is what you have bequeathed to us. When you had your inquiry, you just wanted to ignore the words of Rear Admiral Sammut, a very skilled engineer and submariner, and the words of Warren King. He said that we are now in a critical point of time in the submarine program due to the lengthy processes that are still yet to commence. That is Warren King, the head of the DMO. I do not care what you say or do to me, but the fact is that you did nothing. You should take some responsibility and be honest about it.

Senator GALLACHER (South Australia) (14:39): Mr President, I ask a further supplementary question. I refer the minister to the better-late-than-never intervention of his colleagues Senator Edwards, Senator Ruston and Senator Fawcett, who have joined Labor's call to hold a competitive tender process for Australia's future submarines. If the minister will not listen to the experts and will not listen to the industry, will he at least listen to his Liberal colleagues and commit to a competitive tender for our future submarines?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:40): I am glad you have raised my Liberal colleagues from South Australia, because they have been most supportive and helpful in taking this program forward in a sensible and proper way. They understand and have been talking to me about the need to progress submarines in Australia. You and all of your South Australian senators just sat there for six years doing nothing. My colleagues are saying—

Opposition senators interjecting—

The PRESIDENT: Order! I just want to point out that all remarks both with the question and certainly with the answer must be directed to the chair, not across the chamber.

Senator JOHNSTON: My colleagues have been extremely supportive of the action we have undertaken, given that we are starting from zero. We are starting from zero—and, of course, you never ask the right questions. Submarines are a hot topic; how many submarines questions were asked at estimates last Wednesday? I think you will find very close to a round number before one! That is how concerned you people are over there.

Defence Procurement

Senator XENOPHON (South Australia) (14:41): My question is to the Minister for Defence. Will the minister confirm that a decision on the future submarine project will be announced within a month? Will this involve a genuine competitive tender process for a short list of qualified tenderers, including the local build, or will it be, as many defence industry experts fear, a Clayton's tender process? Furthermore, will the minister ensure an independent expert review of any tender process and evaluation criteria? Will the basis of any final selection be transparent to the Australian defence industry and to Australian taxpayers?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:42): I can firstly say, thank you for that question. I acknowledge and respect your interest in this subject as a senator coming from South Australia, where we do most of our submarine sustainment. Bear
in mind that for almost 20 years we have not built a submarine but we do all of our sustainment there. I can assure you that the process of first and second pass, with respect to the program, will be adhered to. I can also assure you that everything this government does on such an important acquisition will be completely transparent. Bear in mind, through you, Mr President, that, when we talk about sovereign submarine capability, we are talking about things that are national-security sensitive. Any government of any colour is quite restricted in what it can say about the capability, but in terms of cost, process, acquisition process, I will be as transparent as I possibly can be as we go through building up from a very low base of activity to a process where we have a way forward, which should have been done many years ago. Bear in mind some of the considerations in the process are that the Collins class submarine, after 2025, becomes extremely expensive to sustain and maintain. That is the legacy—

Senator Xenophon: Mr President, I rise on a point of order regarding relevance. The primary question I asked was: 'Will the decision be announced within a month?'

The President: Senator Xenophon, there were five elements to your question. The minister is being relevant, and he has been answering portions of those questions you have asked.

Senator Johnston: In drawing all of the loose ends together that have been bequeathed to us by the most incompetent government we have ever known, it is very difficult for me to tell you in the minutiae when certain announcements will come forward. Let me say that, ultimately, it will be a very transparent first- and second-pass process. *(Time expired)*

Senator Xenophon (South Australia) (14:44): Mr President, I ask a supplementary question. Does the minister agree with one of the most credible and experienced designers and builders of submarines worldwide, TKMS, which says that there is enough time for a competitive project definition study and build in Australia before the Collins class fleet needs replacing? Has the minister received advice to this effect from TKMS? And does the minister agree with Dr John White, who says that there is enough time for such a competitive study?

Senator Johnston (Western Australia—Minister for Defence) (14:44): There are a number of people who say a lot of different things. I am listening to people who are experienced in complex defence capability acquisition. The CEO of the DMO, Warren King, has given evidence to the Economics References Committee, and Rear Admiral Sammut has given evidence as to how time critical the situation is now. TKMS is a very successful submarine designer, builder and exporter—probably the world's largest. The biggest submarine they build is just over 2,000 submerged tons. The fact of the matter is that we need almost double that size. There is a problem with promises made out there in the ether, where there is no accountability.

Senator Xenophon (South Australia) (14:46): Mr President, I ask a further supplementary question. I refer to the 2013 tender of some $460,000 awarded to Macroeconomics.Com.Au Pty Ltd on the economic impact of building submarines here in Australia, which was due on 11 June 2014, according to the tender documents. Will the minister immediately release any reports, including draft reports, as a result of this tender?
Senator JOHNSTON (Western Australia—Minister for Defence) (14:46): I am not familiar with that report.

Senator Xenophon interjecting—

Senator JOHNSTON: Yes, that is right, and I think you will find that it is a report—

The PRESIDENT: Minister, Senator Xenophon: to the chair, thank you. You have asked your question, Senator Xenophon. Minister— to the chair.

Senator JOHNSTON: To the extent that I can assist the Senator, I will make inquiries for him, and I will come back to him regarding the proprieties and probity around that particular report, given that it was I think tendered for and conducted by the previous government. I will say to you, as I have already said, that this very complex program—and we will at some stage talk about the dollars that were involved, particularly in out-turn terms—is one that this government is very focused on. But we have a long way to go on so many of these fronts, because nothing has been done.

Economic Competitiveness

Senator LEYONHJELM (New South Wales) (14:47): My question is to the Minister for Finance and Assistant Treasurer. As part of its competitiveness agenda, the government recently announced industry assistance of $188 million for five industries that the government considers to be promising. The government stated that this will assist businesses with winning strategies in these five industries. Can the minister explain the difference between funding winning businesses within promising industries and the discredited practice of picking winners? Can the minister outline the share of the economy that these five industries currently represent and explain whether the government wants or expects this share to increase? Finally, can the minister explain why spending $188 million of borrowed money on five industries is better than paying off $188 million of debt?

Senator CORMANN (Western Australia—Minister for Finance) (14:48): I thank Senator Leyonhjelm for that question. I can assure Senator Leyonhjelm and the Senate that this government is working very hard to build a stronger, more prosperous economy where everyone can get ahead. The industry and competitiveness agenda that Senator Leyonhjelm refers to is an essential part of that agenda. Senator Leyonhjelm would be well aware that unlike the previous government this government does not pick individual winners. When it comes to industry policy we have been very clear not to use taxpayers’ money to help one business compete with another business. These are the decisions we have made consistently in the 12 months or so that we have been the government of Australia.

However, we have also said—unashamedly—that there are sectors of the economy that we believe are going to be central to economic growth across Australia into the future, and those are the areas we identified in the lead-up to the last election: obviously our energy and resources sector, obviously our manufacturing sector, obviously our agricultural sector, obviously our services sector. So, through the industry and competitiveness agenda we are unashamedly providing support in a strategic and well-targeted way to assist and to facilitate. This government understands that it is not the government itself that is creating jobs. We understand that it is up to the government to create the environment within which the private sector, within which individual Australians and within which individual businesses across Australia ought to be encouraged to be as successful as they possibly can be. Under the
previous government, whenever somebody was successful there was the suspicion that they must have done something wrong and the idea that the government must go after them with either more new taxes or more new red tape. This government encourages individual Australians to be as successful as they can be. *(Time expired)*

**Senator LEYONHJELM** (New South Wales) (14:50): Mr President, I ask a supplementary question. Also in the government's competitiveness agenda is a call to reduce debt and deficits. I note that maximising returns on government financial investments will help to reduce debt and deficits, whereas adopting ethical investing criteria will not. Under an act you administer, Commonwealth entities are required to inform ministers of significant decisions. In this context, do you consider a Commonwealth entity's decision to adopt ethical investing criteria to be a significant decision?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:51): Firstly, Senator Leyonhjelm is absolutely right: we are totally focused on dealing with the debt and deficit disaster that we have inherited from the previous government, because we believe that we have a responsibility to our children and grandchildren to leave our country in a stronger and better position than we found it in and with better prospects. The previous government, having inherited a very strong fiscal position, having inherited a position with no government net debt—a $20 billion surplus, money in the bank, more than $1 billion—

*The PRESIDENT:* Pause the clock.

**Senator Leyonhjelm:** Mr President, a point of order: the specific question was, do you consider a Commonwealth entity's decision to adopt ethical investing criteria to be a significant decision?

*The PRESIDENT:* The minister has about half of his time to answer the question. I draw the minister's attention to the question.

**Senator CORMANN:** Of course, the question also went to maximising the return for the Commonwealth from its investments. The point I was about to make was that, in the last year of the Howard government, the federal government was collecting more than $1 billion in net interest payments, on the back of a positive net asset position, whereas, of course, now we have to pay more than $1.2 billion in debt interest to service the debt that Labor left behind. Of course, we would absolutely expect every one of the Commonwealth organisations to invest, to maximise return, and these are important decisions. *(Time expired)*

**Senator LEYONHJELM** (New South Wales) (14:52): Mr President, I ask a further supplementary question. An action to come under the government's competitiveness agenda is a Productivity Commission inquiry into Australia's workplace relations framework. Does the Productivity Commission currently have room in its schedule to commence this inquiry?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:52): Again, I thank Senator Leyonhjelm for his question. The answer: absolutely. The government, of course—the Treasurer, in particular—has the capacity to make these sorts of referrals to the Productivity Commission from time to time. Obviously, the Productivity Commission will make room to respond to these referrals as is appropriate.
Minister for Defence

Senator STERLE (Western Australia) (14:53): My question is to the Minister for Defence. I refer the minister to comments by the Assistant Minister for Defence on the ABC’s Q&A program, where he said, and I quote:
I just run the department. … I just make Defence actually work.

Given that the Prime Minister's office is making all of the decisions on Australia's future submarine project, the Defence minister was overruled on his preferred candidates to write the Defence white paper, he has had staff imposed on him by the Prime Minister's office, the minister has refused to intervene about the new pay deal for ADF personnel that cuts their wages and he is continually being undermined by his senior cabinet colleagues, Minister, who is actually running the Defence department? And who is making it work?

The PRESIDENT: The Minister for Defence, Senator Johnston, could answer elements of that question that are directly relevant to his portfolio.

Senator JOHNSTON (Western Australia—Minister for Defence) (14:54): Thank you, Mr President. Let me just go through some of the things that we have done, in stark contrast to the mess that we inherited: 58 Joint Strike Fighters; eight P-8 surveillance aircraft; managed a shortage in replenishment ships; and got submarines back into the water. I have had something like 35 bilaterals regionally with my colleagues. I have been to the Middle East several times to assist us to get into Iraq.

Opposition senators interjecting—

Senator JOHNSTON: Oh, they do not want to hear the facts, Mr President. They do not want to hear what we have been doing.

The PRESIDENT: Order!

Senator JOHNSTON: And, of course, then we have taken the share of GDP for the Defence budget from 1.56 per cent—as I have said, the lowest since 1938—to 1.8 per cent in one budget. Of course, $14 billion was ripped out in the years previous to us coming to power. We have sought to repair that and have a funding envelope that projects Defence forward. These are things that they over there, Mr President, do not understand. We have been assiduously working to repair the damage that they did to Defence.

Opposition senators interjecting—

Senator JOHNSTON: You can roll your eyes! May I say, Mr President, Senate estimates has become just a doddle for the shadow minister. There was not a single bit of pressure put on the department. I really think that, if none of us had turned up, it might have been more fruitful than wasting a day with the senator over there. The fact is: Defence is back on the road after being devastated by you. I do not want to take the credit for it, but we over here take the credit for it, because we are a government that knows what good government looks like.

Senator STERLE (Western Australia) (14:56): Mr President, I ask a supplementary question. I refer to Senate estimates when the defence minister said he did not attend a National Security Committee meeting because he—and I quote—'was not going to add much'. Can the minister confirm that his inability to add much is also the view of his fellow members of the NSC?
The PRESIDENT: Senator Sterle, I am going to give you the opportunity to reword your question. That was a reflection upon the minister.

Senator Conroy interjecting—

The PRESIDENT: Order! It was a reflection on the minister. It does not just have to be words; it can be the way it is implied and given in the question. So, Senator Sterle, you have the opportunity to reword your supplementary question.

Senator Wong: On a point of order, Mr President, perhaps to seek some guidance. The quote that Senator Sterle put to the minister is a quote of the minister. I am not sure which bit you would like us to reword. Perhaps we could get some guidance from the chair.

The PRESIDENT: It was not the quote; that is on the record. It was the way he phrased the question. It impugned upon the minister. Senator Sterle, you can ask the question.

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy, I do not need your assistance.

Senator Sterle: I will start with the quote from the minister, in Senate estimates, when he said he did attend the national security meeting when he was asked. And in his words, he answered—because I was in the room, Mr President—that he 'was not going to add much'. I just want to confirm if that is the opinion of the rest of his committee, the NSC. There is nothing hard about that.

The PRESIDENT: In that case, your question is out of order because he cannot give an opinion of someone else's opinion. The question is out of order, Senator Sterle. Do you have a final supplementary question?

Senator Sterle (Western Australia): Mr President, I ask a further supplementary question. Why can't the minister add much to national security meetings?

The PRESIDENT: That is in order, Senator Sterle.

Senator Johnston (Western Australia—Minister for Defence): I do appreciate the opportunity to answer, Senator Sterle. The fact is: I knew the subject matter before the National Security Committee. They did not bear directly upon my portfolio. But the point is this: we show respect to a committee of this chamber and Senate estimates is a very, very important part of the process. And I take it seriously. That is why I turned up to Senate estimates. I take it seriously; I have always taken it seriously. It was very clear to me that when your former Prime Minister sent her bodyguard to Senate estimates she did not take it seriously. We all take it seriously over here, in stark contrast to the political nonsense and game you think this really is.

Senator Conroy: There is a further supplementary.

The PRESIDENT: I ruled the first supplementary out of order, so you had your final.

Senator Conroy: You gave him a chance to reword—

The PRESIDENT: He did, and I ruled it out of order. Senator Conroy, are you reflecting on the chair again?

Senator Conroy: You invited him to reword it, and he did.

Senator Sterle: I reworded it.

The PRESIDENT: Order! And I ruled the question out of order.
Senator Conroy: Then he reworded it again.

The PRESIDENT: No, then he asked a supplementary question. He got the chance to reword it once. I am not going to argue about this.

Aged Care

Senator SMITH (Western Australia) (15:00): My question is to the Assistant Minister for Social Services, Senator Fifield. Will the minister update the Senate on what the government is doing—

Opposition senators interjecting—

The PRESIDENT: Order on my left! The Assistant Minister for Social Services, Manager of Government Business, Senator Fifield.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:00): I thank Senator Smith for his question. I am pleased to inform the Senate that from 1 July the My Aged Care gateway will become the single entry point to Australia's aged-care system, making it easier for older Australians to access aged-care services. In particular, one of the major changes to the My Aged Care service from 1 July is the introduction of the regional assessment service, or the RAS. The RAS will provide assessments of the home support needs of older Australians. It is going to help them to locate and access the services that they need to help them remain living at home. For the very first time older Australians will know that their needs are being independently assessed. It is important that by separating assessment from service provision we are ensuring that older Australians are being assessed for what they need rather than just for the services that a particular provider can give them. This separation is consistent with the best practice for government services outlined in the Harper review.

The current process for assessments is a little fragmented, with several hundred organisations providing assessments which are often limited to the services that they themselves deliver. The RAS is going to help ensure that the services received correspond to the needs of an individual and that they are not limited by the scope of that particular service provider. This change will ensure that there is a consistent nationwide approach across the country. These new regional assessment arrangements will make it easier for older Australians to access the services and information that they need to help them remain at home for longer.

Senator SMITH (Western Australia) (15:02): Mr President, I ask a supplementary question. Will the minister advise the Senate how this change will affect organisations currently providing assessments for the Home and Community Care program?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:02): To establish the RAS, the government is opening a competitive tender process for organisations to deliver assessments for people seeking aged-care support at home. Organisations who successfully tender will form part of the nationwide network that I mentioned that will be undertaking face-to-face assessments of older people. They will then make a referral to locally available services that best suit the individual's needs. Service providers who currently receive funding to provide assessments are encouraged to consider submitting an application to deliver services under the RAS. Organisations can apply individually or as part of a consortium to deliver services across the
region, and local and specialist organisations such as those that support culturally and
linguistically diverse and Indigenous communities are encouraged to apply as part of a larger
consortium. The Department of Social Services is writing to relevant service providers
outlining the process for the establishment of the RAS. (Time expired)

Senator SMITH (Western Australia) (15:03): Mr President, I ask a further supplementary
question. Will the minister advise the Senate what services are now available for older
Australians and their families to access through the My Aged Care gateway?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and
Assistant Minister for Social Services) (15:04): The gateway is becoming the single entry
point to Australia's aged-care system. This is going to make it easier to navigate for older
people and their families, and crucially it is going to make it easier for older people to access
the aged-care services they need. Older Australians considering their options can now visit the
My Aged Care website to find out services available in their area and the price of
accommodation at their local residential aged-care facilities. Importantly, they can also access
a fee estimator in which they can plug in their assets and their income and receive an estimate
of what fees they may be asked to pay in residential aged care. This is on top of accessing
assessment services from the RAS, and all these services can also be accessed by calling the
national call centre. Bringing these services together will make the system much easier to
navigate for older Australians, helping them to access the care that they need when they need
it. It is important that, at that stage of life, we make things as easy as we possibly can.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Fuel Prices

Senator CAMERON (New South Wales) (15:05): I move:

That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a
question without notice asked by Senator Cameron today relating to indexation of fuel excise.

When will the lies stop? When will this government ever stop lying to the Australian
public? This is a government that came to power based on lies. In November 2013 we had lie-
athons from this government. It was lie after lie after lie. They barefacedly said that there
would be no increases in tax. They said that there would be no cuts to health. They said that
there would be no cuts to education. They said the pension would remain untouched. On and
on it went. Yet what do we have? Every one of those positions has been turned around by this
government.

Now we move on to petrol. Can you all remember the then Leader of the Opposition
standing, pouring the petrol, in a western suburbs petrol station, bemoaning the price of petrol
and blaming the then government for the price of petrol? Now all that has changed, and it is
the Prime Minister putting a tax hike on petrol for ordinary Australians.

Senator Ian Macdonald is one of the longest serving senators in this chamber. He is a
senator who I do not have much agreement with on too many issues. But on this issue of the
petrol tax, Senator Macdonald, we are as one, because I agree with you, Senator Macdonald,
that this tax is wrong and unfair. And I agree that this tax will increase the cost of living and it
is bad for people in regional Australia. This is not the Labor Party that is saying these things.
This is one of the most senior and experienced Liberal senators in this chamber.
Senator Ian Macdonald: Get on with something important!

Senator CAMERON: No wonder Senator Macdonald wants to interject, because he knows that what he has said goes to the heart of the problems with this government.

It is not just about what Senator Macdonald says; it is about the issues that it splits wide open—No. 1: the opposition and division in this government. There is division in this government over the attacks on ordinary working Australians, and now some of them are beginning to realise that you just cannot assault ordinary Australians, day in and day out, without repercussions. I think Senator Macdonald is picking up on that point.

Senator Macdonald goes on to say that, rather than hike the petrol tax, the government should abandon the Paid Parental Leave scheme—the Paid Parental Leave scheme that is going to cost $5.5 billion and which will give benefits to some of the wealthiest people in this country.

What this government does is to lie to the Australian people—and now we have Senator Macdonald exposing the lies. We have Senator Macdonald joining with the Labor Party to expose the lies. We see the lies laid bare. So we see that this government cannot be trusted. It cannot be trusted on anything it says. It cannot be trusted whenever it makes a promise. It cannot be trusted when it comes and says anything in parliament because this is a government that has been brought to power based on lies, and it is a government that continues to lie. So the issues are about lies and the issues are about trust. It is a government that cannot be trusted. It is a government that lied its way to power, and it is a government that continues to lie—‘untrustworthy’ is the word. (Time expired)

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (15:11): It is always a pleasure to follow Senator Cameron in a debate after question time. However, I got the sense that Senator Cameron’s heart was not quite in it this afternoon. I got the sense that there was a touch of mock outrage, because I think back to the days when we were on the other side of the chamber, and I recall the days when Senator Cameron voted for higher fuel taxes. I recall the days when Senator Cameron voted for a carbon tax that was going to include transport fuels. I recall those days in the first debate over the CPRS. I recall those days when Labor breached its profound commitment to the Australian people and voted to impose a carbon tax at the behest of the fringe Greens in the corner of this chamber. So Senator Cameron did not quite have his heart in attacking the government over this today.

Just once, I am sure all my Liberal and National colleagues would enjoy coming to office and not having to fix a mess inherited from the Labor Party. Just once, we would like to come to office and find the pot of gold that Labor always seems to find upon arriving in office. Just once we would like to come to office and, rather than giving the electorate the truth—the bad news—about the mess that has been inherited and the sacrifices that will need to be made, we would like to have a little bit of money in the kitty to undertake a few new initiatives.

In my short period of being involved in politics, I saw the Kennett government elected in 1992 with the disaster that was bequeathed them by Victorian Labor run by Joan Kirner and John Cain, and the tragedy of very difficult budgets and funding cuts, and the decisions that had to be made by a government to put a state back on its feet and, quite frankly, avoid the state falling into bankruptcy.
I remember the Howard government coming to office in 1996 with an unsustainable deficit, and debt that had peaked at a high level—and, as I am sure someone on the other side will point out, technically a higher level than now, although not increasing as quickly as debt was under the former Labor Party. Then in comparison there was the Labor Party coming to office in 2007 with one of the best fiscal circumstances in the world—with tens of billions of dollars in the bank to cover superannuation liabilities mainly invented by former minister Clyde Cameron when he put so many public servants onto high salaries and into defined benefit superannuation schemes for which no money had been put aside. That was all put aside in the Future Fund. And tens of billions of dollars in surpluses were also put aside for investments in higher education and health. Yet the Labor Party came to office and blew all of that.

The Labor Party came to office and what do we have to show as a nation? We have Senator Conroy sitting in the chamber here with the NBN to nowhere that has cost billions of dollars but served so few people, and that froze investment in new estates all around our country so that people buying new houses were screaming out for services that people in older suburbs could take for granted.

Yet now we have the Labor Party coming in here and complaining about a measure that was announced in the budget—and a mechanism that was used by them in a particularly nasty tax grab on younger Australians to increase the alcohol tax on a particular type of drink, hidden behind the veil of a health measure, which we know did not achieve any of the health objectives it set out to achieve. It just wanted to target young Australians.

When we came to office this government was borrowing money to pay the interest bill accumulated in five budgets of the other side. The other side will say that we do not have that serious a debt problem in Australia, but we had the second fastest growth in debt in the developed world. If those opposite would like to stand and say that there is nothing wrong with our budget situation, the Australian people will judge them on that. Our budget situation is unsustainable in the mechanism that was inherited from those opposite, because when you add all the other liabilities the Commonwealth has, and when you add the liabilities of the state and local governments, the Australian taxpayer is nowhere near as safe and secure as those opposite might have you believe.

This measure is a small one that will cost the average household between 30 and 40 cents a week over the next four years. It will support the balancing of the budget and an investment program that will improve the quality of life and the productivity of the economy. The people will not buy the mock outrage of those opposite.

**Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) (15:16): On 22 August 2011, Mr Abbott spoke to the parliament about the need for governments to keep their pre-election commitments. On this matter he said:

> It is an absolute principle of democracy that governments should not and must not say one thing before an election and do the opposite afterwards. Nothing could be more calculated to bring our democracy into disrepute and alienate the citizenry of Australia from their government …

Well, this is exactly what they did yesterday. They broke yet another promise to the Australian people and chipped away even further at the trust Australians have in our democracy. Despite the Prime Minister's pre-election promises that there would be no new taxes and no tax increases, the Abbott government yesterday announced that next month they
are going to impose a new petrol tax on every motorist in the country. In an extraordinary act, this government is totally bypassing proper democratic processes and sneaking their nasty petrol tax in through the back door. Knowing that they would fail to get support, the government employed tricky tactics to bypass the parliament. It is entirely understandable that Australian Automobile Association chief executive Andrew McKellar has condemned the government's ploy as weak, sneaky, tricky and gutless. That is not me saying this. These are the words of the Australian Automobile Association chief executive.

The move to increase the petrol tax on the sly shows complete disregard for our parliament and for the Australian people, who took Mr Abbott at his word when he promised no new taxes and no tax increases. We heard from Senator Cameron a moment ago that even one of Mr Abbott's own senators, Senator Ian Macdonald, can see what a bad move is. Yesterday, he said, 'My opposition will not change, because I just think it is wrong and it is unfair.' He rightly pointed out that the government would be better off to get rid of their gold plated paid parental leave scheme rather than launching another cost-of-living attack on Australians, and particularly on the most vulnerable Australians.

They were unable to get support for their unfair petrol tax, so they have decided to launch a sneaky attack on the wallets of all motorists, of all families and of all businesses. This is bad. It is underhanded behaviour and it is a clear breach of trust. Nor can those opposite be trusted to put the interests of Australians first. The Labor Party will not support this attack on Australia's cost of living. The fuel tax is neither fair nor is it right.

We have worked with the government on a number of areas, but we will not be blackmailed or bullied by those opposite into supporting bad policy. That is exactly what this bill is—it is bad policy. It is a regressive tax and it will hit hardest the low-income Australians and those in regional areas.

Senator Conroy: They do not drive cars.

Senator URQUHART: No, they do not drive cars.

Senator Conroy: Mr Hockey said that.

Senator URQUHART: That is right. Mr Hockey said they do not drive cars. I know a lot of people who live in regional Australia and are on low incomes and they do have to drive cars, because they have no other way to get around. This is the sort of thing, along with the rest of the stuff the government is introducing through their nasty budget, that will continue to hit those on low incomes, the poor, the elderly, the sick—the list goes on and on. These are the people who cannot afford to have this nasty, sneaky, tricky and gutless tax imposed on them.

Again, Senator Macdonald got it right. I do not very often agree with those on the opposite benches, but Senator Macdonald got it right when he said, 'Anything that increases the price of fuel and increases the cost of living is bad for people in regional Australia.' What is worse is the fact that the government is now saying that if they do not get their way in 12 months—that is, if they do not get it put through—they would be happy to hand it all back to their friends in the big oil companies. So don't worry about those on low incomes, don't worry about the people who are struggling: 'We will give it to the big oil companies.' (Time expired)

Senator SMITH (Western Australia) (15:21): That was a very refreshing contribution from Senator Urquhart. Thank you, Senator Urquhart, because it is refreshing not to hear
Senator Urquhart constantly complain about the issue of GST distribution and how bad it would be for Tasmania, not recognising of course that GST distribution is not just in Western Australia's interest, but it is in the national interest, and could in fact set free a state like Tasmania. It could allow the new Liberal government in Tasmania to prosper. GST distribution reform is a great thing. It is disappointing that Labor senators from Tasmania are slow to appreciate that point. But that is not what I am here to talk about.

I feel sorry for Bob Hawke. Once upon a time the Labor Party in this country had a tradition. It was rich in its economic reformist zeal. It took to the challenge of governing this country and it took to the challenge well. I do not mind admitting that, under Bob Hawke and Paul Keating, Labor led economic reform in this country—and on many issues with the bipartisan support of the coalition we were able to drive ourselves to new reform and to new levels of economic prosperity.

Of course, that is now lost. Labor no longer has the will to govern. It no longer has the will to drive economic reform. We have heard a lot from Labor over the last 12 months or so and much of it can be categorised as a scare campaign. Let me give you two powerful examples of that: one of them is current to the debate we are having at the moment, but indulge me while I talk about the first one. The first one is the terrible, terrible idea of a Medicare co-payment in our country. The idea that people might have to pay $7—what a terrible idea it is!

But what they do not talk to you about is that it was Labor's idea—it was Bob Hawke's idea, back in 1991. You do not hear them talking about that. Let me quote—

Senator Lines interjecting—

Senator SMITH: No, I am on a path to talk about indexation. Senator Lines, hold your talk!

The DEPUTY PRESIDENT: Senator Smith, direct your comments to the chair and, Senator Lines, please cease interjecting.

Senator SMITH: Thank you very much, Mr Deputy President. I will direct my comments through the chair. Let me read briefly from the House of Representatives Hansard of 20 August 1991. I am happy to say I was at school at the time. This is what Brian Howe, the Labor Deputy Prime Minister and health minister, in 1991, said about the need for a Medicare co-payment in our country, 'Reforms to ensure that Medicare remains a sustainable, equitable and efficient universal health insurance system are important.' These are the Labor health minister's words in 1991, under the leadership of Labor Prime Minister Bob Hawke, advocating for a Medicare co-payment in our country. That is a fact.

That brings us to the second issue—one that we were debating today. Isn't it terrible that, as a result of the belligerence of Labor and others in this Senate in not allowing the government to work towards delivering a budget surplus, the government had to make changes to that budget? Yesterday we had Labor members and senators—and you heard them a few moments ago in this place—bemoaning the idea that a new tax was being introduced by this government. But what did they conceal? They concealed the fact that this tax, this fuel excise, was in fact brought in by the Hawke Labor government. Interestingly, in Senate debates you know you are hitting the mark when your opponents go quiet. Let me share with you what Mr Abbott said in the House of Representatives yesterday when talking about this alleged new tax. What did Mr Abbott say? This statement sums up the position perfectly—not
surprisingly, as he is the leader, he is the Prime Minister—and exposes the Labor opposition. Mr Abbott said, 'It is not a new tax, it is an indexation of an old tax, a tax that was first introduced by the Hawke government.'

Senator LINES (Western Australia) (15:26): I rise to take note of answers to questions put to Senator Cormann around the fuel tax. Instead of publicly defending their objective, stating their case, fighting and arguing the objective to increase fuel tax in the parliament, the government took the sneaky, backdoor approach and used a customs tariff to increase fuel costs at the petrol bowser for all Australians. The Abbott government are so afraid to debate this mean new tax in the parliament that they just went behind the backs of every Australian to sneak this measure through the backdoor. And who could forget the classic clanger from Australia's Treasurer, Joe Hockey? Who could forget when he showed just how out of touch he is—and indeed, the whole of the Abbott government are—when he said, 'The poorest Australians do not have cars or, in many cases, actually do not drive very far.' Wrong! In fact, if any government members, including Mr Hockey, bothered to meet with low-income earners—the ones Mr Hockey said do not have cars or do not drive cars—they would find that they cannot actually afford to fill their cars with petrol. That is the truth. On their meagre budgets they put just enough fuel in their cars to get to and from work and to undertake other important or necessary family functions—just enough fuel to get by on. Now, through the Abbott government's sneaky move, these Australians will have extra pressure on their family budgets. The only person in the Abbott government who seems to understand that is Senator Macdonald, when he belled the cat, when he was brave enough to stand up and say, 'This is a mean tax; this will affect low-income earners.' Senator Macdonald is exactly right.

On top of all the other cruel increases the Abbott government want to heap on the poor and on low-income earners, there is now a new tax on fuel. What about the poor in the bush, who drive even further to get to work, to get to the doctor, to ferry kids around? Thanks to the Nationals, they will cop this new tax, too, and they will have to carry this extra burden in their household incomes. Mr Abbott can talk all he likes about this being a small increase. The more he does it, the more ordinary Australians know how out of touch he is because, when you are living on a benefit or a pension, or you are a low-paid early childhood educator, or you are a low-paid aged carer, every cent counts. Mr Abbott does not have to live on an hourly rate of around $20 per hour and he does not have to make a part-time wage stretch across his whole family. He is a Prime Minister with no idea about those who are less fortunate than himself. If he had any understanding at all, he would stop making these claims. Now this mean-spirited, out-of-touch Abbott government is talking up an increase in the GST, which, just like this fuel increase, will hit the poorest in our society the hardest. In people's next pay packet, they will be hit with this fuel increase, whether they like it or not.

Who could forget how the Liberal Party hatched their cunning plan to trick the Nationals earlier in the year—they trapped their junior partners—by pretending it was all about the diesel fuel debate? No, the plan has been on the table since then; it was always about the fuel increase. Instead of having the stomach to come in here and face the Labor Party opposition, they went out the back door because they know, just like Senator Macdonald knows, that this is a harsh measure. The fuel tax will hit every single Australian and it will hit those who Mr Hockey apparently thinks do not have cars or do not drive very far the hardest. They are an out-of-touch, mean-spirited government who will not now bring their measures into this
parliament so that the Australian people can see the inconsistencies of this government—a government of broken promises and harsh measures. (Time expired)

Question agreed to.

Indigenous Employment

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:31): I move:

That the Senate take note of the answer given by the Minister for Indigenous Affairs (Senator Scullion) to a question without notice asked by Senator Siewert today relating to assistance schemes for Indigenous Australians in remote communities.

Today it was reported in The Australian: UNEMPLOYED Aborigines in remote communities will be forced into work for the dole five days a week, with tough new sanctions for failing to participate, under changes that have in-principle cabinet agreement.

I asked a question of the minister about whether these will be separate and new sanctions and new mutual obligations specifically applied to unemployed Aboriginal people in remote communities and areas and was told by the minister: 'No, they won't be.' My next question was: will they then apply to all Australians? The minister said that that was under consideration. If this report in The Australian—that there will be new sanctions, new mutual obligations and new measures to force people into 25 hours of work-like dole activities spread over the week—is correct, that means this will apply to all Australians who are currently on Newstart. What are the government's intentions around new sanctions and new mutual obligations on people on Newstart?

This is another element of the government's attack on those people on Newstart in this country. The newspaper article suggests that this applies to Aborigines in remote Australia, yet the government say that they will not make these requirements any different for Aboriginal people. Of course, if they were going to be different, the government would probably try to imply that these are in fact special measures under the Racial Discrimination Act. For the life of me, I cannot see how this could be:

… understood to apply to positive measures taken to redress historical disadvantage and confer benefits on a particular racial group …

I fail to see how subjecting people in remote communities to even harsher sanctions and even greater mutual obligation requirements and work for the dole requirements could be a positive measure under the definition of 'special measures' under the Racial Discrimination Act.

The government also talks about creating replicate measures that look like real work. We all know it is very difficult to find work in remote communities. We also know that it is very difficult to provide adequate training and support for Aboriginal people. The minister in particular did a big media blitz last week on the RJCP, attacked the previous Labor government on the program, saying that there had only been 277 26-week outcomes, and failed to mention that there had been 1,167 outcomes for 13 weeks. In estimates, when I asked about this, the government was not able to explain the very big disparity between the 13-week outcomes and the 26-week outcomes, which is why I asked the minister about that again today. The minister said, 'It may be that they are just 13-week projects.' There does not seem to have been an analysis of why so many people are managing to get 13-week outcomes and not 26-week outcomes. Is it really because those jobs are only there for 13 weeks? Is it
because the RJCP has only been able to put in place certain labour market programs for that period of time? Or are there other barriers whereby people are not able to maintain connection with work between that 13-week period and the 26-week period?

Before increasing sanctions, before changing mutual obligations and before increasing work for the dole requirements—and then, of course, with work for the dole requirements come additional excuses to dump people off Newstart—surely we should have a thorough understanding. Why are people failing to maintain that connection to work between the 13- and 26-week outcomes? You cannot just imagine up jobs in remote communities. There needs to be a lot of work done in advance. I am deeply concerned about the government's approach here. All Australians, I think, need to be concerned about this approach. (Time expired)

Question agreed to.

NOTICES

Withdrawal

Senator WILLIAMS (New South Wales) (15:37): On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, at the giving of notices on the next day's sitting, I shall withdraw business of the Senate notice of motion No. 1 for the disallowance of the Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014. I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WILLIAMS: The committee has been making inquiries about the appropriateness of including certain matters in delegated legislation. While the committee retains some concerns about the use of delegated legislation in this manner, the committee has concluded its examination on the basis of the information provided. The committee's report on this matter is contained in delegated legislation monitor No. 14 of 2014.

Presentation

Senator Sterle to move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 9 September 2015:

Aspects of road safety in Australia, having particular regard to:

(a) the social and economic cost of road-related injury and death;
(b) the importance of design standards on imported vehicles, as Australian vehicle manufacturing winds down;
(c) the impact of new technologies and advancements in understanding of vehicle design and road safety;
(d) the different considerations affecting road safety in urban, regional and rural areas; and
(e) other associated matters.

Senator O’Sullivan to move:

That the Senate acknowledges the fact that the Australian resources sector contributes about 10 per cent of our gross domestic product, directly employs around 270 000 people and supports the work and incomes of another 800 000.
Senator Moore to move:
That there be laid on the table by the Minister representing the Prime Minister (Senator Abetz), by 3.30 pm on Monday, 24 November 2014, any correspondence between the Prime Minister’s Office and other ministers, or their offices, concerning approval of international travel by members of the executive, since 7 September 2013.

Senator Moore to move:
That there be laid on the table by the Minister representing the Minister for Agriculture (Senator Abetz), by 3.30 pm on Monday, 24 November 2014, copies of any documents, including correspondence to and from other members of the Executive, prepared since 7 September 2013, concerning: (a) arrangements; and (b) changes in biosecurity functions within the department and any other department or agency under current administrative arrangements or proposed administrative arrangements.

Senator Moore to move:
That the Senate notes the Abbott Government’s petrol tax ambush and its negative impact on cost pressures facing Australian households and businesses.

Senator Fifield to move:
(1) That the Senate meet from Monday, 17 November to Wednesday, 19 November 2014.
(2) That the following government business orders of the day be considered:
- Aged Care and Other Legislation Amendment Bill 2014
- Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014
- Australian Citizenship Amendment (Intercountry Adoption) Bill 2014
- Australian Education Amendment Bill 2014
- Australian National Preventive Health Agency (Abolition) Bill 2014
- Australian Sports Anti-Doping Authority Amendment Bill 2014
- Business Services Wage Assessment Tool Payment Scheme Bill 2014
- Business Services Wage Assessment Tool Payment Scheme (Consequential Amendments) Bill 2014
- Carbon Farming Initiative Amendment Bill 2014
- Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014
- Counter-Terrorism Legislation Amendment Bill (No. 1) 2014
- Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014
- Fair Work Amendment Bill 2014
- Freedom of Information Amendment (New Arrangements) Bill 2014
- Higher Education and Research Reform Amendment Bill 2014
- Private Health Insurance Amendment Bill (No. 1) 2014
- Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Bill 2014
- Social Services and Other Legislation Amendment (Seniors Supplement Cessation) Bill 2014
- Social Services and Other Legislation Amendment (Student Measures) Bill 2014
- Tax Laws Amendment (Research and Development) Bill 2013.
(3) That on Monday, 17 November 2014, the sitting of the Senate shall be suspended at 3.20 pm till the ringing of the bells to enable senators to attend the address by His Excellency Mr Xi Jinping, President of the People’s Republic of China.
(4) That—
   (a) the estimates hearings by legislation committees which were not proceeded with on Tuesday, 21 October 2014, be rescheduled as follows:

   **2014-15 Budget estimates:**
   Thursday, 20 November 2014 (supplementary hearings—Group A); and

   (b) the following committees meet:
   Environment and Communications  
   Finance and Public Administration  
   Legal and Constitutional Affairs  
   Rural and Regional Affairs and Transport.

**Senator Dastyari** to move:
That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 2 March 2015:
   (a) the role of the Commonwealth in working with states and territories to fund nation-building infrastructure, with particular reference to:
      (i) the appropriateness of the Commonwealth providing funding, and
      (ii) the capacity of the Commonwealth to contribute an additional 15 per cent, or alternative amounts, of reinvested sale proceeds;
   (b) the economics of incentives to privatise assets;
   (c) what safeguards would be necessary to ensure any privatisations were in the interests of the state or territory, the Commonwealth and the public;
   (d) the process for evaluating potential projects and for making recommendations about grants payments, including the application of cost-benefit analyses and measurement of productivity and other benefits;
   (e) parliamentary scrutiny;
   (f) alternative mechanisms for funding infrastructure development in states and territories;
   (g) equity impacts between states and territories arising from Commonwealth incentives for future asset sales; and
   (h) any related matter.

**Senator Rhiannon** to move:
That the Senate—
   (a) notes that:
      (i) many Australians consider universities to be important institutions that provide a significant social, cultural and economic good,
      (ii) Australian universities collectively hold investments worth billions of dollars,
      (iii) the University of Glasgow, Stanford and 12 other universities in the United States have divested from fossil fuels, and the Australian National University has divested itself from a range of social and environmentally damaging companies, including fossil fuel companies, and
      (iv) more than 120 academics and eminent alumni of the University of New South Wales (UNSW) have written an open letter calling on UNSW to divest from fossil fuels;
(b) congratulates the students and staff across Australia who have led inspiring campaigns and organised referenda calling on their universities to divest from fossil fuels; and

c) calls on all Australian universities to divest themselves from fossil fuels and prioritise the research, development and financing of renewable energy technologies to help shift Australia to a clean energy future.

Senator Xenophon to move:

That there be laid on the table by the Minister for Defence, no later than 4 pm on Thursday, 30 October 2014, any documents produced by Macroeconomics.com.au Pty Ltd as a result of tender reference DMOCIP/RFT 0315/2012, including economic modelling and other examination of the potential economic impact of the SEA1000 submarine project on the Australian economy, among other subjects.

Senator Siewert to move:

That the Senate—

(a) notes:

(i) the tragic death in custody of Ms Julieka Dhu on 4 August 2014,

(ii) the National Day of Action held on 23 October 2014 - Justice for Julieka,

(iii) the alarming number of Aboriginal people who have died in custody since the Royal Commission into Aboriginal Deaths in Custody,

(iv) the unacceptably high rates of incarceration of Aboriginal and Torres Strait Islander peoples, and

(v) the majority of the 339 recommendations by the Royal Commission into Aboriginal Deaths in Custody have not been implemented; and

(b) calls on the Government to:

(i) show leadership in the implementation of the recommendations from the Royal Commission into Aboriginal Deaths in Custody, and

(ii) work with the states and territories to develop programs that address the unacceptably high incarceration rates of Aboriginal and Torres Strait Islander peoples, including justice reinvestment.

Senator Wong to move:

That the Senate—

(a) notes:

(i) the role of the Independent National Security Legislation Monitor is essential in reviewing the operation, effectiveness and implications of Australia’s counter-terrorism and national security legislation on an ongoing basis, including considering whether Australia’s national security laws contain appropriate safeguards for protecting the rights of Australians, and remain necessary and proportionate to any threat of terrorism or threat to national security,

(ii) the Government has announced an intention to reverse its decision, announced earlier in 2014, to abolish the role of the Independent National Security Legislation Monitor; and

(iii) the position of Independent National Security Legislation Monitor has been vacant since 20 April 2014; and

(b) calls on the Attorney-General to immediately take steps to ensure the appointment, as a matter of priority, of a suitably qualified and experienced person to the role of Independent National Security Legislation Monitor.
BUSINESS

Leave of Absence

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (15:38): by leave—I move:
That leave of absence be granted to Senators McEwen and Peris for today.
Question agreed to.

NOTICES

Postponement

The following items of business were postponed:
General business notice of motion no. 474 standing in the name of Senator Siewert for today, proposing the introduction of the Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014, postponed till 30 October 2014.

COMMITTEES

Legal and Constitutional Affairs References Committee

Reporting Date

The Clerk: A request for an extension has been lodged by the Legal and Constitutional Affairs References Committee in respect of Business of the Senate order of the day No. 2, the inquiry into the Telecommunications (Interception and Access) Act 1979, to 3 December 2014.

The PRESIDENT (15:39): I remind senators that the question may be put on that proposal if there is any request. There being no request, we shall proceed.

BILLS

Civil Law and Justice Legislation Amendment Bill 2014
Counter-Terrorism Legislation Amendment Bill (No. 1) 2014

First Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:39): I move:
That the following bills be introduced: A bill for an act to amend the law relating to counter-terrorism, and for related purposes; and a bill for an act to amend various Acts relating to law and justice, and for related purposes.
Question agreed to.
Senator BRANDIS: I present the bills and move:
That these bills may proceed without formalities, may be taken together, and be now read a first time.
Question agreed to.
Bills read a first time.
Second Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:40): I present the explanatory memoranda related to the bills and move:

That these bills be now read a second time.

I indicate that I have today referred the Counter-Terrorism Legislation Amendment Bill (No. 1) 2014 to the Parliamentary Joint Committee on Intelligence and Security for inquiry and report by 17 November 2014. I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speeches read as follows—

CIVIL LAW AND JUSTICE LEGISLATION AMENDMENT BILL 2014

Introduction

The Civil Law and Justice Legislation Amendment Bill 2014 is an omnibus bill which will amend sections of the Bankruptcy Act 1966, the Copyright Act 1968, the Court Security Act 2013, the Evidence Act 1995, the Family Law Act 1975, the International Arbitration Act 1974, and the Protection of Movable Cultural Heritage Act 1986. The bill will make minor and technical amendments to provide more clarity to the legislation, correct legislative oversights and amend obsolete provisions. The combined effect of these amendments will improve the efficiency and operation of the justice system administered by the Attorney-General's portfolio.

Body

The government is determined to reduce regulation and make Commonwealth laws clear and accessible. Some of the provisions in this bill go directly towards implementing the government's deregulation agenda. For example, the amendments to the Copyright Act will reduce the impact of the legal deposit scheme on publishers. At present, publishers of certain literary, dramatic, musical or artistic works must deliver copies of their works in print format. The amendments will provide for publishers to submit their works electronically, which will reduce the time and cost burden on the industry.

The government aims to make all Commonwealth legislation coherent, readable and accessible to the widest possible audience. To this end, the Court Security Act will be amended to clarify the process by which court security orders can be varied and revoked. Minimising confusion creates a fairer and more accessible justice system. The Court Security Act amendments will also address court management issues by extending the authority to hold and dispose of unclaimed dangerous items.

Amendments to the Evidence Act will increase consistency with the Uniform Evidence Bill for greater cross-jurisdictional compliance.

The bill will also amend the International Arbitration Act to clarify its application, providing certainty for private parties who entered into arbitration agreements before the International Arbitration Act was last amended in 2010.

Minor, technical amendments contained in the bill will improve the operation of the Family Law Act by correcting errors and ensuring the use of consistent language. The bill will also amend the Family Law Act to explicitly permit the provision of certain information relating to family law proceedings to child welfare authorities. This amendment will ensure that child welfare authorities have access to any relevant material to enable them to better protect children.

The amendments to the Bankruptcy Act will ensure that assistance received under the National Disability Insurance Scheme is not distributed to a bankrupt's creditors. The amendments also
modernise the drafting of offences under the Act and ensure that they have kept up with modern technology. Additionally the amendments will enhance the Australian Financial Security Authority's capacity to act as a special trustee for other government agencies. In its special trustee role the Australian Financial Security Authority seizes and sells property pursuant to a Court order in relation to a debt owed to the Commonwealth or a Commonwealth agency.

The bill will add currency and ease of application to the legal system as it stands today. Significantly, the bill will facilitate the removal of obsolete and redundant clauses. For example, the bill will amend the Family Law Act to remove obsolete requirements for annual publication of certain information, as well as to repeal an obsolete definition. And the bill will amend the Evidence Act to remove obsolete provisions and references to the operation of the Evidence Act in relation to the Australian Capital Territory.

The bill reflects the government's commitment to better equip Australia to meet the needs of industry and consumers in the digital age. For example, the amendments to the Copyright Act will allow the National Library of Australia to collect not only our print history but also our digital history.

**Conclusion**

In conclusion, the intention of this bill is to make minor and technical amendments to a number of Acts in order to increase access to justice for all Australians by removing ambiguity in legislation and streamlining legal processes. The bill will increase the currency, clarity and consistency of legislation administered by the Attorney-General's portfolio. Significantly, the amendments contained within the bill will improve the justice system by making it easier for individuals to understand and comply with the law.

**COUNTER TERRORISM LEGISLATION AMENDMENT BILL (NO. 1) 2014**

The Bill contains a package of amendments to the Intelligence Services Act 2001 (IS Act) and the Criminal Code 1995 (Code).

The amendments address three key areas:

- facilitating the Australian Secret Intelligence Service (ASIS) supporting and cooperating with the Australian Defence Force (ADF) on military operations;
- enhancing the arrangements for the provision of emergency Ministerial authorisations to IS Act agencies to undertake activities in the performance of their statutory functions; and
- enhancing the control order regime to allow the Australian Federal Police (AFP) to seek control orders in relation to a broader range of individuals of security concern and to streamline the application process.

The Bill will also implement a final recommendation of the Parliamentary Joint Committee on Intelligence and Security in relation to the Counter Terrorism Legislation Amendment (Foreign Fighters) Bill 2014.

These proposed amendments are being brought forward in a separate Bill to the two major tranches of national security legislation the Government has introduced in the Spring sittings – the National Security Legislation Amendment Bill (No 1) (which passed the Parliament on 1 October and received the Royal Assent on 2 October); and the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill (introduced on 24 September and is presently before the Parliament).

The measures in the Bill have been included as a result of instances of operational need identified by relevant agencies subsequent to the introduction of the previous two tranches of legislation. In the case of the proposed IS Act amendments, the need for amendment is urgent, as a result of recent developments in the security environment, primarily due to the Government's decision to authorise the ADF to undertake operations against the Islamic State (IS) terrorist organisation in Iraq.
The Government has brought forward these measures in a separate Bill, to ensure that the Parliamentary Joint Committee on Intelligence and Security (PJCIS) has an opportunity to conduct a review of them, and report to the Parliament on its findings.

I have today referred the Bill to the PJCIS for inquiry and report by 17 November, so that its analysis can inform the Parliamentary debate of the Bill in the final fortnight of the Spring sittings.

**Intelligence Services Act amendments**

There is an urgent need to make amendments to the ISA to ensure that intelligence agencies can undertake relevant activities in support of the ADF's operations in Iraq against the Islamic State (IS) terrorist organisation.

These activities are anticipated to include the collection of intelligence in relation to Australian persons who are known or suspected participants in the hostilities, and particularly those who are known or suspected of fighting with or alongside the IS terrorist organisation. Such intelligence is likely to prove instrumental to these operations, including in protecting ADF personnel, members of other defence forces, and civilians from death or serious harm as a result of terrorist or other hostile acts committed in the course of the conflict.

The proposed amendments are directed to two key areas.

**ASIS activities in support of, and in cooperation with, the ADF**

First, the primary purpose of the amendments is to better facilitate ASIS providing timely assistance to the ADF in support of military operations, and its cooperation with the ADF on intelligence matters. The proposed amendments make explicit that such support and cooperation is a function of ASIS, consistent with explicit functions to this effect conferred upon the other two ISA agencies, the Australian Signals Directorate (ASD) and the Australian Geospatial-Intelligence Organisation (AGO).

These measures also make a small number of amendments to facilitate the timely performance by ASIS of this function. These concern the provision of Ministerial authorisation by the Minister responsible for ASIS in relation to a class of Australian persons, and enabling the Attorney-General as the Minister responsible for ASIO to provide agreement to an authorisation in respect of individuals falling within a specified class of Australian persons. All of the existing safeguards in the ISA will apply to the performance of the new function. These include the statutory thresholds for the granting of authorisations, Ministerial reporting requirements, and the independent oversight of the Inspector-General of Intelligence and Security (IGIS).

**Emergency Ministerial authorisations**

Secondly, the proposed amendments also remedy practical limitations identified in the arrangements for emergency ministerial authorisations which apply to ASIS, ASD and AGO.

The amendments make provision for the contingency that the relevant Ministers may be temporarily uncontactable when there is an urgent, previously unforeseen need to collect vital intelligence. Presently, there is no legal basis on which agencies can undertake activities in these circumstances, meaning that critical intelligence collection opportunities may be missed. The amendments will address this, by enabling an agency head to grant a limited emergency authorisation, subject to rigorous and extensive safeguards and oversight mechanisms.

These authorisations are strictly limited to 48 hours maximum and cannot be renewed. Additional issuing criteria apply to authorisations by agency heads, including express consideration of whether the relevant Minister would have been likely to grant the authorisation, on the basis of the existing statutory criteria. Further, to ensure it is only available in an extreme emergency, the agency head must also be satisfied that, if the activity was not authorised, security would be seriously prejudiced or there would be a serious risk to a person's safety. The Minister must be notified as soon as practicable within 48 hours, and is under a positive obligation to make a decision about whether it should continue within the
48 hour maximum, or be cancelled or replaced with a Ministerial authorisation. The IGIS must also be notified as soon as practicable within three days.

The amendments also provide for contingency arrangements in the event that the Attorney-General is not readily available or contactable to provide his or her agreement to the making of an emergency Ministerial authorisation, where such agreement is required because the authorisation concerns the undertaking of activities in relation to an Australian person who is, or who is likely to be, engaged in activities that are, or are likely to be, a threat to security.

The amendments address an unintended limitation in the ability of Ministers to issue emergency authorisations. Presently, no provision is made for Ministers to issue these authorisations orally, with a written record to be made of that decision. This is incompatible with the circumstances of urgency in which emergency authorisations are designed to operate, and with the longstanding approach to other forms of emergency authorisation – including search warrants, telecommunications interception warrants, surveillance devices warrants and, more recently, the authorisation by the Attorney-General of special intelligence operations by the Australian Security Intelligence Organisation. The proposed amendments bring the emergency Ministerial authorisation process in the ISA into line with this approach.

**Criminal Code amendments**

The amendments to the Criminal Code will further strengthen the control order regime and enhance the capacity of law enforcement agencies to protect the public from terrorist acts. The amendments will allow the AFP to request, and an issuing court to make, a control order in relation to those who "enable" and those who "recruit". Although such individuals may not directly participate in terrorist acts, their conduct in supporting and facilitating terrorism through the provision of funds and equipment, or by recruiting vulnerable young people to champion their cause – and even to die for it – is instrumental to carrying out terrorist conduct. The expansion of the control order regime to cover such individuals will help disrupt terrorism at an earlier stage, keeping Australia and Australians safe and secure.

The amendments to the control order regime will also streamline the application process by reducing the volume of material that must be provided to the Attorney General when seeking consent to request an interim control order, and extend the time for obtaining the Attorney General's consent when making an urgent request to an issuing court without first obtaining the Attorney General's consent.

Finally, the implementation of the Parliamentary Joint Committee on Intelligence and Security's recommendation will require the Attorney General to advise the Committee before amending a regulation that lists a terrorist organisation by adding an alias or removing a former name and to allow the Committee to review any proposed change during the disallowable period.

**Concluding remarks**

The measures in the Bill will ensure that our intelligence and law enforcement agencies have the necessary capability to operate effectively in the contemporary security environment. They will be of particular utility in circumstances of urgency presented by the activities of Australians who participate in foreign conflicts, including fighting with, or otherwise supporting the violent activities of, terrorist organisations.

Debate adjourned.

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

**MOTIONS**

**Housing Affordability**

**Senator RHIANNON** (New South Wales) (15:42): I seek leave to amend general business notice of motion No. 477 standing in my name for today relating to public housing.
Leave granted.

Senator RHIANNON: I move:

That the Senate—

(a) notes that:

(i) the New South Wales Coalition Government policy of increasing public housing sell offs is causing stress and uncertainty for public housing tenants across New South Wales,

(ii) the Glebe Community Development Project (the project) supports a range of organisations that foster community cohesion and improve life opportunities of residents and the New South Wales Government is currently defunding the project, and

(iii) the 1970s Green Bans organised by local residents and the Builders Labourers Federation and supported by New South Wales Labor’s introduction of the Heritage Act 1977, Environmental Planning and Assessment Act 1979 and Land and Environment Court Act 1979, as well as the intervention of the Federal Labor Minister for Urban and Regional Development, Mr Tom Uren, saved considerable housing stock in Glebe from demolition when they stopped the construction of an inner city motorway; and

(b) calls on the New South Wales Government to reverse its policy of selling off public housing and continue funding the project.

Question agreed to.

DOCUMENTS

Ebola

Order for the Production of Documents

Senator HANSON-YOUNG (South Australia) (15:43): I, and also on behalf of Senator Di Natale, move:

That that there be laid on the table by the Assistant Minister for Immigration and Border Protection, no later than 3 pm on 30 October 2014, a copy of the advice which informed the Minister for Immigration and Border Protection's decision to suspend the humanitarian intake from Ebola affected countries, in particular Liberia, Sierra Leone and Guinea.

Question agreed to.

Broadband

Order for the Production of Documents

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (15:43): At the request of Senator Conroy, I move:

That there be laid on the table by the Minister for Finance (Senator Cormann), and the Minister representing the Minister for Communications (Senator Fifield), by 3.30 pm on Monday, 24 November 2014, a copy of the NBN Co Corporate Plan 2014-17, prepared by NBN Co under section 95 of the Public Governance, Performance and Accountability Act 2013 and in accordance with the Government's Statement of Expectations.

Question agreed to.

MOTIONS

Carbon Pricing

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (15:44): I move:
That the Senate notes the biggest reduction in energy costs ever recorded and continues to support
initiatives that will bring downward pressure on the cost of energy to all Australians.

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:44): I seek leave to
make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MILNE: I am delighted to stand up here and support initiatives that will bring
downward pressure on the cost of energy to all Australians, and the best initiative in that
regard would be to increase the renewable energy target which is bringing down the
wholesale price of power as I stand here and speak.

An initiative that would bring down the price of power is fixing the national electricity
market rules to allow more renewable energy to engage and flow into the system. Stopping
the gold plating of the polls and wires would be another fantastic initiative to bring downward
pressure on the price of power. So the best thing we can do is support the initiatives that roll
out renewables and stop the costs associated with fossil fuels. I am delighted to support the
initiatives that bring down the price of power.

Question agreed to.

International Brain Tumour Awareness Week

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (15:45): Before I ask that this motion be taken as formal, I inform the chamber that Senator Xenophon
has been added as a co-sponsor to the motion. I ask that general business notice of motion No. 487 standing in the names of Senators Bilyk, Ryan, Di Natale and Xenophon, for today,
relating to International Brain Tumour Awareness Week be taken as a formal motion.

Leave granted.

Senator URQUHART: I move:

That the Senate notes that:

(a) 26 October to 1 November 2014 marks International Brain Tumour Awareness Week and, in doing
so, acknowledges the impact brain tumours have on patients, their families and the community;
(b) statistics show that:
   (i) in 2014, about 1 785 Australians (1 060 men and 725 women) are expected to be diagnosed with
   brain cancer, with 130 new cases a year among young people 0–24 years old,
   (ii) brain cancer is the leading cause of cancer death in people under the age of 40, and
   (iii) between 2006 and 2010, people with a brain cancer had just a 22 per cent chance of surviving
   for at least 5 years; and
(c) approximately 2 000 benign brain tumours are also diagnosed each year in Australia, and that these
may cause permanent disability or death.

Question agreed to.

International Day of the Girl Child

Senator WATERS (Queensland) (15:44): by leave—I move:

That the Senate—

(a) notes:
(i) the significant impact of the International Day of the Girl Child, on 11 October, in promoting girls' rights and women's empowerment, bringing attention to gender based discrimination, inequity and abuse suffered by girls globally; and

(ii) that Plan International and its parliamentary delegates are calling for cross-party support for the seven goals in relation to the post 2015 development agenda contained within Plan International's 2014 Girls Call to Action:

1. Ensure girls in Australia and around the world have access to inclusive and quality education and life long learning opportunities
2. End harmful practices such as child marriage, child labour and human trafficking
3. Provide accessible health care and protect the sexual and reproductive rights of girls and young women
4. Ensure women have the same access to employment opportunities as their male counterparts and encourage young women to participate fully in the workforce
5. Eliminate gender based violence and improve safety to ensure that girls are protected from harm
6. Ensure young women and girls live in an environment that supports a healthy lifestyle and have access to clean water, clean land and clean air
7. Achieve gender equality, the full realisation of women's and girls' human rights and the empowerment of all women and girls worldwide; and

(b) calls on all parties and parliamentarians to consider how they can support these goals and work towards gender equality in Australia and around the world.

Question agreed to.

**Sunswift University of New South Wales Solar Racing Team**

**Senator RHIANNON** (New South Wales) (15:44): by leave—I move:

That the Senate—

(a) notes that:

(i) the Sunswift University of New South Wales Solar Racing Team was recently confirmed by the Fédération Internationale de l'Automobile to have broken the world speed record for electric vehicles, averaging more than 100 km/hr over 500 km on a single battery charge,

(ii) the team is in the process of making their vehicle road registrable, which will be a good proof of concept for solar vehicles and inspire the young engineers of the future, and

(iii) projects like these are only possible with federal research funding that prioritises clean, renewable technologies;

(b) congratulates the Sunswift team on their achievements; and

(c) calls on the Government to reverse its cuts to federal research funding and prioritise funding for the development of clean, renewable technologies.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:44): I seek leave to make a short statement.

The **PRESIDENT**: Leave is granted for one minute.

**Senator FIFIELD**: The government supports renewable energy and acknowledges the important role it plays in Australia's diverse energy mix. Through ARENA taxpayers' money is supporting $1 billion worth of renewable energy projects. One billion dollars is a significant investment in any industry and we believe that taxpayers must see outcomes from their investment.
I should also point out that the higher-education reforms will make possible funding for two research initiatives—for which Labor left a funding cliff. They are the National Collaborative Research Infrastructure Strategy and the Future Fellowships program. These depend on the passing of the reforms and they are further proof the government is committed to research.

Question agreed to.

Trans-Pacific Partnership Agreement

Senator WHISH-WILSON (Tasmania) (15:48): by leave—I move:

That the Senate—

(a) notes members of the:

(i) Australian Parliament will only be allowed to see the final text of the Trans Pacific Partnership Agreement (the Agreement) once it has been signed,

(ii) United States of America Congress are allowed access to the Agreement draft text, and

(iii) Malaysian Parliament will be shown the draft text prior to Malaysia signing the Agreement; and

(b) calls on the Minister for Trade and Investment and the Department of Foreign Affairs and Trade to allow members of Parliament access to the Agreement draft text.

I seek leave to make a short statement

The PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: In relation to so-called free-trade deals in Australia, all Australians—including senators—are treated like mushrooms. We are kept in the dark and fed crap. These deals are secret. These deals are done behind closed doors and we do not get the information until there have been signed by cabinet. At that point, it is lock, stock or two smoking barrels. We have no way of changing them unless we vote against them. This has got to finish.

Under the Trans-Pacific Partnership Agreement the Greens and Labor put through an order of production of documents to have the final draft text released to the Senate. The government did not comply, because it said that in the case of the TPP agreement the 12 TPP parties have signed an agreement to keep negotiating documents, including the text, confidential. It has now been passed on that both the American Congress and the Malaysian parliament will see the final text. There is no reason that the Australian parliament should not be able to view the text of this agreement. No more secrecy.

Senator FIFIELD: As is standard practice, TPP negotiating texts are not public documents. As soon as the TPP text is agreed by all 12 parties it will be made public and subject to public and parliamentary scrutiny through a review by the Joint Standing Committee on Treaties.

The PRESIDENT: The question is that the motion moved by Senator Whish-Wilson be agreed to.
The Senate divided. [15:54]
(The President—Senator Parry)

Ayes ................... 15
Noes ................... 31
Majority ............... 16

AYES
Di Natale, R
Lazarus, GP
Madigan, JJ
Muir, R
Rice, J
Wang, Z
Whish-Wilson, PS
Xenophon, N

Hanson-Young, SC
Ludlam, S
Milne, C
Rhiannon, L
Siewert, R (teller)
Waters, LJ
Wright, PL

NOES
Back, CJ
Bilyk, CL
Bullock, J.W.
Bushby, DC
Cameron, DN
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Gallacher, AM
Ketter, CR
Leyonhjelm, DE
Lines, S
Lundy, KA
Marshall, GM
McGrath, J
McKenzie, B
McLucas, J
Moore, CM
O'Neill, DM
O'Sullivan, B
Parry, S
Polley, H
Ryan, SM
Ruston, A
Sinodinos, A
Singh, LM
Smith, D
Urquhart, AE (teller)
Williams, JR

Question negatived.

MATTERS OF URGENCY

Ebola

The PRESIDENT (15:57): I inform the Senate that I have received the following letter from Senator Siewert:

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 need for the Abbott Government to respond to the Ebola epidemic and to take responsibility for Australia's role in the international effort to combat Ebola."

Is the proposal supported?

More than the number of senators required by the standing orders having risen in their places—
The PRESIDENT: I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator DI NATALE (Victoria) (15:57): I move:

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

The need for the Abbott Government to respond to the Ebola epidemic and to take responsibility for Australia's role in the international effort to combat Ebola.

Before entering this place, I worked in public health. I was a public health specialist. I spent some time on HIV prevention in India. I also worked in Victoria's health department, for a time, as part of an outbreak investigation team. In that role we responded to all sorts of outbreaks—food-borne outbreaks from restaurants, influenza outbreaks from aged care facilities and measles outbreaks from childcare centres. The one thing that is common to each outbreak is that time is of the essence. With each day that we wait more people are exposed and the outbreak spreads further. And it becomes much more difficult to contain. That is why I am so concerned about this government's response to the Ebola outbreak in west Africa.

Ebola has always been of concern because of the deadly nature of the virus. There is about a 50 per cent chance that if you contract the virus you will die from it. But this outbreak in west Africa is unprecedented. It is unprecedented in terms of the scale of the outbreak and in terms of its spread into urban settings. The Centers for Disease Control and Prevention in the United States have said that if it is left unchecked Ebola could infect anywhere from half a million to 1.4 million people, with a good chance that over half of them will die. We already know that thousands have died and that many more thousands will face a horrific death. We have seen comments from Medecins Sans Frontieres' Executive Director, Paul McPhun, who said that responding to Ebola is a lot like responding to a bushfire, and he is right. Unless you combat the fire at its source, then spot fires will continue to burn right around the globe. In places that are unprepared—usually places with low capacity in terms of their health systems—those spot fires will take hold and soon we will be fighting this epidemic on many different fronts.

Thankfully Australia has a first-class health system. We are able to carry out the basic tasks that are the mainstays of outbreak containment. We can identify cases early through diagnosis and laboratory testing, we can trace contacts and we can ensure that there is appropriate isolation and quarantine measures, and it can all be done very quickly. But countries in our region are not so lucky. Like an ember landing on a tinder-dry forest floor, Ebola has the potential to quickly spiral out of control in a country like PNG. Its rudimentary health system just does not have the capacity to identify cases and put in the appropriate public health measures to contain it.

The global response so far has been insufficient. The United Nations estimates that, in order to beat Ebola, at least four and a half thousand beds are needed. We need about 20,000 doctors and nurses, but we have only a fraction of that on the ground. Thankfully we have seen some movement. President Obama is to be commended for the leadership he is showing on this issue. The US has now sent a major general to take over the US military mission to fight Ebola. One of its divisions has been in Liberia for six weeks. It has built two new laboratories and, along with the UK, is now building field hospitals that should be operational in the coming weeks. They have pledged 4,000 troops and they have trained health workers.
Cuba has deployed 250 health workers to West Africa, Israel is sending medical crews and Japan has dispatched medical experts. China has expanded its medical deployment and Britain is working on five new treatment centres and 700 additional beds. Special mention goes to MSF, or Doctors Without Borders, who have around 3,000 staff in West Africa, are operating six Ebola case management centres and are providing 600 isolation beds. They are one of the biggest players in this crisis—bigger than any nation state.

Contrast that with the response from the Australian government, which has been, frankly, appalling. It is no wonder that the US ambassador to the UN, Samantha Power, who is visiting the three West African nations worst hit by Ebola, has been very critical of the international community, and she has reason to be angry. Here in Australia, the Prime Minister stated that it would be irresponsible to send our people and put them in harm’s way without getting an assurance that they would be evacuated. But we heard, through Senate estimates just last week, that Australia has been given assurances that people would be looked after on a case-by-case basis, and there has not yet been one case where a medical evacuation has been refused. We have also learnt that, with the UK and the US now building field hospitals, there will not be a need for medical evacuation. We have also heard the Prime Minister say that we should keep our trained health professionals in Australia so they can be first responders to an outbreak in a place like PNG, but that is a decision that displays incredible ignorance and runs the risk of putting their lives at risk. Unless our first responders have the field experience necessary to respond to this unique outbreak, their lives will be at risk and they will not be able to combat the epidemic in a place like PNG. It is akin to sending in firefighters to tackle a raging fire without ever having seen one.

There is a world of difference between responding to an outbreak in an Australian hospital and responding to an outbreak in the field in a developing country. That is why NGOs send their workers to intensive training in Europe and field experience under the supervision of mentors. This is not something you can do from a lecture theatre. If we are genuine about keeping our region safe, we would be sending our health workers to get that training and experience in the field. Why is it that we can agree to military intervention in Iraq in the name of saving lives and yet we cannot commit a fraction of those resources to an emergency that the UN has said is bigger than the threat of terrorism? I suspect that part of the reason lies in fear and ignorance. Those are the enemies in a crisis like this.

We had the federal government on Tuesday announcing that it would stop processing visa applications to people travelling from Ebola affected countries. On what advice was that decision made? I know that my colleague Senator Sarah Hanson-Young will have more to say on this. It is not based on science. Infectious disease experts and biosecurity experts know that these sorts of bans do nothing to keep Australia safe, but what they do is create a climate of fear and panic. As the United Nations say, it is that climate of fear and panic that discourages the vital relief work that is necessary to get on top of this epidemic. We have seen Liberia’s president urging Australia to reconsider its travel bans. We have seen Sierra Leone calling the move draconian—a move that does not target Ebola; it is a move that targets the 24 million citizens of Sierra Leone, Liberia and Guinea.

Thankfully we have President Obama showing some leadership on this. He said that health workers who volunteer to treat Ebola patients should be applauded, and he has been very cautious about quarantine measures. Instead, what do we get from the health minister here in
Australia? Just this morning he was talking about people cancelling their holidays to places like Queensland in response to the isolated cases that state has seen. Ignorance and fear are the enemies here. The minister needs to realise that words are bullets. What we need to hear are statements based on fact and evidence—statements that do more to encourage people to contribute to the field effort in West Africa.

There are many reasons that Australia should act. If this outbreak proceeds unchecked and the worst case scenarios predicted by the CDC are realised, it has the potential to disrupt trade right across the world and to cause a huge jolt to the global economy. We know that there are Australian health workers who are desperate to contribute. They want to be there. They are just waiting for the go-ahead from the government. But, most of all, there are hundreds of thousands of people—people just like us, people who share the same dreams and aspirations that we share—who will die if we do not act. That is reason alone.

Senator BACK (Western Australia) (16:08): I am delighted to rise to contribute to this debate. I acknowledge Senator Di Natale for his professional experience and his work in the public health area. Let me make this first point: the primary obligation of any country is to ensure that it does not put its citizens unnecessarily at risk and without a circumstance in which it is able to assist them, should they be placed at risk—indeed, heaven forbid, should they pick up a virus such as this one. The second point that I make is that there is nothing stopping Australian volunteers at this time from making themselves available through NGOs or any other process in Africa to contribute to the work associated with getting on top of and hopefully eliminating this virus.

Senator Di Natale quite rightly says that, on a case-by-case basis, progress is being made in this area. Senator Di Natale used the bushfire analogy. As Senator Siewert knows, I have some expertise in the bushfire area. Using that analogy, Senator Di Natale, I can assure you that the last thing a fire service would ever do is say that it is ready for the fire season on a fire-by-fire basis. You are either ready, prepared and able to respond and eventually assist the recovery process or you are not. That is the circumstance in which Australia finds itself at the moment.

There is nothing stopping volunteers who feel that there are safeguards adequately in place from making a contribution. There are already people in the health and allied areas involving themselves. Australia’s contribution to date has been some $18 million announced by the Prime Minister and the foreign minister: $10 million to the UN Ebola Response Multi-Partner Trust Fund, $3.5 million to the World Health Organisation, $2.5 million to support provision of front-line services under the Humanitarian Partnership Agreement and $2 million to support the UK’s delivery of frontline medical services in Sierra Leone. Australia’s contribution was praised by the United Nations as ‘exactly the kind of quick and effective response the UN is asking of member states.’ The issue of Australia’s possible further contribution is alive, but it will be on the basis of doing what all governments should do—that is, ensure the safety of their citizens. There would be no circumstance at this time—as I, with some understanding of epidemiology and virus diseases, would understand it—where we could be strongly endorsing or conscripting people to participate.

The virus is an interesting one. It is a zoonosis, a disease transmissible between animals and humans. It has its name from a river, the Ebola River in the Democratic Republic of Congo, where the disease was first described in humans in 1976. It is a member of the
filoviridae family. As we have been told, its contagion is more akin to that of HIV-AIDS, which is not of itself highly contagious. Its transmission is through bodily fluids and is not of itself an aerosol based transfer as we would find with, for example, pneumonia viruses. Let me make this point strongly—this was confirmed the other day for me by the Chief Medical Officer—sputum, phlegm or nasal discharge is highly infectious. Indeed, if a person who has nasal discharge or mucus from the mouth were to cough or sneeze over other people, it certainly would be spread through the air. Whilst not an aerosol droplet as with an influenza virus, it certainly has the capacity to be so spread.

We know that in the very same geographic areas in Africa, in parts of South America and in the Indian subcontinent the horrific disease malaria is endemic. I have had this discussion with Senator Di Natale. Malaria is a blood parasite transmitted by mosquitoes, as nearly everybody knows. In 2012 alone, there were 207 million cases, of which 627,000 died—over 90 per cent in Africa. That is more than 1,700 deaths a day, affecting mainly young children, pregnant women, older people and those with low immunity. Why do I make that point? I do not in any way wish to belittle or demean the incidences we have had of Ebola; we have had 10,000 cases of which about 50 per cent have died. It is a very high mortality rate. But it is interesting that from the time that this particular outbreak was first diagnosed in December of 2013 there have been 510,000 deaths from malaria in Africa. That is over half a million. Even since August, when the Ebola epidemic ramped up towards the horrific numbers we are seeing now, 150,000-plus people have died from malaria. Let us ensure that when we are engaged in the activities of looking to prevent disease and to protect the health of people in underdeveloped communities we do not forget that we are losing over half a million people to a disease which is preventable.

In the last couple of moments available to me I want to turn attention to the circumstance here in Australia. We are very, very well equipped. Each capital city now has a hospital that is ready. We saw evidence of that in Brisbane only the other day, when a person presented with clinical signs that could have been those of the Ebola virus. The actions that took place were correct; they were timely. The lessons learnt in Dallas, Texas—obviously one of the world's leading medical and hospital systems—as a result of failures of biosecurity were well and truly addressed in Australia. I am very confident of our contribution.

Senator SINGH (Tasmania) (16:15): I also rise to contribute to this urgency motion regarding the tragedy occurring in West Africa with the outbreak of Ebola. It is indeed with a sense of urgency that we contribute to this debate, because attention in West Africa is urgently needed. Personnel is needed in West Africa. Yet what we have had, unfortunately, from the Abbott government is some kind of stagnation when it comes to actually doing something and joining with our international partners—the UK, the US and other Western democracies—to offer that assistance.

Despite that, for weeks now Labor has been pressing the Abbott government to do more to fight the Ebola crisis and in doing so our shadow foreign affairs minister, Tanya Plibersek, and our shadow health minister, Catherine King, wrote to the Abbott government requesting that immediate arrangements be made, specifically highlighting the need to deploy Australian medical assistance teams—AUSMAT or similar—to West Africa and support other specialist Australian personnel who are willing and able to prevent the spread of Ebola. But on top of Labor's insistence in urging the government to act, there have been myriad specialists and
organisations in the medical field that have been doing likewise, including the nation's Chief Medical Officer, Professor Chris Baggoley, who threw his support behind the need to send Australian medical teams to West Africa. Again, that has fallen on deaf ears, with no action at all.

I noticed that Senator Back raised the fact that there has been an $18 million contribution provided by the Australian government. Of course the opposition supports providing that money for relief efforts, but money alone is not enough to resolve this terrible crisis occurring in West Africa. Organisations on the front line, like Medecins Sans Frontieres, have made that very clear and have said that they now are in desperate need of personnel rather than donations. Yet that is falling on deaf ears here with the Abbott government. In the meantime, we know that another day passes when there are more people becoming infected; another day passes when more people are dying. This is a terrible disease. We know it is not the only disease; we know there are people dying of malaria and other diseases in parts of the world. And we have appropriate mechanisms that we have contributed to try to help that as well. But this is a crisis that has been brought about and that can be resolved in some way if we as a nation join with the US and the UK and ensure that we do something to support preventing its spreading any further.

What we know so far is that the British are reportedly sending 750 people to help in Sierra Leone. The US has dispatched 3,000 people to Sierra Leone, and there have also been personnel sent from South Africa, China and Cuba. Yet the Abbott government is still ignoring the advice to assist in putting people on the ground. That is despite calls by the UN Secretary-General, Ban Ki-moon; the UN Security Council—their own resolution on the matter—Medecins Sans Frontieres, as I said; the International Crisis Group; the President of Sierra Leone; Oxfam; the Australian Medical Association; and the Public Health Association of Australia. And the list goes on—the amount of calling on this government to act.

We know that going to help fight Ebola in West Africa would not be without risk, which is why it is important that safety protocols are put in place to support Australian personnel who volunteer to serve. Of course the safety of those personnel must be paramount. But it should not be beyond the wit of this Australian government to negotiate with our international partner countries to ensure that those appropriate stand-by evacuation and treatment arrangements and the like are provided for any Australian personnel. It is a deep concern that this is not happening so far with the Abbott government. In fact, it is simply unacceptable that the Abbott government has failed to make such arrangements and to act. In the meantime, we know that many Australian workers are ready, willing and able to assist. There is simply no time to lose.

As I understand, there are some who have gone. But we need this Abbott government to be sending, along with the $18 million committed so far, personnel, just like the UK and just like the US have done, and to be ensuring that we are doing our part to keep this terrible disease under control. The US Centers for Disease Control and Prevention predict that if the international community does not do more then the number of Ebola cases could reach 1.4 million by early 2015. That in itself I think shows the reason our government should be doing more. We cannot afford to wait until Ebola reaches our region or our own country—Australia itself—before it becomes part of the global effort to control this virus.
This week, as I said, we have heard wildly different accounts about the Abbott government's preparedness to respond to the Ebola crisis in West Africa. We have heard about it from the Chief Medical Officer himself, the head of the health department, the Defence Force, the foreign affairs department and the immigration minister. At an estimates hearing, the foreign affairs department revealed that it was actually back in September—we are almost into November—that the UK and US governments made specific requests to Australia to send personnel to help fight the Ebola crisis in West Africa. I think it was Senator Di Natale that raised the point that, when our efforts in security issues are required and military issues in other parts the world, we are fairly quick to respond. When it is necessary, we do so. Why can't we respond to this terrible Ebola crisis that is going on in West Africa?

As I said in the adjournment debate last night, in my home state of Tasmania and across the country, the Sierra Leone community have set up the Salone Ebola Action Group, who themselves have been fundraising. In my home state, they fundraised $7,000 and got a lot of donations to provide medical equipment—a whole container left Sydney a couple weeks ago—to send to Sierra Leone, at the request of the Sierra Leone government and because some of those Sierra Leone community members in my home state have lost members of their own family and wanted to do something. So we have individual members of the Australian community acting. We have civil society acting. We have the medical fraternity making it very clear that there needs to be more action. Yet, when all of that is put forward to the Abbott government we have, unfortunately, this kind of stagnation where no decision has been made. Now is the time—that is what this urgency motion is about.

Now is the time for the Abbott government to actually get on board. They have had the request from the UK and US governments. They have had the request from the international community. They have had the request from the AMA and from the other civil society bodies here in Australia and elsewhere. There is absolutely no reason why the Abbott government should not be acting today on this issue. As I said, it should not be beyond the wit of the government to negotiate with our international partner countries on the issue of safety of our Australian personnel.

We know that, so far, Ebola has killed more than 4,000 people. It has infected around 10,000 people in West Africa. If we do not do more, some predictions suggest the number of Ebola cases could reach 1.4 million. This is no longer just a humanitarian issue in West Africa; it poses a direct threat on the rest of the world and we need to act. (Time expired)

Senator HANSON-YOUNG (South Australia) (16:25): I rise today to contribute to this important debate on the issue of Australia's contribution to the efforts to defeat Ebola in West Africa and of course to deal with it as a global issue, not simply left to those nations currently struggling with the epidemic. As the Greens spokesperson for immigration I am extremely concerned at the approach and attitude of the government's Minister for Immigration and Border Protection, Scott Morrison, in relation to this issue.

On Monday, the Abbott government made an extraordinary announcement. On the ABC's AM program, the immigration minister announced that he was effectively shutting Australia's borders to people from Western Africa, that anyone who did not already have a visa would be locked out and that the humanitarian program has been suspended—just like that, slam! The Australian government has locked the front door and shuttered up the windows while the house is burning. The message is clear from the Australia immigration minister and his
government: ‘No refugees and no people who are seeking to leave West Africa are welcome here; sorry, but we're just not interested in your suffering.’ How mean, cruel and incredibly selfish this government is.

Not only are we refusing to carry our weight in responding to the Ebola crisis, as previously outlined by my colleague Senator Di Natale, but also to send such an irrational, fearmongering message not just to our own domestic community but to the rest of the world is devastating for those who are actively trying to do their best to control the Ebola epidemic.

The United Nations has said that measures such as suspending these types of visa programs and closing the door on those fleeing from West Africa could discourage the vital relief work, making it harder to stop the spread of the deadly virus. So well done, Scott Morrison! Well done, immigration minister! There is no doubt that slamming the door in the face of people from West Africa is dispiriting to those who are struggling to fight the outbreak on the ground. Liberia's president has urged Australia to reconsider its travel ban, saying:

Anytime there's stigmatisation, there's quarantine, there's exclusion of people … we get very sad.

Sierra Leone's information minister, Alpha Kanu, said Australia's move is discriminatory in that it is not going after Ebola but, rather, is against the 24 million citizens of Sierra Leone, Liberia and Guinea. He added:

Certainly, it is not the right way to go.

Mr Kanu, I could not agree with you more. US President, Barack Obama, said his country's response would be guided by science and not by fear. And, yet, here we have our Australian ministers whipping up fear, fearmongering and creating hysteria. The fact of the matter is that announcements like this one, banning refugees from the region and cancelling visa requests, create fear in both Australia and the communities that are actually struggling to deal with the crisis.

The World Health Organisation has said that any type of travel bans would deter aid workers, which is the last possible thing that we should be doing at this time. A senior Ugandan government spokesperson said, 'With moves like this, Western countries are creating a culture of fear.' Again, well done, Minister Morrison, for being such a wonderful diplomat on the international stage! The Ugandan government spokesperson said, and I quote:

If they create mass panic ... this fear will eventually spread beyond ordinary people to health workers or people who transport the sick and then what will happen? Entire populations will be wiped out.

These are the words of the very people who are asking Australia for help. Other Ugandan officials have said that they are worried that Africa will be cut off from the world. 'We don't want anybody to think that this is an African problem,' they said. 'It is a global problem that we must handle together.'

Why is Australia so insistent on isolating itself from the rest of the world? Ebola is certainly a global problem, and it is only by working together that we will overcome it. Australia's selfish response to this crisis, with MPs trying to score domestic political points while the government drags its heels, has been extremely disappointing, and it is starting to bite in terms of our international reputation. In the past, Australia has been at the forefront of responding to international catastrophes. There were inspiring scenes during a surge of national pride when we came together and worked with other nations in response to the tragic Boxing Day tsunami in 2004. Last year, when the massive earthquake struck the Philippines,
Australian men and women came together and worked with the government to help those who were suffering. These were great achievements that helped build our national character. But when it comes to the global response to Ebola, Australia is severely lacking. In fact, apart from a deafening silence, the Abbott government's only response has been to ban West African refugees from coming to Australia. That is a shameful announcement—

Senator Ian Macdonald: That is just a lie and you know it.

Senator Hanson-Young: and a baseless decision, and it must be reversed as soon as possible.

Senator Moore: I rise on a point of order. Senator Macdonald has called Senator Hanson-Young's contribution a lie and has consistently said that over and over again. I ask him to withdraw it.

The Acting Deputy President (Senator Lines): Senator Macdonald, could you withdraw that remark?

Senator Ian Macdonald: I am happy to.

Senator Hanson-Young: Let's be clear about this: the immigration minister's ban on refugees is political politically motivated. It is disturbing to see that, with his thirst for power on his own frontbench, his campaign against anyone who is asking for Australia's help seems just to spread to the next front.

Senator Ian Macdonald: Why don’t you tell the truth?

The Acting Deputy President: Senator Macdonald, you will get an opportunity to speak shortly. You will be free then to respond to anything you choose to. In the meantime, please let Senator Hanson-Young finish. She only has a few minutes to go.

Senator Hanson-Young: Clearly, there are members of Mr Morrison's own party who are either unclear or uncomfortable with the ban of West African refugees, as announced by the minister this week. And why was this ban announced, Madam Acting Deputy President? Let me spell it out for you. This is a minister who was firstly anti-boats. Then he was anti-Middle East. Now he is anti-West African. This is a minister who is doing everything he can to keep people who need help from ever being able to reach Australia. The question is: what do these groups of people have in common? I will not venture a guess. But I think it is important to remember what Scott Morrison, the immigration minister, once urged his party room to do. He asked them: why don't we capitalise on what he referred to as the growing anti-Muslim feeling in Australia? That is what I believe is at the core of this baseless, heartless, cruel decision to ban West African refugees.

Senator Ian Macdonald: I rise on a point of order. Was Senator Hanson-Young in the party room to hear Mr Morrison say this? She cannot be allowed to tell deliberate and outrageous untruths in this parliament.

The Acting Deputy President: I believe that is a point of debate.

Senator Hanson-Young: I fear that, at this time, with a populist, knee jerk, irrational move to ban refugees from West Africa, the minister this time has gone too far. I urge him to reconsider. I urge his government to reconsider before any more damage is done not just to Australia's reputation of being a caring and cooperative nation but to those millions of people on whom Mr Morrison is simply suggesting that Australia turn its back. We know this
The government needs to be doing more on the ground. We know we need to be helping to send professionals. But what we also know is that we should not be slamming the door shut and shuttering up the windows while the house is burning.

The Senate today has called on the government to provide this place by 3 pm tomorrow with the advice by which this decision to suspend the humanitarian program was made by the minister. I look forward very much to reading that advice come 3 pm tomorrow. If it is not produced by 3 pm tomorrow, you have got to wonder if this was just part of Mr Morrison's cruel crusade, or does he really think that by putting a stethoscope around his neck and walking in to question time he is instantly a medical expert on the issue?

Senator IAN MACDONALD (Queensland) (16:35): What a nasty, vicious and completely untruthful address that was by the previous speaker. It was a diatribe against the minister who has done more to save lives and to get our immigration system in order than any minister in recent history. Senator Hanson-Young cannot stand that. She cannot stand the fact that she has been proved wrong and that Mr Morrison saves lives and brings some order into the immigration system that brings in those who have been waiting in refugee camps for years.

I am a bit confused by this debate. I have heard Senator Singh and Senator Hanson-Young. I am not quite sure what they are complaining about. Senator Hanson-Young, untruthfully, said that the Australian government had done nothing. It is a matter of fact that already $18 million has been provided in direct assistance, and at the estimates committee hearing we were told that Australia punches well above its weight when it comes to humanitarian aid. If it is the money that Senator Hanson-Young and Senator Singh are talking about, and if they want Australia to provide more money, then they should say where it is to come from. I say to Senator Hanson-Young: how would it be if we were able to give $33 million a day to fight Ebola? She would probably say, 'Ooh, that'd be good!' If Senator Hanson-Young had not supported the previous government, which ran up a debt that will approach $600 billion and costs Australia $33 million a day in interest—if Senator Hanson-Young had not been part of that—we could be using that $33 million every day to go to aid around the world. It could go to the Ebola crisis. But do we hear that from Senator Hanson-Young? Of course not.

Senator Hanson-Young's diatribe was just—well, it was not full of untruths; there was not an accurate thing in what she said! I think it is quite interesting that when Senator Hanson-Young misrepresents something and the information she has provided to the Senate is completely wrong, all she does is sit there and giggle. It simply proves that Senator Hanson-Young does not give one iota of concern to the plight of people who are in these situations around the world. If she did, she would support Mr Morrison's attempt to bring people into this country who are waiting their turn in the squalid camps around the world. But there we are. Senator Hanson-Young, if you want to give $33 million a day to fight Ebola, you could have done that if you had not supported the previous government in running up a debt that now costs us $33 million a day in interest.

I ask Senator Hanson-Young or Senator Singh, as I asked Senator Di Natale in estimates: what is stopping any of them from volunteering their services today to go to these places in western Africa? As we were told at estimates, there is not one thing stopping Senator Di Natale using his expertise as a medical practitioner to slip over there and help—not one thing. I might say that Senator John Herron, formerly of this chamber, actually did just that when he
went to South Africa, to Rwanda and Burundi, to use his medical skills to help there. There is nothing that the Australian government is doing that would stop any person in Australia from going and doing that. Senator Hanson-Young tells us that there are dozens or hundreds of people waiting to go. If they want to go, good luck to them; they go with my best wishes and my great admiration. We should be encouraging those people. But the Australian government has an obligation, a duty of care, to anyone it might send, and the duty of care is to make sure that those people, those Australians, are safe when they are there and that they come back into the country, as well, safely.

We have heard of some politician—up in Cairns, I understand—getting on their soap box and berating the Australian government for letting anybody back into the country who happens to have ever been over there. Nobody takes any notice of that particular politician anyhow, but he was reflecting a view of many people that we have to be very careful that the disease does not come into Australia.

All of the evidence we have heard at estimates committee hearings, all of the things we have read in the paper and all of the announcements by the Prime Minister, the health minister, the foreign affairs minister and the immigration minister point to the fact that we want to be very careful, for Australian citizens, that we do not have the Ebola crisis here. I also raised the point at estimates—and it is something I have raised often—that there are other countries who have a closer association with Africa than Australia does. Australia has now, fortunately, directed its humanitarian aid to the Pacific and to South-East Asia, which I think is appropriate. And we are keeping money in reserve to address any possible outbreak of Ebola in the areas close to Australia for which we have a special responsibility.

Senator Hanson-Young made a lot out of the UK and the US and Sierra Leone asking Australia to help. Well, as was pointed out in estimates, as Senator Hanson-Young would have heard had she bothered to go along and listen, those were form letters that went out to everyone; it was not a particular request to Australia as Senator Hanson-Young and the Greens would have you believe.

So Australia is punching well above its weight in this. If there are Australians who want to go, they are quite free to go, and when they come back they will go through the normal processes. But the Australian government will not direct people there until it can satisfy its duty of care to people who expect it to look after them.

Senator LINES (Western Australia) (16:43): I too rise today to speak in the debate on this matter of urgency and about the Ebola crisis that is facing West Africa—indeed, it is a problem for the world. As Labor has consistently put on the public record, we acknowledge that the Abbott government has made a contribution of funds—we acknowledge that. Senator Singh has acknowledged that. Our shadow health minister has acknowledged that. We have given funds. But funds are clearly not enough. We cannot give money and then no personnel.

The view that we have heard from senators from the Abbott government this afternoon quite frankly makes me feel quite ashamed. This is not about people, of their own free will, volunteering; it is about Australia making a proper effort as a modern, democratic, well-resourced country to support those in West Africa. I have listened to the government, and a couple of weeks ago on a Saturday I heard our health minister say that we would commit medical personnel—if the disease reached New Guinea. Heaven help us if it gets that far, because then we would all be in trouble! I could not believe that the government of Australia,
through its health minister, was seriously suggesting that that is when we would commit medical staff. I sat as I listened and could not believe I was hearing that someone in a very responsible position, such as the health minister of our country, could make that short-sighted comment. I just wondered what was motivating that kind of response.

As a rich, resourced, democratic country we have some responsibility, as do other countries in a similar situation to us, of ensuring that West African countries do have robust health systems that can prevent these outbreaks. That is part of our responsibility; it is part of our moral responsibility, it is part of who we are as human beings.

Then, this morning as I listened to the news I heard this ridiculous assertion that tourism numbers in Cairns and other places have been dropping off because people were fearful of somehow contracting the Ebola virus. Then I wondered what is being created here—fear. Earlier we heard Senator Di Natale, a medical practitioner, refer to that. It is not appropriate for us to be evoking fear in fellow Australians.

I also read in the newspaper last Saturday this horrific story of this young girl of 15 who had lost her mother and her father. She did not really know, but they had gone and had been placed outside of a hospital, because they could not get in. We all know the truth of this. Both her mother and father had died of Ebola and this young 15-year-old was left without any resources. Everyone in her village was shunning her because her family had contracted Ebola and died. She was left with very young siblings to care for, and one of them subsequently died. I put myself in the shoes of that family and was heartbroken, yet we have this cold callousness coming from the Abbott government, and indeed some of the senators here today, that if want to go off and volunteer, off you go. That is not what this is about. As part of the Australian community it is our responsibility to act as a country, to give funds—and, yes, we have done that—but to also enable our health workers to go under the umbrella of an Australian volunteer, not a personal volunteer. But, no, what we are seeing is this narrowing down and this attitude that we are only going to act in our region, this closing of our borders. We have stopped people from West Africa now being able to get visas, when really we should be looking forward and looking to how we can help.

There is no doubt that there are not enough medical personnel working in West Africa. That now is the crux of the problem. Yes, we initially did have a problem about evacuating health workers from the region. But that is not a reason to say no. That is a problem we solve. We solve that by building field hospitals and by calling on other countries to support us. When we act as countries assisting in these sorts of crises we do act together. It is not the Americans, the English and the Cubans. We are there together with our comrades and colleagues in West Africa, working together to defeat this virus. That is what we have to do, because I for one do not want to see many more deaths in West Africa. These are people just like us, who have families and jobs and want to live a full life, and they are dying in huge numbers.

I for one want to be part of a community that reaches out and says 'Yes, along with our funds you will also get our best medical personnel,' because we are equipped to do this. Nobody is questioning whether our hospitals in Australia can cope with a crisis. We would expect that, and as Australians we have a right to expect, in a well-developed country, that we are adequately protected. But the reality is that we now have 6,000 confirmed cases of Ebola in West Africa. Yet we sit on our hands and start to be small-minded. We attempt to close our
borders and we say things like, 'We will only look after those in our region.' That is wrong. We are part of the world community and we have a responsibility to support West Africa, not only with funds but also with medical personnel.

Along with the tragic story of the young 15-year-old girl losing her family, we know that more than two and a half thousand people have already died. That is a crisis by anyone's imagination. By any stretch, by any measure, that is a crisis, and it is a crisis we need to act on.

Health experts are telling us that the disease is increasing incredibly fast. Experts are predicting that 21,000 will be infected now. We must act to stop Ebola spreading. We know, and the UN have told us, that there is a very small window to which we can contain this crisis, before it gets completely out of hand. Heaven help if it ever spreads to New Guinea. I certainly do not believe that New Guinea and many other countries in our region are equipped to deal with a crisis like that. It is a very short-sighted and uninformed view to suggest that that is when Australia will step in and help, because by then the whole world is in crisis.

The time for us to be helping is right now. As other senators have said, we have the Australian Medical Association urging the Abbott government to get on board and help. They are the experts in this. We have our own government medical people telling us that we need to be supporting and acting with personnel in this crisis. We have MSF out there, who are always one of the groups that are in the frontier risking lives. There would not be a crisis in the world that MSF is not actively participating in. Doctors and nurses, many of them from Australia, are saying that we must act. The government could arrange for these volunteers to be attached to existing operations. The government does not have to spend a lot of money setting up new resources. They could be attached to MSF, to the Red Cross, to the UK or the US. There is no reason why Australia should not be committing personnel. It is not good enough for the government to say, 'You can volunteer.' We need to show that, as a country, we are committed to stopping this virus in West Africa, to saving lives so that children can grow up with parents and to stopping this disease right now—because the window will start to close in the next couple of days—before we well and truly have a crisis which will spread. I would hate to see that happen. I would urge the Abbott government to get on board and look at how we recruit those desperately-needed medical staff and to do it very, very quickly and in the partnerships I have just outlined.

Senator REYNOLDS (Western Australia) (16:53): I also rise to speak on this urgency motion on the Ebola epidemic. I have to say up-front that, listening to the speakers opposite, all I could think was: never let the facts or the public interest get in the way of a good political scare story. It completely appals me that those opposite have used this very grave international issue to try to score some very cheap political points. Without question, the primary responsibility of our government is the protection of Australians. No matter how much those on the other side assert that that is not the case and that this government has been sitting on its hands, it has not.

Last week many of those opposite, including Senator Di Natale, sat there and heard very clear evidence from the chief medical officer and also from the secretary of the Department of Health that Australia is very well prepared domestically. A lot of work and a lot of action have gone into ensuring that our primary responsibility is protecting Australians. Even those opposite acknowledged that that testimony was correct.
It is also very appropriate that, once we ensure that we have the proper controls and response mechanisms in place in a public policy sense, we then turn to our region which, interestingly, Senator Lines just acknowledged is in the areas of Papua New Guinea and elsewhere in our region. It almost defies logic that we would, first, be looking to send our health professionals not only whom we need here in case of an outbreak here but, as she acknowledged, who might be required in our region because they do not necessarily have sufficient primary health care to deal with those issues. Therefore, I think it is entirely appropriate that this government, after making sure that we are as prepared as we can be, help those in our region in the event of an outbreak.

It is also very important to take a look at the facts, absolutely none of which I heard from those opposite. The facts on Ebola are yes, it has great lethality. About 50 per cent of those who contract it do die. However, what we have not heard is the nature of the disease. This is not a highly contagious disease and it has very specific times when people can get sick. It is not a new disease, we know how to treat it and we know how to—

**Senator Di Natale:** How do we treat it?

**Senator REYNOLDS:** Madam Acting Deputy President, am I being asked a question?

**The ACTING DEPUTY PRESIDENT (Senator Lines):** Senator Di Natale, Senator Reynolds has sought the assistance of the chair. Please allow her to finish her contribution in silence.

**Senator REYNOLDS:** From all of the evidence from the World Health Organization, from those who have been dealing with this and from the recent experiences in Nigeria and Senegal, both of whom have now effectively dealt with outbreaks and are now Ebola free, we know that it is passed on through person-to-person contact at a very highly infectious stage, which is generally towards the end stages, and that it is passed on through direct contact with bodily fluids. Two nations have already successfully dealt with this disease and, if we do get it, we know how we can prevent it and treat it. So it is entirely appropriate that we adopt a domestic focus and then a regional focus.

In relation to those opposite and their comments on our international support, I wholeheartedly endorse what this government is doing. The Minister for Health and our foreign affairs minister are dealing with this in a way that represents good government. They are not irresponsibly sending our personnel overseas when we cannot guarantee that, if they become infected, we can evacuate them. It is a 30-hour evacuation. The pods only have five hours of protection, so we need to have patients treated in a field hospital in-location, which does not yet exist. Even when it does, if the UK plan gets up, it will have bedding for 12. So, Senator Di Natale, if you would like to take your chances and head over to West Africa and provide some primary health care, just remember that we cannot evacuate you yet and look after you.

**The ACTING DEPUTY PRESIDENT:** Senator Reynolds, please direct your remarks through the chair.

**Senator REYNOLDS:** Through the chair, I would like to remind those opposite that, even if they go over today, we cannot yet evacuate them in time. Possibly, as the foreign minister has said, we will continue negotiating with the UK and others for access to a field hospital that does not yet exist.
Senator O'Sullivan interjecting—
Senator Di Natale interjecting—

The ACTING DEPUTY PRESIDENT: I remind senators that Senator Reynolds has the right to be heard in silence. Thank you, Senator Reynolds, if you would like to continue your remarks.

Senator REYNOLDS: It would be highly inappropriate to send our personnel overseas. We have at least 20 or 30 Australians who are now working with other organisations in West Africa and that is entirely appropriate. If Senator Di Natale, as a doctor, would like to go over there, there is nothing today stopping him from doing that. But he would have to remember that, if he goes over there, the Australian government does not yet have a guaranteed way to get him home in under 30 hours. It may take longer. And the UK does not yet have a field hospital that he could be treated in, so in that circumstance it would be irresponsible of the government to do so. This week there was a quote from infectious diseases expert Dr Nick Coatsworth from the National Critical Care and Trauma Response Centre, who used the analogy:

If they can’t get you to a first-world intensive care unit in a reasonable time frame, it would be like sending in the SAS into Afghanistan with no helicopters to get them out.

(Time expired)

Question agreed to.

DO DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Linee) (17:00): I shall now proceed to the consideration of documents under the new temporary order. The documents are listed on pages 5 to 7 of today's Order of Business.

Australian Charities and Not-for-profits Commission

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:00): I move:

That the Senate take note of the document.

The Australian Charities and Not-for-profits Commission annual report gives an outline of the work that the Australian Charities and Not-for-profits Commission have done over the last 12 months. The report shows that they have been extremely busy this year and, I think, highlights the value of the Australian Charities and Not-for-profits Commission. Their website has been viewed by over 3.6 million people. More than 1.5 million people have visited the Charity Portal. There have been 3,100 new charities registered, there are 60,736 charities on the charity register and there have been 303,158 views of the charity register. What I am trying to demonstrate is that they are carrying out a very important role in helping our charities and not-for-profits in this country.

This is, of course, the body that the government want to get rid of. One of the things they accuse the ACNC of is increasing red tape. We know that charities and not-for-profits in particular are very concerned about the red tape that they have faced around their reporting for the various grants and other things that they do. So, on the surface, you might think, 'The government and Minister Andrews have a point there,' but then you actually look at the details. Bear in mind that the ACNC are the body tasked specifically with reducing red tape.
That is very clearly part of their role, and part of the reason the Australian Greens supported them was to reduce red tape for charities and not-for-profits.

I followed up this issue particularly at estimates this year and was very interested in one of the reports that the ACNC commissioned. EY—for those who are not familiar with the new name EY, it was formerly Ernst & Young—carried out a report to look at the red-tape burden. Just wait for this: the so-called red-tape burden that the ACNC is supposed to generate is 0.1 per cent of the total red-tape burden. Guess what the greatest burden of red tape for charities and not-for-profits was? It was government process—not the ACNC but government process. The point that Susan Pascoe, the CEO of the ACNC, made at estimates was that you need to bear in mind that some of this so-called red tape is very important red tape; in fact, it is necessary. When you look at some of the work of charities and not-for-profits, it is important, for example, that charities and not-for-profits working with children carry out the right processes for accreditation of their workers. It was also pointed out that the so-called red tape around keeping appropriate data is actually important in being able to do acquittals, for example, to ensure that charities' tax deductibility is maintained.

The point here is that the minister uses red tape as an excuse to get rid of the ACNC, when it has clearly now been demonstrated that they do not generate red tape and, in fact, help reduce red tape. The red tape that they are creating, that 0.1 per cent, helps them reduce other red tape. The reporting that they do as part of that 0.1 per cent also helps them to do their necessary acquittals.

One of the things that the ACNC has been working on is the charities passport, which is a process that they have been developing to work with government departments to assist charities and not-for-profits to work with government—because, as a charity or not-for-profit, you could be working with a number of government departments. In the past, you had to provide all your details to this department and that department and that department, all of whom require these details. The idea of the charities passport is that you only have to submit your details once. Some government agencies have picked this up and are working with it, for example A-G's, the health department and a number of other departments. Guess what? One of the biggest departments that deals with charities and not-for-profits, the Department of Social Services, has not picked up the charities passport—the one department you would have thought would pick it up.

The ACNC plays a very important role. The government should get over their fixation with getting rid of it, keep it, move on and give certainty to that agency and certainty to the charities and not-for-profits sector. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Australia Council**

**Senator IAN MACDONALD** (Queensland) (17:06): I move:

That the Senate take note of the document.

Because of the curtailment of the Senate estimates last Tuesday as a mark of respect for the passing of the former Prime Minister Mr Gough Whitlam, the Legal and Constitutional Affairs Legislation Committee did not get on to its inquiry into elements of the department of the arts and, in particular, the Australia Council. That is a great shame to me, because I was
particularly wanting to question the Australia Council, and I will do so whenever the Senate decides that we will resume those abandoned estimates hearings.

The Australian Festival of Chamber Music is wonderfully successful, both in Australia and internationally. It has been held in Townsville for almost 25 years. I want to question the Australian Council on why it chose the 25th anniversary of the Australian Festival of Chamber Music to reject the festival's application for funding—the sort of funding that has been given almost as a matter of course over the last many years. The Australian Festival of Chamber Music applied for a $50,000 grant, but the application was not successful. For the last three years, the festival has received upwards of $62,000 towards its program costs from the Australia Council.

The festival is a wonderful event for Australia. From very humble beginnings 24 years ago, the festival has now grown to Australia’s pre-eminent festival of chamber music. The festival attracts approximately 60 per cent of its audience from across Australia and overseas, and approximately 40 per cent from Townsville and surrounding regions; both sectors are going. Total numbers last year are approximately 14,000 people. Guest artists who perform at the festival are selected for their capacity to engage with each other and the audiences. One of the most frequent comments about the Festival of Chamber Music is the pleasure and stimulation derived from the close access to performers that the audience get.

Time does not allow me to go into too much detail on this event, which has been a great success story in regional Australia, and Townsville, and has worldwide recognition. Many of the artists who come are international artists, and they are very keen to appear at this festival. I am perhaps alerting the Australia Council in advance to be prepared to answer questions at estimates, whenever they do occur. I really want to know why the Australia Council has not funded the Australian Festival of Chamber Music on this occasion. As I say, it has been funded for year after year, and it is the sort of thing that the Australia Council should be supporting. I do not want to be paranoid about this, but do I suspect that the Australia Council is more interested in events from Sydney, Melbourne and Canberra than from way up there in regional Australia and North Queensland? I will want them to compare for me the grants they are making in the capital cities compared with the grants that they are making in parts of regional Australia.

This is, I emphasise yet again, a world-class event. I am a great supporter of chamber music although it is not always to my liking, but for those who understand music this is a wonderful event. I simply cannot believe that on the 25th anniversary of this festival the Australia Council has decided for the first time in many years not to fund it. I look forward to asking directly why this occurs. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:12): On behalf of Senator Polley, the Chair of the Senate Standing Committee for the Scrutiny of Bills, I present the 14th report of 2014 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 14 of 2014, dated 29 October 2014.
Ordered that the report be printed.

Regulations and Ordinances Committee

Delegated Legislation Monitor

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:13): On behalf of Senator Williams, the Chair of the Senate Standing Committee on Regulations and Ordinances, I present the Delegated Legislation Monitor No. 14 of 2014.

Joint Standing Committee on Treaties

Report


Leave granted.

The statement read as follows—

Mr President, today I present the Joint Standing Committee on Treaties' Report 144, containing the Committee's views on the Agreement between Australia and Japan for an Economic Partnership.

The Japan-Australia Economic Partnership Agreement (JAEPA) was tabled in Parliament on Monday 14 July 2014. Mr President, Australia and Japan enjoy a strong, long-standing bilateral relationship based on common values: democracy, human rights, the rule of law. During his visit to Australia in July 2014, the Prime Minister of Japan, Mr Shinzo Abe, spoke of the evolving nature of the 'special relationship' between our two countries, as it expanded to take in closer security bonds and broader trade ties.

Mr President, that relationship has been reinforced by a steadily developing complementary bilateral economic relationship. Since the middle of the twentieth century, Australia's resources have supported Japan's prosperity and Japan's manufactured goods have contributed to Australian's modern, affluent standard of living. Today, Japan is our second-largest trading partner with two-way trade, in 2013, standing at $70.8 billion.

JAEPA will further enhance that economic relationship. It is the first such agreement that Japan has signed with a major agricultural exporting country. It is seen as the most liberalising trade agreement that Japan has ever concluded.

Mr President, this Agreement places Australia in an enviable position. Tariffs will be reduced in a range of areas. Modelling predicts that beef exports will benefit by around $5.5 billion over 20 years and deliver an increase of up to seven per cent in the annual gross value of Australian beef production. There will be duty-free quotas for Australian cheese, immediate duty-free access for the growing trade in milk protein concentrates and new opportunities for ice-cream and frozen yoghurt.

Importantly, Mr President, Australia will gain a first-mover advantage. Australian exporters will have the opportunity to beat their competitors into the Japanese market and establish a presence with consumers before other countries have the chance.

As with all the free trade agreements that Australia has negotiated to date, Mr President, JAEPA did not deliver on all the outcomes we would have liked. However, as one witness pointed out to the Committee, the Agreement represents a 'seismic shift' in Japan's traditional thinking on trade. As another witness told the Committee, JAEPA will 'refocus' attention, both in Japan and Australia, on the relationship between the two countries. It will open up opportunities for further trade liberalisation and the flow on effects will go far beyond tariff reductions.
The Committee found, Mr President, that increasing the non-screening investment level to $1 078 million is expected to significantly increase Japanese investment in Australia. In 2013 it stood at $131 billion. The revised provisions will make it simpler for Japanese investors to do business in Australia making it an attractive option in an increasingly competitive market.

Mr President, minerals and energy resources make up the bulk of Australia's export trade with Japan, worth over $24 billion and accounting for over 80 per cent of total merchandise exports in 2013. Australia is facing major competition in this area from global competitors but the Economic Agreement will offer Japan reassurance concerning energy and resource security from Australia, providing suppliers with a boost.

Overall, Mr President, we are satisfied that JAEPA has the potential to provide Australian business and industry with a range of profitable opportunities and to be a net benefit to the Australian economy.

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

Foreign Affairs, Defence and Trade References Committee

Report

Senator GALLACHER (South Australia) (17:14): Pursuant to order, I present the report of the Foreign Affairs, Defence and Trade References Committee: Australia's future activities and responsibilities in the Southern Ocean and Antarctic waters together with the Hansard record of proceedings and documents presented to committee.

Ordered that the report be printed.

Senator GALLACHER: I move:

That the Senate take note of the report.

I am pleased to table this report of the Foreign Affairs, Defence and Trade References Committee into Australia's future activities and responsibilities in the Southern Ocean and Antarctic waters. The inquiry was referred to the committee in March 2014. We received 23 submissions and held public hearings in Hobart and Canberra in September 2014. In Hobart we visited the headquarters of the Australian Antarctic Division and toured both the AAD research and supply ship Aurora Australis and the new CSIRO marine research vessel the RV Investigator. These visits were very informative and the committee was extremely grateful to AAD and CSIRO staff who facilitated them for us.

In its inquiry the committee heard that Australia is a world leader in the Southern Ocean and Antarctic waters. We have a unique geographical proximity, we exercise an expansive sovereignty through our Antarctic and island territories, we are a major player in science and fisheries and, importantly, we are responsible under international law for search and rescue in a vast ocean area. Australia's leadership, however, is not assured. Interest and activity from other nations in Antarctica and its waters is growing at a time when Australian investment in personnel, science and operations is declining. Scientists have discovered that the Southern Ocean plays a major role in predicting and influencing climate change in Australia and globally, but our capacity to undertake research is diminishing, and our world-best expertise is at risk of being lost. Australian authorities are trying to counter an increasing threat from illegal fishing and the impact the growing Antarctic tourism has on search and rescue demands with inadequate maritime resources for patrol in response. After a significant victory in the International Court of Justice earlier this year against Japan's lethal whaling Australia's planned response to the threat of its resumption is unclear.
Meeting all these demands is difficult and is also expensive, however, it is clear to the committee that significant Australian interests are at stake. In short, the committee believes that the continued Australian leadership in the Southern Ocean and Antarctic waters is worth the investment. The government should place importance on our interests in the area and restore the resources necessary to support them.

The committee's report offers 18 practical recommendations to protect and promote Australia's key interests in the Southern Ocean and Antarctic waters. These include: that the Australian Customs and Border Protection Service be tasked to recommence regular maritime patrols in the Southern Ocean, which it has not done since 2012, starting with at least 240-day patrols in each of the next two financial years; that the government commits to continued funding for the Southern Ocean research partnership, an Australian-led international initiative on non-lethal whale research, and invites Japan to join the program; that Antarctic and Southern Ocean science be appropriately supported into the future through long-term assured funding linked to national priorities with a comprehensive review of the budget of the Australian Antarctic Division, recognising its special needs as recommended in the recently released *20 year Australian Antarctic strategic plan*; that steps be taken to ensure that the RV *Investigator* is able to be used to its full potential by spending 300 days per year at sea; that an interagency review of Australia's marine assets be undertaken, with consideration of a national fleet approach to make better use of them, and the potential acquisition of new patrol capacity suitable for the Southern Ocean; and the continued pursuit of a dedicated Commonwealth-Tasmania strategy to maximise Hobart's potential as an international Antarctic gateway. Finally, the committee has recommended the creation of an Australian Antarctic and Southern Ocean ambassador. That person would draw much needed attention and support to Australia's interests to our south as well as providing a focal point for coordinating whole-of-government policy and international engagement in this area.

The committee was impressed by the passion and commitment shown by the many people we met who work in various ways in the Southern Ocean and in Antarctica. Their work is challenging and often goes unnoticed, but is extremely valuable to Australia and represents a sector of national excellence of which we should be very proud. The committee hopes this report will help to highlight the importance of that work and to ensure that it attracts support needed to remain an Australian flagship into the future.

**Senator WHISH-WILSON** (Tasmania) (17:21): I want to thank all members of the committee and say how grateful the Greens and I were that we had such an excellent set of hearings with tripartisan support for most of the issues that were discussed. We had fantastic cooperation from the Australian Antarctic Division, the CSIRO and the science community in Hobart. We were lucky enough to tour the facilities, meet the scientists, have a look at their various research programs in detail and meet the people who decked out and managed the logistics of the personnel operating in Antarctica. I think it was a very tangible experience for senators to actually go to Tasmania and meet the good people who are doing so much good work, particularly in the area of climate science.

Australia has a very long and proud history in the Antarctic. We are all familiar with the epic journeys of our early explorers and the sovereignty that Australia has over this enormous stretch of ocean, the Southern Ocean, and Australia's areas within the Antarctic itself. We are
a leader. We have been a leader for decades now in and around Antarctica in areas such as science, particularly marine science and climate change science.

The Greens initiated this inquiry. Once again, I am thankful for the support we had to get the inquiry up. Around the time we initiated the inquiry, we were not aware that, coincidentally, Professor Tony Press was doing a report for the government—a 20-year strategic review. That tells you that it has been a long time since we in this country have looked at the Southern Ocean and Antarctica and taken a holistic view on our strategy in relation to not just the logistical support of operations down there but what we need to do to maintain sovereignty of the area and other challenges, opportunities and threats surrounding the Antarctic into the future. Being a Tasmanian, obviously I am very familiar with the importance of the Antarctic Division to my state. The thousands of scientists, their families and the support networks around them are absolutely crucial for the community down there and they are absolutely crucial to the economy.

I am very pleased not just with the quality of the witnesses and submissions that the inquiry received but also with the recommendations. There are a number of very strong recommendations here right across the board. I note Senator Macdonald is in the chamber today and he may wish to comment on areas such as patrolling the Southern Ocean. That is something he has been actively involved with before. It became very obvious to me in the last 18 months from asking questions in estimates and trying to get more information on exactly what we do in the Southern Ocean that very little was going on. Very few assets, as they are called, be they military or otherwise, were being deployed down to the area. We had very little capability, with isolated vessels and aircraft capable of the duration to go to the Antarctic let alone land there. It seems to me that I have been watching the size of the science community in Hobart shrink over the years, particularly with recent budget cuts. This inquiry was a very good opportunity to highlight the good work that they do. I know Senator Carr, who is also in the chamber, has been very involved with CSIRO over the years and knows exactly how important that science community is to Tasmania.

I commend the report's strong recommendations. As Senator Gallacher said, there are 18. They are all important. The Greens do have two additional comments that I want to go through, and I will finish at that. There is no business case around the extension of the Hobart runway, which was this government's promise, and it seems there are no fruitful negotiations around the use of that runway. That is nearly $40 million sitting there that is not being used. We did some back-of-the-envelope calculations. The RV Investigator, the new CSIRO ship sitting down in Hobart, only has funding for 180 days but it was earmarked for 300. If we took the runway extension funding allocation and temporarily redirected it to allow the RV Investigator to go to sea, at $140,000 per day running costs we could nearly fill that gap of 120 days for the next three years. Of course, we would still like to see that extension to the runway done when it is needed from infrastructure pools of funds, but at the moment it does not look like there are any takers for that. We still have issues with the Wilkins Runway and its capacity in Antarctica which need to be addressed as well.

The second additional comment we made was on something that became obvious from our witnesses. We received this in a submission from a very experienced Antarctica science stakeholder from the University of Tasmania, Professor Matt King. It was his view—and we certainly supported it—that a significant portion of the Australian Antarctic Division budget
should be ring-fenced for science and associated logistic support. We estimated around 20 per cent of the overall AAD budget would be suitable. We would like to see that budget ring-fenced and given priority.

We would, of course, like to see more funding to go to science. There have been cuts over a number of years. We tend to see emphasis put on assets rather than on personnel, but this is critically important to the economy of Tasmania. It is critically important to our understanding of climate change and how it impacts on all Australians. Much of the cutting-edge work on climate science is being done down in the Southern Ocean, and that is directly relevant to things such as our temperature fluctuations, extreme weather events et cetera that we have in Australia.

I commend the committee's recommendations to the Senate and I look forward, now that this is on the radar and that the government has agreed with a number of these recommendations—I said it was tripartisan—to continuing to give the Antarctic Division in the Southern Ocean the prominence it deserves and has had in the past and endeavouring to continue to grow the scientific community in my state and Australia's global leadership—I will say those two words again: global leadership—in key areas of climate science. Much of that is done down in the Southern Ocean, particularly down in the sea ice around Antarctica.

Senator IAN MACDONALD (Queensland) (17:29): I congratulate the committee on their work and their report. I also—Dare I say it? Dare the words pass my lips?—congratulate the Greens on raising this issue and initiating this inquiry. The report is a very good one. It is very well prepared and well argued. It covers many of the issues that are important to Australian—indeed to the world—relating to the Southern Ocean and the Antarctic mainland.

Antarctica, and all things associated with it, is another area where Australia punches well above its weight. Australia has been, and has been recognised as, one of the world leaders in Antarctic science for many years. The Commission for the Conservation of Antarctic Marine Living Resources is based in Hobart. It is an international body that deals with Antarctic marine living resources, as its name suggests. That aspect—being a worldwide organisation—attracts a lot of attention and a lot of world-class scientists to Hobart, which helps build upon the Australian domestic work on Antarctica. I have always had a very high regard for the Australian Antarctic Division and that regard remains unabated. They do a wonderful job, as do all of the associated research entities in Australia—mainly in Tasmania—in supporting the work on the Antarctic continent and in the Southern Ocean.

For me, going to the Hobart hearings was like a return home to the family. It was lovely to see, so many years after I was more closely involved, the same people there with the same passion for the Antarctic and the Southern Ocean. I will name just a few. It was great to see Professor Tony Press there, as well as Professor Denzil Miller, Mark Exel and Alistair Graham—who did not actually give evidence but who was the man who first excited my interest in the Southern Ocean and the Patagonian toothfish issue those many years ago. It was great to see Alistair there. I always say to him—and you would appreciate this, Acting Deputy President Whish-Wilson—that I consider him to be a close friend notwithstanding his close association with the Greens. He has been passionate about this area for many years. I also see that Mr Peter Vensloskas gave evidence. Peter, when I knew him, was the AFMA officer who dealt with enforcement issues. Many years ago, when the Australian government
had a major campaign against illegal fishing for toothfish in the Southern Ocean, he was at the forefront of that campaign to enforce Australian and international rules.

The scientific work done by Australia across all fields of Antarctic and Southern Ocean research is significant. That is recognised. As you did in your contribution, Mr Acting Deputy President, I lament that we do not seem to be giving it the same prominence that we did in the past. I was not associated with the inquiry when the inquiry went into the figures, so perhaps I am wrong and perhaps the government could well say that expenditure on Antarctic science is as big or even bigger than it ever was. However—and I do not want to be too political about this, although I will be a little bit political—during the period of the last Labor government, resources in this area seemed to be diverted. They seemed to go to an area that was more prominent with that government—trying to manage and house the huge number of illegal maritime arrivals that came to Australia at that time. A lot of the resources involved in Southern Ocean research that had been in place for many years under the Howard government seemed to get diverted at that time.

I, like you, Mr Acting Deputy President, think it is essential that we maintain that world recognition of the effort we put into that part of the world. It is important and Australia has a recognised leadership role. It is also very important, as you and Senator Gallacher have mentioned, to the Tasmanian economy. Governments over a long period of time have assisted the Tasmanian economy through the support they have given for Antarctic operations out of our island state.

I have only briefly glanced through the recommendations. Without committing myself to all of them, that brief glance suggested to me that they are on the right track. They seem to be recommendations that, in the main, I would be able to support. I will make a passing comment in relation to recommendation 2 of the additional comments by the Australian Greens, which relates to the Hobart runway extension. I am not familiar with all the detail from recent times, but suffice it to say that getting an air service to Antarctica was a very significant, very important issue about 10 years ago. The only science we used to do down there was when the Aurora Australis took scientists down there. It was usually a lengthy sea trip. Once you got there, you were pretty much confined there for some time—depending on when you went and when you came back.

The complaint was always that there was not enough turnover of scientists, particularly new scientists wanting to develop their expertise in the area. Achieving air contact with the continent was a step that was intended to address that issue. I understand the runway is being extended to allow bigger planes into Antarctica. I caution against in any way diverting funds from that project into more ship days. While ship days are important, the real science on the mainland depends on getting scientists there and getting them back in a timely way that fits in with the budgets of the various organisations they work for, as well as with their own timetables. I am not saying that I totally oppose the recommendation, but I would urge some caution in looking at that.

I am delighted that the committee has again brought to the fore and highlighted Australia's leading role in the Southern Ocean and Antarctica. For that, I again congratulate the committee—as well as for the work they have done in producing this report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
Community Affairs References Committee
Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:37): Pursuant to order I present the report of the Community Affairs References Committee on grandparents raising their grandchildren, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be adopted.

Senator SIEWERT: I move:

That the Senate take note of the report.

I would like to quote Mrs De Young, Secretary of Grandparents Rearing Grandchildren in my home state of Western Australia, who said:

This road grandparents are on is long, hard, tough, bumpy, painful, soul-destroying and exhausting, but much love, determination and courage is given by grandparents to raise healthy and happy grandchildren. This caring role has been pushed upon them by the inability of their own children to care and take responsibility for their children. Grandparent carers need moral support, emotional support and financial support from everyone in the community to raise these grandchildren so they are not a burden on the taxpayer but become role models in society in their adult lives.

That sums up a vast amount of what we were told during this inquiry. I express, first off, my deep admiration for the amount of work done by grandparents. I am gobsmacked by what they go through while still remaining positive and supporting and loving of the grandchildren they are raising. I would also like to acknowledge the work of Senator Dean Smith, who proposed this reference in the first place. He has been doggedly pursuing this issue and has contributed hugely to the outcomes of this committee report. Because I always run out of time, I want to thank the secretariat now for the hard work they have put into the report.

The report makes 18 very detailed recommendations. One of the issues raised at the very beginning was the need for data and support. You would think that we were being boring, but we do not know how many grandparents raising their grandchildren there are in this country. There are some that do actively seek support, and we sort of know about them, but we do not know how many there are. Many grandparents might be ashamed of the circumstances in which they are having to look after their grandchildren, or they do not know about the supports or they do not want to seek support—they want to do it on their own.

The recommendations cover a wide range of issues, because so many issues affect grandparents. There are issues like financial support and where people access information from. There is support for legal aid, because grandparents often cannot get access to legal aid to represent themselves in the courts when they are trying to seek orders for their grandchildren. In health, we thought the issues around Medicare cards and things like that were sorted but we still received evidence about that. There is a need for mental health and counselling services. Often the children that have come into grandparents' care are traumatised, either through the loss of parents or through other traumatic circumstances they have had in the home environment. One of the big issues is accommodation. Sometimes when grandchildren come into the lives of their grandparents the grandparents have downsized. Sometimes they have downsized because they are grey nomads—they have bought a caravan or a big campervan and they are travelling around Australia, and all of a sudden they need to
care for their grandchildren. Of course they do that gladly. They might be in a one-bedroom flat now. We heard of a number of cases where grandparents were raising sometimes two or three grandchildren in a one-bedroom flat. That situation cannot be allowed to continue. We make a number of recommendations and I am happy to report that we have a consensus report. The Community Affairs References Committee strives for consensus reports and, although we do not always achieve it, in this case we have.

There are some other recommendations that we think need to be considered. We have made a number of recommendations to the Australian government, to state and territory governments and to the COAG process. Some thing's the states and territories can do straight away instead of waiting for the COAG process. One issue we think is important is the number and placement of grandparent advisers in Centrelink. Almost overwhelmingly the evidence was positive in terms of the support for grandparent carers, but the issue there is being able to access advisers—they are overworked and sometimes they are not able to provide advice in a timely manner, so we are suggesting that a review be carried out with a view to maybe providing more of that support.

I will finish up because I do want to provide other committee members with the opportunity to speak to the report, in particular Senator Smith, but one big issue is that grandparents raising their grandchildren have found it difficult to access information. Sometimes they do not know where to start. There are many support groups throughout Australia, for example Grandparents Rearing Grandchildren WA, that provide invaluable support to grandparents. Sometimes it is just a matter of being there to listen and provide advice, and to provide a social environment. Grandparents find themselves isolated from their peers because they are raising their grandchildren. Most of their peers are not doing that, so they become isolated. Some people just want to be able to talk about their issues, to be with a group of people who understand what it is like to turn up as a grandparent with your grandchildren at school and be a generation separate from the other parents. Those are the sorts of issues that a lot of people do not realise exist. When they realise that they understand them, but they do not realise what goes on for grandparents raising their grandchildren. I commend the report to the Senate and I commend Senator Smith for doing so much work on it and bringing on this referral. I encourage people to read the report and I encourage governments around Australia to look at the recommendations and, please, look at implementing the recommendations with a sense of urgency.

Senator SMITH (Western Australia) (17:45): I am very pleased to be able to speak to the Committee Affairs References Committee report into grandparents rearing their grandchildren. First and foremost, I think it is a fantastic demonstration of how local issues, often invisible to the Senate, sometimes invisible to senators, can find their way not just into the Senate but into a Senate committee process. As a result of that, we have a report, which we are now debating and which we hope will form the foundation for a much more active discussion in our country, about the fantastic role played by grandparents who are taking full-time, day-to-day, 24/7, 365-days-a-year care of their grandchildren.

Grandparents come to this situation for a variety of reasons. Through the committee hearing process we heard a lot of challenging, courageous stories about what had happened to grandparents and their families. I think what is important is that we focus on how we can support those grandparents who are rearing their grandchildren and at another time perhaps
tackle those very difficult issues—mental illness, drug and alcohol abuse—that unfortunately afflict families with young children and find many grandparents having to take primary responsibility for caring for their grandchildren.

I want to share something briefly to give people a sense of what it is exactly that we are talking about. This comes from a submission to the inquiry by the Australian Institute of Family Studies. When talking about the age profile of grandparents and children in families with grandparent guardians, grandparents in these families tended to be older than parents in other families and the children in grandparent families tended to be older than children in other families. Sixty-one per cent of these grandparents, including any partner, were 55 years and over, compared to one per cent of parents, including any partner. In those cases, the youngest child in these grandparent families was either five to 11 years or 12 to 14 years, whereas the youngest child in other families was most commonly under five years or five to 11 years. But this is the most alarming point: of all the families headed by a single grandparent, most were grandmothers—93 per cent.

When we look at their employment status and the reliance on government payments, no grandparent was employed in 66 per cent of these grandparent families, as opposed to 15 per cent in other families. Government pensions, benefits or allowances represented the main source of cash income in 63 per cent of these grandparent families and in 20 per cent of other families. Not only are we talking about the trauma, the challenge and the grief that often accompanies these grandparents; we are often talking about many Australian households who find it difficult anyway.

I would like to acknowledge and give my sincere thanks to other members of the committee: Senator Claire Moore, Senator Rachel Siewert, Senator Carol Brown and Senator Catryna Bilyk, who joined me travelling around the country. I am pleased we were able to go to Albany in the south-west of Western Australia and hear from grandparents in regional locations.

People get bored hearing from politicians. I think in this particular instance it is best to hear from the grandparents themselves. I would like to read two quotes, the first from Kaye Bendle, the President of Grandparents Rearing Grandchildren in my home state of Western Australia. Kaye said:

Money is not everything, but it relieves the financial burden to help grandparents focus on the other issues with regard to their grandchildren's welfare. Also, official recognition, which has been sadly lacking, would help make grandparents proud of the role they are playing in society.

Who would have thought that grandparents were not already proud of the role they are playing in our society? The second quote is from Mrs Sharyne De Young, the Secretary of Grandparents Rearing Grandchildren WA. Sharyne said:

This road grandparents are on is a long, hard, tough, bumpy, painful, soul-destroying and exhausting, but much love, determination and courage is given by grandparents to raise healthy and happy grandchildren. This caring role has been pushed upon them by the inability of their own children to care and take responsibility for their children. Grandparent carers need moral support, emotional support and financial support from everyone in the community to raise these grandchildren so they are not a burden on the taxpayer but become role models in society in their adult lives.

There is much in the report that is commendable—everything in the report is commendable. But it is the first step in what I hope will be a fresh conversation about
supporting grandparents who are rearing grandchildren in our community. In 2003, the
government at the time, with support of the Council on the Ageing, commissioned an inquiry
into this issue, and there were a number of recommendations. Then a few years ago the
University of New South Wales issued a very comprehensive report into this issue in our
community, with no recommendations. That is not a criticism; it was a university based study.
Only now, in 2014, are we having this discussion to bring these issues to people's attention.

I would again like to thank my colleagues and of course the committee secretariat for their
work. In closing, I will make a few thankyous—of course, to Kaye Bendle and Sharyne De
Young, who were a bit confused that a single guy, a senator for Western Australia, might be
interested in their issues. I thank them for their trust. I thank those grandparents who appeared
in Perth: Malcolm and Liz Burton, Susette Evans, Shirley Fitzthum, Eugene and Helen
Hinkley, Diane Robinson and Jan Standen. And I thank those grandparents who appeared in
Albany: Sue Brooks, David and Kim Killey, Michael Tugwell, Graham Benporath, Aishya
Mason, Geoffrey and Nicolette Pratt, Barbara Anderson, Roy Cox, and Ron and Patricia
Richards. This is just beginning of something that is very important.

Senator CAROL BROWN (Tasmania) (17:51): I to rise to speak on the tabling of the
report of the Community Affairs References Committee inquiry into grandparents who take
primary responsibility for raising their grandchildren. I echo Senator Siewert's comments,
thanking Senator Smith for bringing this important reference to our committee. I also thank
Senator Siewert, Senator Moore and Senator Bilyk, who all participated in this very important
inquiry.

This inquiry took place over the course of seven months and we heard many personal
accounts from grandparents and grandchildren. We heard evidence of the physical and mental
toll the caring role can have on grandparents. We heard the stories of the often difficult
circumstance under which grandparents come to this role. We heard of the significant
financial impact of taking on the caring role, whether it be grandparents having to leave work
to care for children with complex needs or cashing in superannuation to meet the costs of
raising children, or reverse-mortgaging their home to meet the costs of Family Court cases.

What we also heard were stories of great love and care, of grandparents' devotion to their
families and of the deep gratitude of their grandchildren. The quote from the evidence of Mrs
Sharyne De Young from Grandparents Rearing Grandchildren WA, which opens the
concluding chapter of the report, I think, encapsulates the evidence the committee heard. She
said:
This road grandparents are on is long, hard, tough, bumpy, painful, soul-destroying and exhausting, but
much love, determination and courage is given by grandparents to raise healthy and happy
grandchildren.

The grandparents and even grandchildren who made submissions and gave evidence to the
inquiry detailed the range of challenges that are faced by grandparent carers.

What was clear to the committee and is outlined in this report is that whilst every
grandparent carer has a unique experience there are also many similarities in the struggles
they face. And whilst there are a number of very successful services across Australia that
provide vital support to these families, it is clear that these supports are too few and far
between. Many grandparent carers slip through the gaps, struggle to navigate the maze of
services and supports or are simply unaware of what is out there or how to access the help they need.

It is clear that this is an issue that both Commonwealth and state and territory governments must work collaboratively to address. Whilst the evidence received by the committee makes it clear that the number of grandparents raising grandchildren is increasing in Australia, the evidence also shows that there is no clear picture of these families. The committee heard evidence in my home state of Tasmania suggesting that an estimated 2,000 grandparents are taking primary responsibility for raising their grandchildren. But the number could be much higher. For this reason, the committee has made recommendations in relation to the need for better statistical data and longitudinal research on grandparent carers and their families. This evidence is vital to ensure that we can understand, recognise and support these families.

The committee also made a range of recommendations about the financial and non-financial supports which are needed by both formal and informal grandparent carers. I wish to highlight several of the recommendations which I think go to the heart of much of the evidence we received from across the nation. Time and time again, we heard from grandparents that they were simply unaware of where to start or who to turn to when they found themselves taking on the caring role.

At times of greatest uncertainty and upheaval, many grandparents found themselves without support and without access to information about where they might even start to look for this support. It is important to ensure that there is a comprehensive system of supports and services available to grandparent carers. But just as important is the need for information and resources for grandparent carers to ensure that they are aware of the supports available and know where to go to get them. Awareness and recognition within service organisations, government agencies and the broader community is also vital to ensure that grandparent carers get the support they need to raise their grandchildren.

Many grandparents who made submissions and gave evidence told the committee that they felt their role and contribution was not understood or acknowledged. Grandparent carers recounted challenges they have faced when dealing with government agencies, schools and other service providers, and also on a more personal level with friends and others within their community. Tackling this issue will be a key element of the response to the committee's report. I urge the government to consider the recommendations in this report and join with the state and territory governments to develop a collaborative response to the needs identified throughout this report.

I am proud to have been able to be part of this inquiry. Like Senator Smith has done, I thank the grandparents, grandchildren and organisations who contributed to this important inquiry. The contribution made by grandparent carers to the children for whom they care cannot be understated.

The words of a young woman who appeared before the committee at the hearing in Hobart highlight the gravity of this issue and why the recommendations in this report are so important. She said:

I think I was incredibly lucky to have [my grandparents] rescue me and take me out of that position ... If I had not been taken out of that position I would have died. I really honestly believe I would not be here today.

I commend the report to the Senate.
Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:58): I rise to speak on the report to the Community Affairs References Committee inquiry into grandparents who take primary responsibility for raising their grandchildren. I am pleased I was able to participate in this inquiry and to hear firsthand the concerns of grandparents who do such a wonderful job in usually very trying circumstances. When a grandparent does become a primary carer for a grandchild, it is almost always in tragic or unfortunate circumstances. Whether the child has been orphaned, the parents have a substance abuse problem or a debilitating illness, or whatever the reason that prevents them from being able to care for the child or children in question, it is the grandparents who step in and pick up the pieces.

I have two sets of very dear friends, both of whom have brought up grandchildren. One set took on a grandchild who was three. I have seen firsthand how it has affected their lifestyle and delayed their retirement, and a whole range of areas. The other set of really good friends took on two young girls, one with a very severe heart illness. I have seen also how it has changed their lives. They would all do it again, but they would like to do it with a bit more help and support.

Too often, these grandparents might receive a call in the middle of the night telling them to pick up their grandchildren or just have their children unexpectedly left in their care. Having spent their lives raising their children, they then face that emotional and monetary cost of raising a second generation, spending time and money that they were expecting to contribute to their retirement.

There is very little support for these grandparents and very little information on who they should turn to or where they should turn to for support. They are faced with a minefield of issues that make it difficult for them to provide the care their grandchildren need, whether it is gaining emergency clothing and bedding when the child first comes into their care or gaining custody through the court system, receiving the minimal assistance Centrelink provides, getting the child on their Medicare card or even interacting with the child's school. Roadblocks are constantly placed in their way.

This report has made 18 recommendations that if adopted by this government will make life considerably easier for grandparents raising grandchildren. I would like to take a few moments to focus on a couple of those recommendations. One of the key concerns of grandparents raising grandchildren is the lack of financial assistance they are able to receive from Centrelink and other government agencies. Many grandparents raising their grandchildren are aged pensioners or part-age pensioners, or moving very close to that pension age. They often have limited financial resources available to them.

The committee's recommendation 9 recommends that state and territory governments consider extending foster-care allowances to grandparents who are raising their grandchildren without orders from a court, exercising family-law jurisdiction or care-and-protection jurisdiction, and investigating means of facilitating contact arrangements between children in grandparent headed families and their birth parents.

The committee hopes that this recommendation will help grandparents meet some of the additional costs, associated with raising their grandchildren, which are currently unmet. This recommendation would also help children being raised by grandparents to spend time with...
their birth parents, if possible, without the grandparents having fear of losing the child or children.

Committee recommendation 10 raised a number of important issues that need addressing. The committee recommends: state and territory governments consider reviewing the rates of financial assistance paid to grandparents as out-of-home carers, with particular consideration to addressing the disparity in financial support between foster carers and grandparents; the provision of training to grandparents raising their grandchildren, to better support them in their daily parenting roles; the provision of respite services to grandparents raising their grandchildren, with a focus on enhancing and extending those services to all grandparents raising grandchildren; the formal assessment of kinship care placement within six months of the commencement of a placement, with a view to ascertaining specific supports and services required by a grandparent carer; and existing policies and practices relating to the priority allocation of public housing, with a view to expediting accommodation suitable to the needs of grandparent headed families.

Other recommendations dealt with a diverse range of issues and these included: exploring options for providing informal grandparent carers with access to legal assistance, including legal representation in relation to care arrangements for the grandchildren; enhancing the provision of mental-health services for grandparent headed families, with special attention given to grandchildren affected by trauma; and examining increased and more certain funding for voluntary support groups that provide peer support to grandparents raising grandchildren, to better facilitate the establishment, maintenance and operation of such groups.

I too hope the government will adopt the recommendations of this report. It will dramatically change and improve the lives of those extremely caring and selfless grandparents and their grandchildren. I thank Senator Smith—for heading this inquiry—Senator Siewert, Senator Brown and Senator Moore. I also thank the secretariat for the great work they have done in supporting this inquiry.

Most of all, I thank all the witnesses, especially the grandparents and the grandchildren we heard from, for sharing their lives and their concerns with us. I know that for a lot of them it was not easy and there were some quite emotional times through the inquiry. To come in and lay it on the line to us took great courage for a lot of them. It is very easy to feel you might be judged in that area. My friends told me it is very easy to feel judged—that if you said you might need some money you would be told you should do it for the love of it. They do it for the love of it—but a lot of them also need some financial support, and if they need that financial support it is incumbent upon us to make sure they can get it.

Thank you to everyone who was involved in the inquiry. It was one of the most interesting inquiries in my almost-seven years in this place. I was really pleased to be able to participate. I seek leave to continue my remarks.

Leave granted. Debate adjourned.
DOCUMENTS
Darfur
Tabling

Senator LUDLAM (Western Australia) (18:05): by leave—I table a petitioning document, relating to the war in Darfur, which is a non-conforming petition and has been put through both whips. I now seek leave to make a short statement of no longer than 60 seconds.

Leave granted.

Senator LUDLAM: I thank the Senate. I know this is slightly unorthodox. This is a petition that has been brought forward by the Darfur action network and I strongly commend them and their volunteers for the work they have done bringing this forward.

Since 2003 a horrific war has raged across Darfur and, despite the 2006 peace process, violence continues to wreak havoc on innocent civilians across the western region of Sudan. There are nearly 1,200 people who have signed up to the petition. It calls on the Australian government to use its membership of the United Nations Security Council, which is really a precious opportunity—and particularly its presidency for the month of November—to take action on Darfur.

Specifically, the petition requests that the UN act to ensure safe access of humanitarian aid, strengthen the mandated UN-AU mission in Darfur, demand all stakeholders participate in a holistic peace process and support the successful prosecution of perpetrators by providing investigation funding for the International Criminal Court. I thank the chamber for the opportunity to present this petition on behalf of the Darfur action network.

COMMITTEES
Joint Standing Committee on Treaties

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (18:07): I present the Joint Standing Committee on Treaties report No. 144 and I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

Treaty tabled on 14 July 2014
Agreement between Australia and Japan for an Economic Partnership (Canberra, 8 July 2014)

Mr President, today I present the Joint Standing Committee on Treaties' Report 144, containing the Committee’s views on the Agreement between Australia and Japan for an Economic Partnership.

The Japan-Australia Economic Partnership Agreement (JAEPA) was tabled in Parliament on Monday 14 July 2014. Mr President, Australia and Japan enjoy a strong, long-standing bilateral relationship based on common values: democracy, human rights, the rule of law. During his visit to Australia in July 2014, the Prime Minister of Japan, Mr Shinzo Abe, spoke of the evolving nature of the 'special relationship' between our two countries, as it expanded to take in closer security bonds and broader trade ties.
Mr President, that relationship has been reinforced by a steadily developing complementary bilateral economic relationship. Since the middle of the twentieth century, Australia's resources have supported Japan's prosperity and Japan's manufactured goods have contributed to Australian's modern, affluent standard of living. Today, Japan is our second-largest trading partner with two-way trade, in 2013, standing at $70.8 billion.

JAEP will further enhance that economic relationship. It is the first such agreement that Japan has signed with a major agricultural exporting country. It is seen as the most liberalising trade agreement that Japan has ever concluded.

Mr President, this Agreement places Australia in an enviable position. Tariffs will be reduced in a range of areas. Modelling predicts that beef exports will benefit by around $5.5 billion over 20 years and deliver an increase of up to seven per cent in the annual gross value of Australian beef production. There will be duty-free quotas for Australian cheese, immediate duty-free access for the growing trade in milk protein concentrates and new opportunities for ice-cream and frozen yoghurt.

Importantly, Mr President, Australia will gain a first-mover advantage. Australian exporters will have the opportunity to beat their competitors into the Japanese market and establish a presence with consumers before other countries have the chance.

As with all the free trade agreements that Australia has negotiated to date, Mr President, JAEP did not deliver on all the outcomes we would have liked. However, as one witness pointed out to the Committee, the Agreement represents a 'seismic shift' in Japan's traditional thinking on trade. As another witness told the Committee, JAEP will 'refocus' attention, both in Japan and Australia, on the relationship between the two countries. It will open up opportunities for further trade liberalisation and the flow on effects will go far beyond tariff reductions.

The Committee found, Mr President, that increasing the non-screening investment level to $1 078 million is expected to significantly increase Japanese investment in Australia. In 2013 it stood at $131 billion. The revised provisions will make it simpler for Japanese investors to do business in Australia making it an attractive option in an increasingly competitive market.

Mr President, minerals and energy resources make up the bulk of Australia's export trade with Japan, worth over $24 billion and accounting for over 80 per cent of total merchandise exports in 2013. Australia is facing major competition in this area from global competitors but the Economic Agreement will offer Japan reassurance concerning energy and resource security from Australia, providing suppliers with a boost.

Overall, Mr President, we are satisfied that JAEP has the potential to provide Australian business and industry with a range of profitable opportunities and to be a net benefit to the Australian economy.

Mr President, on behalf of the Committee, I commend the Report to the Senate.
DOCUMENTS
Asylum Seekers
Tabling

Senator HANSON-YOUNG (South Australia) (18:07): by leave—I present to the Senate a non-conforming petition relating to the treatment of asylum seekers in Immigration detention. It has been previously approved by the whips.

COMMITTEES
Membership

The ACTING DEPUTY PRESIDENT (Senator O’Neill) (18:08): Order! The President has received letters from party leaders requesting changes in the membership of various committees.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:08): by leave—I move:

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

**Australia Fund Establishment—Joint Select Committee—**

Appointed—

Senators Reynolds and Seselja

Participating members: Senators Back, Bernardi, Bushby, Canavan, Edwards, Fawcett, Heffernan, Macdonald, McGrath, McKenzie, O’Sullivan, Ruston, Smith and Williams

**Health—Select Committee—**

Appointed—

Substitute members:

Senator Milne to replace Senator Di Natale on 3 November 2014

Senator Whish-Wilson to replace Senator Di Natale on 4 November 2014

Participating member: Senator Di Natale.

Question agreed to.

BILLS

**Private Health Insurance Amendment Bill (No. 1) 2014**

First Reading

Bill received from the House of Representatives.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:09): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:09): I move:
That this bill be now read a second time.

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

Leave granted.

_The speech read as follows—_

**PRIVATE HEALTH INSURANCE AMENDMENT BILL (NO. 1) 2014**

The *Private Health Insurance Amendment Bill (No. 1) 2014* implements a measure announced in the 2014-15 Budget, and will pause the indexation arrangements for the income thresholds in the *Private Health Insurance Act 2007* for three years. The income thresholds contained in the *Private Health Insurance Act* are used in determining the tiers for both the Australian Government Rebate on private health insurance and the Medicare levy surcharge.

In this Budget, the Government increases overall spending and investment in health from $68 billion this year, to $71 billion next year, increasing again to $75 billion in 2016-17, and to $79 billion in 2017-18.

The changes contained within this legislation being introduced today are part of a broader pause in indexation rates across multiple portfolios announced in the 2014-15 Budget in an effort to help make spending sustainable and to repair the fiscal position left by the previous Labor Government.

The amendments will see the income thresholds used to determine the private health insurance rebate and Medicare levy surcharge remain unchanged for three years, paused at the 2014-15 rates in 2015-16, 2016-17 and 2017-18.

This bill preserves the explicit link between the Rebate and the Medicare Levy Surcharge. This is important as they operate together to ensure that people whose rebates are reduced because of means-testing have a strong incentive to retain their private health insurance.

It is important to note that these changes will not affect individuals with an income that remains below the 2014-15 base tier thresholds of $90,000, or couples and families with an income that remains $180,000 or below.

It is estimated that only 4% of the 6.2 million private health insurance policies held as at December 2013 will be affected by this measure.

The Coalition has inherited an enormous debt, and these measures are just a small part of the Government's strategy to clean up the mess that the Labor left behind.

Debate adjourned.

**Parliamentary Entitlements Legislation Amendment Bill 2014**

**First Reading**

Bill received from the House of Representatives.

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:10): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (18:10): I move:

That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows—*

**PARLIAMENTARY ENTITLEMENTS LEGISLATION AMENDMENT BILL 2014**

On 9 November 2013, the Government announced changes to the parliamentary entitlements framework to strengthen the rules governing parliamentarians’ business expenses. On 13 May 2014, the Government announced, as part of the 2014-15 Budget, changes to the Life Gold Pass travel entitlement. The Parliamentary Entitlements Legislation Amendment Bill 2014 gives effect to the changes announced by the Government on 9 November 2013 that require amendments to the *Parliamentary Entitlements Act 1990* and to the changes announced in the 2014-15 Budget that require amendments to the *Members of Parliament (Life Gold Pass) Act 2002*.

Firstly, in relation to changes to the parliamentary entitlements framework announced on 9 November 2013, the bill limits the domestic travel entitlement of dependent children of Senior Officers from those under 25 years of age, to those under 18 years of age, by amending the definition of *dependent child*.

The bill establishes a 25 per cent penalty loading on any adjustment (either voluntary or involuntary) of a parliamentarians' claim for prescribed travel benefits. The provisions of the bill provide that the 25 per cent penalty loading on any adjustment will not be applied where the adjustment was made within 28 days after the claim was made; or where an adjustment was the result of an administrative error by the Department of Finance. For the purposes of the 25 per cent penalty loading on adjustments, the bill includes a provision for the Special Minister of State to determine, by legislative instrument, the prescribed travel benefits that are subject to a 25 per cent penalty loading.

In addition to the bill giving effect to these announced changes, it establishes a mechanism to minimise the risk that payments made in the course of administering the *Parliamentary Entitlements Act 1990* or the *Members of Parliament (Life Gold Pass) Act 2002* breach section 83 of the Constitution. The mechanism is comparable to mechanisms included in other acts, such as the *Parliamentary Contributory Superannuation Act 1948*.

As part of this mechanism, the bill establishes a statutory right for the Commonwealth to recover from a parliamentarian or former parliamentarian an amount equivalent to a payment made to, or on behalf of, a parliamentarian or former parliamentarian that is beyond entitlement under the *Parliamentary Entitlements Act 1990*. The bill also establishes a statutory right for the Commonwealth to recover from a parliamentarian the 25 per cent penalty loading.

Secondly, the bill amends the title of the *Members of Parliament (Life Gold Pass) Act 2002* to the *Parliamentary Retirement Travel Act 2002* to better reflect the entitlement following amendments in this bill.

In relation to the changes to the parliamentary retirement travel entitlement announced as part of the 2014-15 Budget, the bill removes, ceases, limits and reduces travel entitlements under the *Parliamentary Retirement Travel Act 2002* as well as places requirements on travel under the parliamentary retirement travel entitlement.

The bill removes the entitlement to parliamentary retirement travel for all current parliamentarians who did not meet the qualifying period for parliamentary retirement travel on or before 13 May 2014. The bill also removes the parliamentary retirement travel entitlement for the spouse or de facto partner, or surviving spouse or de facto partner, of a parliamentary retirement travel entitlement holder, or of a sitting member who has satisfied the qualifying period for parliamentary retirement travel, other than the spouse or de facto partner, or surviving spouse or de facto partner, of a former Prime Minister who has retired from the Parliament.
The bill requires that parliamentarians who met the qualifying period for the parliamentary retirement travel entitlement on or before 13 May 2014 retire before 1 January 2020 in order to be entitled to access parliamentary retirement travel. This requirement does not apply to the Prime Minister or former Prime Ministers.

The bill requires that all parliamentary retirement travel, including travel by the spouse or de facto partner of a retired former Prime Minister, be for the public benefit.

The bill ceases the parliamentary retirement travel entitlement of former parliamentarians who qualified for parliamentary retirement travel when they left the Parliament on or before 13 May 2011. The bill limits the parliamentary retirement travel entitlement of former parliamentarians who qualified for parliamentary retirement travel when they left the Parliament after 13 May 2011 to five return domestic trips per year, from the date of their retirement for the lesser of three years or the next end of a Parliament that occurs after their retirement.

The bill ceases the parliamentary retirement travel entitlement of former parliamentarians who qualified for parliamentary retirement travel when they left Parliament on or before 13 May 2011. The bill also limits the parliamentary retirement travel entitlement of former Ministers, Presiding Officers or a Leaders of the Opposition who qualified for parliamentary retirement travel when they left the Parliament after 13 May 2011 to 10 return domestic trips per year, from their retirement date to whichever is lesser of six years or the second end of a Parliament that occurs after their retirement.

The closure of the parliamentary retirement travel entitlement scheme to parliamentarians who enter or re-enter the Parliament on or after 6 March 2012 currently applies to all parliamentarians, including those who become Prime Minister in the future. The bill removes this restriction on future Prime Ministers' entitlement to parliamentary retirement travel.

The bill reduces the parliamentary retirement travel entitlement for a former Prime Minister who has qualified for parliamentary retirement travel on his or her retirement to 30 return domestic trips per year. The bill also reduces the parliamentary retirement travel entitlement for the spouse or de facto partner of a retired former Prime Minister who has qualified for parliamentary retirement travel on his or her retirement to 20 return domestic trips per year.

The bill includes a constitutional safety net provision to address any risk that amendments to the Parliamentary Retirement Travel Act 2002 may result in an acquisition of property other than on just terms. This provision is similar to the provision in section 32 of the Members of Parliament (Life Gold Pass) Act 2002.

These are sensible reforms to improve accountability in the spending of taxpayers' money, which will strengthen the parliamentary entitlements system.

I commend the bill to the House.

Debate adjourned.

ADDRESSES BY WORLD LEADERS
Prime Minister of the United Kingdom
President of the People's Republic of China
Prime Minister of the Republic of India

The ACTING DEPUTY PRESIDENT (Senator O'Neill) (18:11): Messages have been received from the House of Representatives inviting senators to attend meetings of the House for addresses by the Rt Hon. David Cameron MP, Prime Minister of the United Kingdom; His Excellency Mr Xi Jinping, President of the People's Republic of China; and the Hon.
Narendra Modi, Prime Minister of the Republic of India. Copies of the message have been circulated in the chamber.

**BILLS**

**Higher Education and Research Reform Amendment Bill 2014**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

**Senator KIM CARR** (Victoria) (18:12): This is a debate that concerns millions of Australian students in higher education today. It is about the 1.2 million Australians with outstanding HECS debts. It is about the millions currently in school or in the workforce who are hoping to study at university. Australians know how important this debate is to their future and their nation's future. Australians understand that this bill will take away the foundation stones of a fair go. Australians believe that access to higher education should not be based on the circumstances of their birth or where they live but, rather, on the clear principle of merit.

Australians do not want to be facing the prospect of taking out a second mortgage to help pay the cost of their child's education and find the idea that they must choose which child gets to go to university an idea that rightly belongs to the Menzies era. It is to these Australians that Labor speaks when it opposes this bill. We stand against $100,000 degrees. We are against crippling debts. We are against the Americanisation and the privatisation of Australian higher education.

It may well be argued that there is nothing of greater value to our nation than our universities. It may well be argued that there is nothing more important to our economy, to our culture and to our society than knowledge and ideas. Universities are the custodians and the generators of knowledge. While there will be a lot of talk about fairness in relation to this bill—because this bill rips fairness out of our university system—it is important in this debate to consider the wider role of universities in the Commonwealth.

Too often, we talk about teaching and research only as a means to an end, but ignore the most challenging and rewarding role of academics—that of imagining things entirely new. Academic creativity is not embraced by the straighteners of our body politic, but it serves as an inspiration for the enlargers. The achievements of the academy go to the very existence of who we are—every bit as much as our sporting triumphs or our military history.

I think of eminent historians like Manning Clark, John Hirst and Iain McCalman, and the younger historians like Hannah Forsyth and James Boyce, who are reimagining the way we look at our country. I think of the writers who tell us stories, such as the Booker Prize winner Richard Flanagan, Hannah Kent, John Birmingham, Tim Winton, and Kate Grenville. I think of Professor Graham Clark, who put Australia on the map in medical science with his invention of the Cochlear implant, now used worldwide. I think of the Nobel laureates Brian Schmidt, Elizabeth Blackburn, Barry Marshall, Robin Warren, John Coetzee and Peter Doherty. All of these people and many more were nourished by our world-class public universities, whether it was as students, teachers or researchers, and in many cases all three. They pass on ideas and knowledge to future generations. They help us conceive who we have been, who we are and who we might be.
It is not just the towering intellects and the world-famous figures who make the achievements of our universities remarkable. Many who have made the transition to public life, including most people in this place, benefitted from a university education. More fundamentally, we thank our public universities for our teachers, our nurses, our engineers, our agricultural scientists, our doctors and our community workers—all the highly skilled professionals who keep this country's wheels in motion and contribute to its social, cultural and physical wealth. In short, our quality of life is vastly enriched by the quality and extent of the contributions made by our universities.

This is not the first time I have found it necessary to make these sorts of remarks in this place. The opposition finds it alarming that these things have to be said at all, but evidently they do have to be said. Not for the first time, we have had to ask why the conservative side of politics is hell-bent on destroying universities' capacities as custodians and as generators of ideas. In this country, since 1974, the university system has been a national enterprise. It has been largely funded by the Commonwealth. The policy directions are set by the Commonwealth. Foremost within this is the notion that access to undergraduate education should not be blocked by the cost of tuition. Equal access and equal participation have long been at the heart of Commonwealth policy. This is a bill that threatens to undermine this principle of the fair go in Australian education.

Its framers know that. Why else would they talk until they are blue in the face about the so-called equity measures and the need for scholarships, pathways and structural adjustment funds? We only need to introduce elaborate new scholarship schemes if the system itself is unfair. We need adjustment funds to try to adjust the inequalities that are inherent in these measures. These special arrangements are in themselves admissions of failure. It is an admission that incurable inequalities lie at the very heart of this package. Attacks on equity and merit, of course, are nothing new to the Liberal Party. Those opposite have form.

I can remember back in 1996 when they came in and unilaterally slashed university funding by five per cent. They hiked HECS fees and they lowered repayment thresholds, and they did this without warning. There was no mention of these matters in the previous election, and then they sought to bring about this very plan to cut spending, deregulate fees and offer faux scholarships. When the cabinet submission was leaked, even John Howard saw that under this proposal lay dragons and he backed off very quickly. But the current minister and the current Prime Minister do not have the sense to understand that fundamental fact of political life. There is a copy of the cabinet submission on my website for those who want to have a look and want to be reminded, either as students of history or scholars of the present predicament. Nothing changes when it comes to the Liberal Party's contempt for universities.

Let me speak plainly and honestly, because the other side will not. This policy is an uncontrolled experiment. We know one thing for sure: it will lead to very large fee increases. One-hundred-thousand-dollar degrees, which currently are relatively uncommon, will become much more common. That is why we have seen so many commentators call for a variety of price restraint mechanisms. The latest independent modelling, which the Labor Party released today, shows the dramatic impact of fees and debt all too clearly. It confirms, as many witnesses to the inquiry told us, that women will be particularly hard hit. Mature-age students will be particularly savagely hit. Students in rural and regional Australia will be most dramatically affected. The government has justified its radical reform by reference to...
inadequate government funding, but the crisis in funding is a direct result of the government's own decision to take 20 per cent of university funding away from students, hack into the research training scheme, cut funding to the Australian Research Council, cut reward funding, cut equity funding and cut indexation.

We have heard that the university vice-chancellors—if they have to deal with the various vicious cuts—want the ability to charge tuition fees at whatever level they think fit. The minister likes to claim that there is near unanimous support from university leaders. The reality we saw in inquiries and submissions in the hearing is very different. In submission after submission you read the reluctance, caution and hesitant declarations of those that are under duress. Whatever motivations or reservations there are of vice-chancellors, the fact remains: just as it is not the role of this Senate to rubberstamp the desires of the executive neither is it the role of this Senate automatically to give vice-chancellors whatever they want. Successful university funding policy does not simply provide carte blanche for this nation's vice-chancellors to have unlimited access to funding from the pockets of Australian students and from Australian workers. It is not our role to give them 'a licence to print HELP debt', to quote Dr Sharrock of the LH Martin Institute. It has often been said that getting between a vice-chancellor and a pot of money is a dangerous business, but that is what Labor will do, because there is much more at stake here than the performance bonuses of university managers. Access, equity, workforce needs, research excellence, the capacity to innovate in the face of a rapidly changing world—these are the things that this Senate has to give consideration to in this debate.

The government says that it has the support for its package from the universities; it does not. It does not have any support for its regressive changes to HECS—none at all. There is no support for cutting the funding from research—none at all. There is no support for charging fees for PhD students—none at all. There is no support for the 20 per cent cut to the Commonwealth Grant Scheme. There is a division around the issue of privatisation in higher education—particularly on this misleading, Orwellian concept of the Commonwealth scholarship scheme. Even Universities Australia, when pushed at the committee's hearings, said that it did not want to support this bill in its current form, 'far from it'. Its members, especially those outside the Group of Eight, are much more forthright in their many and varied criticisms. Is there any wonder?

This bill is rotten to the core. This is a bill that the Australian people did not vote for. This is a bill that offends the basic principles of equity. It offends the basic concept that, in this country, if you are bright and work hard, you have a right to expect a high-quality education that is not dependent on your having rich parents or on coming from a privileged background or on your postcode. None of those things are ever going to be accepted by the people of this country. This is a bill that the Australian people feel that they were lied to about. They were misled. Remember the last election: 'no cuts to education, no changes to the administrative arrangements' and the Prime Minister's visit down to Universities Australia's conference, where he talked about masterly inactivity. What a contrast! It was the most radical piece of social engineering we have seen in this country since the last time the Liberals tried it on. This is a bill that should be withdrawn.

The government should go back to the drawing board and should deal directly with the issues facing higher education. In doing so, it should actually consult with the stakeholders.
before announcing radical new policies. That is what John Dawkins did with the green and white paper approach. That is the proper approach. Earlier, I talked about the many luminaries who have studied, taught and done research in Australian universities. They are far from the only people who have benefited or hoped to benefit from an equitable higher education system. Ordinary Australians should benefit, such as Linl...
universities—or we can reject this bill: send it back. That is what we should do. That is what the Labor Party will be urging all senators here to do, and I have every hope that that is exactly what will happen.

Senator RHIANNON (New South Wales) (18:31): By far the majority of Australians—those born here and those who come here to find a new life and opportunity—want a good education for their children, for the nation's children. The bill before us, the Higher Education and Research Amendment Bill 2014, will rob people of opportunity and hope to achieve that. It should be voted down in its entirety. There are no deals, no negotiations that can turn this bill into a winner.

The Liberals and the Nationals did not even have the courage to take this bill in any form—details of this bill—to the last election. They should now have the decency to withdraw it. There are nearly one million students in Australia who will be impacted by these changes if they go through. For people without a silver spoon, education is the key to survival. It gives you a leg up and makes freedom and choice possible. Education empowers people. Prime Minister Tony Abbott's education, however, is a very different story. It is about the entitlement of a rich boy from Sydney's North Shore who takes his power for granted. He is not bothered by $100,000 fees for a university degree or by public money earmarked for higher education going to for-profit companies.

By raising university fees the Liberals and the Nationals are slamming the door on opportunity for millions of Australians. Coalition policy is about keeping the world as a place with haves and have-nots. That approach is the basis of the bill we are considering tonight, and that is why the Greens say so emphatically that it should be scrapped completely. The bill is neoliberalism in its most crude form; 101 of neoliberalism is to strip the costs off government and put them on to ordinary people. The essence of this bill is to take $5 billion out of the public allocation for our universities and put the costs on to students through higher fees.

Minister Christopher Pyne, in pushing ahead with this bill, is ignoring the growing opposition to this destructive legislation. One of the lines we have heard trotted out time and again from the minister is the fact that apparently the entire university sector is behind the proposed shake-up of higher education that he is now engineering. It is clear that the minister and his coalition colleagues—Nationals as well as Liberals—have a strong preference for meeting and discussing higher education issues with university executives and managers over staff and students. What they need to remember is that the vice-chancellors and senior management are not the entirety of the sector; they are actually only a small part.

Just last week we saw the creation of the National Alliance for Public Universities, an organisation seeking 'to give voice to the researchers, teachers, administrators and other staff who oppose the deregulation of fees and whose perspective has been overlooked in the national debate'. The organisation has grown rapidly, with 500 academic staff signing up in a few days. The charter of the National Alliance argues:

Universities provide both public and private benefits. To fulfil these, they must function independently of market forces and political interference.

They go on to say:

… universities have a social mission, enabling social mobility while striving to dissolve entrenched social inequalities altogether.
I congratulate them on their launch and welcome their voice in this crucial debate. These are the people who are truly representative of the university sector, along with the students, not the Group of Eight vice-chancellors, many of whom have been camped out in the minister's office attempting to lobby crossbenchers week after week. Sadly, the Group of Eight vice-chancellors have been prioritising their ideological commitment to unrestrained markets over the needs of their staff and students.

I would also like to congratulate the many students who have highlighted the damage this bill will cause. And I think at this time it is worth remembering the courageous students who took their protest to the ABC's Q&A program. They warrant a brief mention in this debate. Some people, including a few media commentators, grumbled that these young people had a bad attitude and apparently lacked respect. But most of those who criticised have a prominent voice within the public discourse on this and a range of issues. Most Australians, particularly young Australians—the ones who will be hardest hit by these measures—do not have a public voice, and the action at Q&A made a significant contribution to the debate on the Pyne bill. Just today—

Senator McKenzie interjecting—

Senator RHIANNON: I do acknowledge the interjection from Senator McKenzie. Just today two students at Melbourne University took direct action on this issue, blocking the entrance of a university building. Why do people do that? Because they are so deeply troubled and concerned. These students were campaigning against the proposals contained in this bill, and for free education—a realistic and affordable alternative for students. I said earlier that there are nearly one million students in Australia who will be impacted by these changes—250,000 of them are on youth allowance and will have their debt significantly increased as a result of the proposal to slash start-up scholarships and replace them with loans. There are also 140,000 university staff. They are the people whom we should have to the forefront of our mind when we debate this bill.

The issue of fees is where we see the deeply damaging aspects of this legislation. We have heard vice-chancellors and senior management—prominent backers of the bill—using the lack of guaranteed high levels of funding as their main line of argument in backing fee deregulation. Many of the vice-chancellors have said that they have to support fee deregulation, as successive federal governments had inadequately funded higher education and that now they would be hit by this latest 'slash' approach to higher education, with a $5 billion cut. This is where we actually need to look closely at what is going on here. But it is also disappointing how the vice-chancellors respond to these cuts rather than being a strong voice out there advocating for a well-funded higher education sector.

Fee deregulation might be called a competitive agenda. But it is, pure and simple, an extreme budget measure in the first instance, to shift the $5 billion—the cost burden—that the government wants to save for itself onto students. By cutting students' subsidies by an average of 20 per cent by place, the government is essentially forcing all universities to raise their fees in order to retain their current level of funding. That is what the vice-chancellors should be spelling out and is the point they should have been arguing. Fears of prohibitively expensive fees were clearly set out by the independent National Centre for Social and Economic Modelling, based at the University of Canberra. The NTEU, the ACTU and the National
Union of Students also set out these issues in the submissions before the inquiry into this legislation.

It is worth commenting at this point on some of the comments from coalition members. Today, again, Senator McKenzie has been out there publicly accusing people who address this issue of fees—and the very real issue that we, and students in particular, have ahead of us, of $100,000 fees—of scaremongering.

What is going on here is that I and others are out there informing the many unions, community groups and students—we are being responsible. It is informing students of the reality that they will face. Even the University of Western Australia released its figures saying it will cost $16,000 a year for a degree, but if you look at that $16,000, you will see that over a five-year degree, which is increasingly common for many students, it will move into the range of $100,000 once interest on student debt is included. When you look into what so many of the coalition's own backers of this aspect of the legislation are saying and when you inform people of the high fee levels that they will face, that is where you will get proof that it is not scaremongering but reality.

Not a single witness at our inquiry agreed with the minister's proposition that university fees will go down as a result of deregulation. Given that university vice-chancellors are viewing fee deregulation as a tool to boost revenue, it is obvious that fees will increase across the board if this bill is passed by parliament. So there is great interest in this issue. When the budget first came out and we started hearing the details about the government's planned cutbacks and then the legislation came out, there just was not enough information out there about what the fees could blow out to.

One of the contributions the Greens made to this issue is the development of a website: whatwillmydegreecost.com.au. This site was obviously of value, which was just about providing information—that was all that it was doing—because it received so much traffic in the first few hours of its operation that it actually crashed. We quickly had it going again. In the space of a few weeks, it was viewed 1.3 million times. Over half a million students and future students used it to calculate the cost of their degrees under a deregulated environment. That highlights that it is not scaremongering; the government are being irresponsible. They have been trying to sugar-coat their poisoned piece of legislation by making out that it is something that it is not. The horror story of these high levels of fees is something very serious.

While the very damaging budget that the government brought down has disadvantaged people in the main—and, certainly, this legislation does—this bill also reaches into middle-class Australia. This is something I am coming across more and more with middle-class families. Socially, I am often with people who are lawyers, small business people and workers in the professions. I have had the experience of where they have actually been looking at their children and saying, 'How am I going to afford to send them to university?' This is increasingly troubling people in our communities.

I want to move on to the issue of Commonwealth-supported places. If this bill becomes law, public subsidies will be given to private for-profit higher education providers for the first time, to the tune of $450 million. Again, please focus on that—$450 million. It is not money just sitting there; it is money that once would have gone to our public universities. If the bill goes through, it would be there to help a number of companies increase their profit margins.
The minister has been unable to confirm that new students will enrol in the courses with these private higher education providers.

This is very relevant to how this money plays out, and the bill's explanatory memorandum confirms that the rate of growth in student enrolments in this area will be slower than in previous years. The end result of these changes will be a windfall of half a billion dollars in subsidies to private education providers without any guarantee of increasing access. So the money is set aside and the government is telling us that all these students will flood to these providers. But when you question the minister he cannot confirm that more students will actually enrol and that more students will come into the system.

During our inquiry, the committee heard strong evidence from the Australian Education Union regarding the problems associated with allowing private providers to access public funding for higher education. We need to ask the question, and it needs to be answered: who is going to hold these operators to account? The experience with the vocational education and training sector shows the depth of this problem when these dodgy operators come in, and there are just too many of them there already. They can see that there is money and that it is easy pickings. They move in—and move in quickly. This is another serious worry regarding how this plays out.

The result of opening up the vocational education and training system to the marketplace brings growing doubts regarding the quality of the education provision that comes from the private sector and the cost of qualifications for the students who may enrol. Far from the opening up of the market in the VET leading to a downward pressure on prices, we now see the spectre of $30,000 being charged for diplomas and advanced diplomas in VET. Right now, under the current system, a degree at a public university will cost less than your technical and further education training costs under the system that has already been opened up to the marketplace. This is because the cost is being shifted onto students. The bill will not require private providers to reduce their fees as a result of receiving government support, and that is where we have this very serious problem with how this will play out with the private providers.

The issue of Commonwealth scholarships is one that the government has been trying to use in the past week as a key argument to make out that this system that they are bringing forward is such a fair one. They are even trying to start to equate it with free higher education, which is a stretch. But nothing is beyond this minister. No Commonwealth government funding will go into the so-called Commonwealth scholarships. Universities will be forced to increase their fees by at least 20 per cent before a single dollar will be diverted to these scholarships. Universities like the Group of Eight will be able to maximise the increase in student fees under deregulation, and they will have the largest pool of funds for these scholarships. This will distort the university activities. Group of Eight universities have the lowest proportion of students from low SES backgrounds.

Senator McKenzie: It is changing.

Senator RHIANNON: Yes, it will change under your system, Senator McKenzie. I am pleased the senator interjected at this point, because the sell-out by the Nationals of our regional universities is something that has to be documented and needs to be recognised. It is absolutely monumental. Minister Pyne has shown deception because he has said he did not expect fees to increase significantly under a deregulation system. But the minister cannot have
it both ways. Either fees will increase significantly or Commonwealth scholarships will not exist. The whole issue of Commonwealth scholarships is something that is being brought forward as a scam to try and justify assistance being there for disadvantaged students. But there will only be a small number. We do not even know the form that those scholarships will take at the moment. Each university can work it out for itself, and there is no guarantee that those students who may receive scholarships will not end up with a heavy cost burden at the end of their education.

The issue of research is something where the government has also been deceptive. It has said that there will be no cuts to research. But in this bill the government is proposing a 10 per cent across-the-board cut to the research training scheme. This is an enormously backward step, placing greater financial burden on our universities, and remember that this comes on top of all the cuts that we have seen to the CSIRO, the cooperative research centres and so many other key research bodies.

Turning to the regional universities, I repeat that the sell-out by the Nationals of our regional universities is huge. Our regional universities could possibly be the most vulnerable aspect of this bill when we come to consider the various institutions. Regional universities like the University of Wollongong and the University of Newcastle are clearly from big areas. There are no universities there for them to compete with. It really shows that the whole competitive argument that so much of this bill is based on falls over when you look closely at how this works. I particularly pay tribute to the many organisations that have worked so hard to defeat this bill, including the National Tertiary Education Union, the National Union of Students, those who work with postgraduate associations, the Australian Nursing and Midwifery Federation, the ACTU, the Australian Education Union and the Australian Medical Students' Association.

If the bill were to be passed it would create a higher education system that would be inequitable and elitist with limited accessibility to the highest quality public education institutions. Australia is already near the bottom of the OECD. When it comes to public funding for higher education, despite 96 per cent of Australian students—(Time expired)

**Senator McKENZIE** (Victoria) (18:51): I rise very proudly tonight to speak to the Higher Education and Research Reform Amendment Bill 2014. I also rise to speak as the chair of the Senate Education and Employment Legislation Committee. We conducted a very comprehensive inquiry into this piece of legislation. There were over 169 submissions and four days of hearings, and I would like to congratulate all of those who took time out to make a submission to the inquiry and indeed to attend our hearings and give us very good evidence. I would also like to place on the record, on my behalf, particularly, our thanks to the secretariat for their tireless work in producing what I think is quite a comprehensive report, in which we traverse the history of higher education in Australia, which lands us at the place we are today: the reality we have to deal with if we want to continue to have and to increase the excellence of our higher education system while continuing its strong accessibility.

I just want to briefly quote Nelson Mandela: 'Education is the most powerful weapon which you can use to change the world.' So, for the first five minutes, I absolutely adored everything Senator Carr had to say about higher education, the role of universities in society et cetera. They are absolutely crucial. That is why they have to be financially sustainable and
accessible to all—which is exactly what this government is doing through this education reform agenda.

When the credit card statement arrives, the responsible thing to do is to actually pay the debt, just as this government is setting out to do, having inherited Labor's hefty credit card bill. A commission of audit took place, and ministers were told to find savings within their portfolios. A package of higher education reforms was the result of Minister Pyne's deliberation, striking a fair balance between careful savings and strategic investment—strategic investment by this minister. The ultimate goal is to spread opportunity to more students, drive creativity and innovation, and ensure that our universities are equipped to face the challenges of the 21st century and that Australia is not left behind. The higher education sector gets it, and supports the government's planned reforms contained in the bill that we are speaking to tonight—reforms which directly benefit higher education providers, students and communities, whilst driving economic growth and productivity.

The key element of the reforms is fee deregulation. That will give universities the longed-for freedom from government control, allowing them to make independent choices, not just about fees but about teaching methods, courses to be offered, scholarships and other services, in response to the market. And let us face it: 'the market' in this conversation is students, and they are not all young people leaving year 12. There is strong evidence that fee deregulation will lead to greater competition, and with greater competition comes greater choice. And, contrary to the rowdy views of a small number of critics, the higher education sector welcomes it. What bemuses me is the failure of our critics, including Labor, to acknowledge that fee deregulation already exists for postgraduate and international students, and that most higher education providers see full deregulation as the next logical step in the evolution of our higher education system.

In fact, students have been progressively making increased contributions to the cost of their higher education under successive governments since the 1980s. Even in Whitlam government years, there was no 'free education' because, in reality, university costs were funded by the taxpayer. Cabinet papers also later revealed Gough Whitlam's free tuition had little impact on the composition of student intake, with a continued overrepresentation of students from wealthy backgrounds.

A decade on, faced with the financial strain of a free education, and greater pressure to expand education opportunity for the growing number of students completing year 12, the Hawke government introduced the HECS Scheme. In a speech at the Victoria University of Technology a few years later, the then Treasurer, Paul Keating, said: 'There is no such thing, of course, as a free education. Somebody has to pay. In systems with no charges, those somebodies are all taxpayers.' He added: 'This is a pretty important point. A free higher education system is one paid for by the taxes of all, the majority of whom have not had the privilege of a university education.' So I think we all need to ask ourselves if that is a fair thing.

Bob Hawke, in an interview in 1988, stated: 'I do not have any problem with the concept of fees. In fact, one of the greatest stupidities was the proposition that the Whitlam Labor government introduced a free education. There is no such thing as a free education. It is a question of who pays and how it is paid for.'
The Howard government introduced a partial deregulation of student fees and domestic full fee-paying undergraduate places that were later abolished by the Rudd-Gillard government, without adequate compensation for universities. The Rudd-Gillard government went on to introduce a demand-driven system, whilst cutting funding by more than $2 billion. In fact, the previous Labor government announced a number of 'savings measures'—in plain speak, cuts—to higher education grants and student support, totalling $6.65 million from 2011-12 to 2016-17. Labor's Senator Carr vehemently opposed this whenever it was raised during the inquiry hearings, despite it being fact, in black and white, in the budget and MYEFO papers. It was an odd approach for a Labor government, led by a Prime Minister, Julia Gillard, who advocated diversity and specialisation in universities. Julia Gillard reflects in her new book: 'I am particularly proud of our decision to unchain Australian universities, to enable them to define their own mission and educate more students.' This is precisely what the coalition government's reforms seek to achieve. And she adds: 'As a result of the new system, while students continue to compete for places, universities increasingly have to compete for students. A better run, better quality university can attract students who might be considering other universities.'

Fee deregulation is all about making universities compete for students. One wonders what Julia Gillard thinks of her party's apparent shift in direction. Claims of skyrocketing fees, made by student unions, Labor and the Greens, as a result of deregulation of fees also lack substance. The reliability of the methodology behind two of the most referred-to studies, from the NTEU and NATSEM, has been questioned more broadly.

I just want to go to those assumptions because, as anybody who appreciates a good mathematical model knows, the assumptions underpinning the model are actually what we need to go to before we start screaming about $310,000 degrees for social work, as was claimed this morning. The assumption under the modelling that was used is that we did not go to what the actual fee may be. There has been only one university, the UWA, that suggested a fee setting, and evidence throughout the inquiry from vice-chancellors and all, even some of the Labor Party—even Professor Quiggin came—was that universities are going to charge differently for different things. UWA has decided to do a broad-brush fee across all their courses. Other universities are not going to do that. CSU, for example, with the fabulous vet degree, might choose to charge a premium for that particular product and a different fee for some of their other offerings.

But when we go to the assumptions underpinning that modelling, they jump straight to the international fee, setting the highest fee you can charge within Australia for undergraduates. They then charge the six per cent bond rate over 20 years. Bearing in mind the bond rate for the last 10 years has been only 3.8 per cent. They then factored in some time off, presumably to have some children or to travel. That got us to the worst case scenario for a social work degree, which was $310,000.

In the best case scenario, using those same assumptions, which I have actually poked some holes in, that same social work degree costs $42,000. It is a scare campaign, because it is affecting the students and families who are not seeing higher education as an investment—the first generation, particularly, need to be convinced that it is an investment worth making and they can do their social work degree for $42,000 rather than the $310,000 quoted. So it is an
absolute furphy. It is scary and they have to stop saying it, because it is actually not true, even using their own modelling.

The NTEU admits in their report that not every university degree at every university will cost $100,000, but we do not hear that in the public debate and discussion, and that is morally reprehensible, particularly when we are talking about increasing access to higher education for those we need to get through the door.

NATSEM modelling is based in the University of Canberra, and that is understood to be the only university in the whole country that does not appreciate or is actually opposed to fee deregulation. The groups representing universities have issued a variety public statements and modelling showing that universities can be relied on to act responsibly in setting fees. Analysis from the Australian Technology Network, Innovative Research Universities, and the Group of Eight, and assurances from the Regional Universities Network all show this. Member institutions of the Council of Private Higher Education have also confirmed that 'whatever they receive in Commonwealth support for students will be passed on to students through reduced tuition'. So, for Senator Rhiannon to stand up here and say that nobody has talked about lowering fees does not actually go to the evidence. Let us talk about the evidence and the facts, not fear.

Nor is there any basis to comparisons with other deregulated higher education systems. The rhetoric throughout has been of an Americanisation of our system. A directly comparable system does not exist. Australia's higher education system is unique in comparison, as the reform package will ensure that for all students, irrespective of their means, there are no upfront financial barriers to accessing higher education. So for Senator Carr to talk about merit and about financial impact as being a barrier, our system still offers an income-contingent loan scheme that is the ideal of the world. This was evident based on expert views to the Senate inquiry hearings. Professor John Dewar, Chair of the Legislation and Financing Working Group, explained that the US system was not one national system, as would be the case here. Rather it has extremely complicated and diverse. So to say that we are having an Americanisation is false.

Similarly, a submission from the Group of Eight explained that debt burdens like those in the US are simply not possible in Australia. In Australia, our HELP system of student loans means that graduates only repay when they earn enough to be able to do so, whereas in America the crippling debts are incurred by graduates because they do not have a provision for such loan support.

Further deregulation will drive a more competitive environment for universities, so charging exponentially higher fees will only result in empty lecture theatres and tutorials. Australian students are not idiots. They will go elsewhere. As the Australian Technology Network's Vicki Thomson logically explains, it would be untenable from a business perspective to do so. Vice-chancellor after vice-chancellor reiterated that there were not going to be $100,000 degrees hither and thither. There is strong evidence supporting the view that fee deregulation will boost equity and innovation. While providers will be able to determine course costs, they will have to compete on price and quality in order to attract students.

There is also strong stakeholder support for extending funding to sub-bachelor courses as well as to private universities and other higher education providers, with considerable benefits
for regional students. We do not hear about these students. We do not hear about this absolutely fantastic access and equity aspect of this reform package.

Universities, colleges and TAFEs in the regions will be able to offer more courses with qualifications leading to careers or further study. The idea has merit, with a growing number of universities and TAFEs having already forged partnerships across regional Australia—for example, Federation University Australia at Ballarat and La Trobe University, in my home state of Victoria. These universities and TAFEs are also targeting first-generation students from families that did not previously have such opportunities, and nor could they afford it. By 2018, more than 80,000 additional students nationally will benefit from these increased opportunities—coming from the regions, disadvantaged and Indigenous backgrounds, mature age students and those with low ATAR scores. In the regions we have incredibly low year 12 completion rates, which means that you cannot easily go to university. These reforms seek to improve student mobility, while giving private and non-university providers flexibility to specialise and differentiate from one another.

The Kemp-Norton review of the Demand Driven Funding System found that expanding access to sub-bachelor pathway courses would lead to the improved efficiency by better matching students with appropriate courses. TAFE Directors Australia also endorsed these reforms, saying:

Commonwealth funding is required to support the increasingly important role TAFE plays in broadening student choice and access, strengthening the capacity and reach of the system, particularly in regional areas, and addressing critical shortages of higher skills in the Australian economy.

I want to go to the report, because while we hear a lot from NUS students, predominantly who attend Go8 universities I have to say. They always end up here in this place or in the other place. That is fine. I love hearing from students. But I did not hear Senator Carr nor Senator Rhiannon talk about the students who attend private institutions, or the TAFE students, who will be the beneficiaries of so much of our reform package. Going to the report where the Chisholm Institute explained to the committee that they built their degrees on industry strength. These are higher education providers that have very clear and direct links with industry. There are a certain cohort of students who appreciate that but who do not necessarily want theoretical philosophy degrees. They want to realise that the education they are getting at their local TAFE or local institute is going to result in a job. Right now, degrees at these institutions are costing $22,000 or $32,000.

I want to go to Miss Sara Moad, a second year Bachelor of Dance student with a private provider, that Senator Rhiannon does not want to see have the benefit of being treated equitably with other such students. She chose a career in a profession that is not well represented in our public universities, and I will quote her:

If and when the bill is implemented, I will have already graduated, with a debt of $56,000, of which $11,000 is an administration fee of 25 per cent—which our legislation actually seeks to get rid of—

more than I need to save for a house deposit. Compare this with my brother, who will have completed a three-year degree in design at a public university, with a HECS debt of around $15,000. I will pay more than three times the amount ... How is that equitable? Professionals in the performing arts have the ability to share so much with their communities and build culture, and often do so despite earning a lower income compared to other professions.
Senator Rhiannon and Senator Carr want to ensure that Miss Moad continues to pay $11,000 more than her brother and it is simply not fair when we want to go to equity.

I want to briefly touch on the Commonwealth Scholarship scheme. Those institutions with more than 500 enrolled students will be required to put 20 per cent of the revenue raised through increased course fees towards scholarships targeting students from disadvantaged backgrounds. Again, Senator Rhiannon, you went to complain about the Go8 universities' under-representation of that cohort of Australians, in their university lecture halls. This measure will ensure that that proportion increases. So I really would appreciate your support in getting that increase in the Commonwealth Scholarship scheme so that we can get more disadvantaged students into the great universities in many of our capital cities.

There has been a lot of debate about regional students and the effect on them, but many country students do not opt to study at a regional campus. In fact, evidence is that most of them do not choose to do so. We can talk about the Regional Universities Network, but I am also talking about regional students—regional kids—and their future and, by default, our future in regional Australia. They do it for a lot of different reasons. Steps must be taken to ensure that they can overcome the very real financial barriers to them accessing a quality education of their choice that currently their parents or they themselves have to bear. Our bill seeks to do this. Our Australian education system is unique because it remains cost free at the point of delivery, contrary to Labor's scaremongering. The Minister for Education, Christopher Pyne, has pointed out that, because the government currently lends to students at the bond rate, it is fair for them to be charged that. The committee inquiry report showed, I think, overwhelming evidence that that may need to be revisited. I am confident that the minister will consider the report and the evidence we received as we move forward.

The bill will see $11 billion extra funding for research—and I think that is fabulous—and $139 million to the Future Fellows program. That is not in the Labor Party's dissenting report; they do not want to keep that. They do not want to ensure that we are leading the world in research and can underpin that going forward. I support the bill and I recommend that the Senate does the same.

Senator LINES (Western Australia) (19:11): I rise to speak on the Higher Education and Research Reform Amendment Bill 2014. It staggers me as to how much longer, and I suspect it will be until the next election, this Abbott government is going to go on hoodwinking the Australian people that, somehow, whatever it says does not represent a broken promise or indeed is an untruth. One of the biggest areas of hoodwinking of Australian voters must be in the area of university funding; it has to be in that area. I want to draw the Senate's attention to the Labor Party's substantial dissenting report—a well-researched document, a lot of facts and figures—unlike the majority report, which is quite emotive in parts. Our report has facts and figures based on what our own research tells us and of course based on the evidence that we heard.

I want to start with budget night. What we found out on budget night, despite promises to the contrary from Mr Abbott in the lead-up to the election, was the announcement of the most radical shake-up of higher education in 30 years. You might think that that is fair enough if the government had alerted the Australian voters before the election of its desire to do that. But no, that budget announcement, that radical shake-up, the most radical shake-up of higher education in this country for 30 years, came completely out of the blue. The Abbott
government gave no indication in its statements either prior to or immediately after the 2013 election that it was anticipating radical changes in higher education. I would like to quote the Prime Minister, then the Leader of the Opposition, and what he promised in 2013:

In an era of busy government and constant change, it's insufficiently recognised how often masterly inactivity can be the best contribution that government can make to a particular sector … A period of relative policy stability in which changes already made can be digested and adjusted to, such as the move to demand-driven funding, is probably what our universities most need now.

He went on:

We will be a stable and consultative government. If we put in place a policy or a program, we will see it through. If we have to change it, we will consult beforehand …

Let me just repeat that:

If we have to change it, we will consult beforehand, rather than impose it unilaterally and argue about it afterwards. We understand the value of stability and certainty, even to universities.

I put it to you, Mr Acting Deputy President, that what we have seen from the Abbott government in this radical change to universities is completely that: a unilateral change without any consultation. Certainly, as members of the committee that inquired into the bill before us, we asked universities if they were consulted and none of them were. Even if you try and gloss over it and say that the billions of dollars being taken out of universities is somehow magically still there, the fact is that this government has put in place the most radical change in 30 years without one skerrick of consultation. That just follows its pattern of broken promises and of no consultation—of, 'We're in government; we're doing what we want.'

The other thing that shows us that this is policy on the run is all the mistakes that the various ministers made when trying to explain this policy. We saw Christopher Pyne saying, 'No, this new student debt won't be retrospective,' and yet it was. We have seen mistake after mistake by Minister Pyne in trying to explain this package. That tells me that this package was done on the run. Somebody came up with a bright idea, perhaps on the back of an envelope, and it was given to Minister Pyne to implement without any plan. You either know the truth and don't want to admit it or you don't know it, and clearly Minister Pyne did not realise that his new student debt would be retrospective. And on and on it goes.

I want to start at the heart of this package, which is the 20 per cent cut to universities. It does not matter how the government tries to dress it up; it is a cut. Interestingly, we have heard senators on the government side trying to say that, overwhelmingly, universities support this package—well, they do not. During the inquiry, we did not find a university that said, 'Please, I put my hand up. Give me a 20 per cent cut in funding.' Every single university had real concerns about that 20 per cent cut in funding. That is what is at the heart of this package.

Then we go to fee deregulation. It is not fee deregulation; it is just charging whatever students will pay. It is just turning universities into a market. It is imposing an American system on our system in Australia. We have seen the failed markets in various parts of the world and here we are, taking our institutes of higher education and simply turning them into a market. Indeed, some of the witnesses to the Senate inquiry referred to going to Myer and having a choice of shirts. It is ridiculous to suggest that. But the 20 per cent cut has to be found somewhere, and all universities expressed concerns about this cut and this loss of vital
income. There was no dissent from that. The fact, of course, is that this loss of income can only be recouped from one source, and that source is students, by imposing unimaginable debt on people at a very young age—in their early 20s or, if they do a doctorate, maybe even into their mid- and later 20s. Imposing lifelong debt, unimaginable debt, on very young people shows that the Abbott government has complete disregard for students.

The government come in here, day after day, and say that they do not want to be the government to impose debt on future generations—but that is exactly what the Abbott government are doing here. There is no getting away from the fact that they are imposing a massive future debt on a young person, a debt of at least $100,000 and possibly more. We have already seen the University of Western Australia, in my state, put its fees up. The University of Western Australia is one of the universities that advocates for people to do four and five years of study, and for longer degrees we will see these sorts of debts being incurred by students.

It is fair to say that the vice-chancellors did not have a lot to say about student debt, but they certainly had a lot to say about the interest charge. There was not a university—

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Williams) (19:22): Order! It being 7.20 pm, I propose the question:

That the Senate do now adjourn.

Fallof the Berlin Wall: 25th Anniversary

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (19:20): Freedom is an innate human aspiration. Millions of people have campaigned for freedom. Millions have died in the cause of freedom. Freedom is a fundamental aspiration common to all humanity. We know this instinctively. Expression has been given to this instinct in various forms, including in the Magna Carta, in our conventions, in legislation and in treaties. The quest for freedom is universal.

I recall my time at university, where countless lecturers were either apologists for or, even worse, openly supportive of the repressive communist regimes around the world. We were told it was 'historical'; it was 'cultural'; it was 'insert excuse of your choice'—it was any excuse to justify the unjustifiable: the oppressive left-wing communist regimes. Those apologists, aged as they now are, have, thankfully, in their lifetimes seen the irrepressibility of the human spirit's pursuit of freedom. As an aside, most of them now have a political home in the Australian Greens or the left of the ALP.

My motivation to speak this evening is that, on 9 November 2014, the country of my birth will be celebrating the 25th anniversary of the dismantling of the Berlin Wall. On that night of 9 November 1989, freedom entered the homes of over one million Berliners. On that historic night, freedom conquered not just one city but a nation, and not just a nation but the entire Eastern Bloc. The fall of the Berlin Wall stands as one of the greatest victories for freedom, liberty and democracy in modern history.
The Berlin Wall was erected on 13 August 1961 by Soviet East Germany. After the war, Germany was divided in two: democracy and capitalism flourished in the west whilst the repressive hand of socialism gripped the east with an iron fist. The open border between these two worlds ran through not just the German nation but the German capital. In West Germany an economic miracle led to a sustained period of prosperity with personal freedoms. In East Germany citizens struggled under communist command-and-control economics and personal oppression.

It should have come as no surprise when literally hundreds of thousands of East Germans crossed the then open border in pursuit of a better life in the west. The sheer numbers are staggering: in the first six months of 1953, the number of East Germans who crossed the border exceeded 200,000. East Germany was bleeding and, in the minds of its Soviet leaders, that bleeding needed to be stopped. So, on 12 August 1961, an order was signed to close the border. By nightfall, East Germany was sealed. For the next three decades, the Berlin Wall stood there as a wall of shame symbolising the Iron Curtain that divided not only a country and its people but two ways of living and, indeed, the 20th century itself. The wall was 155 kilometres in length with 45,000 separate sections of reinforced concrete, 116 watchtowers and no less than 20 bunkers. Running parallel to the wall was the infamous death strip along which all who attempted to cross would be mercilessly executed.

Dr Hartwich writes that the wall symbolised all the divisions of the time:
East against West, capitalism against communism, democracy against dictatorship: all the ideological confrontations at the end of the short twentieth century were marked by the wall in front of the Brandenburg Gate.

The human cost of this wall is incalculable. At least 255 innocent East Germans were gunned down in their attempt to cross from the depths of despair in the east into a life of liberty in the west. The wall separated workers from jobs, husbands from wives, fathers from sons and mothers from daughters. It stood, in the words of Dr Hartwich, as:
… an inhumane scar running right through the heart of Berlin.

This monument to communist failure would, thankfully, not stand forever. But the fact that the wall was pulled down by the east, for the east and from the east with little help from the west stands, I believe, as a blot on the west—albeit with a few notable exceptions including, for example, President Reagan when he called upon then Soviet President Gorbachev to ‘tear down this wall.’ That was in 1987, some two years before the wall was actually dismantled.

It is interesting to learn that which left-wing politicians in West Germany said at the time. For example, it is very interesting to read that Gerhard Schröder, a leading light of the Social Democrats in Germany, just a few months before the wall was dismantled said:
After 40 years of the Federal Republic—
or West Germany—
we should no longer tell lies to the new generation about the chances of re-unification: there are none.
Joschka Fischer, a leading Green politician, just two months before the dismantling of the wall said:
Let’s forget reunification! .... Why don’t we just shut up about it for the next twenty years?

How disheartening would those words have been for those pursuing freedom in the east? Thank goodness there were men and women of the calibre of President Ronald Reagan, who
was willing to say two years earlier, 'tear down this wall.' This wall does represent oppression. It does represent everything that is abhorrent to personal and individual freedom.

In a poll in 1987, 97 per cent of West Germans believed that reunification would not take place. In the 1980s, the Social Democrats tried to stop the funding of the organisation that researched human rights abuses in East Germany. Just imagine how disheartening that was for those pursuing, fighting and indeed dying for freedom in East Germany; and we had people who were unwilling to even give some sort of lip service and sustenance to the people of East Germany who were seeking freedom. Whilst the left of politics in the west apologised, the human spirit demanding freedom, thankfully, prevailed.

The threats to freedom may be taking a different form this century, but the human spirit's innate desire for freedom must, and will, ultimately prevail. The dismantling of the Berlin Wall serves as an inspiration to those fighting for freedom over the evil of oppression. Those of us who enjoy freedom need to stand in solidarity with those who are oppressed and seeking freedom. As I reflect on the events in the country of my birth some nearly 25 years ago—not that I was born 25 years ago, Mr Acting Deputy President Williams, but the dismantling of the wall 25 years ago—we should take great comfort from the fact that the indomitable spirit of humankind seeking freedom will, and does, prevail. But it is such a very sad reflection that when those of us who enjoy freedom—enjoy all the comforts of life that freedom provides—are not willing to stand in solidarity and support those who suffer oppression as a result of dictatorships around the world.

I believe that many people around the world do celebrate the events of 9 November 1989, and may those celebrations last for a long, long time.

**University of Newcastle: Central Coast Campus**

Senator O'NEILL (New South Wales) (19:30): I rise in the shadow of many conversations of the last week—since the passing of the great Gough Whitlam—to speak to 'something little that has grown'. We have the image of Vincent Lingiari and the song by Paul Kelly that tells of little things that grow. A little education can be a great thing from which many great things can grow.

From small beginnings, when just 89 students were enrolled at the University of Newcastle's Central Coast campus, when it opened its doors in 1989, the UON Central Coast campus has now grown to over 4,500 students studying a diverse range of degrees in what we clearly call—and are proud to call our local university—a world-class institution.

Census data indicates that only 11.9 per cent of people on the Central Coast have achieved a bachelor's degree or higher. This is rather starkly compared to 20.7 per cent for the rest of New South Wales and a 40.5 per cent in greater Sydney. Clearly, having a local campus of high quality is critical for our local community. The UON Central Coast campus has increased local participation in higher education, with more than 11,600 students graduating from the Ourimbah campus since 1995. This has a nearly immeasurable impact on the Central Coast.

With world-class researchers, cutting-edge teaching and learning spaces—thanks to the recent $20 million upgrade of the campus's facilities, under the most recent Labor government—award-winning teachers and unique degrees that are exclusive to the UON Central Coast campus, our Ourimbah campus has provided its local community with the
opportunity to participate in higher education without having to travel too far from home. For significant numbers of mature-age students attending university at the University of Newcastle's Newcastle campus and the Central Coast campus, proximity to study is a critical element of their decision to reskilling—upskilling—and enabling themselves and their families to benefit from investment in education.

This year, the University of Newcastle Central Coast campus is celebrating 25 years of providing education excellence, fostering innovation and increasing participation in higher education on the Central Coast. The Central Coast Campus 25th Anniversary Alumni Profile Series captures the unique journeys of 25 UON Central Coast campus graduates who have gone on to build careers and lives that have made an incredible difference in their chosen fields.

Some education and career journeys of the 11,600 UON Central Coast campus graduates have been shared as part of a special series to commemorate the milestone of the university's presence on the Central Coast. It is a way of inspiring other local residents to consider how a tertiary education could help reshape their futures. This vision of engagement and opportunity runs counter to the disgraceful piece of legislation that we have seen come forward from the government of this time, which can only be considered an instrument of exclusion for people.

One of the profiled people in this wonderful presentation—that is available through the university's website—is 2014 Gold Walkley-winning journalist Joanne McCarthy, who did so much to record the data that led to the current royal commission into institutional sexual violence against children. Joanne is the sister of Kevin—one of my favourite students that I taught on the Central Coast—and daughter of Barbara McCarthy, a wonderful local community activist. Joanne, in her testimony on this short video that is available on the website, talks about a choice to turn to university after having gone through a period of parenting. The possibility of doing that study was because a world-class high-quality university was accessible to her, in her community—it was physically, intellectually, socially and culturally accessible to her. Look what she has done for the nation as a result of access to that fine education.

Also celebrated are 2011 Telstra Young Business Woman of the Year winner, Jo Heighway, a wonderfully innovative local young businesswoman doing amazing work and employing very many people and connecting people with employment as well; Australian of the Year nominee and prominent psychologist, Dr Diane Bull, who is also an alumni of the Central Coast campus of the University of Newcastle; Environmentalist and co-founder of the Take 3, an international clean-beach initiative, Tim Silverwood; and one-time refugee, now academic, Dr Ibithal Samarayi, who escaped the Hussein regime in Iraq and is now inspiring others to pursue their education aspirations. She is lecturing at the University of Newcastle's ground-breaking enabling programs—Open Foundation and Newstep—that have had incredible success for local young students.

Thousands of Central Coast residents have taken up this alternative supportive pathway for undergraduate studies. I congratulate the university for their vision and commitment in enabling those opportunities for students to study through those pathways. As a former academic of the University of Newcastle Central Coast Campus, I met many students who came through from that enablement program. I congratulate Jason Van Genderen, an internationally acclaimed video specialist, of Treehouse Productions. He creates the most
wonderful video stories, in a range of ways, and has documented the success of these illustrious alumni from the university.

The 25 stories have been captured on the university’s website and make great viewing and reading for those seeking inspiration to study and will be used by the UON to encourage other Central Coast residents to consider their education options.

The celebration also marks the strong partnership of UON Central Coast campus, which they have established with local industry, business and community to drive leading education, innovation and research. A record number of postgraduate and research higher-degree students are now studying at the UON Central Coast campus, with these domestic and international students benefitting from the mutually-beneficial partnerships formed between the university and business, industry and the greater community.

These partnerships have delivered contemporary studies and work-ready graduates who continue to be competitive on the national and international stage. The Joint UON and Central Coast Food Innovation Cluster, is an excellent example of these partnerships, and brings together researchers from across multiple disciplines within the University of Newcastle as well as experts from within the Central Coast food and beverage industry and government members, and draws on the diverse skills and knowledge of its members, to innovate ways to solve issues and problems relevant to the food and beverage industry, which is one of the largest employers on the Central Coast.

The cluster will also generate new ideas and create new opportunities for research breakthroughs which translate into practice, further driving innovation and the Central Coast's capacity to a leader in this field. All of this would be impossible without the community understanding and the commitment of the UON Central Coast campus and the leadership team there.

A research partnership between the UON Central Coast campus exercise and sport science academics and the 2012 A-league champions—our very famous Central Coast Mariners Football Club—has developed a training regime that resulted in the lowest player injury rate of the league. The Mariner's success in 2012, and their placing as runners-up in the 2013 season has been attributed to the winning edge attained through that training regime. The partnership also created an amazing opportunity for young Central Coast man, and UON PhD student, Tim Knight, to continue his research and work with the Mariners in his first professional coaching role as the Head of Sport Science and Football Conditioning.

With its focus on allied health, the UON Central Coast campus is also home to the Colgate oral health clinic, which provides cutting-edge, hands-on learning opportunities for both undergraduate and postgraduate students, as well as low-cost oral health care for the Central Coast community. The University also works closely with the Central Coast Local Health District to provide clinical placement opportunities for the UON podiatry students, and low-cost foot and lower-limb care for the Central Coast community at the University of Newcastle and Central Coast Local Health District podiatry clinic at the Wyong Hospital.

What is next for our wonderful local campus? Looking forward, the University of Newcastle will continue to consult with regional stakeholders and business leaders to explore the expansion of its program mix at the Central Coast campus, to reflect the changing skills needs on the Central Coast. The UON has also made a significant capital investment to assist
in the reinvigoration of the Gosford CBD, with plans to develop a UON research and innovation hub, in the heart of the city. Sadly, it seems that we are still waiting for the Abbott government commitment of funding to hit the ground and allow the project locally known as Kibbleplex to advance. There has been a lot of talk but there has been pretty short delivery. That is holding up the university from getting on with the job.

**Western Australia: Sharks**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (19:40): Tonight I wish to talk about sharks. I know that that will come as no surprise to some people, as I have spoken on sharks on many occasions in this place.

I am pleased to say that we have made another positive step along the road to ending the shark cull in Western Australia, with the WA government withdrawing, at the last minute, their cruel and unnecessary cull program off the coast of Western Australia. I wish I could say that that was the end of the matter but unfortunately it is not.

The Premier, when withdrawing the application for Commonwealth approval for the drum-line program, said that he had reached an agreement with the Commonwealth over the issue of 'imminent threat'. Before I address that in more detail I would like to remind the chamber that the WA EPA recommended that the extension of the culling program should not go ahead due to a high degree of scientific uncertainty about the impact upon the marine environment. In fact, the CSIRO provided substantive input into the EPA assessment. They were asked to by the EPA. The advice received from CSIRO stated that there remained too much uncertainty in the available information and evidence about the south-western white shark population, population trends and the by-catch from commercial fisheries. In its report CSIRO said that the Barnett government's argument for using drum lines to reduce shark attacks lacks credibility and is based on selective use of information.

The report, which was authored by Barry Bruce, found that baited hooks were an uncertain management response to the threat of white sharks. It also slammed the government for failing to have a management committee to oversee the program, for failing to establish maximum catch limits—bear that in mind because that issue is very relevant to the issue around 'imminent threat'—and for failing to implement a dedicated program to provide more-robust estimates of the great white shark numbers and catches. That was in response to the cull program, and I believe that that information needs to be taken into account just as much for the issues around imminent threat.

I am very deeply concerned about the agreement between the federal and WA governments on the way they will handle the so-called issue of imminent threat to deal with so-called shark emergencies. The WA government has agreed to work with the Commonwealth to come up with a long-term protocol for their 'imminent threat' policy, and say that the powers to make decisions about imminent threat will be handed over from the Commonwealth to the state government—a very deeply flawed approach. This will give the WA government powers that they should not have.

Premier Barnett has claimed he has negotiated a protocol. He said:

... a protocol where if there is an imminent threat of a shark attack in WA, the state government is authorised to deal with that. And that may require the destruction of that shark... drum lines will be used to catch those sharks. It's not the only method, but in some cases, drum lines will be used.
There are still too many questions to be answered on this important matter.

What does the agreement include? We do not know because the details have not been provided. The protocol is still being worked out. Both the Premier and environment minister Mr Hunt have confirmed that they are still working though the manner in which WA authorities will be allowed to kill sharks and under what circumstances.

Mr Barnett cannot tell us what the provision of 'imminent threat' will entail. I am deeply concerned that this is a shark cull by another name, because under the shark cull which has been rejected by the WA EPA—I remind the chamber that over 300 scientists and thousands and thousands of Western Australians rejected the shark cull—they estimated that there would be about 25 great white sharks taken, plus nearly 1,000 tiger sharks and other shark species. I remind the chamber that CSIRO said that there was a great deal of uncertainty under that particular program

Imminent threat may mean that more than 25 sharks are taken, because at this stage we do not know the circumstances under which the federal government has handed over those powers to the Western Australian government. Any imminent threat policy must include a review or referral under the EPBC Act using the EPA report to look at cumulative impacts of the imminent threat policy on the white shark population.

CSIRO, in its submission to the EPA on the program that the WA government originally put up to the federal government for assessment, said:

The definition of a shark posing an 'imminent threat' requires further clarity. It appears to have been applied to the confirmed sighting of a shark, as opposed to that shark's behaviour. Although the wording of Appendix 3: Guidelines for fishing for sharks posing an imminent threat to public safety suggests that sighting a shark by itself may not necessarily constitute an imminent threat, the application of this policy during at least the trial program, as identified by the proponent, appears to have been based on sightings alone. Sharks are normal visitors to inshore environments and the sighting of a shark or the ability to observe its path (e.g. from the air) provides alternative mitigation opportunities by way of beach closures, to attempts at catching and removing it.

We believe we need to consider the cumulative impacts of the imminent threat policy on the great white shark population. A few of these actions together is likely to have a significant impact. It is likely that taking a number of sharks will have just as big an impact as the cull. There are alternatives available—for example, capturing great white sharks, taking them further offshore and releasing them, or, in the same way as Brazil, you could have a Shark Spotters program, which is very successful.

Great white sharks are a vulnerable species that are protected under the Commonwealth EPBC Act. This means that state officials should require approval from Canberra before they can take action against a great white. The state government continues to try to promote this concept of a rogue shark, which their own Department of Fisheries says is a misnomer. They do have time to talk to the Commonwealth about taking great white sharks, particularly when you consider that, as I said, this program could end up having just as great an impact as the cull on the great white population, which CSIRO says there is not enough information about.

This agreement, according to Premier Barnett's announcements last week, would allow the WA government to intervene in 'emergency situations' without approval from the Commonwealth. This is an abrogation of the Commonwealth's responsibility. This agreement should not have occurred and the Commonwealth should not be abrogating its responsibility
over a vulnerable species, which is the great white shark. Great white sharks are an extremely important component of our marine ecosystem. As an apex predator, sharks are critical to the marine environment and help to regulate the oceans and keep other marine life in healthy balance.

That takes me to the programs that continue to exist on the east coast of Australia, in Queensland and New South Wales. Just last week, we heard that over 700 sharks and 1,000 other animals, including dolphins and turtles, were killed on drum lines and nets in the past year. Ninety-seven per cent of sharks caught since 2001 in Queensland are considered to be at some level of conservation risk. Sharks longer than three metres have been classified as dangerous to humans in WA; however, only 11 per cent of the animals killed in Queensland were larger than this. The average size of sharks captured on drum lines was 1.9 metres.

It is clear that these programs should also be reassessed. In Western Australia it was put to me during an interview that Western Australia has been dealt with unfairly. My response to that is: no way. In Western Australia the appropriate approach has been taken, which is to not proceed with the cull policy. We need to find alternatives. The imminent threat issue is an unresolved issue. Those powers should not be handed over to Western Australia. The Commonwealth needs to be involved in the decision making on the destruction of these vulnerable species.

Queensland and New South Wales should be reassessing the destructive drum-line policies. There are alternatives. Those policies were put in place years ago. They are having an impact on our marine life and they need to be reassessed. There are alternatives, as I have articulated, such as using eco-barriers, not nets. There was a successful trial in Western Australia last season at Coogee Beach. That can be taken up. There is South Africa's example of the Shark Spotters program, which is very successful. There is Brazil's tag-and-remove approach, where they use circular hooks and do not destroy the sharks. The Western Australian government continues to try and take revenge or some sort of vindictive approach to our shark population. They are an essential part of our marine environment. We need to get over that obsession and look at nonlethal ways of dealing with safety and protecting our marine environment.

**Freedom of Religion**

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (19:50): I spoke in this chamber on 25 March this year about persecution of religious minorities. I talked at that time about the German International Society for Human Rights which highlighted that 80 per cent of all religious discrimination and vilification was in fact directed against Christians, which comes as a surprise to many people, particularly here in Australia where Christians would tend to be regarded as the majority and we do not expect those things. I also talked particularly about the situation in Syria at the time, where minorities such as Druze and Christians were being persecuted in the middle of a very sectarian war. It was interesting to look at the response by journalists and media around the world. Whilst there were some people, particularly the BBC, who were starting to report on the issues faced by those minorities, it was not generally regarded as a big enough issue to dominate headlines.

Fast forward to recent times and what we have seen is that al-Qaeda and al-Nusra spawned the ISIL, the Islamic State of Iraq and the Levant, which became just the Islamic State when they declared a caliphate—the group is known more in that region as Daesh. We have seen the atrocities committed by them, not just in this case against Christians but against Yazidis,
Shia Muslims and Kurds throughout that region, and in particular in the town of Mosul. We have seen incredible atrocities where some 150,000 people have had to flee that town. The Christian community were given a choice of converting to Islam, paying a special tax and living in a state called dhimmitude—which means being a second-class citizen. Many were beheaded or crucified—men, women and children—by Daesh in that situation. We have subsequently seen Daesh impose sharia law not just in Mosul but a number of other towns. We have seen refugees from the Yazidi, Christian and Shia populations fleeing into neighbouring countries.

I particularly want to highlight tonight the plight of not only the refugees—and we have a natural empathy and sympathy for them—but also the role that neighbouring governments in Jordan, Lebanon and Turkey play in providing facilities and support for overwhelmingly large numbers of people. Focusing for the moment on Christian refugees, one of the things that are a particular focus is that many of the official United Nations sponsored camps, which are being hosted by these governments, are not housing and supporting many of the Christian population. Because of the extreme sectarian nature of the violence that has occurred, many of these people have chosen instead to be supported directly by the Christian population living in Turkey and particularly in Lebanon. That means that not only does the government have a huge burden, which is often supported in large part by the United Nations, but the Catholic and the Orthodox populations are shouldering a large burden with tens of thousands of people who have literally fled for their lives, arrived with nothing and are now seeking support from the communities in those nations.

Many people I have spoken to in the public have asked about what Australians can do to support. I would refer them to the various organisations—Caritas, World Vision and the various Orthodox churches which have representatives here in Australia—who provide means to support not only the refugees but also the communities who are hosting and supporting them in those nations. Awareness is really important. As I said back in March, there were a lot of dreadful things happening that people were not aware of. Even today, many Australians are not aware of the extent of the atrocities that are occurring over there. I want to draw the attention of the Senate to an initiative which is being held this coming weekend in Australia called Solidarity Sunday, where churches from around Australia have agreed to hold awareness days for not only their congregations but their communities to raise awareness of what is happening to the Christians, Yazidis and even Shia Muslims.

The Australian Christian Lobby is one of the organisers, but it is supported by a large number of churches: the Anglican Church, various Orthodox churches, the Australian Christian Churches, the Baptist Union, the Catholic Archdiocese of Sydney, C3 Churches, Coptic Orthodox churches, the International Network of Churches, life ministry centres, Lutheran churches, Presbyterian, Salvation Army, Seventh Day Adventists, Syrian Orthodox, Open Doors, the Barnabas Fund, Voice of the Martyrs of Christian Faith and Freedom—just to name a few. At the moment, there are some 600 churches engaged. The ACL are providing information packs for those who wish to register and receive that information. I encourage people to take part in this, because, as global citizens, we cannot afford to close our eyes to things that are occurring overseas that so directly affect the human rights of fellow citizens.

We heard just recently from an eminent Australian, Michael Kirby, who was reporting on the abuses that are occurring in North Korea at the moment. He made the point that, in the
1930s, when people looked at the rise of the Nazi regime there were warning signs, but the world did not act until it was too late. Here again we see not only warning signs but gross abuses against a range of people in one region. The world really needs to take notice and raise awareness so that we can unite to support, give these people hope that they are not forgotten and, equally importantly, take the steps that we need to in order to find out the causes of the ideology that has spawned the abhorrent violence we see. Then we can make sure that people of all communities and all faiths can work together to eliminate those elements of ideology that have led to that kind of action. That way we can not only make our community here in Australia safer but play our part in making the world a safer place for all people, so that article 18 of the Universal Declaration of Human Rights, which is about the freedom of belief, conscience and religion—or, indeed, the freedom not to have a religion—is respected by all authorities around the world.

Senate adjourned at 19:58

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

*Defence Act 1903—Section 58H—Salaries – Army Employment Categories – Amendment—Defence Force Remuneration Tribunal Determination No. 8 of 2014.*

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):


Australian Competition and Consumer Commission (ACCC)—Report for 2013-14, including report of the Australian Energy Regulator (AER).


Gene Technology Regulator—Quarterly report for the period 1 April to 30 June 2014.


*Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 1000975, 1001190, 1001194, 1001195, 1001201, 1001204, 1001237, 1001257, 1001275, 1001276, 1001291, 1001302, 1001354, 1001358, 1001366, 1001415, 1001435, 1001475, 1001482, 1001490, 1001492, 1001560, 1001580, 1001582, 1001591, 1001594, 1001605, 1001615, 1001622, 1001654*
1001667, 1001671, 1001676, 1001692, 1001693, 1001743, 1001746, 1001747, 1001751, 1001755, 1001756, 1001761, 1001770, 1001773, 1001812 and 1001813—

Commonwealth Ombudsman’s reports, dated 29 October 2014.

Government response to Ombudsman’s reports, dated 24 October 2014.


Public Lending Right Committee—Report for 2013-14.


Treaties—

**Bilateral**—Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy (New Delhi, 5 September 2014)—Text, together with national interest analysis and annexure.

List of multilateral treaties under negotiation, consideration or review by the Australian Government as at 1 October 2014.

**Order for the Production of Documents**

The Assistant Minister for Health (Senator Nash) tabled the following document:

Administration—Future Fund—Risks posed by climate change—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 28 October 2014, responding to the order of the Senate of 28 October 2014.