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the Senate and committee hearings are available at

For searching purposes use
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SITTING DAYS—2014

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

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

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator 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
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

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

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
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<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2017</td>
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<tr>
<td>Back, Christopher John</td>
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<tr>
<td>Bernardi, Cory</td>
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<tr>
<td>Bilyk, Catryna Louise</td>
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<td>ALP</td>
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<tr>
<td>Birmingham, Hon. Simon John</td>
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<tr>
<td>Brandis, Hon. George Henry, QC</td>
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<td>Brown, Carol Louise</td>
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<tr>
<td>Bullock, Joseph Warrington</td>
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<td>Bushby, David Christopher</td>
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<td>Canavan, Matthew James</td>
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<td>Colbeck, Hon. Richard Mansell</td>
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<td>Collins, Hon. Jacinta Mary Ann</td>
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Pursuant to section 42 of the Commonwealth Electoral Act 1918, the terms of service of the following senators representing the Australian Capital Territory and the Northern Territory expire at the close of the day immediately before the polling day for the next general election of members of the House of Representatives.

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<th>Party</th>
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<td>CLP</td>
<td>Peris, N.M.</td>
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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FPP—Family First Party; IND—Independent,
LDP—Liberal Democratic Party; LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party

**Heads of Parliamentary Departments**

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

<table>
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<th>Title</th>
<th>Minister</th>
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<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><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Women</em></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></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><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><em>Parliamentary Secretary to the Minister for Foreign Affairs</em></td>
<td>Senator the Hon Brett Mason</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Eric Abetz</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
<td>The Hon Luke Hartsuyker MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon Michael Keenan MP</td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td><strong>Minister for Justice</strong></td>
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<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>
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<tr>
<td><strong>Acting Assistant Treasurer</strong></td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td><em>Parliamentary Secretary to the Treasurer</em></td>
<td>The Hon Steven Ciobo MP</td>
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<tr>
<td><strong>Minister for Agriculture</strong></td>
<td>The Hon Barnaby Joyce MP</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Agriculture</em></td>
<td>Senator the Hon Richard Colbeck</td>
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<tr>
<td><strong>Minister for Education</strong></td>
<td>The Hon Christopher Pyne MP</td>
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<tr>
<td>(Leader of the House)</td>
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<tr>
<td><strong>Assistant Minister for Education</strong></td>
<td>The Hon Sussan Ley MP</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Education</em></td>
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<tr>
<td><strong>Minister for Industry</strong></td>
<td>The Hon Ian Macfarlane MP</td>
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<td><em>Parliamentary Secretary to the Minister for Industry</em></td>
<td>The Hon Bob Baldwin MP</td>
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<tr>
<td><strong>Minister for Social Services</strong></td>
<td>The Hon Kevin Andrews MP</td>
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<tr>
<td><em>Assistant Minister for Social Services</em></td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
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<tr>
<td><strong>Minister for Human Services</strong></td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Social Services</em></td>
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<tr>
<td><strong>Minister for Communications</strong></td>
<td>The Hon Malcolm Turnbull MP</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Communications</em></td>
<td>The Hon Paul Fletcher MP</td>
</tr>
<tr>
<td><strong>Minister for Health</strong></td>
<td>The Hon Peter Dutton MP</td>
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<tr>
<td><strong>Minister for Sport</strong></td>
<td>The Hon Peter Dutton MP</td>
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<tr>
<td><strong>Assistant Minister for Health</strong></td>
<td>Senator the Hon Fiona Nash</td>
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<td><strong>Minister for Defence</strong></td>
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<tr>
<td>Minister for Veterans' Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
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<td><em>Minister Assisting the Prime Minister for the Centenary of ANZAC</em></td>
<td><em>Senator the Hon Michael Ronaldson</em></td>
</tr>
<tr>
<td>Assistant Minister for Defence</td>
<td>The Hon Stuart Robert MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Defence</em></td>
<td><em>The Hon Darren Chester MP</em></td>
</tr>
<tr>
<td><strong>Minister for the Environment</strong></td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for the Environment</em></td>
<td><em>Senator the Hon Simon Birmingham</em></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><em>Parliamentary Secretary to the Minister for Finance</em></td>
<td><em>The Hon Michael McCormack MP</em></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>Shadow Parliamentary Secretary for Trade and Investment</td>
<td></td>
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<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>
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<tr>
<td>Shadow Assistant 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></td>
</tr>
<tr>
<td>Shadow Minister for Regional Development and Local Government</td>
<td>Hon Julie Collins MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Development and Infrastructure</td>
<td>Hon Alannah MacTiernan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Western Australia</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for External Territories</td>
<td>Hon Warren Snowdon MP</td>
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<tr>
<td>Shadow Treasurer</td>
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<td>Shadow Assistant Treasurer</td>
<td>Hon Chris Bowen MP</td>
</tr>
<tr>
<td>Shadow Minister for Competition</td>
<td>Hon Dr Andrew Leigh MP</td>
</tr>
<tr>
<td>Shadow Minister for Financial Services and Superannuation</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Treasurer</td>
<td>Hon Ed Husic MP</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>Senator the Hon Mark Butler MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Environment, Climate Change and Water</td>
<td>Senator the Hon Lisa Singh</td>
</tr>
<tr>
<td>Shadow Minister for Higher Education, Research, Innovation and Industry</td>
<td>Senator the Hon Kim Carr</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>
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<td>TITLE</td>
<td>SHADOW MINISTER</td>
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<tr>
<td>Shadow Minister for Communications</td>
<td>Hon Jason Clare MP</td>
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<tr>
<td>Shadow Assistant Minister for Communications</td>
<td>Michelle Rowland MP</td>
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<tr>
<td>Shadow Attorney General</td>
<td></td>
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<tr>
<td>Shadow Minister for the Arts</td>
<td></td>
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<tr>
<td>Deputy Manager of Opposition Business (House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Justice</td>
<td>Hon David Feeney MP</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, 26 NOVEMBER 2014

Chamber
COMMITTEES—
Foreign Affairs, Defence and Trade Legislation Committee— 9305
Foreign Affairs, Defence and Trade Joint Committee—
Meeting ................................................................. 9305
MINISTERIAL STATEMENTS—
Defence Procurement .................................................. 9305
BILLS—
Counter-Terrorism Legislation Amendment Bill (No. 1) 2014—
In Committee............................................................. 9326
Third Reading......................................................... 9346
STATEMENTS BY SENATORS—
Crystal Methamphetamine Hydrochloride .................................. 9347
Australia Post .................................................................. 9349
Tamil Community ................................................................ 9352
Australia Post .................................................................. 9354
Haemochromatosis .......................................................... 9356
Coal Industry ................................................................... 9359
Defence Abuse Response Taskforce ...................................... 9360
Remembrance Day ........................................................ 9361
Shop Small Campaign .................................................... 9361
25 Days of Volunteering ................................................... 9361
Queensland Government .................................................. 9363
QUESTIONS WITHOUT NOTICE—
Defence Procurement ...................................................... 9364
Defence Procurement ...................................................... 9365
Defence Procurement ...................................................... 9367
Leadbeater’s Possum ....................................................... 9368
Thomson, Mr Craig ......................................................... 9369
Minister for Defence ....................................................... 9371
Workplace Relations ....................................................... 9372
Renewable Energy Target ............................................... 9373
Defence Procurement ...................................................... 9375
MOTIONS—
Minister for Defence—
Censure........................................................................... 9376
PETITIONS—
F35 Joint Strike Fighter .................................................... 9411
NOTICES—
Presentation .................................................................... 9411
BUSINESS—
Consideration of Legislation .............................................. 9415
NOTICES—
Postponement .................................................................. 9415
COMMITTEES—
Treaties Committee—
CONTENTS—continued

Meeting ................................................................................................................................. 9415

MOTIONS—
  Moree Boomerangs Rugby League Football Club ................................................................. 9415
  Uncommon Cancers ........................................................................................................... 9415

BILLS—
  Freedom to Marry Bill 2014—
    First Reading .................................................................................................................. 9416
    Second Reading .............................................................................................................. 9416
  Centenary of Anzac ........................................................................................................... 9418
  International Development Assistance: Sanitation ........................................................... 9419
  East Coast High Speed Rail ............................................................................................... 9419
  Disability Care: Abuse ...................................................................................................... 9420

MATTERS OF URGENCY .................................................................................................. 9421

DOCUMENTS—
  Consideration .................................................................................................................... 9421

COMMITTEES—
  Scrutiny of Bills Committee—
    Report ............................................................................................................................. 9421
  Treaties Committee—
    Report ............................................................................................................................. 9421
  Regulations and Ordinances Committee—
    Report ............................................................................................................................. 9422
  Corporations and Financial Services Committee—
    Report ............................................................................................................................. 9422
  Community Affairs References Committee—
    Government Response to Report .................................................................................. 9423
  Treaties Committee—
    Report ............................................................................................................................. 9424

BILLS—
  Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014—
  Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014—
    First Reading .................................................................................................................. 9425
    Second Reading .............................................................................................................. 9425
  Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014—
  Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014—
    First Reading .................................................................................................................. 9430
    Second Reading .............................................................................................................. 9431

COMMITTEES—
  Intelligence and Security Committee—
    Membership .................................................................................................................. 9432
  Rural and Regional Affairs and Transport Legislation Committee—
    Report ............................................................................................................................... 9432
CONTENTS—continued

BILLS—
  Migration Amendment (Character and General Visa Cancellation) Bill 2014—
    Second Reading........................................................................................................... 9432
    Third Reading............................................................................................................. 9446
  Australian Citizenship Amendment (Intercountry Adoption) Bill 2014—
    Second Reading............................................................................................................. 9446

ADJOURNMENT—
  Sugar Industry .............................................................................................................. 9450
  Territory Insurance Office ............................................................................................. 9452
  Public Transport .......................................................................................................... 9455
  Shipbuilding Industry .................................................................................................... 9457

DOCUMENTS—
  Tabling.......................................................................................................................... 9460
  Order for the Production of Documents......................................................................... 9460
Wednesday, 26 November 2014

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

COMMITTEES

Foreign Affairs, Defence and Trade Legislation Committee

Foreign Affairs, Defence and Trade Joint Committee

Meeting

The Clerk: Proposals have been lodged as follows: by the Foreign Affairs, Defence and Trade Legislation Committee, for a private meeting today from 1.50 pm; by the Joint Standing Committee on Foreign Affairs, Defence and Trade, for a public meeting today from 11 am; and by the Joint Standing Committee on Foreign Affairs, Defence and Trade, for a public meeting on 3 December from 11 am.

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

MINISTERIAL STATEMENTS

Defence Procurement

Senator JOHNSTON (Western Australia—Minister for Defence) (09:31): I seek leave to make a two-minute statement.

Leave granted.

Senator JOHNSTON: I wish to make a short statement to the Senate regarding Australian Submarine Corporation and Australian shipbuilding. All Australians have come to know well the frustrations successive governments have faced in fielding a world-class submarine capability. Today we are in the middle of an $8 billion program to build three air warfare destroyers. We have all faced challenges. This cannot be denied. The frustrations of successive governments with the performance of both Collins class sustainment and the Air Warfare Destroyer Program are very well documented. In 2011, Labor Defence Minister Stephen Smith expressed his own concerns on the sustainment of Collins. He said:

Without having confidence in our capacity to sustain our current fleet of submarines it is very difficult to fully commence, other than through initial planning, the acquisition program for our future submarine.

That was said in July 2011. I am committed to leading the effort to fix those problems. Regrettably, in rhetorical flourish, I did express my frustrations in the past performance of the Australian Submarine Corporation. In these comments, I did not intend to cause offence. May I say on the record here and now that I regret that offence may have been taken. I of course was directing my remarks at a legacy of issues and certainly not at the workers in ASC, who may have, to my regret, taken offence at those remarks. I consider them to be world class.

On the matter at hand, the government has not made any decisions on the future submarine. Decisions will be made, as I have said time and again, on the advice of our service chiefs. Our goal is to deliver to our Navy a new class of submarine that is superior to Collins before the planned withdrawal date. Given the sheer scale of the program, it is only by working together
as a team that we will reach this goal. The former government's program was costed at over
$40 billion and would have resulted in a capability gap. This is an unacceptable risk to our
$1.6 trillion economy. Whatever decision is made on the future submarine, there will be
many, many more jobs for South Australia and a more capable Navy for Australians. Thank
you, Mr President, and I thank the indulgence of the chamber.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (09:34): by
leave—I move:

That the Senate take note of the statement.

Senators, that was the Minister for Defence. This is the gentleman who is supposed to be in
charge of our Defence personnel, who wants us and all workers in our shipbuilding industry
to forgive him because it was a regrettable ‘rhetorical flourish’. Let us understand this defence
minister's behaviour. This is the man who has broken his election promise to build 12
submarines in Adelaide. This is a man who has trashed the reputation of a major defence
industry firm. This is a man who has insulted thousands of hardworking Australians employed
at the Australian Submarine Corporation. And this is the defence minister who is happy to
come into question time in our Senate and undermine confidence in Australia's naval
capability. He is a disgrace. He is an utter disgrace. This is a man who is in charge of a
multibillion-dollar project, who has jeopardised the fair and equitable conduct of that
procurement process.

Does anyone believe after his performance that this minister will make a fair and unbiased
decision when it comes to the Future Submarine project? No-one in Australia believes that.
No-one in this Senate believes that. Not even your South Australian colleagues behind you, or
in fact your cabinet colleagues, believe that.

I will flag this. I want to put this marker down very clearly in this chamber, Mr President.
This bias that this minister has demonstrated is not just a demonstration of the fact that he
wants to break another promise. It raises serious probity issues because Australians can have
no confidence that this minister will treat an Australian bid for the submarine project fairly.
We all heard him yesterday. All of us heard him. And we heard him today also on the radio in
South Australia backing himself in again. No-one believes that this minister can conduct this
procurement process fairly. No-one believes that.

I say this to the crossbench: regardless of your partisan position, the procurement of the
Future Submarine project is the largest procurement in Australian history. It is the largest
government procurement in Australian history. It ought to be done properly. We have a
government that is refusing the competitive tender process. It wants for a whole range of other
reasons to do a deal with Japan and then has been prepared to trash the reputation of the
Australian Submarine Corporation and its employees because it wants to soften people up for
its broken promise. What a disgrace.

Yesterday was not a one-off incident. If you have followed this defence minister, both on
the record and in what has been backgrounded to the media by his office, it has been this
campaign of denigration of the Australian Submarine Corporation. Over and over again we
see background to the media or his own statements where he calls into question the capacity
and the professionalism of the workers at the corporation. I would say this: let us understand
what we ask those men and women at the ASC to do. We ask them to make sure that our
submariners, the people who operate our submarines, are safe. That is what we ask them to do.

It was actually very moving yesterday, at the press conference that Senator Conroy and I held, to have one of the ASC workers stand there and say: 'You know what? We give them the best because we would never send them out to sea with substandard work.' And what have we got the defence minister saying? He would not trust this worker to build a canoe! It is an extraordinary proposition, isn't it—the extent to which this government needs to go to justify its broken promises, the extent to which this government and these ministers are prepared to go to justify their broken promises. We have seen it time after time. We have seen them denying that cuts are cuts. The ABC was 'an efficiency dividend'. We have seen them saying that cuts to health and education that are in their own budget do not exist. They are treating the Australian people like mugs, lying about lying.

On this, how do they go about justifying a broken promise? They go about it, as I said, by denigrating and attacking the men and women who have built and maintained our submarines and who are building the air warfare destroyers. That is what he has done, all for his own political ends, because he wants to try and cover up the fact that he made a promise that was unequivocal before the election. Senator Johnston today, whether on the radio or in here, has really done what Mr Abbott does: 'I know I said that, but you have to look at the asterisk. You have to look at the footnote—what I really meant when I said that.'

I would like to read to the Senate what Senator Johnston said before the election. He said this:

…I want to confirm that the 12 submarines as set out in the 2009 Defence White Paper and then again in last Friday's Defence White Paper are what the Coalition accepts and will deliver. We will deliver those submarines from right here at ASC in South Australia.

He goes on to say:

Now why ASC? Right across Australia there is only one place that has all of the expertise that's necessary to complete one of the most complex, difficult and costly capital works projects that Australian can undertake. It's ASC here in Adelaide. We believe that all of the expertise that is necessary for that project is here.

That is from his doorstop on 8 May 2013. That is what he said before the election.

What did he say after the election? I quote:

…I wouldn't trust them to build a canoe …

What has changed? All that has changed is that you want to break your promise. That is the only thing that has changed. You want to break your promise.

But let us go now to the confidence or the lack thereof in this minister, not that the Australian people have—the Senate might not—but that his own colleagues have. Yesterday, after the minister made his extraordinary statement, a statement was released by the Prime Minister. I am going to read that: 'The Australian Submarine Corporation plays a vital role supporting the Royal Australian Navy and our key naval capabilities. In the last year, ASC has transformed its submarine maintenance program and exceeded the Royal Australian Navy's target for submarine readiness.' It said:

This has improved the availability of our Collins Class fleet to defend our national interests …
… Whilst ASC has had challenges in meeting the Government's cost and schedule expectations of the Air Warfare Destroyer programme, we are working closely with the ASC on a reform strategy to improve shipyard performance and productivity. 

… It is early days, but the Government is confident that ASC and its partners will successfully turn the corner on this important build.

The Prime Minister has confidence in the ASC, but what is important about that statement is that it is very clear that the Prime Minister does not have confidence in this minister. It is very clear. The only way one can read the statement by the Prime Minister is as a statement of no confidence in this minister. That is what the Prime Minister of the country put out last night. As Senator Conroy said, more pithily than I, 'He's cut him loose.'

And not only has the Prime Minister cut him loose but it is very clear that the Prime Minister's office has given Senator Johnston's colleagues a leave pass when it comes to having a go at him, when it comes to public criticism. When you have Mr Briggs criticising Senator Johnston on the record and Senator Birmingham criticising Senator Johnston on the record, these are two frontbench colleagues of this minister who are openly contradicting and correcting this minister. They are openly contradicting and correcting what he says. On top of that, we have a range of South Australia backbenchers and the leader of the Liberal Party in South Australia, Mr Marshall, who has called on him to apologise. Let me say this: this minister's position is untenable.

Honourable senators interjecting—

The PRESIDENT: Order on both sides!

Senator WONG: He has lost the confidence of the Prime Minister, he has lost the confidence of his colleagues and I ask the Senate this question: in those circumstances, how can the Australian people have any confidence in this minister?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (09:45): When Senator Wong starts to lecture the Senate on ministerial integrity and ministerial consistency, you know that something has gone terribly wrong or that we are living in a parallel universe—she who trumpeted with her then leader that climate change was the greatest moral challenge of our time. Remember that? And they dumped it like a used tissue as soon as it became politically opportunistic for them to do so. These are the standards from those who claimed that no carbon tax would guide their government and then introduced a carbon tax. They have the audacity to come into this place and talk to us about consistency and integrity in government.

I will tell you what consistency and integrity in government is all about, and it is simply this. All of us, from time to time, may engage in a degree of hyperbole in the heat of question time and the heat of debate which we may then, on due consideration and reflection, regret. What is the decent and proper thing to do when, on mature reflection, you have re-read that which you said in the heat of the moment? It is to come into this place as soon as practical and say, 'I recant and, if I've caused offence, I apologise.'

Senator Conroy: He didn't! He didn't apologise!

Senator ABETZ: Senator Conroy comes in right on time—right on cue. Let us look at the behaviour of the shadow defence minister, who personally attacked a man in uniform under
parliamentary privilege in a manner for which Senator Conroy has never apologised. Senator Wong, where was your righteous indignation then? Nowhere to be seen. There was stony silence when the Deputy Leader of the Opposition in this place and shadow defence minister accused Lieutenant General Campbell, and I quote from page 94 of the Senate Hansard of 25 February 2014, just earlier this year:

That's called a political cover-up.

Conroy again:

You are engaged in a political cover-up.

When it was indicated by the chair that this was offensive, Senator Conroy repeated it:

It is time to call a spade a spade.

Lieutenant General Campbell said:

Senator, I would like to put on the public record—

And there he is, pretending tears in relation to Lieutenant General Campbell, a man in uniform. The general is a man who has served his country extremely well, a lot better than Senator Conroy ever will, who has the audacity to pretend that Lieutenant General Campbell was not offended—and what did Senator Conroy do? He simply said—

Senator Conroy: I withdrew.

Senator ABETZ: You said:

It is time to call a spade a spade.

You did not withdraw—stop misleading the Senate.

The PRESIDENT: Address your remarks to the chair.

Senator ABETZ: That is the truth. Then the chair—

Senator Conroy interjecting—

Senator ABETZ: I will take that interjection from Senator Conroy. Later on page 94:

CHAIR: I require you to apologise, Senator Conroy.

Senator CONROY: You can require anything you want. General, can you please provide a copy—

CHAIR: Senator Conroy, I am ruling that if you do not apologise I will not call you anymore.

Senator CONROY: Well, we will see on the floor of the Senate.

And that is an apology! What duplicity, what hypocrisy, what an absolute double standard by this man who would be the defence minister if this motley crew opposite were ever to be elected.

Mr President, this is a motion to take note by the most failed finance minister in Australian history, a minister who went to the last election saying that there was an $18 billion deficit in the budget, and when the budget papers were checked, it was not an $18 billion deficit, it was a $48 billion deficit. Just a mere mistake of $30 billion, and she has the audacity to come in here and say that we need to take note of a circumstance where, as we all do from time to time, overstate the case in relation to a matter in a heated debated and then, on mature reflection, withdraw and make the appropriate amends.

Senator Bilyk interjecting—
Senator ABETZ: We have the good Senator Bilyk interjecting. Can I ask Senator Bilyk: where was she when her deputy leader in this place so ruthlessly attacked a man in uniform at Senate estimates? Nowhere to be heard. It is a classic of when the Labor Party does something—

Honourable senators interjecting—


Senator ABETZ: Thank you, Mr President. The Australian Labor Party always dislike it when you point out to them the hypocrisy of their position. They attack men in uniform, and when it is drawn to their attention, indeed, as a headline shows, 'Stephen Conroy refuses to apologise.' That is what the media told every Australian yet, somehow, Senator Conroy interjects that he did apologise. No, he did not. That is why the media was so highly critical of him.

In relation to Senator Johnston, he is a man that has been faced with an absolute debacle in Defence. That is why he said in his statement that he regretfully allowed the frustration to get the better of him. In circumstances where everybody knows the importance of a submarine capacity and capability for our nation he came into office as the new Minister for Defence and found that all the planning that the Labor Party had done in relation to a new generation of submarine could be found on any blank sheet of paper anywhere in the nation. In other words, there was no work done whatsoever.

Indeed, in relation to Senator Conroy, who disgraced himself at estimates with Lieutenant General Campbell, we know what the men and women in uniform think of you, Senator Conroy. If I were you I would remain stony silent. Let us listen to what another Labor defence minister said:

Without having confidence in our capacity to sustain our current fleet of submarines …

I wonder who might have said that? Labor Minister Stephen Smith. So, when Labor Defence Minister Stephen Smith says:

Without having confidence in our capacity to sustain our current fleet of submarines …

— it is a matter of great regret.

Honourable senators interjecting—

The PRESIDENT: Order! Pause the clock. Senator Conroy. On my left. Senators Carr and Conroy, your leader is on her feet. Senator Wong on a point of order.

Senator Wong: Thank you, Mr President, my point of order is relevance. It is all very interesting, but we are actually debating the statement of the defence minister. That is what the Senate is taking note of. I am not sure that the minister has actually mentioned that.

The PRESIDENT: Senator Wong, the minister is directly relevant to the topic before the chair. Minister.

Senator ABETZ: If ever you needed to see writ large the incompetence of the Leader of the Opposition in this place, you just had it then from the point of order, because the quote that I was quoting was directly out of the minister's statement. How more relevant could I be than quoting out of the minister's own statement, of which she wanted us to take note? When I
quote from the minister's statement, when it is hurting the Labor Party, she gets up on a point of order to say it is not being relevant. And I am actually quoting word for word from the statement! Oh, incompetence, I wonder what one's name is. I think it might start with W.

But back to this important quote which is found in the minister's statement. It is from one of his predecessors in this area, as Minister for Defence:

Without having confidence in our capacity to sustain our current fleet of submarines ...

And it was when I had finished saying that part that Senator Wong jumped to her feet trying to stop the flow of the speech, trying to stop and interrupt that which is so damaging to the Australian Labor Party. They know their own defence minister Mr Smith had real issues about the submarine capacity within Australia. He went on to say:

… it is very difficult to fully commence, other than through initial planning, the acquisition program for our future submarine.

That was in 2011. Two years later, when Senator Johnston took over, do you know what he found as part of this initial planning? A blank piece of paper. Not a single scrap of work had been done. So is the minister right to be frustrated? Absolutely right.

Indeed, the Australian people have every right to be frustrated that, for six years of incompetent government, not only did the Labor Party run up the biggest deficits in our nation's history, not only did they leave us with the biggest debt in our nation's history, not only did they have the pink batts debacle, which saw four people lose their lives, not only did they have the Building the Education Revolution debacle, not only did they have the cash-splash debacle but also, in the most important part of any government's responsibility to a people, the defence of the people, the defence of the nation—that is the first priority of a government, and the submarine capacity is so vital in that area—what do we find? The Labor Party did nothing. Not only did they do nothing in the submarine space; they stripped $16 billion out of the defence budget. And here they are pretending in this place that they are somehow committed to the defence of our nation. Not only did they run up big deficits but they stripped billions of dollars, thousands of millions of dollars, year after year, out of the defence budget.

Can I simply say to colleagues and anybody that might be listening in to this debate: we are all human. We are all fraught. From time to time, we might overstate a case. The proper and decent thing to do is exactly what Senator Johnston did, and that is to come into this place and recognise that fact. But, in circumstances where you have had a Labor government that said, 'No carbon tax,' and then introduced one and never apologised for it, a government that stripped $16 billion out of defence and never apologised for it, a government that saw the deaths of four Australians in roof cavities because of the pink batts debacle and never apologised for it—and so the list goes on—they have the audacity to seek to move a motion that a man who has recognised and made a statement and is willing to acknowledge it is somehow to be condemned. That is in comparison to their list, to their legions of deliberate errors, deliberate misleads, of the Australian people. Then, when their noses are rubbed in it, they still refuse to acknowledge that which everybody knows.

We therefore had within this chamber—very conveniently, if I might say—Senator Johnston, who, in the heat of the moment, overstated a situation—

*Opposition senators interjecting—*
The PRESIDENT: Order on my left!

Senator ABETZ: and has come back in to the chamber as soon as possible, and then you have the disgraceful performance of the shadow minister for Defence, deliberately attacking a public servant—a public servant in uniform; a man who I think had about a 30-year career within our Defence Force, in the Navy—absolutely attacking him, under parliamentary privilege. Then, when the media suggests to him after the event that it might be time to apologise, and when the chair invites him to apologise, and he says, 'Take it to the floor of the Senate'—indicative of the contempt of the shadow minister for Defence for our men and women in uniform—there is no apology, and no commentary from Senator Wong. Indeed, I wish she would have turned her back on Senator Conroy rather than me in relation to this matter, because it shows the difference in standards. Mr President, can I simply say to those opposite: your record and your actions have spoken much louder than your words in this debate.

We, on this side—

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy!

Senator ABETZ: Mr President, Senator Conroy continually interjects, as he does throughout question time—

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy!

Senator ABETZ: as does his leader, as does Senator Carr. They have contempt not only for the processes of this place but for the men and women in uniform, as witnessed by Senator Conroy's attack on Lieutenant General Campbell—a disgraceful attack. And where was Senator Wong moving her motion about that? She was nowhere to be seen, nowhere to be heard. She must have got writer's cramp, one suspects; she could not quite get the motion out.

In talking about our submarines, we are talking about the largest acquisition other than the debacle of the NBN—once again, presided over by: Senator Conroy! One of these days I am sure the dictionary will give as a synonym for 'debacle', 'Conroy'. This is another 'Conroy'—an absolute debacle, like Senator Conroy's NBN, with an acquisition—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator ABETZ: albeit that was in the communications area. Now, clothed with that great expertise, and clothed with that great record on the NBN, he pretends he is an expert on submarine acquisition, in circumstances where—

Senator Conroy: Come on—only three minutes to go!

The PRESIDENT: Senator Conroy!

Senator ABETZ: the immaturity of the man is showing yet again, and I hope the Hansard shows it.

Senators Conroy and Carr can continue to interject as they like, but people in the manufacturing sector know that because of their support for the carbon tax they destroyed jobs in the manufacturing sector. They know that, as a result of their lack of planning—
Wednesday, 26 November 2014

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator ABETZ: for six years, the totality of that Labor-Green government, nothing was
done to plan for the need for a new Australian submarine capacity. That is something that
Senator Johnston now has to pick up, six or seven years after the event, and he had a blank
sheet of paper to start off with. That is the Labor Party legacy. Is Senator Johnston frustrated
because of Labor's criminal neglect of this very important capacity? Of course he is. And, as
the man he is, he stood up and recognised his overstatement—unlike Senator Conroy.
Wouldn't it be refreshing if he were to get up and, in his first comment in this debate, say, 'I
unreservedly apologise to Lieutenant General Campbell'? Wouldn't that be interesting? And
that will be the test of character on which the Australian people can decide between the
honourable Senator Johnston, the Minister for Defence, who is willing to say it as it is about
himself, in juxtaposition to that which the opposition provides us in Senator Conroy.

The submarine capacity in this nation is vitally important. Labor left it in neglect for six
years.

Senator Kim Carr interjecting—

The PRESIDENT: Senator Carr! Order!

Senator ABETZ: You hear all the interjections from the other side. Do you know where
Labor were taking the submarine program? Nowhere—absolutely nowhere. If people are
talking about Japan, Germany, France or Scandinavia, at least we are taking the program
somewhere, whereas Labor had a policy of taking it absolutely nowhere, promising,
promising, promising, without any money allocated and without any plans, as, indeed, Labor
minister Stephen Smith himself had to acknowledge in his statement on 19 July 2011.

Government senators interjecting—

The PRESIDENT: Senator Carr! Order!

Senator ABETZ: Senator Johnston has done the right thing by the right standards of the
Westminster system. He has done that which every honourable member of parliament should
do and has done in the past, unlike the person who I suspect will be speaking next in this
debate. That is the great juxtaposition between those of us on this side and those on that side.
We can recognise when things need to be fixed. Regrettably, the Australian Labor Party are
devoid of that capacity, and that is the big difference. Having said that, Senator Johnston is
doing a fantastic job in Defence, and I, for one, am appreciative of his efforts. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order on my right! And my left! Senator Wright, do you have a point
of order?

Senator Wright interjecting—

The PRESIDENT: I will be calling Senator Conroy next, Senator Wright.

Senator Wright: With respect, Mr President—

The PRESIDENT: Senator Wright, it is my decision and I will be calling Senator Conroy
next. Before I call Senator Conroy, the noise in the chamber from all quarters and all sides has
been terrible. I expect the interjections to cease and the debate to continue with less
interruption. It does not behove the Senate to have a debate the way we are having it, with the constant interjection from both sides.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (10:07): In an extraordinary circumstance yesterday afternoon, the Prime Minister of Australia issued a statement which cut the Minister for Defence loose. What was the one thing missing in the Prime Minister's statement? He cleaned up the mess. He said he had confidence in the workforce at the ASC to do their duty and keep our men and women submariners safe. He said that. The one thing that was missing was any expression of support for the Minister for Defence. What happened yesterday afternoon? The Prime Minister cleaned up for Senator Johnston. Senator Johnston had five hours to come into the chamber to back up his Prime Minister and was missing for five hours. So the Prime Minister knew what a mess the minister had made, but the Minister for Defence did not turn up. All Senator Abetz had to do was stand up and say, 'I have full confidence in the Minister for Defence and I guarantee he will be sitting behind me, right in that seat, in February next year, when parliament reconvenes.' That is all Senator Abetz had to do—none of the above happened.

I will tell you what else is missing in this chamber right now: any South Australian Liberal senator but Senator Bernardi, who has to chair proceedings. Where has Senator Birmingham gone? Where has Senator Ruston gone? Where has Senator Edwards gone? Not one of them is in the chamber to support Senator Johnston. They have all run from the chamber—because they are in the papers this morning absolutely pillorying him. The Prime Minister yesterday walked away from him. All of the Liberal senators who attacked him in the newspapers have walked out of the chamber right now because they have also cut him loose. They have no confidence in the Minister for Defence following his continual outbursts.

And there is some very interesting information that has come to light in the newspapers this morning, because this minister has been a serial offender when it comes to abusing and denigrating the workers, the workforce and the company of the ASC. What do we discover in this morning's papers? A senior Liberal said that Senator Johnston's comments were 'breathtaking', coming just a fortnight after he apologised to ASC chairman Bruce Carter for being critical of the agency's work. The West Australian understands that Senator Johnston told Mr Carter over dinner in Adelaide that he would refrain from criticising the ASC in the future. So, just two weeks ago he promised to stop doing it. And then last week he went on radio and attacked the acting chief executive, saying that he did not know anything about building subs. Unfortunately, he had spent 25 years building and maintaining subs. So, last week he broke his promise to Mr Carter again.

Why is all of this happening? Because a lie was told before the last election. Senator Johnston stood up and promised the people of Australia, the people of Adelaide, and the workforce of the ASC, and he did it cynically in front of them. He stood in front of the gates of the ASC and committed—he promised on behalf of Tony Abbott—that he would build 12 submarines in Adelaide, right there at the ASC. So, all we have been seeing for the past 12 months is a denigration—a serial offender denigrating the people who keep our subs in the water, the people who have lifted the productivity at the ASC substantially, since the Coles report, commissioned by our government, because in the 11½ years that they were in government they allowed the maintenance program to completely fall away. When they were
in government the maintenance program was a disgrace. We came to government and commissioned a report, and the productivity started to go up. And now, as the senator wants to try to hide behind, they are now at an excellent level.

Honourable senators interjecting—

Senator CONROY: But that does not stop him denigrating and attacking the workforce in Adelaide. He is a serial offender. This minister knows that he has broken the promise he made before the election. This minister knows that he is going to—

Senator Ian Macdonald: Mr Acting Deputy President, a point of order: I am trying to listen to Senator Conroy, and even with him shouting, I cannot hear above the Leader of the Opposition, with her constant interjections. Could you bring her to order?

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Wong—

Senator Wong: I would be very happy to stop if Senator Reynolds, who is not in her seat, would also stop interjecting. I was responding to her.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order! I will not give Senator Conroy the call until the Senate is brought to order. Senator Macdonald, Senator McGrath—

Senator Ian Macdonald interjecting—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, desist. You are not being helpful. And Senator Polley. None of you are helping your own cause here, and you are doing a disservice to the Senate.

Senator CONROY: She's reflecting—

The ACTING DEPUTY PRESIDENT: Senator Conroy, thank you; I do not need your assistance.

Senator Wong interjecting—

The ACTING DEPUTY PRESIDENT: And, Senator Wong, I do not need your help either. Senator Conroy, you have the call.

Senator CONROY: As I was saying, why is Senator Johnston such a serial offender when it comes to attacking the ASC, even though he promised just two weeks ago not to do it? He promised the chair he would not do it. He is a serial offender because the lie is being exposed. Mr Abbott, not content with breaking all the other promises he made, is now breaking the promise to build the submarines, because he knows that he has already made a promise to the Prime Minister of Japan. We know this because the government keep backgrounding journalists about it. The government has backgrounded that President Obama, Prime Minister Abe and Prime Minister Abbott had a meeting just a few weeks ago in Myanmar and agreed that the Americans' weapons system would go into the Japanese submarines being built for Australia. Then, last week, the Prime Minister, Mr Abbott, told the President of France that the Japanese would be building the subs. In other words: 'Don't bother putting the French bid in.' That is why Senator Johnston is lashing out all the time at the ASC. That is why he is denigrating the workforce. That is why he is ignoring bids from Germany, from Sweden and from France—because he has got to try and cover the fact that the lie that was told before the election is going to be broken. What we saw yesterday was an absolutely outrageous attack that he had promised not to make. But it is worse than just, 'Oh, I
gave a colourful flourish.' The Minister for Defence is undermining our national security. You cannot attack the workers who keep our subs and our submariners safe, who do the work—

Honourable senators interjecting—

Senator CONROY: The Prime Minister understood. The Prime Minister cut him loose last night and defended the workers. The Prime Minister understood what Senator Johnston did. He put out a statement defending the workers at the ASC. He cut that minister loose last night. This minister, the Minister for Defence for Australia, undermined our national security. He undermined the confidence. He went out there on the floor of the Senate and he basically said: 'Our subs aren't up to scratch. Don't you worry, anybody overseas. Our subs are hopeless.' He undermined our national security. The Prime Minister cut him loose. He knew what he had done. The Prime Minister put a statement out, and, as I said, the one sentence in it missing was: 'I have confidence in Senator Johnston.' That is the one sentence missing. This is what the Prime Minister said: 'The Australian Submarine Corporation plays a vital role in supporting the Royal Australian Navy and our key naval capabilities.' That is what the Prime Minister said. He knew he had to put out a statement supporting the workforce and the work that they do to keep our submariners safe—but not the irresponsible minister over there, because he undermined the vital role that is played by those workers. He undermined them, and he has been doing it for months and months. And he is doing it to cover up the political pain that he is in, because he knows that the lie that was told before the election is going to be exposed again and again and again. So last night's statement was clearly a statement of no confidence in this minister. Oh, Senator Birmingham has been dragged back by the whip! Welcome back, Senator Birmingham. I am looking forward to you speaking in a second.

The ACTING DEPUTY PRESIDENT: Order! Address your comments through the chair, Senator Conroy.

Senator CONROY: The whips office have been on the phone: 'Will you get those South Australian Libs back into the chamber? It's really embarrassing.'

Senator Ian Macdonald: You are quite mad!

Senator CONROY: Coming from you, Senator Macdonald!

The ACTING DEPUTY PRESIDENT: Ignore the interjections, Senator Conroy.

Senator CONROY: It is not just the Prime Minister who has got no confidence in Senator Johnston. What did we see in this morning's papers? His colleagues have condemned him. One senior Liberal called the defence minister's remarks 'some of the most stupid words I have ever heard from a senior minister'. Off the record, was that you, Senator Birmingham? Another called them 'breathtaking'. Assistant infrastructure minister, Jamie Briggs, said his comments were wrong. Liberal senator Simon Birmingham, whom the whips have dragged back into the chamber, said, 'There is no excuse for denigration of the workforce or of the extensive capabilities that South Australia has.'

Honourable senators interjecting—

Senator CONROY: Sean is back. Give the whip a bonus. They are working overtime out there.

The ACTING DEPUTY PRESIDENT: Senator Conroy, you should refer to other senators by their title.
Senator CONROY: Senator Edwards, come on down. Did they tell you you had to come in and give him a kiss? Come on, go back to your seat.

The defence minister's role is to ensure our national security. He should stop and listen to Senator Birmingham and not undermine the integrity of our national security, because, as Senator Birmingham has also acknowledged, that is what happened yesterday.

Let's be clear. In the Senate last night the defence minister should have made a full statement of apology to the parliament and to the ASC. What was he doing for five hours yesterday and for the three hours after the Prime Minister cut him loose last night? The Prime Minister cannot possibly have full confidence in the defence minister following that statement. We know people sitting behind him right now do not have. We know that unnamed others in this place do not have confidence in him. The Prime Minister needs to carefully consider whether keeping the defence minister in his role is in the national interest, because he clearly has no confidence in the job he is doing.

He has been dragged in here this morning kicking and screaming. He should have been in here last night. He is trying to pass it off as just a joke, or, as Senator Abetz said, 'overstating'. Well, Senator Abetz certainly did not overstate his defence of the minister. He did not say, 'I know Senator Johnston is going to be sitting there in February.' He missed the opportunity to say that, but on radio this morning Senator Johnston showed absolutely no remorse. So he has already been out for a test drive and he showed no remorse this morning for his absolutely disgraceful remarks.

It is not a 'rhetorical flourish' for the defence minister to denigrate the workers who keep our submarines maintained and in the water. It is not a 'rhetorical flourish' to attack the workers who keep Royal Australian Navy sailors safe. The Prime Minister knew it. Senator Birmingham knew it. For this irresponsible minister to cover up his political embarrassment and political pain—he is prepared to do it.

I wonder if the defence minister was listening yesterday to the ASC worker who said:

There is no way that we would put at risk our sailors—Australian sailors. There is no way we will be giving them second-class work, shoddy jobs or anything like that. We give them the best.

That was a heartfelt response to Senator Johnston’s denigration and his continual denigration.

This is a minister who is so desperate to break his promise that he is prepared to denigrate anyone, whether they are submarine experts, or whether they are former naval officers who actually know something about the submarine sector.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Conroy, please resume your seat. Senators, every senator in this place is entitled to be heard in silence. We do not need to have discussions shouted across the chamber. Interjections are permitted, particularly if they are witty, but you do not need to yell them. Senator Edwards and Senator Back, we do not need to have shouted discussions across the chamber.

Honourable senators interjecting—

Senator CONROY: Witty is okay!

The ACTING DEPUTY PRESIDENT: Senator Conroy, you are not helping things.

Honourable senators interjecting—
The ACTING DEPUTY PRESIDENT: Order! Senator O'Sullivan. Senator Conroy, you have the call.

Senator CONROY: Thank you, Mr Acting Deputy President. Senator Johnston attacks the workforce. One of the other things that the worker from the ASC said yesterday in his press conference was that he would have to go home last night feeling pretty gutted and say to his family that the minister thinks he is worthless for the job that he is doing. That is what he said last night.

This minister is a serial offender. As we know, this is a minister who does not have the confidence of the Prime Minister's office. He does not have the confidence of the Prime Minister. He does not have the confidence of senators sitting over there, who have repudiated him this morning. And all of this is demonstrated by the fact that, when the minister proposed a team that he wanted to work up the white paper, the Prime Minister's office intervened and said: 'You're not having them. Here's who's going to prepare the white paper.' We know that the Prime Minister's office has sidelined the minister when it comes to the submarine contract and the tender process. It is not Minister Johnston's personal staff who are flying to Japan to meet with the Japanese government, to meet with the Japanese ministers, to talk about Japanese submarines; it is the defence adviser in the Prime Minister's office. Everybody in this chamber knows what is going on.

Senator O'Sullivan: So what?

Senator CONROY: So what? You haven't got a clue. You are so green, you—

The ACTING DEPUTY PRESIDENT: Order! Address your comments to the chair, Senator Conroy.

Senator O'Sullivan interjecting—

The ACTING DEPUTY PRESIDENT: Senator O'Sullivan!

Senator CONROY: So what? I will tell you what. If Senator Brandis found out that the PM was sending his staff around doing his job for him, Senator Brandis would have something to say about it.

Senator O'Sullivan interjecting—

The ACTING DEPUTY PRESIDENT: Senator O'Sullivan, you are not being helpful.

Senator CONROY: Let me be clear about this. You are so green behind the ears that you do not even understand what a complete repudiation that is. You will be here for a few more months and you will pick it up as you go. Don't you worry, Senator O'Sullivan; you'll pick it up as you go! Let us be very clear: the Prime Minister's office—

The ACTING DEPUTY PRESIDENT: Order! Resume your seat, Senator Conroy.

Senator CONROY: I addressed him by the correct name.

Senator Ian Macdonald: Mr Acting Deputy President, on a point of order: could you advise the Deputy Leader of the Opposition—you would think he would know this without being called to order—that he should address his remarks through you and not direct to Senator O'Sullivan.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Macdonald—

Senator Wong interjecting—
The ACTING DEPUTY PRESIDENT: It is not necessary, Senator Wong.

An honourable senator interjecting—

The ACTING DEPUTY PRESIDENT: Yes, I will address that. You are quite right, Senator Macdonald, and I have reminded Senator Conroy and other senators that their remarks should be addressed to the chair. It is not helpful, though, when comments are directed to the speaker which they feel tempted to respond to, and there are some on my right who have very penetrating voices that are not helpful. So I would ask you not to goad the shadow minister.

Senator CONROY: There is certainly a loud voice echoing, mainly inside his own skull, but let us be clear—

The ACTING DEPUTY PRESIDENT: Senator Conroy, you are not being helpful.

Senator CONROY: I understand why Senator Macdonald needs to help out his new colleague from Queensland. I understand that. Every other person—

Senator Heffernan: Mr Acting Deputy President, I raise a point of order. Is there any need to shout?

The ACTING DEPUTY PRESIDENT: Thank you, Senator Heffernan. You can—

Senator Heffernan: Senator Faulkner makes the point that by lowering the tone and making people—

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

Senator Conroy interjecting—

Senator Heffernan: You're a boofhead!

The ACTING DEPUTY PRESIDENT: Senator Heffernan, I will ask you to withdraw that last remark.

Senator Heffernan: Conroy, you're not a boofhead.

The ACTING DEPUTY PRESIDENT: No, Senator Heffernan, I will ask you to withdraw it. Withdraw.

Senator Heffernan: I withdraw that you're a boofhead.

The ACTING DEPUTY PRESIDENT: Senator Heffernan, withdraw it unconditionally.

Senator Heffernan: I have withdrawn it unconditionally.

The ACTING DEPUTY PRESIDENT: Thank you.

Senator CONROY: Thank you, Mr Acting Deputy President. Everybody else in this chamber knows that, when the PM starts sending his adviser on trips overseas requiring special permission, the Prime Minister's office and the Prime Minister have no confidence in the minister. To totally bypass the minister clearly demonstrates the Prime Minister and his office's views of the minister.

What we have seen is every expert on submarines in the country—notwithstanding the allegations from the minister that they are on someone's payroll or they have been gone too long and they do not really know what they are talking about—every single expert, says the same thing.
There is only one solution to the bias being shown by this minister. There is only one solution to the bias being shown by the Prime Minister in trying to give away this contract to the Japanese government, and that is to hold a proper competitive tender for this procurement. There is no more vital or lethal asset in Australia's defence than this next generation of submarines. For an island nation these submarines are our most lethal asset, and we should not take shortcuts for political expediency because the Prime Minister has had a rush of blood to the head—the same sort of rush of blood to his head as when he wanted STOVLs or nuclear subs. You did a good job fending him off on that, Senator Johnston—well done. But on this one, as you know, he is running the submarine tender program from his office. There is no more lethal asset than these submarines, and we must get it right. We must get value for Australian taxpayers. We must hold a proper tender. Senator Edwards agrees, Senator Birmingham agrees, Senator Ruston agrees, the South Australian Liberal senators agree that we have got to have a competitive tender; they understand that, and that is why this minister is so, so shamed today. (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (10:31): Senator Conroy, if the next generation of Australian submarines is so critical to Australia's defence—as it is—then why did the government of which you were a member do nothing about it for six years? If a competitive tender process is so important, then why did you, as the minister responsible for the NBN—which was the biggest public expenditure on a project in Australian history—not allow a public tender process for the NBN? If a public tender process is so important, Senator Conroy, why did you interfere with what you yourself described as the 'corrupted' tender process for the Australia Network and set aside the choice of Sky, which had been adopted by the umpires, not once but twice, and substitute the ABC? So, Senator Conroy, when you speak about the importance of Australia's next generation of submarines, when you talk about the importance of a competitive tender process then, as always with the Labor Party, don't worry about what they say; just look at what they did—

Senator O'Sullivan: Or didn't do.

Senator BRANDIS: Indeed, Senator, O'Sullivan: in this case, what they didn't do. If the Labor Party want to bring on a debate about who is better capable or who is more to be trusted with Australia's defence policy in the years ahead, make my day! If the Australian Labor Party wants to have a debate about who is more to be trusted with Australian defence policy and defence procurement, between Senator Stephen Conroy and my friend Senator David Johnston, bring it on!

Senator Heffernan: Mr Acting Deputy President, I rise on a point of order. I just want to make a note of the fact that 'gutless' Conroy has left the chamber.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Heffernan, that is not helpful and it is not contributing to the debate.

Senator BRANDIS: As Senator Heffernan rightly says, Senator Conroy has slunk out of the chamber. Senator Conroy has, in a shame-faced and weasly way, slunk out of the chamber, because he cannot face the truth of his record in government, both in his own portfolio and on matters of defence policy.
We know, and Senator David Johnston said in his statement to the Senate this morning, that yesterday in question time Senator Johnston made a rhetorical flourish, eight words, for which he has apologised and expressed his regret. And he has not been slow in doing so. We also know what Senator Conroy said more than nine months ago, at estimates on 25 February this year. Senator Stephen Conroy, who is the Labor Party's alternative minister for defence for this country—let us never forget that: this man who cannot even face the chamber when Senator Johnston is under attack in the chamber, who does not have the courage to stay in the chamber—nine months ago did not make a rhetorical flourish, he did not make a slip of the tongue, he did not let verbal exuberance get the better of him for a moment in question time. No. He made a deliberate, calculated and disgusting slight on one of Australia's most distinguished soldiers: Lieutenant General Angus Campbell. In Senate estimates he accused Lieutenant General Angus Campbell of being engaged in a political cover-up. When Lieutenant General Campbell—a better man than Senator Conroy could ever be—said, 'Senator, I would like to put on the public record that I take extreme offence at the statement that you have made', and when the chair of the committee required Senator Conroy to apologise, he was steadfast in his refusal. He mocked the chair, over two pages of Hansard, it is reported, to the eternal disgrace and shame of this individual, Senator Stephen Conroy. The committee retired for a few minutes and, afterwards' still no apology from Senator Conroy. In a formulaic way, he said, 'I withdraw'. But, to this day, nine months and more after this disgusting slur was made on the integrity of one of Australia's finest soldiers—a three-star general, Lieutenant General Angus Campbell—there has been no word of apology to that gentleman from Senator Stephen Conroy. That is the quality of the individual who was the alternative defence minister of Australia, and then he chastises. He seeks to make endless rhetorical capital out of the fact that my friend Senator David Johnston made a slip of the tongue which he, promptly and in a timely way, corrected and expressed his regret in the chamber this morning.

We could spend this morning debating the relative merits of Senator Stephen Conroy as the alternative minister for defence and Senator David Johnston, a very fine Minister for Defence, but it would be perhaps more fruitful to debate the record, because the other thing we did not hear from Senator Conroy in a 20-minute-long contribution was anything about Labor's defence policy. Not a word of defence of the Labor Party's record in this portfolio in the six years of the Rudd and Gillard governments. We heard a lot of sleazy ad hominem attacks on Senator David Johnston. We heard a lot about industry policy but nary a word about defence policy. That is the problem with the Labor Party: they do not see the difference. They do not have a defence policy. They did not release a defence policy before the 2013 election. That is how much they care about defence. They did not even bother to release a defence policy before the 2013 election.

But why would that surprise you? When they were in office Prime Minister Gillard did not even bother to go to meetings of the National Security Committee of cabinet. She did not even bother to attend the most important subcommittee of cabinet. In fact, as we know from the memoirs of some of her ministers, she sent her bodyguard. So, when the Labor Party cry streams of crocodile tears about defence policy, remember this: no defence policy before the 2013 election and no attention to the National Security Committee of cabinet by the Prime Minister of the day.
I might say that I had the honour to sit in the National Security Committee of cabinet with Senator David Johnston. Without breaching the confidentiality of that committee I can tell you that Senator David Johnston, one of the great quiet achievers of this government, is not very quiet in that committee. He constantly astonishes us with the depth, granularity and sophistication of his knowledge of defence systems and defence procurement. Senator David Johnston has a depth of knowledge and understanding of this portfolio, in particular the complex issues of defence procurement, the like of which I have never seen in a defence minister.

Of course, one can understand that the Labor Party when they were in government never came up with a minister with a grasp of the issues, because in six years they had three defence ministers. They lost their first—

Senator O'Sullivan: They had three prime ministers.

Senator BRANDIS: That is true, but one of them was a retread. But do not say that in front of Senator Wong, because it is a little embarrassing for her—the circumstances of the fall of Julia Gillard—

The ACTING DEPUTY PRESIDENT: Address your remarks through the chair.

Senator BRANDIS: But we will not go there. Three defence ministers in six years. The first of them, Mr Joel Fitzgibbon, was required to resign under circumstances which reflected very poorly upon his personal character. They reflected very poorly upon him, and he was required to resign. The second defence minister they had was Senator John Faulkner, who has marketed himself for many years as a great scholar of strategic matters. Senator John Faulkner lasted in the portfolio until just before the 2010 election, and then he basically gave up. It was all too hard for him; so, having been in the portfolio for less than 18 months, this very senior member of the Labor cabinet said, 'I'm sorry, I am not going to continue on the front bench; I am going to resign.' Then, for the second term of the Labor government—that un lamented, unhappy government—we had in the defence portfolio a minister, Mr Stephen Smith, who did not even want to be there. He wanted to be a foreign minister, but he was forced into a portfolio in which he had no interest and for which he had no evident aptitude in order to create a political fix to look after Mr Kevin Rudd so that Mr Rudd could take his former portfolio. And he did not make the distance either, because on 27 June last year Mr Stephen Smith said: 'I'm not continuing. It's all too hard for me too. I'm not contesting the 2013 election.' And the last 2½ months of the Labor government, as it limped to its sorry end, we had a lame duck defence minister.

That is the quality of the people that the Labor Party put into the defence portfolio, and now we have this buffoon, this clown, Senator Stephen Conroy, as the shadow defence minister whose only contribution to Australian public life thus far has been as communications minister presiding over the greatest destruction of public wealth in the history of the Commonwealth of Australia—that is, the NBN.

Of course, when you have indifferent ministers, disengaged ministers, incompetent ministers in a portfolio, that has a cost, and the cost it had was to Australia's defence policy. As I said at the start of my remarks, if you want to know what the Labor Party did for the next-generation submarine program, the program described as so critical by the shadow defence minister, for six years they did nothing. Not a word. Not a word, not a decision, not
an appropriation, not an action, nothing for six years; and, as a result, when the Abbott government was elected and Senator David Johnston was given one of the toughest jobs in the government—to clean up this aspect of the Labor Party's mess—he found a blank sheet of paper and a capability gap.

Senator Edwards interjecting—

Senator BRANDIS: There it is, Senator Sean Edwards.

The ACTING DEPUTY PRESIDENT: Senator Edwards, that is not helpful.

Senator BRANDIS: That is what the Labor Party did for Australia's submarines over the six years in which they lurched from one disengaged defence minister to another: nothing. Not one thing.

But it was not just in submarines that defence suffered under Labor. Senator O'Sullivan, do you know how many defence projects were delayed during the six years of Labor government?

The ACTING DEPUTY PRESIDENT: Address your remarks through the chair, Senator Brandis.

Senator BRANDIS: One hundred and nineteen defence projects were delayed during the period of the Labor government, 43 projects were reduced and eight were cancelled altogether. That is the Labor Party's record on defence as it limped from one indifferent, disengaged, incompetent defence minister to another. There were 119 projects delayed, 43 reduced and eight cancelled altogether. 'But that is all right,' said the Labor Party, 'because we are going to produce something called the Defence Capability Plan.' Do you know what happened to the Defence Capability Plan? It went the same way as the Labor Party submarines—it was never heard of again. So the key strategic document of the Labor Party's defence policy never saw the light of day and meanwhile not a step was taken to address the issue that Senator Conroy hypocritically this morning said is the most important issue in Australian defence policy—that is, the next generation of submarines.

The Labor Party during its six years in government achieved in this portfolio a deficit of $12 billion—there was a $12 billion overspend. You might wonder how you do that when you are doing even less—when you are delaying, reducing or abolishing hundreds of projects. They were actually doing less than had ever been done for defence, nevertheless the Defence portfolio came in with a $12 billion deficit. Meanwhile defence spending was reduced as a proportion of GDP from not quite two per cent, where it was when John Howard left office in 2007, to 1.56 per cent—a reduction of a quarter in the amount of money committed to defence and the lowest defence spend as a proportion of GDP since 1938. That is your legacy. Even then, such was your commitment to this portfolio and such was your interest in this portfolio as you staggered from one uninterested and disengaged minister to the next, even though you reduced the outlays by a quarter you still ran it at a $12 billion deficit on the budget papers. That might have something to do with who the finance minister was too, just by the way, but let us not go there either.

When Senator David Johnston came into this portfolio—and if you speak to any service man or woman they will tell you the same thing—the Australian Defence Force was recovering from the greatest period of neglect, the greatest period of policy confusion and the most serious period of underspending in its proud, more than a century long history. For six
years of the Labor government—from Joel Fitzgibbon, who was forced out, to John Faulkner, who gave up, and to Stephen Smith, who did not want it in the first place and ended up as a lame duck minister—the record of the Labor government in this portfolio is one of shame. Then we have had this buffoon come into the chamber and say to Senator David Johnston, who has been given the task of cleaning up the mess, ‘You put national security at risk,’ when Senator David Johnston has worked night and day with commitment, intelligence, zeal, interest and genuine knowledge and understanding to redress the capability gap that the Labor Party left in Australian defence policy.

The key to defence policy is procurement—procurement of the right equipment, the right assets, at the right price in a timely way so that those assets come on stream when they are needed. So what do you think is going to happen in relation to what Senator Conroy tells us is the most important single defence procurement, the most important single defence asset that Australia will acquire in the next generation—that is, the next generation of submarines? Nothing was done for six years so of course we are going to face a capability gap. The responsibility for that capability gap lies entirely in the hands of those indifferent, uninterested, disengaged defence ministers who let that capability gap occur. That is the Labor legacy when it comes to submarines. That is the mess that Senator David Johnston inherited. As defence minister he has been doing a magnificent job in redressing the capability gap.

In the time available I have not had time to touch on the other Labor debacles like the air warfare destroyer program, which is more than two years behind schedule and was the subject of massive cost overruns as a result of the Labor government. You could go to almost any area of defence procurement and the story of the inheritance David Johnston acquired is a story of one catastrophe piled upon another, so do not come in here and lecture us about a slip of the tongue for which Senator David Johnston, unlike Senator Stephen Conroy, was prepared in a timely fashion to correct and express his regret for. Let us look at the substance—six years of neglect and at long last a minister who is determined to fix the problem.

The ACTING DEPUTY PRESIDENT: Before I call Senator Wright I remind senators that some terms may be parliamentary when used in a normal manner but when they are applied as a pejorative slur on another senator they are most unparliamentary. I would prefer it if that did not happen.

Senator WRIGHT (South Australia) (10:52): I rise to take note of the defence minister's statement about the deplorable comments that he made last night. They are deplorable because these comments not only show contempt for the Australian Submarine Corporation—it is not just some faceless entity—and not just for the management of the ASC but these comments denigrate every member of the skilled workforce employed there.

Senator O’Sullivan interjecting—

Senator WRIGHT: It also shows contempt for South Australia’s proud history of skilled manufacturing. What have we heard from the defence minister in his statement about these comments? Have we heard the word ‘sorry’? Have we heard that simple five-letter word that indicates real remorse?

Senator O’Sullivan interjecting—
Senator WRIGHT: No, we have heard a justification, an explanation, an excuse for why this was, to quote the Attorney-General, 'a slip of the tongue'. We have heard that it was a rhetorical flourish. We have heard that the minister regrets any offence that may have been caused. But we have not heard the unreserved apology that Senator Abetz, his own colleague, would require as the standard in his own speech today. So let me ask: has offence been caused by these comments? There is no doubt that, yes, there has been offence, because they actually undermine the sense of worth of skilled workers in this corporation in South Australia.

A news report quoted one of those workers today—pipe fitter, Andrew Daniels. I would like to quote this because this actually goes to the heart of what the sorts of intemperate, foolish and derogatory comments do when they are heard by the people who are affected by them. Mr Daniels said:

We are being trashed. When I go home to my family and this guy is telling me I am useless, I don't feel useless. That is pretty gutting to 3,000 workers in South Australia and Western Australia. It is not a great feeling to have your defence minister—you are out there doing the best job for the country and he is trashing you.

Senator O'Sullivan interjecting—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! Senator Wright, resume your seat. Senator Moore.

Senator Moore: It is a point of order—the interjections across the chamber by Senator O'Sullivan. I am unable to follow the argument being put forward by Senator Wright.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Moore. The interjector has been particularly vociferous today, so it would be helpful he desisted.

Senator WRIGHT: Senator Abetz has tried to minimise these comments. He has tried to explain that they came about because of frustration at the Labor government legacy. But that is not what the defence minister said in his comments. What he said in his comments clearly denigrated the Australian Submarine Corporation and their workforce, pure and simple. Unfortunately today he has not been big enough to say sorry. The sad truth is that this statement comes after a series of statements from the minister not just undermining the Australian Submarine Corporation but, cumulatively, undermining and casting doubt on Australia's naval capability generally. That is not what we should be expecting from a defence minister for Australia.

The submarine project is the largest procurement in Australian history. For that reason alone it must be done with transparency and integrity. It must be done with a competitive, transparent, open process that examines both value and cost but of course also fitness for purpose, because these are vessels that we will be relying upon for our ultimate defence.

Before the election we had this same defence minister stand in Adelaide and commit to the build of the 12 submarines in South Australia. Before that we had the previous government's white paper stating, 'The future submarines will be assembled in South Australia.' Mr Johnson on 8 May last year, then opposition spokesperson on defence, accepted this commitment and stated that the coalition 'will deliver' on the white paper's commitment. What he said I will quote so it is very clearly on the record:

The coalition today is committed to building 12 new submarines here in Adelaide. We will get the task done and it is a really important task, not just for the Navy for the nation.
They were fine words but it seems they have amounted to nothing. Then again, just to make sure that South Australians were in no doubt about what the government's commitment was, the coalition defence policy a week before the election reiterated the commitment:

We will ensure that work on the replacement of the current submarine fleet occurs in South Australia.

There is clearly now an agenda because we have the defence minister telling us that there has been no decision about the submarines. Of course there is a lot of speculation. Of course there is a lot of circumstantial evidence that suggests that there has been a decision that the submarines will be built in Japan. But we have the defence minister telling us that there is no decision yet about the submarines. There is clearly no decision that they will be built in South Australia—in breach of that election commitment. But there is clearly not an agenda to ensure that we can have these submarines made in Australia. So we have the betrayal of a promise made to South Australians before the federal election.

What confidence, indeed, can we have that this Abbott government cares at all for South Australian jobs, coming as this does on the back of other decisions which have undermined the South Australian employment market? We have had this government presiding over the demise of vehicle manufacturing in South Australia. We have had now cuts to ABC jobs, which will severely affect the ABC and employment in South Australia, even though we still have Senator Abetz maintaining some kind of ludicrous fiction that there have been no jobs lost as a result of the cuts to the ABC. And now we have a defence minister who has not been big enough to use the word 'sorry' and has not fully resiled from the remarks he has made.

The ultimate question, then, is how can Australians trust the defence minister to run the procurement process in a truly transparent and open way? The evidence is that he is not competent to run this process transparently, and the ultimate question must then be: how can Australians trust this minister to oversee the defence of this country?

The ACTING DEPUTY PRESIDENT (Senator Lines): The question is that Senator Wong's motion to take note of the minister's statement be agreed to.

Question agreed to.

BILLS

Counter-Terrorism Legislation Amendment Bill (No. 1) 2014

In Committee

Debate resumed.

The TEMPORARY CHAIRMAN (Senator Lines) (11:00): The committee is now considering the Counter-Terrorism Legislation Amendment Bill (No. 1) 2014, as amended. The question is that items 13, 23, 24, 26, 27 and 29 of schedule 1 stand as printed.

(Quorum formed)

Senator MILNE (Tasmania—Leader of the Australian Greens) (11:03): Yesterday we had the deplorable situation where the bill was before the committee and amendments were being debated without an explanatory memorandum to explain some very significant terms: 'supports and facilitates' and 'class of persons'. The minister last night could not answer what the committee was asking and instead said the explanatory memorandum would be circulated first thing this morning. We still do not have the explanatory memorandum. This is making a
complete farce of the committee and this legislation. We need that explanatory memorandum and we need to hear from the minister what exactly is meant by the terms 'class of persons' and 'supports or facilitates'. This is about how Australian citizens are going to be treated under these counter-terrorism laws. We need to know how a class of persons is going to be defined and that is why we need the explanatory memorandum.

Senator Brandis: I rise on a point of order, Madam Acting Chairman. The explanatory memorandum, contrary to what Senator Milne has just said, is available—

The TEMPORARY CHAIRMAN: Senator Brandis, that is a debating point, not a point of order.

Senator Brandis: If she would allow it to be tabled, it would have been tabled by now. The person who is delaying this is Senator Milne.

The TEMPORARY CHAIRMAN: Senator Brandis, that is a debating point.

Senator MILNE: I resent the very inference that I have somehow stopped the explanatory memorandum being tabled. The minister was not even in the chamber when the debate was brought on, as you are very well aware, Madam Chair. That is why we had the quorum called in order to get the minister from wherever he was. It happened yesterday as well.

We take this legislation extremely seriously. The minister treated the committee with absolute contempt last night, refusing to explain those terms. He kept referring to his explanatory memorandum, which we do not have. I expect it will be distributed now so that the minister will answer the questions, because this applies to Australian citizens. People will want to know whether they are going to suddenly be caught up in a 'class of persons' definition that enables them to be spied upon, or information to be shared about them. People need to know what the basis for the definition of a class of persons is. Last month the minister said a class of persons was not going to be based on ethnicity or religion or ideology or political viewpoint. Let us see how the government intends to define a class of persons for the purposes of this legislation.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:06): Contrary to what Senator Milne has just falsely asserted, every question that was asked of me last night was answered and answered fully. I was asked four questions, Senator Milne; had you bothered to attend the debate rather than make a fleeting appearance, you would know this. I was asked three questions by Senator Wright and I was asked one question by Senator Ludlam. I was asked by Senator Wright, in the first place, about the definition of 'supports and facilitates'; I was asked by Senator Wright about the definition of 'class'; I was asked by Senator Wright for an explanation why the dates for the review by the PJCIS and the sunsetting had been chosen; and, I was asked by Senator Ludlam whether the effect of those provisions of the bill which enable ASIS or enhance the capacity of ASIS to work with the Australian defence forces would enable ASIS to participate in acts of violence. Each of those four questions was answered by me in full at the conclusion of the debate on the relevant amendments. Senator Milne, if you had been in the chamber, you would have known that what has just come from your lips is a falsehood.
The explanatory memorandum should have been available yesterday and I regret that it was not, but it is now. So I table a supplementary explanatory memorandum relating to the government amendments and an addendum to the explanatory memorandum.

Now, Madam Temporary Chairman, the question before the chair is that government amendments (7), (15), (16) and (18) on sheet ES111 be agreed to. Let me briefly summarise the effect—

The TEMPORARY CHAIRMAN: Just a moment, Senator Brandis. If you would not mind, resume your seat. I remind the committee that we are dealing with 13, 23, 24, 26, 27 and 29 of schedule 1, that the items stand as printed and that they are government amendments.

Senator BRANDIS: Madam Temporary Chairman, I am moving government amendments (7), (15), (16) and (18) on sheet ES111.

The TEMPORARY CHAIRMAN: Resume your seat again, Senator Brandis. I understand that that has already happened.

Senator BRANDIS: No, it has not.

The TEMPORARY CHAIRMAN: Senator Brandis, resume your seat, please. I am informed by the Clerk that those amendments were moved last night.

Senator BRANDIS: Madam, that is not correct. I was given leave to move the amendments together when the committee came to 20 past seven last evening and the adjournment was put. I do not know what the Journals of the Senate record, but, in any event, having obtained leave last night, I now move:

(7) Schedule 1, item 13, page 7 (lines 18 to 28), to be opposed.

(15) Schedule 1, items 23 and 24, page 8 (line 23) to page 9 (line 10), to be opposed.

(16) Schedule 1, items 26 and 27, page 9 (lines 20 to 25), to be opposed.

(18) Schedule 1, item 29, page 10 (lines 4 to 14), to be opposed.

These amendments implement recommendations 5 and 6 of the unanimous report of the Parliamentary Joint Committee on Intelligence and Security. Recommendations 5 and 6 were that the bill be amended to ensure that an issuing court retains the authority to examine each individual obligation, prohibition and restriction in a control order and that the AFP be required to explain why each obligation, prohibition and restriction should be imposed.

Amendment (7) amends the bill to revert to the current requirement in the Criminal Code that, when considering the impact of a control order on a person, the issuing court must consider each of the proposed obligations, restrictions and prohibitions. This is designed to ensure that the issuing court individually considers the impact of each proposed obligation, restriction and prohibition on the person separately when deciding whether or not to make a control order.

Amendments (15), (16) and (18) oppose items 23, 24, 26, 27 and 29 of the bill. These amendments will ensure consistency within the control order regime by providing the same requirements with respect to the consideration of each obligation, prohibition and restriction whether seeking the Attorney-General's consent, making a request to an issuing court or making, varying or confirming a control order.
The purpose of the amendments is to provide for consistency in the obligations that must be put before the relevant decision maker at each stage of the process whether it be the Attorney-General, whether it be the court that issues the control order or whether it be a court which is subsequently asked to vary or in some way amend the control order. As I said, these give effect to the unanimous recommendations of the Parliamentary Joint Committee on Intelligence and Security. When we have dealt with these amendments, and in the event that they were to be adopted by the committee, that would mean that all of the recommendations by the Parliamentary Joint Committee on Intelligence and Security for amendments to this bill would have been adopted and given effect to.

Senator JACINTA COLLINS (Victoria) (11:13): I thank the Attorney-General on this occasion for going through the details of the government amendments. People watching this debate might recall that, yesterday evening ahead of the Attorney-General arriving, I commenced outlining Labor's position in relation to all of those amendments. I have addressed these ones as well in my remarks to government amendments as a whole. We will be supporting them on the basis that they implement the recommendations of the joint intelligence committee.

Senator WRIGHT (South Australia) (11:13): Before responding to the particular comments that the Attorney-General has made both in relation to the amendments that are being moved but also what he asserts occurred last night, I would like to make a few comments. I would like to recap where we are up to on this bill and touch on the bizarre scenes that played out in this place last night as we debated this significant piece of national security legislation. In what was really an abuse of the committee stage of the debate in this Senate—and the Hansard record will speak for itself—the Attorney-General refused to answer what were fair and reasonable questions which I was putting to him as part of the Committee of the Whole stage of the bill.

For more than half an hour, before finally deigning to answer my questions, he refused to answer legitimate questions, sitting in the Senate studiously ignoring me and not paying me the courtesy of even explaining what was going on, indicating at that point that he would deign to answer those questions later as a whole or would give the basis upon which the answers were being refused. I was asking those questions on behalf of all those who do not have an opportunity to stand in this chamber and ask those questions but have a legitimate interest: legal experts, human rights organisations, civil liberties groups and members of the Australian public who have concerns about this legislation.

Let me be very clear: the Attorney-General has asserted that I asked three questions. That is not the case and the record will stand on the number of questions I asked. I did ask the questions that he has referred to today, but I asked further questions about contextualisation of the phrases that have caused concern because of their breadth and vagueness. I also asked questions arising from the Parliamentary Joint Committee on Human Rights. I was on my feet asking questions and certainly asked more than three questions.

Let me be very clear: the Australian Greens do not support this bill. It seeks to expand the flawed control order regime, which many experts have criticised and said should be repealed. We do support the recommendations of the Parliamentary Joint Committee on Intelligence and Security, which the government has accepted, and we support the government's amendments, which will give effect to the PJCIS's recommendations in one form or another.
They are a welcome improvement to some of the worst parts of this bill, but they certainly do not allay all of our concerns.

Last night, the Attorney-General evinced an unwillingness to engage in the proper dialogue that one could legitimately expect during the Committee of the Whole in this parliament, so we still remain in the dark about what this bill will mean for Australians if it becomes law. It seemed that the Attorney-General had not properly considered the report of the Parliamentary Joint Committee on Human Rights into this bill before the committee stage started and before he entered that stage. We maintain that debate should not have even commenced until that report has been considered by senators given the huge human rights implications this bill has for Australians. That is a committee doing the work of this parliament and it should be respected. In all, with his procedural games and by refusing to answer questions as they were put to him, the Attorney-General was attempting to dictate to me which questions I could ask and which I could not ask and screened those which were apparently, in his view anyway, not worthy of a response. One actually suspects that in some cases he did not have a response available.

I refuse to be directed by the Attorney-General as to what questions I can and cannot ask and when. This was the committee stage when senators are able to directly question the minister who is responsible for a bill. It is a fundamental part of our democratic system. This is a significant bill and I will continue to ask questions about the bill on behalf of the Australian public.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:18): I do not want to have meta-debate, I do not want to have a debate about the debate, but I have to correct some statements that were made. Every question you asked was answered, Senator Wright, and you certainly asked more than three questions—that is true—but you only asked questions in relation to three issues. The fact that you asked the same question many times, I counted that as one question, I must confess. But you raised three issues with me in your questions and all three of those issues were addressed. Your questions were fully responded to, as the record will show. Because the clauses in this bill are somewhat related to each other, I thought the most efficient way of dealing with this was to hear what you had to say and then answer you, and that is what happened.

I have said before that the revised explanatory memorandum should have been here last night and it was not, and I take responsibility for that. You have not addressed any of the amendments I have just moved. I understand that the Greens are opposed to these amendments, but we have not heard any argument or questions. I assume that we will now proceed to a division.

Senator Wright: Madam Temporary Chair, I rise on a point of order. I very clearly said that the Australian Greens—

The TEMPORARY CHAIRMAN (Senator Lines): That is a debating point, Senator Wright.

Senator Wright: I wanted to clarify. We are not opposing the amendments—just to make sure that the Attorney-General understands that is the case. That is what we have said all along.
The TEMPORARY CHAIRMAN: Senator Brandis, do you have any further comments to make?

Senator BRANDIS: No. I have moved the amendments. They are being supported by everyone, apparently. Could we just have the vote, please?

The TEMPORARY CHAIRMAN: The question is that items 13, 23, 24, 26, 27 and 29 of schedule 1 stand as printed.

Question negatived.

Senator WRIGHT (South Australia) (11:20): by leave—I move Australian Greens amendments (1), (2) and (7) on sheet 7626 together:

(1) Schedule 1, item 7, page 4 (lines 29 to 31), omit paragraph 104.2(2)(c), substitute:

; or (c) suspects on reasonable grounds that the person has provided support for or otherwise facilitated a terrorist act; or

(2) Schedule 1, item 11, page 7 (lines 1 to 3), omit subparagraph 104.4(1)(c)(vi), substitute:

(vi) that the person has provided support for or otherwise facilitated a terrorist act; or

(7) Schedule 1, item 25, page 9 (lines 13 to 16), omit paragraph 104.23(1)(c), substitute:

; or (c) suspects on reasonable grounds that the person has provided support for or otherwise facilitated a terrorist act; or

Schedule 1 of the bill will expand the control order regime to enable control orders to be sought for a much broader range of conduct, including preventing the provision of support for or the facilitation of the engagement in a hostile activity in a foreign country and preventing the provision of support for or the facilitation of a terrorist act. These Australian Greens amendments limit the use of control orders to require a clearer, stronger nexus between the activity of the person and the commission of a specific criminal offence. The amendments do this by requiring the police officer who is applying for either the interim or confirmed control orders to demonstrate that he or she 'suspects on reasonable grounds' that the person has in fact provided 'support for or otherwise facilitated a terrorist act' or a hostile activity in a foreign country. This is different to the bill as currently drafted, which would allow control orders to be sought if reasonably suspected to be necessary to prevent the provision of support etcetera.

Why are these amendments necessary? The Australian Greens believe that these amendments are critical as the changes proposed in the bill would otherwise allow a control order, which displaces the usual standard and the usual process we have in Australia—that is, arrest, charge, prosecution and determination of guilt or otherwise on the basis of evidence—to be a coercive regime; it would allow a control order to be sought purely as a preventative measure where there is no clear evidence that the person subject to the order has actually formed criminal intent or taken any specific action towards the commission of a criminal offence.

When control orders were originally introduced, there was significant disquiet about moving away from our established practice to having a coercive regime in this way. One of the justifications for it was that it was necessary to prevent an 'imminent' risk of serious harm. What we have seen is a creeping erosion of those protections and a broadening of this orders regime to the point now where we are seeing that it is highly likely that these coercive orders place significant restrictions on a person's ability to go about their life and live within the
community, on the basis of possibly preventing—just preventing—something that may or may not happen, without very much evidence. This amendment would ensure that control orders are only available in the most serious of circumstances. That was the rationale for when they were originally developed and introduced: where the authorities have real evidence to demonstrate that they are necessary to protect the public from a terrorist act or to prevent engagement in a hostile activity overseas.

Without this amendment, the changes proposed in schedule 1 of the bill would significantly expand the scope of the control order regime, changing the character of the regime from one of last resort, which, given its coercive and extensive nature is appropriate, to one that is available at the early stages of a foreign incursion or terrorist investigation, which in that case would necessarily take up and capture and involve people and affect people's lives who are not necessarily of any particular risk.

Submitters to the Parliamentary Joint Committee on Intelligence and Security inquiry into the bill suggested that if enacted this bill would mean control orders could be used in a much broader range of situations in the early stages, rather than as a last resort. Submitters included the Law Council of Australia and the Gilbert + Tobin Centre for Public Law—acknowledged experts in this complex and difficult area of law. Many other submission makers opposed any extension of the control order regime, including the Australian Human Rights Commission and Civil Liberties Australia. So the Greens do not stand here on our own; we have the support of many organisations throughout Australia, and we are taking note and heeding the position and the advice and the concerns that have been raised by them.

Previously, the Independent National Security Legislation Monitor also recommended that the control order regime be repealed and replaced with a new regime that would apply only to persons previously convicted of involvement in or support for terrorist activity. These amendments are consistent with these recommendations. Because it is very clear that the opposition supports the government's legislation in this regard we are not seeking to revoke the control order regime, but these Australian Greens amendments are reasonable amendments to ensure that that nexus between risk and coercive action is stronger and clearer in a bid to support human rights in Australia.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:27): I will turn to the substantive issue in a moment, but may I say: Senator Wright, the government has always understood that there is a variety of views about this matter. It advances the debate not one iota, with respect, for senators to say, ‘Well, this particular expert has a different view.’ I know the Gilbert + Tobin Law Centre very well—I have addressed it I think four times in the last decade or so—and I acknowledge that it does have a different view. There are others who have a different view, but you have, if I may say so, Senator, a rather touching faith that merely because one particular university institution has a particular view, then that view is conclusive. They are a voice in the debate.

What I can tell you, Senator Wright, is, coming from the side of politics that have built into their DNA an innate suspicion of state power, we have gone about this task with a presumption against expanding the power of the state. So you can be reassured and the good people at the Gilbert + Tobin Law Centre and all of the other worthy people who share the view that you have just propounded—it is a minority view obviously—can be reassured that
in approaching this task as a liberal, as a classical liberal who suspects the power of the state and does not wish to see it expanded, we have been extremely careful not to overreach, and only to include in the bill those provisions that we were persuaded were the minimum necessary in order to protect public safety or to have an appropriately comprehensive regime of protection for the public.

Coming to your amendments, Senator Wright, amendments (1), (2) and (7) would in three places omit the words 'suspects on reasonable grounds that the order in the terms to be requested would substantially assist in preventing the provision of support for or the facilitation of a terrorist act'. By seeking to omit those words and substitute for them the words in your amendment in the three places in the bill, what you do is to say that control orders ought not to be available where to issue a control order would substantially assist in preventing the provision of support for or the facilitation of a terrorist act. Frankly, I do not think the public would agree with you.

I understand you have a philosophical objection to control orders themselves. But we are not debating the broad point now; we are debating the narrow point: within the control order regime, if all other conditions are satisfied, ought there to be a jurisdiction to issue a control order where to do so would substantially assist in preventing the provision of support for or the facilitation of a terrorist act? Instead, what you and your Greens people would have us do is to have a control order issued where it was suspected on reasonable grounds that the person had provided support for or otherwise facilitated a terrorist act. If there is enough evidence that a person has provided support for or has facilitated a terrorist act, you would not be issuing a control order; you would be issuing an arrest warrant because they would have committed the crime.

The control order regime, importantly, operates prospectively. Once the offence has been committed, we are talking about terrorism here. We are talking about the destruction of lives, the destruction of property and the destruction of systems like financial systems or communication systems in the furtherance of a terrorist act. Once the conduct has occurred it is too late. That is why we have to move out of this criminal law paradigm that thinks that this is about punishment for offences that have been committed.

The purpose of counter-terrorism policy and counter-terrorism law is to provide the apparatus to interdict so as to prevent the occurrence of the terrorist act. Control orders, judiciously hedged by the many safeguards with which they are hedged, are a very important part of that apparatus. Senator Wright, with all due respect to you, once you say we should only have this jurisdiction once that about which we are concerned has already happened, you have missed the boat, if I can use the vernacular.

These orders have to have the capacity to operate prospectively. Leaving aside your philosophical objection to whether there should be control orders at all, do you really think, Senator Wright, if I may ask you rhetorically, that, if we are going to have control orders, it would be a good idea to have them available to substantially assist in preventing the provision of support for or the facilitation of a terrorist act, which is what the purpose of the amendment is which you would seek to defeat? I do not think the public would agree with you. If you thought about it carefully, I do not think you would even agree with yourself.

These orders are unusual orders. They are invasive, which is why they need to be hedged in by safeguards, by high thresholds, by parliamentary review. All of those are part of the
architecture of this legislation. Thus far in Australia there have only been two control orders issued under federal legislation, and I think there were recently one or two issued under the corresponding New South Wales state legislation. But so sparingly and carefully have these control orders been used that in a decade they have only been resorted to twice. So, to those like my friends at the Gilbert + Tobin Centre for Public Law who are fearful that this is invasive of liberty, it is invasive of liberty, potentially, but only so seldom because caveated by so many qualifications and thresholds and tests that need to be satisfied, only in circumstances where they are actually serviceable to prevent the commission of a terrorist crime. That is why we are asking the parliament—and the opposition, I am pleased to say, agrees with us—to agree that they ought to extend to conduct by which, on reasonable grounds, there is a belief or suspicion that the conduct will constitute the facilitation of a terrorist crime.

Senator JACINTA COLLINS (Victoria) (11:35): Senator Wright, it might be helpful if I outline the opposition's position before you move to make further comments. These amendments relate to limiting the use of control orders to require a clearer, stronger nexus between the activity of a person and the commission of a specific criminal offence, rather than as a preventive measure. As Senator Brandis indicated, Labor will be opposing this amendment. We understand the Greens Party's proposition that it is preferable for antiterror activity to focus on the commission of criminal acts and on seeking prosecutions and convictions for those criminal acts. The joint intelligence committee said:

The Committee strongly agrees that arrest, charge and prosecution under criminal offences is always preferable. Labor endorses that sentiment. I note, though, that the committee went on to say:

However, the Committee also accepts that there are increasingly situations in which security interests require action to be taken by police at a time before the standard of evidence required for criminal prosecution can been obtained. In the current environment, these situations require not only the capacity to directly prevent terrorist acts, but also to prevent persons from providing support for or facilitating terrorist acts.

I direct Senator Wright and her Greens party colleagues to the amendments that Labor has supported in this bill—some of which Senator Brandis was referring to a moment ago—to tighten the process for granting control orders. I note that the government has accepted the committee recommendations that the monitor consider in a holistic way whether the 2013 COAG review recommendations concerning the reform of the control order scheme should be enacted. I also direct Senator Wright to the amendments that Labor supported to the foreign fighters bill providing that the entirety of the control order scheme will be subject to statutory review by the intelligence committee and the monitor and will sunset two years after the next election.

Senator WRIGHT (South Australia) (11:37): I thank Senator Collins for her comments. If I could come back to the comments that were made by the Attorney-General: Attorney-General, you are determined, in a touching way really, to cling to your identity as a champion of human rights in Australia. Your identity as a liberal is obviously very important for you. But, with any and all your statements to this effect, the talk does not change the fact that you are presiding over some of the most drastic changes and limitations to human rights that we have seen in Australia. To dismiss or characterise the concerns that I have been articulating
today, as you did, as being those of a university department or a university academic is just ludicrous and dismissive of the many voices in Australia that are raised about these issues. You seek to reassure the public by saying that there have only been two control orders issued by the Commonwealth thus far, but the very implications of this legislation, if it is passed, are that control orders will be easier to get and there will be fewer safeguards. So it is logical to conclude that we can certainly expect to see more.

The TEMPORARY CHAIRMAN (Senator Lines): The question is that amendments (1), (2) and (7) on sheet 7626 be agreed to.

The committee divided.

(The Temporary Chairman—Senator Back)

Ayes ...................... 11
Noes ...................... 34
Majority ............... 23

AYES

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

NOES

Back, CJ
Brown, CL
Bushby, DC
Collins, JMA
Fawcett, DJ
Ketter, CR
Ludwig, JW
Macdonald, ID
McKenzie, B
Moore, CM
Nash, F
O'Sullivan, B
Reynolds, L
Seselja, Z
Sinodinos, A
Sterle, G
Wang, Z

Brandis, GH
Bullock, J.W.
Cameron, DN
Day, R.J.
Gallacher, AM
Lazarus, GP
Lundy, KA
McGrath, J
McLucas, J
Muir, R
O'Neill, DM
Peris, N
Ruston, A
Singh, LM
Smith, D
Urquhart, AE (teller)
Williams, JR

Question negatived.

The TEMPORARY CHAIRMAN (Senator Back) (11:46): We now move to Greens amendments (8) and (9) of sheet 7626.

Senator WRIGHT (South Australia) (11:47): I will not be seeking to move these amendments together. I want to deal with amendment (8) separately to amendment (9). I understand that amendment (9) is in conflict with a previous amendment that has been passed.
The TEMPORARY CHAIRMAN: You do have the right to do that. Please continue with amendment (8).

Senator WRIGHT: I move amendment (8):

(8) Schedule 2, page 12 (before line 4), before item 1, insert:

1A Section 3

Insert:

Convention Against Torture means the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 10 December 1984.

Note: The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is in Australian Treaty Series 1989 No. 21 ([1989] ATS 21) and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

I will speak to both amendment (8) and amendment (9) together, although we will move them separately. These amendments are in relation to prohibiting the use of torture in ASIS operations. So the current legislation that we have been debating, the changes proposed in schedule 2, will make it clear that it is a function of ASIS, Australia's overseas spy agency, to provide assistance to the Australian Defence Force in support of military operations and to cooperate with the ADF on intelligence matters. However, these changes in the current legislation that we are considering are not accompanied by any safeguards to protect against ASIS engaging in activities that could amount to torture.

These amendments from the Australian Greens would prohibit ASIS specifically and clearly from engaging in conduct that could amount to torture. The amendments are necessary because the scope of ASIS activity as authorised in the Intelligence Services Act 2001, which I will call the IS Act, is extremely broad and will be further extended if this bill is enacted. Under section 14 of the IS Act, ASIS officers are not subject to any civil or criminal liability for any act done outside Australia if the act is done in the proper performance of a function of the agency. That is a significant thing to contemplate—that if the act is done in the proper performance of a function of the agency, they will not be subject to any civil or criminal liability for that act.

This has given rise to concerns that if the scope of ASIS activities are extended by this bill to include the provision of assistance to the Australian Defence Force—and this has been a concern that has been raised by human rights organisations in Australia—this could lead to serious human rights incursions, including torture. There are currently no specific protections in the IS Act to guard against the use of torture by ASIS in its overseas activities. There is limited protection against direct use of violence or weapons by an ASIS officer in subparagraphs 6(4)(b).

However, the Parliamentary Joint Committee on Human Rights in its most recently tabled report, report 16 of this parliament, has noted with concern that there are a range of techniques that may constitute torture, which would not fall within the meaning of 'violence'. So these Australian Greens amendments seek to make it crystal clear that ASIS officers must not be involved in any conduct that would be contrary to Australia's obligations under the convention against torture. I note that the Parliamentary Joint Committee on Intelligence and
Security recommended that the explanatory memorandum to the bill should be amended to make it explicit that the Intelligence Services Act does not in any way permit torture.

I can go to some further points at this stage referring to the Parliamentary Joint Committee on Human Rights report at paragraph 1.81. I am not sure if the Attorney-General will have had an opportunity to read this yet, but I will read from that report, which articulates the concerns that these Greens amendments are seeking to overcome:

Under the ISA—

the Intelligence Services Act—

ASIS staff are not subject to any civil or criminal liability for any act done outside Australia if the act is done in the proper performance of a function of the agency. ASIS staff also have civil and criminal immunity in certain circumstances for acts done inside Australia. ASIS staff may be involved in a range of intelligence gathering activities so long as they do not involve planning for, or undertaking, paramilitary activities, violence against the person, or the use of weapons (other than the provision and use of weapons or self-defence techniques). However—

and this is the important aspect—

torture or cruel, inhuman or degrading practices, is not specifically mentioned. A range of techniques may constitute torture or cruel, inhuman or degrading practices, that do not fall within the prohibition of violence against the person. This may include, for example, death threats, hooping, stress positions or deprivation of food or water.

The Australian Parliamentary Joint Committee on Human Rights report goes on to state at 1.83:

Australia’s obligation to prohibit torture is absolute. Accordingly, to comply with Australia’s obligations under the ICCPR and CAT—

the International Covenant on Civil and Political Rights and the convention against torture—

when providing for civil and criminal immunities for acts done by ASIS, there should be a clear and explicit prohibition on acts or support for torture or cruel, inhuman or degrading treatment or punishment.

And the committee recommends at 1.84:

… to be compatible with human rights, the ISA be amended to explicitly provide that no civil or criminal immunity will apply to acts that could constitute torture or cruel, inhuman or degrading treatment or punishment as defined by the Convention against Torture.

That is the definition that is recognised at international law. The report also states:

The committee also recommends that, to be compatible with human rights, the ISA be amended to explicitly provide that ASIS must not provide any planning, support or intelligence where it may result in another organisation engaging in acts that could constitute torture or cruel, inhuman or degrading treatment or punishment as defined by the Convention against Torture.

That is the basis of these Greens amendments. We seek to make it crystal clear that ASIS may not engage in torture and that civil or criminal immunity from such acts would not attach to ASIS officers if they were to do so.

**Senator LEYONHJELM** (New South Wales) (11:55): I rise to indicate my support for the Greens amendment—this particular Greens amendment. Torture is an issue on which I have also taken up the cudgels in the case of the first national security legislation. As a consequence of my pressure and pressure from others, the Attorney-General kindly agreed to
rule out torture in the case of ASIO's activities within Australia in the context of special intelligence operations.

The argument here is that ASIS, which is operating outside Australia's shores—unlike ASIO—should also be subject to a prohibition on torture. I think it is a perfectly reasonable precaution. It confirms our difference from the uncivilised world of ISIS, or Daesh—or whatever you want to call them—and distinguishes us as a civilised society. If I can misquote a famous legal aphorism when Lord Mansfield said that the air of England is too pure for slavery, I would say that the air of Australia is too pure to countenance torture whether inside or outside the country, if it involves Australian officers.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (11:56): We are in furious agreement on the topic of torture. This is not a debate about that. I agree with every word that Senator Leyonhjelm just uttered. This is a question of legislative drafting and whether or not what Senator Wright seeks to achieve is already achieved by Australian law, to which the answer is: clearly it is. Senator Wright, I share your sentiment but your amendment is unhelpful because it confuses an issue that is not confused. There is a clear prohibition against torture in Australian law. It is clear that that prohibition extends to all IS Act—Intelligence Services Act—agencies.

I might begin by reminding the committee what the Parliamentary Joint Committee on Intelligence and Security said about the matter. It said in paragraph 3.67 of its report:

The Committee also received evidence that suggested an ambiguity exists in the IS Act that may permit torture. While the Committee does not accept this evidence, the Committee considers the Explanatory Memorandum should be amended to make it explicit that the Intelligence Services Act 2001 does not in any way permit torture.

I think it is not necessary to say that even in the explanatory memorandum, because the statutory language is very clear. However, out of deference to the Parliamentary Joint Committee on Intelligence and Security, we have included the statement which they sought in the addendum to the explanatory memorandum on page 3. Let me read it into the record. This was circulated this morning. The addendum to the explanatory memorandum says:

In its advisory report on the Bill, the PJCIS suggested that the EM be revised to explain why the Intelligence Services Act 2001 (IS Act) already prohibits IS Act agencies including ASIS from engaging in conduct constituting torture or cruel, inhuman or degrading treatment or punishment in contravention of Australia’s international obligations.

The explicit function conferred upon the Australian Secret Intelligence Service (ASIS) in no way changes the prohibition in subsection 6(4) against ASIS engaging in violence against the person which would include torture or cruel, inhuman or degrading treatment or punishment.

Such conduct would not be in the proper performance of a function of ASIS, nor would it be in the proper performance of a function of any other IS Act agency as required by section 12 of the IS Act. Accordingly, such conduct would not fall within the protection against civil or criminal liability under section 14 of the IS Act.

I have read in full the additional comment in the explanatory memorandum but, if I may, let me take you through it in my own words. Section 14 of the Intelligence Services Act—which, with respect, you did not quote accurately, Senator Wright—provides:

A staff member or agent of an agency—
and that includes ASIS—
is not subject to any civil or criminal liability for any act done outside Australia if the act is done in the proper performance of a function of the agency.
The qualifying words bear directly on the point you make, Senator Wright. It is conditioned by the conduct or the act being done in the proper performance of a function of the agency, which prescribes a double test. First of all, the protected act has to be done in the performance of a function of the agency. So, if it is not in the course of a function of the agency, it is not protected. Secondly, it has to be in the proper performance of that function. So even an act which was jurisdictionally within the function of an agency but did not constitute the proper performance of that function would not be caught by the exclusion.

If you go to section 6 of the Intelligence Services Act, which specifies the function of ASIS, there is this explicit prohibition:
In performing its functions, ASIS must not plan for, or undertake, activities that involve:
(a) paramilitary activities; or
(b) violence against the person; or
(c) the use of weapons;
by staff members or agents of ASIS.
Again you misquoted that, Senator Wright. You said it had to directly involve violence. The word 'direct' does not appear in the subsection at all. There is an exclusion from the functions of ASIS any conduct that involves violence against the person. So any conduct that does constitute violence against the person is not a function of ASIS and therefore the protection in section 12, which is conditioned on the conduct being in the proper performance of a function of ASIS, simply does not apply. It is not a very hard concept to grasp. But you say, Senator Wright—and Senator Leyonhjelm also makes the point—that we do not have a definition of 'torture' and the word 'violence' might be read more narrowly than the word 'torture'. I think that is the point you were trying to make, Senator Wright, but that is not correct, for two reasons. First of all, we actually do have a definition of torture in Australian law, and it is to be found in section 274.2 of the Commonwealth Criminal Code, in particular in subsection (2), which makes it clear that the concept of torture involves the infliction of severe physical or mental pain or suffering on a person and where the conduct is engaged in by reason of discrimination of any kind and is engaged in in the capacity of a public official. It is clear from the way the Criminal Code defines torture that it involves violence other than physical violence; so if an ASIS agent were to engage in torture that would be an act of violence and therefore the exclusion of liability in section 14 would not protect that person from that conduct.

There is another reason as well, Senator Wright, and that is: Australia is a party to the UN convention against torture, as you know. The UN convention against torture has not been specifically enacted in domestic law but, as I hope you know, Senator Wright, the fact that an international treaty to which Australia is a party has not been enacted according to its terms in domestic law does not mean that it lacks relevance to the proper interpretation of Australian law, as the High Court has said in a number of cases. Probably the best known is a decision of some 20 years ago called Teoh, a decision of the Mason court. In construing executive acts or in interpreting legislative instruments, one of the things to which the courts will have regard is
compliance by Australia with its international obligations. So the construction of the concept of torture in Australian law would undoubtedly be informed by the definition of torture in an international instrument to which Australia is a party. For both of those reasons—because we have a definition already in the Criminal Code and because the definition in the international convention would be significant in construing another act of parliament or another section of an act of parliament, following the High Court's decision in the Teoh line of cases—your concern is ill founded. Violence: no ASIS officer can engage in violence.

Torture: conduct that constitutes torture would certainly, because of the way 'torture' is defined in both the UN convention and in the Criminal Code, extend to acts of violence, and violence would include that definition of torture. Therefore, the prohibition which you seek to introduce already exists in our current law. So, I am not disagreeing with your intention here, Senator Wright and Senator Leyonhjelm; I am telling you that, as a matter of law, Australian law already contains the prohibition you seek to introduce.

Senator JACINTA COLLINS (Victoria) (12:08): Ahead of Senator Wright responding, I think it is timely for me to indicate the Labor position in relation to these amendments. We oppose them for much the same reasons as Senator Brandis has outlined. They are, essentially, redundant. We are, of course, steadfastly committed to Australia's international obligations under the convention against torture. In the previous two national security bills, we supported amendments which substantially addressed torture that have been referred to in part by Senator Leyonhjelm. In the first bill, we supported amendments to clarify that immunity conferred on participants in special intelligence operations would never encompass immunity for acts of torture. In the second bill, we supported amendments which broadened the protections against the use of foreign evidence obtained by torture or by duress.

This amendment, however, would have no genuine effect. As the Attorney has already indicated, torture is already prohibited by Australian law. It is already the law that ASIS may not engage in acts of torture. We will not be supporting the addition into the act of what is, essentially, a redundant provision. This is simply a matter of good policy regarding drafting and avoiding confusion in statutes. I understand that the government has also made this position clear in the explanatory memorandum of the bill.

Senator WRIGHT (South Australia) (12:09): Given that we are all supposedly in furious agreement about a situation whereby ASIS officers working in overseas jurisdictions can have no truck with torture, I am not sure why we have a situation where it takes the Attorney-General about 10 minutes to lead us on a labyrinthine path to explain why, ultimately, we can be convinced that torture would not be a proper function of ASIS, or activities that involve torture. We have not even come to activities that involve planning and assisting other organisations. The spectre of Abu Ghraib and places like that springs to mind, but we will come back to that.

If we are in furious agreement and if it has been seen fit to amend previous legislation to make it crystal clear that acts constituting torture have no place in the functions of people acting in Australia's name, why then don't we, from the principle of legislative clarity, change the IS Act to ensure that it is very clear? Clearly, paradoxically, it is not clear. If it were clear, we would not have legal commentators in Australia raising this as a concern. These are experts in international law. These are people who want to be reassured that we are protected.
in Australia from anyone acting in our name conducting anything that would amount to torture under international law. We have those voices raised because, indeed, it is not clear.

When I was referring to the IS Act I did, in fact, talk about the proper functions. I did read that word 'proper'. I did not leave that out. It is the proper performance of a function, or a performance of a proper function, under the agency. We have had concerns raised that the IS Act talks about violence but does not specifically refer to torture. We have had the Attorney-General take us to the Criminal Code to give us the definition of torture, which is not the same definition as under the convention against torture—it does not take that international law definition of torture—to reassure us that, somehow, because violence is prohibited that then encompasses torture. Legitimate concerns have been raised that actions like hooding, like deprivation of liberty in a dark room, like extreme and prolonged loud noises and music over a period time, and other potential actions may not be caught within the definition of violence against the person.

My question is really quite simple, and I put this question to the Attorney-General and I also put it, rhetorically, to the opposition. If you are genuinely concerned about the fact that we will not give civil and legal immunity to ASIS officers engaging in acts of torture, why don't we make that crystal clear, without ambiguity, in the IS Act as recommended by the Parliamentary Joint Committee on Human Rights? Why leave any ambiguity there at all?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:13): Because there is none; that is the simple answer to your question. There is no ambiguity at all. Senator Wright, I did not think my explanation was particularly labyrinthine—I am not Theseus in pursuit of the Minotaur here. Just because somebody might, artlessly, make a claim that something is unclear, perhaps that merely means it is unclear to them. I used to lecture in international law, Senator Wright, at Australia's best law school, so, if you are going to rely upon what international legal academics have to say, there is only one person in this chamber who has taught international law, I think, and I can tell you that there is no ambiguity whatsoever on this question. The fact that it may be obscure to some does not mean that it is obscure.

Senator WRIGHT (South Australia) (12:14): I want to take the Attorney-General to the other issue that has been raised, which is the fact that the prohibition on ASIS staff undertaking paramilitary activities, undertaking acts that involve violence against the person or the use of weapons does not preclude ASIS staff from being involved in the planning of activities to be carried out by other organisations. As I said, the spectre of Abu Ghraib and other very concerning incidents that have happened over the last few decades in terms of the treatment of prisoners and so on is very heavy in my consciousness. What prohibition would there be on ASIS staff being involved in the planning of activities that would then be carried out by other organisations that would be committing torture?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:15): Section 6(4), because the word, which is a word of very broad meaning, on which section 6(4) turns is 'involve'. Let me read it to you again:

(4) In performing its functions, ASIS must not plan for, or undertake, activities that involve:

(a) paramilitary activities; or
(b) violence against the person; or
(c) the use of weapons …

So it is more than a prohibition on the officer being personally the actor in, for example, an act of torture. Prohibition is much broader than that. The prohibition is on planning for or undertaking activities that involve violence against persons. You seem to be assuming that the prohibition is limited to the particular ASIS officer or agent, but it is not; it is much broader than that. I have to say again, with all due respect, Senator, your concern is misplaced.

Senator WRIGHT (South Australia) (12:16): I am going to ask for the Attorney-General’s indulgence and ask him to read again for me—I do not have it available to me—the definition of ‘violence’ in the Criminal Code. You read it to me earlier—and I was listening carefully—but if you would not mind reading that to me again, that would be of assistance to me, thank you. That was part of the response you gave in seeking to reassure us that ASIS officers could not act with impunity in matters that involve torture.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:17): Actually I did not read you a definition of ‘violence’ from the Criminal Code. There is not a definition of ‘violence’ in the Criminal Code. There is a definition of ‘torture’ in the Criminal Code and that is what I read. The point I was making to you, Senator Wright, is that the use of the word ‘violence’ in section 6(4) of the Intelligence Services Act is a word sufficiently embracing that it would include torture. That means more than just physical violence because ‘torture’ is defined to mean more than physical violence. It might be more useful, Senator Wright, if I read you something else from division 274 of the Criminal Code—a point I should have made in my earlier contribution, so thank you for reminding me. The definition in section 274.1 says:

(2) An expression that is used both in this Division and in the Convention (whether or not a particular meaning is given to it by the Convention) has, in this Division, the same meaning as it has in the Convention.

And ‘convention’ is defined as the convention against torture—that is, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the UN General Assembly at New York on 10 December 1984. I omitted to make the point, which I should have made before, that the definition of ‘torture’ in the Criminal Code embraces the convention definition. The words in section 274.2 are not the very words used in the convention, but to the extent of any inconsistency the broader definition of ‘torture’—that is, the definition to be found in the convention—is the operative definition, so in that sense, through the definition provision in section 274.1, the UN convention definition is imported into Australian law.

Senator WRIGHT (South Australia) (12:19): I am trying to make sense of the argument that you have put, Attorney-General, because I would like to be reassured about this. So the word ‘violence’ is used in the IS Act and then you have said because the use of the term ‘violence’ is included in the definition of ‘torture’ in the Criminal Code, therefore that definition in the IS Act would encompass violence. I am genuinely trying to make sense of the way we can be reassured that torture can at no time be considered to be—or acts amounting to torture, inhuman, cruel, degrading treatment—a proper function of an IS officer.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:20): It cannot be. I will try this once more, Senator, and I hope I am not going to be too labyrinthine for you. There is a prohibition against an act of violence—against an ASIS officer being involved in either planning or undertaking an act of violence. So that if an ASIS officer were to be involved in the planning of or to undertake an act of violence then the statutory protection from liability, which he or she might otherwise seek to avail themselves of under section 14 of the Intelligence Services Act, does not apply because no ASIS officer can engage in an act of violence in performance of their functions.

'Violence' is not defined but violence plainly includes the common speech meaning of 'torture', which at its narrowest definition involves the infliction of physical suffering. But 'torture' has a broader definition than that in our law by virtue of section 274 of the Criminal Code both because of the way in which it is described in that section but also because, as I have just pointed out, by section 274.1, the UN convention definition of 'torture' is imported into Australian law and to the interpretation of any relevant provision of Australian law, including the specific provision of the Criminal Code. So if 'violence' equates to 'torture', as it does, and 'torture' has the meaning of the UN convention, which it does, then you can follow—and I do not mean to be labyrinthine, Senator; you can follow yourself—that the UN convention definition constitutes part of the prohibition in section 6(4) of the Intelligence Services Act.

Senator WRIGHT (South Australia) (12:23): I suppose the premise of that is that 'torture' equates to 'violence' and that is where there is concern that that actually is not the case. That has been raised as a concern. Clearly some aspects of torture that would be within common understanding—electrocution, beatings, things like that—would clearly be violence, but to suggest that 'violence' equates to 'torture' I think is the challenge here, because examples of what have been and what would be considered to constitute 'torture' under the convention against torture—things like hooding, death threats, stress positions or deprivation of food or water—may not be so unambiguously considered to be violence against the person in that way, because it is not defined. I guess I would ask you, at the risk of asking you a hypothetical question—and I know you really do not like those very much at all—but I think for the sake of clarity I am going to ask you: if someone was hooded, held naked and forced to, over a period of time, hear things about their family or their religion, would that equate to violence?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:24): Well, in my view, it would. So the answer to your question is yes. But can I point out to you that if there were any ambiguity about this, which I do not think there is, but if there were any ambiguity about this that is why the PJCIS recommended that there be a clarifying statement to the effect of what I have just said in the explanatory memorandum. I have read to you in full—I have read onto the record—what appears in the addendum to the explanatory memorandum circulated this morning, which makes it perfectly clear that 'violence' equals 'torture'.

The TEMPORARY CHAIRMAN (Senator Sterle): The question is that Australian Greens amendment (8) on sheet 7626 be agreed to.
The committee divided. [12:30]
(The Temporary Chairman—Senator Sterle)

Ayes ...................... 11
Noes ...................... 32
Majority ............... 21

AYES
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

NOES
Back, CJ
Bullock, J.W.
Cameron, DN
Collins, JMA
Fawcett, DJ
Ketter, CR
Lines, S
Lundy, KA
McGrath, J
McLucas, J
Muir, R
O'Sullivan, B
Reynolds, L
Seselja, Z
Smith, D
Urquhart, AE (teller)

Brandis, GH
Bushby, DC
Colbeck, R
Day, R.J.
Gallacher, AM
Lazarus, GP
Ludwig, JW
Macdonald, ID
McKenzie, B
Moore, CM
O'Neil, DM
Peris, N
Ruston, A
Singh, LM
Sterle, G
Wang, Z

Question negatived.

Senator WRIGHT (South Australia) (12:33): I move amendment (9) on sheet 7626 on behalf of the Australian Greens:

(9) Schedule 2, page 12 (after line 11), after item 2, insert:

2A After section 6

Insert:

6AA Convention Against Torture

In performing its functions, ASIS must not engage in any conduct that would be contrary to Australia's obligations under the Convention Against Torture.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:33): This amendment would add a specific prohibition against torture. For reasons that have been thoroughly canvassed in the debate on the previous amendment, the government does not support the amendment. The same issue arises in relation to this amendment as arose in relation to the last amendment, and I will not repeat what I had to say in those remarks.
Senator WRIGHT (South Australia) (12:33): I have moved this Greens amendment because I am concerned that there remains an ambiguity. I am concerned as to why the government is willing to allow this ambiguity to remain in terms of activities undertaken by ASIS officers outside Australia in situations where potentially there may be things done in our name that certainly most Australians would be very unhappy to know were occurring. That said, I am moving the amendment.

The TEMPORARY CHAIRMAN (Senator Seselja): The question is that amendment (9) be agreed to.

The committee divided. [12:38]

(The Temporary Chairman—Senator Seselja)

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

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

NOES
Back, CJ
Brandis, GH
Bushby, DC
Canavan, M.J.
Collins, JMA
Day, R.J.
Fawcett, DJ
Ketter, CR
Lines, S
Lundy, KA
McEwen, A
McKenzie, B
Moore, CM
O’Neill, DM
Peris, N
Ruston, A
Singh, LM
Smith, D
Urquhart, AE (teller)

Questioned negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.
Third Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:42): I move:

That this bill be now read a third time.

The Senate divided. [12:47]

(The Acting Deputy President—Senator Seselja)

Ayes ...................... 38
Noes ...................... 13
Majority ............... 25

AYES

Back, CJ
Brandis, GH
Bushby, DC
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Ketter, CR
Lines, S
Lundy, KA
McGrath, J
McLucas, J
Muir, R
O’Sullivan, B
Reynolds, L
Seselja, Z
Sinodinos, A
Sterle, G
Wang, Z

Bilyk, CL
Bullock, J.W.
Cameron, DN
Cash, MC
Dastyari, S
Edwards, S
Gallacher, AM
Lazarus, GP
Ludwig, JW
Macdonald, ID
McKenzie, B
Moore, CM
O’Neill, DM
Peris, N
Ruston, A (teller)
Singh, LM
Smith, D
Urquhart, AE
Williams, JR

NOES

Di Natale, R
Lambie, J
Ludlam, S
Milne, C
Rice, J
Waters, LJ
Wright, PL

Hanson-Young, SC
Leyonhjelm, DE
Madigan, JJ
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

Question agreed to.

Bill read a third time.

STATEMENTS BY SENATORS

The ACTING DEPUTY PRESIDENT (Senator Seselja): Order! It being after 12.45, the Senate will now move to senators’ statements.
I rise today to speak on an issue that is not a happy one but, nonetheless, has to be faced up to by the nation, by this parliament, by state parliaments and by communities at every level. When we talk about the abuse of methamphetamine, crystal meth or ice, in the community, it is a problem that many Australians probably associate with inner-urban areas of the nation. However, there is a significant body of evidence now that clearly shows those perceptions need to change. While the scourge of ice is undoubtedly a problem in our cities, the crisis has moved far beyond metropolitan boundaries.

The use and abuse of crystal meth is now widespread in many regional centres and communities across Australia. In many respects, the impact of meth is felt even more keenly in regional communities than in our cities because these regional areas, in many cases, do not have comparable law enforcement resources or treatment options for drug addiction that may be available to those in more populated areas. Worse still, those who profit from the sale and supply of these drugs are openly exploiting this fact and flooding some regional communities—including Indigenous communities—with crystal meth. This cynical exploitation of regional communities is perhaps one reason why the use of ice is growing so rapidly.

Precise estimates vary from study to study, but several indicate increases in the use of ice by Australians of around 10 per cent nationwide over the last three years. Research suggests that around 350,000 Australians smoked, snorted or injected crystal meth over the past 12 months. That would be an alarming statistic for any drug, but, when we are talking about a drug so insidious, one that wrecks relationships, careers, families and entire lives, it is clear that we are dealing with an epidemic. As I noted a moment ago, no Australian is beyond the reach of this drug. It is time for us to stop thinking of ice as a drug abused only by those down-and-out types squatting in derelict buildings in city centres. This is happening in the cities, in the suburbs and, increasingly, in rural communities.

Just last month, the extent of what is happening was highlighted in a confronting edition of the television program Four Corners which examined what is happening in several small regional communities in Victoria and Tasmania. But there is no reason to think that what was shown is restricted to those two jurisdictions. This program could just as easily have been filmed in some of Western Australia's regional communities. Indeed, the prevalence of ice in Indigenous communities is, to my mind, one of the epidemic's most alarming aspects. Professor Marcia Langton, a respected Indigenous leader who has done extensive work in some of Western Australia's Indigenous communities along with Andrew Forrest, had this to say in The Australian:

We heard many reports of ice or methamphetamines in remote communities … there is a youth epidemic of amphetamine use and there are organised drug-dealing syndicates that have a network of distributors in Aboriginal communities who market drugs.

This will destroy a generation of Aboriginal youth. This is affecting the ability of young people to get into training.

The extent of the situation was driven home for me by another very powerful piece in The Australian, which focused on Port Hedland, in the Pilbara region in my own state of Western Australia. It struck a particular chord with me because Port Hedland was where I grew up and
where my father served as the local policeman. Of course, Port Hedland was a very different place then, in many respects. Gone now is the sleepy, innocent atmosphere as the strength of WA's mining and resources sector has taken over in recent years and transformed the town and its neighbouring communities. There is much to celebrate in that fact, but, at the same time, we cannot ignore the fact that there have been some significant and serious downsides.

On 8 October, The Australian's Paige Taylor related the story of Alfred Barker, an Indigenous elder in Port Hedland. Many years ago, in finding a constructive way to deal with a personal tragedy, Mr Barker helped to renovate an abandoned property in Edgar Street, Port Hedland and turned it into a 'sobering up shelter'—a place where Indigenous people could go to get themselves back on track. However, Mr. Barker despairs at the current situation in relation to the prevalence of methamphetamine in the local community and feels his shelter is powerless to assist. These are his own words:

You can't build a shelter from those drugs, no shelter from that stuff … They go downhill quick on that.

The tale he tells is a familiar one. Although well-paid miners may have been the original target market for meth pushers in the Pilbara, suppliers have broadened their sights and now target a far wider population that includes some of the region's poorest people, including Indigenous people.

A similar picture was painted by a recent report that focussed on methamphetamine use in the Northern Territory, which again highlighted 'the emergence of injecting drug use within the Aboriginal community'. It is clear that methamphetamine is not a drug that respects geographic boundaries, race or socioeconomic status. And its impacts are devastating. One of the recovering addicts featured in the recent Four Corners episode, identified as 'Ethan', said that the year he spent addicted to crystal meth turned him into a monster. He said:

I just wanted to see blood. That's all I wanted. Because you know I wanted to kill someone almost—like I was ready to.

The account is confirmed by Ethan's mother, who described her son this way:

And he just… he just… his mouth opened like a furnace and he looked like he could've lifted the house up, he could've just… his rage was so immense.

This is perhaps the most terrifying aspect of the ice epidemic, because this is not a drug that people necessarily take and then stay at home until the effects wear off. Ice users are walking the streets, driving cars, interacting with people going about their day-to-day lives. The effects of the drug make their behaviour difficult to predict, and they can suddenly turn irrational and violent.

Then there are the flow-on impacts, which are especially pronounced in regional communities. An increase in methamphetamine abuse invariably leads to increasing instances of robbery and theft as users seek ways to fund their addiction. Then there are the increasing instances of violence and assault, as people high on crystal meth lose all sense of rationality and lash out. One police superintendent from regional Victoria told Four Corners that ice is 'probably our biggest driver of crime'.

Perhaps the most terrifying aspect of the entire ice explosion in Australia is the age of its victims. This was brought home to me in sharp relief just yesterday in this Senate. As it happens, during a Senate select committee hearing I asked a witness who is involved in the provision of drug rehabilitation services if he could identify any particular shift in
demographics of the sorts of people accessing treatment services. His answer was a powerful illustration of what is happening. He said:

Ten weeks ago we organised a football game, AA versus NA—Alcoholics Anonymous versus Narcotics Anonymous. The NA boys won, by the way. The thing I saw was that the NA demographic has altered massively. They are now 18-, 19-, 20-, 21- and 22-year-olds, young people getting clean from ice and methamphetamine. It is awfully difficult for AA to compete against that backdrop, because the AA midfield has an average age of 50!

A pleasant twist on a tragic story. Now that shows you what exactly is happening and it is backed up by other media reports we have seen, including the Four Corners item I have referred to today. This ice scourge is affecting very, very young people; children aged 10 and 11 are presenting at hospitals with symptoms of methamphetamine abuse. And the problem is not going away. Our head in the sand approach must be changed for a call to action.

Just yesterday, in The West Australian, it was confirmed that WA has the highest rate of methamphetamine use in the nation. Most worryingly, those taking methamphetamine in its ‘purest’ form, as crystal or ice, was at 78.2 per cent—well above the national figure of 50.4 per cent. The methamphetamine crisis is a national challenge, and all available evidence points to a crisis that is deepening. No longer can we afford to view methamphetamine abuse as a problem afflicting a small group of inner city people. As I have attempted to highlight today, the crisis is happening now and many regional communities are in its grasp. It is a challenge that governments at every level, educators, institutions and families must work together to address before we lose yet more of our young people to the vile clutches of this insidious drug. Today I will write to the chair of the Senate Community Affairs References Committee to propose a national inquiry into the use and consequences of methamphetamine abuse in regional Australia.

Australia Post

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:59): Just over two months ago the Senate Environment and Communications Legislation Committee concluded its inquiry into the performance, importance and role of Australia Post in Australian communities and its operation in relation to licensed post offices. The committee received 213 submissions and 845 letters from LPOs, a fantastic response to an issue affecting every Australian.

There was overwhelming evidence from LPOs of the dysfunctional relationship between Australia Post and its licensees and of the dire financial situation faced by many LPOs. Many expressed a forlorn desire for Australia Post to buy back the licence, indicating that the business decision they had made some years ago—and where often they had invested their life savings into a small business that appeared to have good, solid prospects—was now bleeding to such an extent that they were losing hope of getting back those life savings, let alone making a modest return on their investment.

In this context, it must be recognised that Australia Post is not a private business. Its shareholders are the entire Australian community, and the postal network is woven through the fabric of Australian life. It is a major employer, both directly and indirectly. Australia Post employs almost 36,500 people and engages many more as contractors, franchisees and licensees. As such, it has a major responsibility to its workforce and their families, a responsibility that is intertwined with its core service delivery obligation to provide a letter
service that is accessible to all people in Australia on an equitable basis wherever they may reside or operate a business. Changes to Australia Post and its network will have an impact on our communities and way of life. It is my hope that Australia Post and the government can work with Australia Post employees, unions, contractors, licensees, the printing industry and the community to pave a sustainable footing for our postal network.

I was pleased to serve as deputy chair of the committee for the duration of this inquiry. On behalf of the thousands of stakeholders in the postal industry, I am calling on the government and Minister Turnbull to expedite its response to the committee's report and begin adopting in full the committee's recommendations. The committee worked in a nonpartisan manner and made 18 unanimous recommendations to government. Labor senators also included an additional recommendation with our additional comments that highlighted just one difference between the parties. In making our recommendations the committee sought to provide government and Australia Post with both immediate actions and areas for further review. The implicit goal was that the minister would recognise the urgency required to assist these thousands of small businesses and respond with haste.

Since the conclusion of the committee's inquiry, I have continued to maintain contact with a number of LPOs across the country. The financial situation face by these LPOs and their relationship with Australia Post continues to worsen. The time taken by the government to consider the committee's recommendations and other Australia Post proposals is increasing the uncertainty for these small businesses.

Last weekend I attended a meeting of the Licensed Post Offices Group in Campbell Town, Tasmania. Many licensees from across the state were in attendance and the issues they raised with me mirrored those highlighted to the inquiry that was held over the past year. Their clear message was for responses and actions from government and they asked that Minister Turnbull urgently respond to the committee's recommendations—recommendations prescribed by a committee with a majority of government members, recommendations that relate, in particular, to the viability of small businesses in rural and remote Australia. These are small businesses whose livelihoods are uniquely linked directly to government policy as licensees of a government business enterprise.

At Senate estimates last week I took the opportunity to ask the Managing Director of Australia Post, Mr Ahmed Fahour, how Australia Post is proposing to implement the committee's recommendations. Mr Fahour said:

It is fair to say that the vast majority of the 18 recommendations are clear and actionable and we are in broad agreement with them. It is not up to us as the agency to respond—it is obviously up to the minister to respond—but we will be doing our best with the vast majority of these recommendations and assisting the minister's office to get on with it.

Those listening should take this statement by the managing director as a clear signal that it is the Abbott government and Minister Turnbull that are fully responsible for the price of mail, the quality of the mail service, the viability of the licensees and the employment prospects for Australia Post's workers.

While Mr Fahour and his team have ideas—indeed, while other stakeholders have ideas—each and every one is actioned on the decision of the government of the day. I make this point because over the past week, we have heard from this minister and this government about the impact of their cuts to the ABC and that the allocation of the cuts is all the fault of the ABC
management, when, in fact, cabinet and the relevant shareholder ministers have a lot of control over high-level decisions.

At the estimates hearing I also asked specifically about Australia Post's position on a number of the recommendations. I am particularly concerned with a number of responses I received. My first concern is with the response to recommendation 1 from Mr Fahour regarding ACCC oversight of the price of business mail. This response was straight out of the very worst of the 'cutting red tape' playbook. It was the ridiculous mantra that cutting regulation is in itself going to lead to a net welfare improvement and the tying of the removal of oversight and subsequent large increases in the price of mail to Australia Post's financial ability to look after its employees and its licensees. This is emblematic of the way the debate has descended on Australia Post over the past year: that the only solution to the forecast problems is large increases in the price of mail.

The committee's final report clearly outlines the problem with the lack of oversight of business mail. Firstly, the price has increased every year since 2011, with an overall increase of 29 per cent over this short period. Secondly, there has been a fall in demand as the bulk mail price has increased. Thirdly, bulk mail accounts for over 50 per cent of Australia Post's addresses mailbag, and mail houses have introduced systems to facilitate efficient bulk processing by Australia Post, which requires all items to be machine addressed, barcoded and sorted. As such, the committee, which included some strident champions of deregulation on the government side, considered that Australia Post should again be required to notify the ACCC of proposed changes in the price of business mail. The committee's intention for reintroduction of an oversight is, in effect, for Australia Post's own good.

My second concern with Mr Fahour and Australia Post's responses is around consultation, or lack thereof, with stakeholders. In his initial response to recommendation 6, Mr Fahour said:

No. 6—we have just spent a lot of time talking about no. 6 around the engagement program, so let us tick No.6 …

He then moved on. Except recommendation 6 is not about an engagement program that is a one-way conversation across the country. Recommendation 6 requests that the minister create a formal postal network strategy group that engages all stakeholders in the development of a comprehensive strategy to inform changes to the Australia Post network in the face of emerging challenges. The key aspect of this recommendation is for the conversation to be a proper participatory consultation with stakeholders across the mail industry, not listening posts and dinners that are inevitably one-way conversations.

Later in the estimates hearing, I asked Mr Fahour if he had responded to a letter from over two months ago from a group of industry stakeholders called the Coalition of Mail Service Stakeholders. The coalition represents printing and mail house companies, licensed post offices, community groups, retired workers, pensioners, unions covering workers in printing, mail houses and postal services. Mr Fahour's response was that he had not responded to the group as a whole, but sought to have individual conversations with four of the five groups represented. In the days after the hearing, I was contacted by two of the signatories that he claimed to have met with. They said that neither they nor their close colleagues had had any discussion with Australia Post about the contents of their letter.
Right now the licensees and other stakeholders in the industry want a proper conversation about the future of mail in this country. What the LPOs need is the government and Australia Post to sit down and have meaningful discussions with people right across the country about the future of mail delivery. In conclusion, I repeat my call to the minister—which I have also outlined in correspondence—please expedite your response to the committee's report and give the hardworking postal licensees some certainty. *(Time expired)*

**Tamil Community**

**Senator RHIANNON** (New South Wales) (13:09): Today I rise to speak about the Sri Lankan born Tamil community. Tomorrow, 27 November, is a very important day for Tamils both in Sri Lanka and in the many countries they now call home. It is a day they remember, with deep pain and sadness, the 26-year-long civil war in Sri Lanka, in which over 100,000 Tamils were killed, and the more than 60 years of systematic Sri Lankan state-orchestrated brutality towards them.

In previous years, I have been able to join the community in Sydney in their grieving. The horror of the 2009 war has left deep, lasting scars. This year I will be in parliament. My heart and thoughts are with the Tamils in Sri Lanka in the diaspora, and those that have escaped as asylum seekers to try to find refuge and peace in another country. The Tamils await peace, justice and freedom. I commend their hard work, commitment, integrity and resolve and truly believe that one day this will be realised.

I recently met with the Tamils in Melbourne. While I have spent quite a bit of time with the Tamil community in Sydney and, more recently, in Perth, this was my first meeting with the Melbourne Tamil diaspora community. After a lengthy discussion with the elder members of the community, I had the pleasure of meeting younger Tamils. An ongoing distress for the community, apart from the continuing atrocities of the Rajapaksa government, is the response of Australia's politicians to the situation in Sri Lanka and asylum seekers in Australia. They noted with gratitude that some Labor MPs have supported them over the years—speaking against the gross injustices the Tamils in Sri Lanka have faced, and continue to face, and making their colleagues aware of the continuing atrocities. However, the official policy of Labor and the Liberals is quite different from the sympathetic voice of these MPs.

Officially, Labor and Liberals have sided with President Rajapaksa, a man accused of war crimes and crimes against humanity, who continues to oversee a regime that terrorises, tortures and abuses Tamil people and Tamil land. Tamil women and children are arrested and detained, and, more recently, the Sri Lankan government is said to have intervened in the prosecution of members of the Sri Lankan army who gang raped two very young Tamil girls over a number of days. People who commit these crimes are criminals, and in Sri Lanka these criminals walk free.

At the Melbourne meeting, a number of those present spoke about Victorian Labor MPs Liz Beattie, John Pandazopoulos and Marsha Thomson, who travelled to Sri Lanka earlier this year and had a private meeting with President Rajapaksa. Commenting on the visit of the three Labor MPs to Sri Lanka, the country's national newspaper the *Daily News* stated:

“We’re very encouraged by what we see,” MP Beattie said. “Anyone can start a war, but it takes men of courage to end a war.”

... ... ...
MP Pandazopoulos said the reconstruction Sri Lanka has undergone since the end of the war is “highly impressive” compared to other countries that have had similar experiences with war. “You need to be commended,” he told the President. “You have made some hard decisions.”

Soon after this was published, the Tamil Refugee Council in Australia put out a statement in which it said:

Emily’s List, the pro-women’s progressive political group, should clarify its stance on the rape and abuse of Tamil women after one of its long-time members, Liz Beattie, praised the Sri Lankan president, Mahinda Rajapaksa, as a “man of courage.”

I share the concern that these statements were made by Labor MPs. Such comments by Western MPs are gold for ruthless leaders who are shunned by most leaders of democratic nations. Let me note here that the man they are commending, Mr Rajapaksa, and his army, who they are calling ‘men of courage’, have committed brutal human rights abuses during and since the war in Sri Lanka in 2009: the assassination of children; the massacre of possibly 100,000 Tamils; the rape of hundreds of Tamil women, possibly more; the rape and torture of men and asylum seekers; land grabs; the imprisonment of Tamil children; kidnappings; disappearances; and bashings. Let us not forget the atrocities during the war: bombing civilian areas and bombing the makeshift hospitals in the war zone 31 times during the last five months.

Labor MPs Ms Beattie, Mr Pandazopoulos and Ms Thomson are out of step with world opinion. These are some of the groups and individuals that have spoken publicly about the abuses and have expressed concern and alarm at what is happening in Sri Lanka: UN High Commissioner for Human Rights Navi Pillay, Amnesty International, Human Rights Watch, Asian Human Rights Commission, the International Commission of Jurists, Human Rights Law Centre, UK’s Channel 4, SBS's Dateline, the Bar Human Rights Committee, veteran Australian sports journalist Trevor Grant, former Prime Minister Malcolm Fraser, the Australian Tamil Congress, Archbishop Desmond Tutu, international film maker Beate Arnstad and, I am proud to say, the Greens as well.

It remains a concern for progressive Australians that Ms Beattie and Mr Pandazopoulos, who are part of the Victoria Labor left, praised Mr Rajapaksa in the way that they did. At a time when there is growing broad based support for the rights of Tamils and progressives in Sri Lanka, the actions of these MPs is deeply troubling.

The Tamils with whom I met continue to feel extremely hurt by these comments. It adds to their continuing feeling of pain at the response of the Australian government towards the war and the continuing injustices in Sri Lanka. It would be revealing to know who helped these MPs organise their visit and arrange for them to meet Mr Rajapaksa. In the face of mounting evidence of war crimes and crimes against humanity, why did these Labor MPs make positive statements about the President, who has been implicated in war crimes and crimes against humanity?

The Tamils expressed to me the hope that these MPs, and all MPs in our state and federal parliaments, would closely follow the work of the team mandated by the UN Human Rights Council to conduct a comprehensive investigation of alleged human rights violations in Sri Lanka. The three distinguished experts leading this investigation are: Mr Martti Ahtisaari, former President of Finland and Nobel Peace Prize laureate who has also served as a UN diplomat and a mediator, and is renowned for his international peace work; Ms Silvia
Cartwright, former Governor-General and High Court judge of New Zealand, and judge of the Extraordinary Chambers in the Courts in Cambodia, as well as former member of the UN Committee for the Elimination of Discrimination against Women; and Ms Asma Jahangir, former President of Pakistan's Supreme Court Bar Association and of the Human Rights Commission of Pakistan, previous holder of several Human Rights Council mandates and member of a recent fact-finding body into Israeli settlements.

They will be handing down their report in March. The world will be watching. As is the style of the Sri Lankan government, their PR machine will most likely already be in full swing to neutralise any adverse findings. The power of the ruthless Rajapaksa regime is a constant reminder of why we need MPs in Australia who are independent and consult with the diaspora Tamil community and multiple international human rights and legal organisations that are concerned about the abuses in Sri Lanka, so that they do not give comfort to this dangerous president through ill-advised statements. The world has finally woken up to the atrocities of the Rajapaksa government. Australia may well be one of the last countries standing with and giving cover to a president and government accused of war crimes, crimes against humanity, genocide and ongoing human rights abuses.

Australia Post

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (13:18): I had an opening for my presentation today—and it too is on Australia Post, similar to the contribution made by Senator Urquhart—but I am diverted to urge Senator Urquhart and others not to politicise the debate in relation to the progress of Australia Post. The circumstances in which thousands of our small licensed post offices and other stakeholders in this space find themselves have arrived after 20 years of neglect of a Commonwealth government of all persuasions. It is pox on all our houses. It would not be useful to them, to the debate and to the decisions that have to be taken to start to deal with this on a partisan level and attack the government. Within weeks of coming to office, this government got the inquiry going into the circumstances of licensed post offices—with the support of Senators Madigan and Xenophon, and led by now retired Senator Boswell—that has resulted in the report, as indicated by Senator Urquhart, presented in this place on 24 September.

Let me now return to where Senator Urquhart and I agree—and I think all senators in this place generally agree. We have a critical situation—acutely critical in terms of the circumstances of the hundreds and possibly thousands of licensed post offices of this nation. They find themselves in these circumstances because of a litany of neglect by respective governments over a long period of time who have failed in their duty of care to these enterprises who deliver our community service obligations to keep them properly paid and indeed viable. It is a matter of public record that had CPI been applied to the payments that are made to these licensed post offices, in some instances those payments would be 70 per cent higher than what they are now. So it is truly a pox on all our houses. But there should be no energy devoted to where we have come from. Everything needs to focus on where we need to go.

The impacts on these post offices and some of the changes that are contemplated are impacting beyond the post offices. I am going to focus today, given I sit with the National Party, on the impact on rural and regional communities. In some cases, these post offices are the maypole of an entire community. After decades of economic rationalism on the part of all
sorts of governments, we have seen a depletion of services to people who live in regional and remote Australia. They have lost their courthouses, they have lost their railway stations, we have pulled up their rail lines, we have taken away their banks and we have almost given licence to the private sector to abandon these communities with us because they were not as profitable perhaps as investment somewhere else. In many cases the post office remains as the centre of that community. Post offices were always going to be the most affected when there was a reduction in the use of mail, which then impacts additionally, as a circumstance of aggravation, on elderly people in our communities who rely upon mail. They still write letters and they still receive letters; this is how they communicate. They are not up with the technologies in some cases. Indeed, in rural areas some of them do not even have good internet service, and some areas do not have any internet service. So you take the mail away. You take their ability to communicate through the internet—they have intermittent hard line services and absolutely no mobile services. So the impact of this, if we are not careful, will be catastrophic on some of these communities and the people who live in them.

There are other stakeholders who are interested in this question. The postal industry, for example, right across this nation will be impacted very negatively by any reduction of services that are delivered via what I call hard mail—that is, paper in a letterbox. They are taking a keen interest in what is happening because it will impact on their industry quite negatively. There are the employees of Australia Post, a loyal and proud workforce who, as a matter of history, delivered our first community service obligations in this nation in 1788. When the ships came out from England after the First Fleet, when the Second Fleet arrived, the first thing unloaded was the mail. It is the first community service obligation that this government took responsibility for all those hundreds of years ago—not medical services and not education services but postal services. There are legendary stories about how men and women over the decades and over the centuries have proudly continued to deliver these services. I say we have a responsibility to them to pay care and attention to ensuring the viability of this enterprise, a very proud, iconic enterprise of this country.

There are some very disturbing statistics involved. There was some survey work done where there were 250-plus respondents who operated licensed post offices: 74 per cent of those respondents indicated that they had to inject external investment into their businesses to remain operational—not to remain viable but to remain operational, and there is a difference; 79 per cent, slightly up on that figure, indicated that they are not viable as a test; only 18 per cent believe that they would continue to survive and operate profitably over the coming two years, the survey having been done in the middle of 2014; and 98 per cent said that businesses were not mutually beneficial with Australia Post. These are, in effect, franchisees who are referring to their franchisor. They do not have a symbiotic relationship where they think that what they do is beneficial. And disturbingly—and this ought to send alarm bells off for everybody—of the respondents who were caucused, they indicated that contingent liabilities that they were unable to meet made up about $2.154 million. These are things like taxation obligations, contingent liabilities like the BAS payments, super contributions retained on behalf of their staff and things such as long-service and holiday pay. These are operators who themselves went for long periods between their own holidays or being able to nourish their family with any profits from these enterprises, reporting for the most part that they were not profitable.
One thing that Senator Urquhart was quite correct about—and I do not think we disagree even by the width of a Tally-Ho paper—is the fact that the minister should pay serious attention to many of the recommendations that were made in the report that was delivered in this place back in September. In particular—and this is at the heart of my argument and has been since day dot of my involvement in this—is recommendation No. 17, where it is recommended that the Minister for Communications undertake an independent audit of the licensed post office network, specifically to determine the validity of claims made by licensees that payments made under the agreement are not fair or reasonable. It goes on to recommend that, if it is found that they are not fair and reasonable, an inquiry should be held to determine what it ought to be. The clear question in that is the question of independence. Recommendation No. 17 says it should be conducted independently, and I mean seriously independently, of Australia Post. They did a hatchet job approach of it with KPMG. It was an embarrassment—I say—to KPMG and to Australia Post. I have never read a more partisan report. It definitely was not independent. The instructions were inadequate, and I think it failed on every financial level and bordered on being misleading in its presentation. I will close by saying that I agree with Senator Urquhart that the minister should look at the recommendation that approves an independent inquiry.

Haemochromatosis

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (13:28): This afternoon, I am going to speak on one of my favourite topics: inherited iron overload disorder or hereditary haemochromatosis. A great deal was known and said about iron deficiency and, while this is a very real and important problem, less common is the knowledge that some people have the opposite problem: their body builds up too much iron. Haemochromatosis is an inherited condition which affects roughly one in 200 people of northern European origin, and on average one in eight are genetic carriers. As such, it affects over 100,000 people in Australia and is actually our country’s most common genetic disorder.

I talk a lot about haemochromatosis in this place, and I intend to continue doing so to raise awareness of this condition. There are a number of reasons why raising awareness of the haemochromatosis is so important. First of all, haemochromatosis is heavily underdiagnosed. This is because the initial symptoms can be caused by other medical conditions or even just stress. These symptoms include fatigue, weakness, lethargy, joint pains, sexual dysfunction and psychological disorders, such as impaired memory, mood swings, irritability or depression.

Another thing that makes haemochromatosis difficult to diagnose is that the symptoms may develop slowly, and can vary from one person to another. They could be influenced by other lifestyle factors, such as age, diet, alcohol intake and blood loss through blood donation or menstruation.

It is important, however, that haemochromatosis be detected, because the later symptoms can be quite catastrophic. I am talking about diabetes, cardiac arrhythmia or liver disease, and eventually the failure of organs such as the heart, liver or kidneys, which may require expensive treatments such as dialysis or transplants.

While many people living with haemochromatosis—if unaware of their condition—could go on to develop these life-threatening symptoms, it does not have to be this way. The treatment for haemochromatosis is simple and cheap.
Our body's iron stores are depleted by blood loss, so haemochromatosis patients are treated by blood-letting, or therapeutic venesection, which is performed by the Australian Red Cross, and is basically the same process as blood donation. In fact, blood extracted through therapeutic venesection can be donated, as long as patients pass the same screening process as regular blood donors. But, if we are going to get people with haemochromatosis diagnosed and treated, and avoid the worst consequences of the condition, then we must raise awareness.

We must get general practitioners thinking about whether their patients might have hereditary haemochromatosis, and the patients themselves questioning their GPs about whether an iron overload might be the cause of their symptoms.

A fantastic organisation I have worked with and supported over many years, Haemochromatosis Australia, provides support and advocacy for people living with haemochromatosis. Over the past 20 years, Haemochromatosis Australia has been working hard to raise awareness of the disorder in the general public and the medical profession. In August this year, I was pleased to launch Haemochromatosis Awareness Week at Haemochromatosis Australia's annual general meeting in Hobart. The AGM followed an information session addressed by various experts. One of the speakers, Barbara De Graaff from the University of Tasmania, discussed the findings of her study into the health economics of screening for hereditary haemochromatosis—a topic I will return to later.

During the same week I opened Haemochromatosis Australia's Overload exhibition, an annual fundraiser for the organisation, and purchased one of the artworks. I am happy to continue supporting Haemochromatosis Australia because of the incredible contribution they make to supporting and advocating for people with hereditary haemochromatosis, and the benefits their work brings to Australia's health system.

One of my achievements during my time in this place was to secure $30,000 funding for a conference on haemochromatosis with the help of the then Minister for Health, Tanya Plibersek. It is a small amount of money in the context of the federal budget, but, for Haemochromatosis Australia, who received the funding, it went such a long way, and I thank Ms Plibersek for her help and support.

The conference, held in May this year at the Austin Hospital in Melbourne, featured professional and consumer streams, and promoted the exchange of knowledge between researchers, clinicians, primary care workers and people affected by iron overload. A panel discussion at the end of the conference featured some of the most eminent experts in genetics, medicine, health policy and health-related law. Experts such as Professor Lawrie Powell, the Director of Research at the Royal Brisbane and Women's Hospital, who has received the Marcel Simon Prize, awarded by the International Haemochromatosis Research Foundation in recognition of his scientific achievement in the field of genetic iron overload diseases. There was also Emeritus Professor Richard Smallwood AO, who has published over 250 scientific and clinical papers, mostly in his specialty of liver diseases. Professor Smallwood has served as President of the Australian Medical Council, the body which accredits medical schools, and has been President of the Australian College of Physicians, and from 1999 to 2003 was Australia's Chief Medical Officer. There was also an international expert, Dr Paul Adams, the Chief of Gastroenterology at the University of Ontario, who was principal investigator in a study which screened over 100,000 people for iron overload. Dr Adams has studied many aspects of iron overload, including the cost-effectiveness of screening.
Other experts at the conference included Professor Martin Delatycki from the Austin Hospital, a clinical geneticist and expert in genetic screening; and Professor Loane Skene from the University of Melbourne, an expert in medical law and ethics who serves on numerous state and federal advisory committees.

The panel discussion focussed on whether Australia should screen for hereditary haemochromatosis and there was unanimous agreement from the speakers that we should. This is backed up by data from overseas showing substantial cost and human benefits from screening. At the moment, Medicare covers limited genetic screening for haemochromatosis through a test to detect mutations to the HFE gene. This is provided for under Medicare Benefits Schedule item number 73317. In the last financial year, a total of 59,504 services were provided under this item. In order to be eligible for this item, the patient must have a first degree relative—such as a sibling, parent or child—with haemochromatosis, or must have tested twice for elevated iron levels. Haemochromatosis Australia have been advocating for this benefit to be extended to all 18-40 year olds, regardless of their circumstances. If more patients are tested and subsequently diagnosed, many Australians with haemochromatosis could avoid falling ill. Not only would early detection and treatment save a lot of money for the health system, it would increase the pool of regular blood donors, thereby increasing Australia's blood supply.

To explain the benefits, consider the current requirement that a patient must test positive for high iron levels before they can receive a Medicare benefit for the test. Those who have met this condition may already be suffering the symptoms of iron overload and the treatment of their symptoms would be very costly to the health system. Surely it would be better to have the genetic condition diagnosed before a patient goes on to develop iron overload and its symptoms.

We should also keep in mind that many Australians with the genetic mutation for haemochromatosis will not actually go on to develop iron overload. Unless a first degree relative of these patients is found to have haemochromatosis, or be a carrier of haemochromatosis, those patients will not be eligible for this benefit. However, by finding out they have the genetic mutation, or that they are a carrier, they can determine the risk to their family members, especially their children.

It is expected that with a larger volume of services the cost of the test could reduce from $36.45 to $20. The test could also be made even cheaper if combined with other routine screening tests, such as a cholesterol check, prostate antigen test or Pap smear.

Around 265,000 Australians move into the proposed eligible age range for this test each year. A 50 per cent take-up of screening would result in an annual cost of between $2 million and $3 million. Once detected, the subsequent treatment of haemochromatosis patients by venesection not only is inexpensive, non-controversial and drug free but actually benefits our health system by contributing to emergency blood supplies. The cost of testing and treatment is substantially less than the potential cost of treating the symptoms of haemochromatosis when it is either not diagnosed or diagnosed too late. Even where haemochromatosis has been diagnosed, in many cases it has been after serious and sometimes irreversible health impacts have occurred. So I ask the simple question: why not make the subsidy for genetic testing of haemochromatosis more widely available when it has the potential not only to prevent serious
illness but to save our health system money? I am not exaggerating when I say that the detection and prevention of hereditary haemochromatosis could save lives.

I understand that Haemochromatosis Australia representatives have had very positive meetings about this subject with the Assistant Minister for Health, Senator Nash, and the shadow minister, Ms Catherine King. Extending the Medicare Benefits Schedule, as proposed by Haemochromatosis Australia, is, of course, a matter for the independent Medical Services Advisory Committee. The next step is for the organisation to put its proposal to the committee. Haemochromatosis Australia has various medical experts among its membership who will be able to explain the medical evidence that will support the argument for the proposal. I wish the organisation the very best of luck with its proposal. (Time expired)

Coal Industry

Senator LEYONHJELM (New South Wales) (13:38): To the many Australians who are the silent majority in the debate about the value and benefits of coal to this country, I think it is time to acknowledge the 55,000 men and women employed in the Australian coal industry. They keep the lights on. I would also like to thank the coal industry itself for the $5 billion in wages paid to those workers. We need to reaffirm the positive contribution coal makes to this country and to our lives. Coal is our second biggest export, earning $38 billion in 2013. The coal industry directly provided $3.2 billion in royalties to state governments and $10 billion more in company and employee taxes. That money pays for schools, hospitals, pensions and all the other services we expect governments to provide. This money does not fall from the sky; we must earn it. Coalmining does that for us. It is indisputable that every Australian benefits from the use of and export of coal.

Nobody in their wildest green dreams has any expectation that we will ever generate export dollars by sending renewable energy overseas. Our high standard of living is underpinned by the wealth and energy created by coal, which is by far the greatest contributor to the electricity that powers industry, heats and cools our homes, cooks our food and charges our smartphones. This is not so for the 1.4 billion people on this planet who have no access to cheap energy. For many, their days are spent unproductively gathering firewood and animal dung for heat, cooking and washing. No flick of the power switch relieves them from poisonous fumes from cooking fires—one of the Third World's biggest killers. They are almost predestined to poverty through lack of cheap energy—something they realise and are desperate to avoid. The world's biggest democracy currently has 300 million people who have no access to electricity at all. India is rich in culture and history but its poorest people live in grinding poverty where life without electricity is hard and dirty, with dim prospects for immediate improvement. India is a very big consumer of Australian coal. It seeks to lift its people out of poverty. Energy, like water, is a wealth generator. The energy provided by Australian coal is an important part of ending poverty in India.

In praising the virtues of coal, I am stating the obvious. But it would appear that it is necessary, because some people seem to have entirely lost the plot. It is bizarre that well-fed, well-paid activists in Australia campaign for an end to coalmining. The consequence of this, if it were to succeed, would be to deny the most economically viable energy source to the world's poorest people. Not only is it a gross understatement to characterise this stance as economically illiterate when it comes to Australia's wellbeing but it is also morally repugnant for the future prospects of the world's poor. So, to that pious minority who oppose coal, I say:
'Don't stop at divestment of your coal shares. Turn off your coal-powered computers, air conditioners, lights, fridges and entertainment systems. Then book a flight to a country that does not have access to reliable electricity to live out your convictions.' But I do not expect they will do that. Those opposing coal are happy to deny the benefits of coal to those who need it most, but they do not have the strength of their convictions to practice what they preach.

By all means, let us welcome viable renewable energy. And, while we are at it, let us cast off last century's ideological thinking opposing nuclear energy. There is also no question that we should continue improving the way in which we use coal, because, of necessity, we will be using it for decades. And that is good. Until there is a better solution to the world's energy needs—one that provides 24/7 baseload electricity, whatever the weather, at a price the world's poorest can contemplate purchasing—it is unreasonable to expect us to live in the dark, fantasising about a world without coal.

**Defence Abuse Response Taskforce**

Senator JOHNSTON (Western Australia—Minister for Defence) (13:43): Today, two reports by the outgoing chair of the Defence Abuse Response Taskforce, or the DART, by the Hon. Len Roberts-Smith RFD QC, on the work to date of the task force and on Defence abuse at the Australian Defence Force Academy were tabled in parliament. Mr Len Roberts-Smith and his task force team have worked very diligently in often difficult circumstances to deliver outcomes for former Defence members who have alleged that there has been abuse against them. In their dealings with complainants on these very serious and difficult matters, they have demonstrated empathy and compassion.

The DART was created to provide Defence personnel who have complained of physical abuse, sexual abuse, harassment or bullying with an avenue for resolution through counselling, reparation payment, participation in a restorative-engagement process and other more traditional means, such as administrative sanctions or criminal action against the perpetrators.

I recognise that considerable work remains to be done. Further support is required for those who have contacted the task force. The government is determined to ensure that the task force's terms of reference are fully and independently discharged. While the task force was due to conclude on 30 November 2014, the government has decided to extend it with a view to bringing its important work to a timely and appropriate conclusion.

The Attorney-General and I have appointed the current deputy chair of the task force, Mr Robert Cornall, to lead the task force and accelerate its work. As a former secretary of the Attorney-General's Department, Mr Cornall brings a wealth of experience to this position. In response to Mr Roberts-Smith's recommendations regarding the Australian Defence Force Academy, I have also directed the Department of Defence to engage the Sex Discrimination Commissioner to work with me to examine the issues raised in the report on Defence abuse at ADFA. I have worked with Ms Elizabeth Broderick in the past and she has a great deal of credibility on this issue. She is a strong advocate for women, she led the review into the so-called ADFA Skype incident and she is very familiar with both ADFA and the wider Defence community.
I recognise the harm done to some people. I am working hard—indeed, I am committed—to ensure that where harm is done, the men and women of the ADF have a place to go that is independent, a place where outcomes are fair and transparent. The government will respond in the near future to these reports and will consider Mr Robert-Smith’s recommendations, including that of a royal commission being conducted with respect to ADFA. We will consider those recommendations very carefully.

Remembrance Day

Shop Small Campaign

25 Days of Volunteering

Senator SESSELJA (Australian Capital Territory) (13:46): On 11 November 2014 Australia marked the 96th anniversary of the guns falling silent at the end of the First World War. It was a time of reflection for the world. I attended the national Remembrance Day service at the Australian War Memorial to pay tribute to the Australian men and women who have died and suffered in wars and conflicts in the name of our great nation.

One of the great privileges of being a senator for the ACT is having such iconic and important institutions, such as the Australian War Memorial, within my electorate. Charles Bean, the man who conceived the Australian War Memorial, within my electorate. Charles Bean, the man who conceived the Australian War Memorial, wrote of his vision for it in 1918: still, beautiful, gleaming white and silent, a building of three parts, a centre and two wings. The centre will hold the great national relics of the AIF. One wing will be a gallery—holding the pictures that our artists painted and drew actually on the scene and amongst the events themselves. The other wing will be a library to contain the written official records of every unit.

On 11 November 2014, some 96 years on, his vision stands fulfilled in our nation’s capital. It is an enduring memorial, which stands opposite this very parliament. It is a resolute and perpetual memorial that is at the centre of our nation’s consciousness, both physically and spiritually. The ever-watchful gaze of the Australian War Memorial on the heart of our democracy fittingly reflects the constant and unfaltering service of our Defence personnel in protecting our way of life and values.

I was privileged to stand in silence, honouring our fallen service men and women, and acknowledging our Defence personnel for their unshakable resolve in defending Australia and its interests. In the spirit of honouring Australia’s service men and women, the Minister for Veterans’ Affairs, Senator the Hon. Michael Ronaldson, announced that the CEW Bean Foundation was successful in its grant application for $100,000 to construct the War Correspondents’ Memorial. The foundation was awarded the grant under the federal government’s Saluting their Service commemorations program. The War Correspondents’ Memorial will be constructed at the Australian War Memorial and is due for completion in 2015.

The memorial will honour the war correspondents, photographers, artists, and film and sound crews who risked their lives to document and share the experiences of all Australians who have served in conflicts with their loved ones and the wider public who remained in Australia. It is through the work of such individuals that we might begin to grapple with the experiences of our service personnel. This shows a continuing commitment to the vision of Charles Bean and further shows the commitment of the Australian people in honouring their service men and women.
While we may never understand what our service men and women have gone through, we must remain committed to enshrining their experiences in our nation's memorials. I commend the minister and the government on what will be a great addition to our War Memorial.

I turn now to the Shop Small campaign, which is an excellent initiative. It is about highlighting the value of small business and encouraging people to get behind small business. I have always been a strong advocate for small business here in the ACT and beyond. The ACT has a vibrant small-business community and whilst government is very important as an employer, here in Canberra, most of our private sector is made up of small businesses.

On Wednesday, 12 November, I visited the Coffee Guru cafe in Gungahlin to help out the team, by clearing tables and taking orders, as part of the Shop Small campaign. Shop Small is in its second year here in Australia and I am excited to see that it is growing. The Shop Small initiative is a movement dedicated to supporting the small businesses that collectively provide over 45 per cent of private-sector employment across Australia. Small business is an essential pillar of the Australian economy. It is incredibly important that we support our local small-business sector. Shop Small is part of that support and I implore all Australians to engage with this campaign.

Shop Small is about reminding the community of the importance of supporting their local butcher, cafe, dry-cleaner, newsagent or grocery store amongst many others. Small businesses are the key to creating more jobs and Australia's prosperity. Small businesses particularly assist the younger generation in securing employment early on in life. They provide the opportunity for youths to learn valuable skills that will set them up for any career they choose to undertake.

A solid foundation of healthy small businesses is essential for the growth our communities. This is a challenge to all of us to shop small and support our local small businesses. Not only will it directly enhance the strength of our local communities but also it will collectively help build a robust and resilient Australia.

Volunteers play a vital role in our community and they are so often taken for granted. That is why I decided to sign up for the 25 Days of Volunteering campaign, which is run by the ACT Volunteering team. This is an initiative that is preoccupied with enriching the ACT through volunteering. It is an extensive program that works towards strengthening participation in volunteering programs across the ACT through a 25-day blitz of community service. Volunteering ACT represents an extensive base of organisations totalling more than 200. Volunteering ACT describes itself as an active link between community groups and prospective volunteers.

Volunteering ACT paired me up with the Intensive Care Unit volunteer program at the Canberra Hospital. I was met by Amanda Mironow, who coordinates the volunteers at the hospital. Amanda provided me with an orientation pack which contained all the tools and information I needed to start my shift. It was a wonderful experience to see the work that the volunteers do and the work that the nursing and medical staff do in the intensive care unit. The volunteers play a really valuable role in taking some of the pressure off the excellent paid staff that we have at the Canberra Hospital. It was wonderful to hear from some of the volunteers about their commitment to serving their community and their nation.
Queensland Government

Senator LUDWIG (Queensland) (13:54): I rise to draw the attention of the Senate to the attacks on working men and women in my state of Queensland. Through a series of legislative changes the Newman government has stripped back and reduced workplace health and safety standards, slashed the workers compensation provisions and undermined the independence of the industrial umpire. These attacks on Queenslanders are driven by nothing more than an ideological fervour to undermine the pay and conditions of workers—it appears to be in the DNA of the Liberals. The Newman government this year introduced legislation which prevents workplace based health and safety officers from having the power to stop work or a particular activity if the workplace or a particular activity is deemed a safety risk, and prevents union WHS officers or organisers from having access to sites when there is a safety risk or there has been an incident. This is achieved by imposing the requirement for union officials to give notice of their intention to enter the site and requiring them to wait 24 hours before they are allowed to enter the site. This clearly creates a risk that evidence will be changed after an incident or that some irresponsible employers will change safety concerns before having the WHS representative on site. These changes present a direct threat to the safety of workers as well as a major hurdle to potential workers compensation claims.

I turn now to the outrageous and unprecedented workers compensation scheme changes enacted by the Newman LNP government. These changes are so out of touch, so extreme and so unfair that even the LNP dominated Queensland parliamentary committee which inquired into the proposed legislation brought down a unanimous report that supported the existing workers compensation scheme in Queensland. The Queensland Attorney-General ignored the recommendation by his own MPs to keep the existing scheme and introduced his extremist agenda to tear down Queensland's workers compensation scheme.

The key change that the Newman government introduced was a threshold of a five per cent degree of permanent impairment, or DPI. This means that a worker assessed as having less than five per cent DPI would have no recourse to pursue common-law claims. The legislation means that a five per cent threshold would be applied even if the injury was significant enough to prevent an injured worker from returning to their employment or the injury was caused by the negligence of the employer.

Another radical and inherently unfair part of the legislation is the requirement for prospective employees to disclose any previous injury regardless of whether that injury would impact on the ability of the prospective employee to carry out the work required for the role. It also creates a central database of claims history which employers can apply to access. Employers could claim that a worker had an undisclosed injury and would therefore not be able to receive compensation if they are injured. This legislation is actively discouraging previously injured workers from coming back into the workforce by clearly discriminating against them.

The Newman government has created the most anti-worker and unbalanced industrial relations jurisdiction in this country. Provisions which both sides of politics have come to hold as non-controversial and key to creating a balanced approach to industrial relations have been torn apart by the Queensland government's extreme far right policies to hurt workers. It is easier to leave WorkCover for self-insurance now as a consequence of these changes. Premier Newman and his Attorney-General have made it significantly easier for employers to
leave WorkCover. As a result of the LNP's changes, WorkCover now has the power to use or renew a self-insurance licence to employers who fail to meet basic provisions. These provisions are that the employer has a minimum of 2,000 full-time equivalent workers employed in Queensland; has satisfactory occupational health and safety performance; has given the required unconditional bank guarantee or cash deposit; has the required reinsurance cover; and is fit and proper to be self-insured.

The scheme has a workers compensation pool to spread the risk to ensure that all workers and all employers continue to be covered and have a decent workers compensation system in Queensland. This could be torn apart by these changes. When self-insurers scoot out of the system, there will be less in the scheme and workers will then bear the brunt of this. It has been the hallmark of the Newman government to attack workers through legislation in occupational health and safety, industrial relations and workers compensation. In the industrial landscape, we have also seen the mass sacking of tens of thousands of workers and severe cuts for Queenslanders. They deserve much better.

QUESTIONS WITHOUT NOTICE

**Defence Procurement**

**Senator Wong** (South Australia—Leader of the Opposition in the Senate) (14:00): My question is to the Minister for Defence, Senator Johnston. I refer to the minister's personal denigration of the workers at ASC in question time yesterday when he stated 'I wouldn't trust them to build a canoe'. I also refer to the Prime Minister's repudiation of the defence minister when he said last night that the ASC 'plays a vital role supporting the Royal Australian Navy and our key naval capabilities'. Given that the Prime Minister's statement shows that he no longer has confidence in the defence minister, how can the minister continue in his role?

**Senator Johnston** (Western Australia—Minister for Defence) (14:00): This morning I took my medicine for an hour. I did say something that I regret. Gee, I do not think I am first cab off the rank—and I am looking straight at Senator Conroy. Let's talk about Defence. It was me who, back in 2009 during Defence estimates, worked out that we were paying around a billion dollars a year and we did not have any submarines in the water. I then, for the first time ever, got the executive officer of ASC to come to Senate estimates and I asked him: why, with a gross turnover of $750 million, was there only a dividend of $2 million? And what is the problem with the sustainment of submarines? He set out a number of problems.

The comparisons across the world were quite concerning. It was my constant reference in Defence estimates and in the public accounts committee that brought this matter forward. Indeed, may I say, the owner of ASC, the then finance minister—who happens to be sitting just over there—had to be told what the letters ASC actually stood for. And of course, as a result of my constant badgering we had the Coles report. The Coles report is very serious, sober reading. (Time expired)

**Senator Wong** (South Australia—Leader of the Opposition in the Senate) (14:02): Mr President, I rise to ask a supplementary question. I refer the minister to comments by the education minister, Mr Pyne, that 'The Minister for Defence shouldn't have made that statement,' and 'The Prime Minister has made it clear that he does not support that statement.' If the defence minister has lost the confidence of his cabinet colleagues, how can he continue in his role?
Senator JOHNSTON (Western Australia—Minister for Defence) (14:03): Sadly—I know it is disappointing—I have said that I regret the comments and I should not have made them.


Senator JOHNSTON: May I say, in accepting that interjection, Steven Marshall is a very fine man and should be the Premier of South Australia.

Opposition senators interjecting—

The PRESIDENT: Order! Pause the clock.

Senator JOHNSTON: Steven Marshall is a very fine man who should be the Premier of South Australia. The point about all of this is that this is a vital program run by a vital government agency, a government business enterprise, ASC, that for six years was just left to founder by the person sitting at the leader's table on the opposition. The program that we inherited is a very vital program. (Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:04): Mr President, I rise to ask a final supplementary question. I refer the minister to comments by the person he described as a 'very fine man', Mr Marshall, who said that the comments by the minister were nothing short of deplorable and described his position as 'untenable'. If the defence minister has lost the confidence of the Prime Minister—

Opposition senators interjecting—

The PRESIDENT: Pause the clock. Senator Wong, wait until we have silence behind you.

Senator WONG: Thank you, Mr President. If the defence minister has lost the confidence of the Prime Minister, his cabinet colleagues and the South Australian Liberal leader, how can he continue in his role?

Government senators interjecting—

The PRESIDENT: Order on my right.

Senator JOHNSTON (Western Australia—Minister for Defence) (14:05): One of the principal reasons for my contrition—and let me say, looking at the conduct over the other side over the last six years, there has never been one single piece of contrition—is that Steven Marshall said what he said, because I simply admire him and call him a friend. As the man that I am, I accept his criticism. However, I believe that the Prime Minister has full confidence in me. Indeed, I believe my cabinet colleagues understand, because we are a very good team. We understand exactly the difficulties we are confronting in Defence. We are supportive and are willing to understand that what I said was in extreme frustration.

Defence Procurement

Senator BERNARDI (South Australia) (14:06): My question is also to the Minister for Defence, Senator Johnston.

Opposition senators interjecting—

The PRESIDENT: Order!

Senator BERNARDI: Would the minister update the Senate on the progress of the air warfare destroyer program, which was running more than $350 million over budget and 21 months behind schedule under the watch of the former finance minister, Senator Wong.
**Senator JOHNSTON** (Western Australia—Minister for Defence) (14:07): I thank Senator Bernardi for his support and interest in the Defence portfolio. When we came into government we faced a potentially critical problem with the air warfare destroyer program. As Senator Bernardi has quite rightly said, it was running 21 months late and $360 million over its target cost; and that was about midway through the construction of ship one. Labor failed in its duty to deliver naval capability. Issues were put in the too-hard basket, just as I have indicated over so many weeks with the Future Submarine project. So yet another challenge was left to this government, and more particularly Defence—to me—to fix. We all want a viable local shipbuilding industry; I think that is a given. People are supportive of our defence industry, but they do expect and demand value for money. The air warfare destroyer program must be recovered, and the Abbott government has a plan to do this. Minister Cormann and I commissioned the Winter review to get to the bottom of what was wrong with the program. The overall intention is to get industry to the type of productivity we were able to demonstrate through the Anzac frigate build program. Our advisers are working hard behind the scenes with ASC and the other industry players to transform this program from the problem that it was. It has been an enormous challenge.

**Senator Conroy interjecting**—

**The PRESIDENT:** Senator Conroy, you will have an opportunity later to ask questions.

**Senator JOHNSTON:** And yes, we have been frustrated. But I am very pleased to say that through our combined efforts we are beginning to see the types of green shoots that our program was designed to produce. Ship one has been consolidated and is being fitted out ready for launch next year. Ship two is well into construction and has improved in terms of productivity, not cost, by 30 per cent. Ship three's blocks are now under construction. If this keeps up we may have a shipbuilding industry in Australia.

**Senator BERNARDI** (South Australia) (14:09): Mr President, I ask a supplementary question. I would ask the minister to inform the Senate of what other action the government is taking to support Australia's important shipbuilding industry.

**Senator JOHNSTON** (Western Australia—Minister for Defence) (14:09): Again, I thank Senator Bernardi for the question. As you know, I have been a strong advocate for maintaining shipbuilding in Australia. Indeed, there is a Senate report from about 2006 that sets that out. Unlike Labor, the government's interest has been in action rather than rhetoric; in decisions, not doorstops. The government has funded $78.2 million—remember we have only spent $60 million of the $214 million for submarines—and work is now underway to bring forward preliminary engineering and design deliverables that help us to understand how to build future frigates in Australia—in South Australia. This will focus on the continued production of the current AWD hull using cutting-edge Australian companies, including our own indigenous radar electronic system. In parallel, the government is reviewing Australia's shipbuilding requirements, capabilities and capacities in order to inform a long-term strategic plan.

**Senator BERNARDI** (South Australia) (14:10): Mr President, I ask a further supplementary question. Could the minister advise the Senate of how the government's support of Australian shipbuilding compares with the record of its predecessors?
Senator JOHNSTON (Western Australia—Minister for Defence) (14:10): Again, I thank Senator Bernardi for the question. In August 2007 the then opposition leader, Kevin Rudd, said that (1) a Labor government would ensure that submarines were built by ASC and (2) construction would begin in about 2017. And then he said: 'Starting the process this year—2007—will guarantee continuity of work for South Australia's defence industry.' But, as we all know, absolutely nothing was done. Gee—that sounds a bit like a broken promise, I would have thought. Instead, they took $20 billion out of the Future Submarine program. When I became defence minister I was immediately advised that Navy faced a capability gap because nothing had been done.

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy!

Senator JOHNSTON: You would think, given the bleating now, that they would have been interested in at least writing a contract. But no. Under Senator Wong's watch the program for AWD—(Time expired)

Defence Procurement

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:11): My question is to the Minister for Defence, Senator Johnston. I refer the minister to his disgraceful statement yesterday that he would not trust ASC workers to build a canoe. I refer to the Defence Procurement Policy Manual, which notes bias as a major risk factor for any ethical or probity breach in a tender process. Given the minister's clear bias against the ASC, is there any way that he could be involved in a fair process for selecting Australia's submarines that is consistent with defence procurement policy?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:12): Clearly, Senator, you do not understand the first- and second-pass acquisition process. Indeed, may I take you to your very own acquisition for HMAS Choules. There was no competitive process. There was no first or second pass. There was simply a cheque for $100 million. And, Senator, your ignorance really does astound me, because if you knew about high-end acquisitions you would know that the second- and first-pass process is one that is conducted, particularly for these sorts of acquisitions, very transparently and very carefully. At the end of the day I can only say to you that your reference to bias is completely and utterly ignorant and irrelevant.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:13): Mr President, I ask a supplementary question. I draw the minister's attention to the Defence Procurement Policy Manual, which says that proper procurement involves the appropriate management of conflicts of interest and making decisions without being influenced by personal bias. Given the minister's clear personal bias against ASC and the Australian defence industries, how can he possibly make a proper procurement decision on the Future Submarine project?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:14): Perhaps I can just say that the process will be, as I have said on several occasions, open and transparent. And, for your information, Senator, I actually do not make the decision. The project is so large that it will go the National Security Committee of cabinet. The government will make the decision and everybody will understand that the process for this really important strategic
capability will be done properly in a timely manner that provides Navy with the best possible capability at the best possible price.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (14:14): Mr President, I ask a further supplementary question. Hasn't the minister made his position as minister responsible for the Future Submarine procurement project untenable?

**Senator JOHNSTON** (Western Australia—Minister for Defence) (14:15): No.

### Leadbeater's Possum

**Senator RICE** (Victoria) (14:15): My question is to the Minister representing the Minister for the Environment, Senator Cormann. Minister, this weekend my constituents in Victoria are faced with an abysmal choice when it comes to electing a government which will save the Victorian animal emblem, the Leadbeater's possum, from extinction. The current Victorian government continues to subsidise clear-fell logging of its habitat and has allowed the loggers to dominate the development of its so-called action plan to save the possum—indeed, it has required ongoing logging as part of the plan. The alternative government yesterday quietly released an environment policy which has been summarised by a leading scientist as 'about as much use as an ashtray on a motorbike'. Given the lack of political will from both the government and the opposition in Victoria, will the minister explain to Victorians what this government will do to prevent the Leadbeater's possum from going extinct?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:16): I thank Senator Rice for that question. Let me reassure Senator Rice: we on this side of the chamber love the possum. Indeed, as Senator Fifield has just told me, the possum is the state emblem of Victoria and, if Denis Napthine is returned as Premier of Victoria this Saturday, the Victorian possum will be safe. We on this side of the chamber, like Premier Napthine, also believe in building a stronger, more prosperous economy where people can get ahead. We believe in building a stronger, more prosperous economy in a way that is environmentally responsible. The state government in Victoria—the outstanding Liberal-National Party state government—has done an outstanding job in taking Victoria forward, and we strongly commend to the people of Victoria on Saturday: vote for Denis Napthine and his team.

I am always very interested when I am asked questions by the Greens on environmental matters, because we now know that the Greens are in favour of coal instead of hydro—

**Senator Rice:** Mr President, on a point of order: my question was: what will this government do to protect the Leadbeater's possum from going extinct?

**The PRESIDENT:** Minister, I remind you of the question. You have been relevant to this point. You have 37 seconds left.

**Senator CORMANN:** My message to the people of Victoria is that the best thing they can do for the future of the possum is to re-elect the Napthine government on Saturday. Even more importantly, the best thing they can do for the future of the people of the great state of Victoria is to re-elect the Napthine Liberal-National Party government. The Greens have no credibility when it comes to environmental matters. The Greens are led by a senator, Senator Milne, who is pushing for regular reductions in the cost of fuel. She is pushing for a windfall gain for big oil. The current leader of the Greens—*(Time expired)*

**Senator RICE** (Victoria) (14:17): Mr President, I ask a supplementary question. Minister, you state that you love the possum and that the Victorian possums will be safe. This is based
on the government's Leadbeater's possum action plan, which has received emphatic criticism from the scientific community and remains overshadowed by the continued clear-fell logging of the species' habitats. Successive state governments remain unwilling to stop logging, so what is this government going to do and how can it justify handing over environmental protection to the states?

Senator CORMANN (Western Australia—Minister for Finance) (14:20): What is this government going to do? This government is going to continue to work closely with the Napthine-led Liberal-National Party government in order to advance the best interests of the people of Victoria, and the possums will be part of that. I am sure that the government in Victoria will do everything they can to ensure that the Leadbeater's possum will be safe into the future but, more importantly, I am confident that the Liberal-National government in Victoria will continue to do everything they can to advance the best interests of the state of Victoria and to build a stronger, more prosperous economy in Victoria so that everyone has got the best opportunity to get ahead. And they will do so, as they have over the last four years, in a way that is environmentally responsible and environmentally sustainable.

Senator RICE (Victoria) (14:21): Mr President, I ask a further supplementary question. I refer the minister to the speech by the Minister for the Environment, Greg Hunt, in October, where he stated that he set a goal of ending the loss of mammal species by 2020. In this speech he also foreshadowed a new initiative to help the endangered Leadbeater's possum. Given that it is likely that next month, despite the actions of your government, the species will be re-listed as critically endangered, can the minister outline what exactly this initiative is and how soon it will be implemented?

Senator CORMANN (Western Australia—Minister for Finance) (14:22): Minister Hunt, of course, is himself from the great state of Victoria; and, like all of those on this side of the chamber, Minister Hunt loves possums too. What I would say to the Senate is that, if possums had the vote, I think possums across Victoria would be going to prepoll stations today in order to vote for Minister Hunt! I say to Senator Rice I do not believe the possums of Victoria have been persuaded by your pamphlets to go into the prepolling stations of Victoria, but I do hope the people of Victoria have been persuaded by the very strong arguments put forward by Premier Napthine and his team, and that is that what we need in Victoria is a return of the Napthine Liberal-National government, because that is in the best interest of the great people of Victoria.

Thomson, Mr Craig

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:23): My question is to the Minister for Employment, Senator Abetz, and follows an extended interview last week in which former Labor member for Dobell Mr Craig Thomson insisted he was innocent of any wrongdoing as National Secretary of the Health Services Union. Can the minister inform the Senate of the costs of Mr Thomson's investigation and litigation, the extent of misconduct by officials in registered organisations and the government's solution to this issue?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:23): I thank Senator Ruston for her interest in this very important topic. This week courts began hearing the appeal of former Labor member Craig Thomson against convictions for 65 dishonesty
offences involving payments for sexual services, personal travel and entertainment. Not only has the Thomson affair been immensely costly for the honest, hardworking members of the Health Services Union; it has also been immensely costly to the hardworking taxpayers of Australia: $4 million in the investigation and proceedings against Mr Thomson to date.

It is important to note that the conduct in question occurred some seven to 12 years ago. Regrettably, the type of conduct highlighted in the Thomson case is not isolated. The last year has shown that there are more than just one bad apple. Indeed, there is a veritable barrel of rorts, rackets and rip-offs which have been exposed, damaging the reputation of the trade union movement—including the secret slush fund of the Victorian Labor member Melhem, who used that slush fund to bankroll his lifestyle of excess and extravagance.

The government remains extremely concerned about such misuse of union members’ funds and that it is rife, and that is why we believe new regulation is required. That is why the government has introduced legislation governing registered organisations designed to protect honest union members and hold to account dishonest union officials. Labor opposition to this measure makes them culpable. The case for the passage of our registered organisations bill is now more overwhelming than ever.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:26): Mr President, I ask a supplementary question. Can the minister inform the Senate if he is aware of any support or criticism of Mr Thomson's conduct as the National Secretary of the Health Services Union?

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): Criticism of Mr Thomson's conduct was near-universal with one notable exception. It was the Labor Party, which repeatedly refused to condemn Mr Thomson's conduct. Indeed, Mr Shorten as workplace relations minister said, 'Yes, I believe him.' When a motion was put to the Senate to condemn Mr Thomson's misuse of union members' funds, Labor senators voted against the motion despite the findings of the Fair Work Commission. The so-called party of workers sold out the low-paid, hardworking members of the HSU simply to cling to power at any cost—and I really do mean any cost. Senator Dastyari, when he was New South Wales Secretary of the ALP, spent $350,000 of party funds on Craig Thomson's legal bills. It is time for Labor to get over this issue and support our legislation (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:27): Mr President, I ask a further supplementary question. Will the minister advise the Senate how the government intends to protect honest union members from the type of conduct of which Mr Thomson has been found guilty and is now appealing?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:27): I thank the Senator for the question. Our registered organisations commission legislation will have an educative aspect to it. It will also have a penalty aspect to it, bringing the officials of registered organisations into line with company directors. If as a company director you rip off your shareholders, you face five years imprisonment and over $300,000 worth of fines. If you are a union official ripping off union members, you only face a $10,000 fine. There is no material or moral difference between a company director ripping off shareholders and a union official ripping off union members. That is why we are bringing in this legislation. I can
therefore indicate to the Senate that I am very pleased to advise that the government will tomorrow list the Fair Work (Registered Organisations) Amendment Bill 2014 for the Senate to reconsider.

**Minister for Defence**

Senator GALLACHER (South Australia) (14:28): My question is to the Minister for Defence, Senator Johnston. I refer to reports in *The West Australian* which stated the minister apologised to the ASC chairman, Mr Bruce Carter, two weeks ago and said he would refrain from criticising the ASC in the future. Has the minister honoured that commitment?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:29): I did—

Senator Cameron: The answer is no. You could just say no and sit down.

The PRESIDENT: Senator Cameron, you were not asked the question.

Senator JOHNSTON: I did seek to sit down with the chair of the Australian Submarine Corporation and discuss issues with him. I do not believe that I apologised to him, but I did say there were problems that together we needed to address. I sought to engage him in a proper way as to the future, with an eye to delivering a further eight future frigates to Adelaide. I took the time and trouble to sit down with him and implore him to assist us in the remediation of the current air warfare destroyer build because I really wanted to build eight future frigates in Adelaide. That was the discussion that I had with him.

I do not recall apologising to him. I would be interested in hearing his version of events, but the fact is that I sought his cooperation in partnership. I am the customer and he was the supplier. I said, 'There is an enormous amount of upside if we can get this right,' and that was my intent and that is my recollection of the discussion.

Senator GALLACHER (South Australia) (14:30): Mr President, I ask a supplementary question. I refer the minister to the comments made by Andrew Daniels, a pipe fitter who works at ASC. He said:

… I go home to my family and this guy is telling me I'm useless ... I don't feel useless …

Given that the minister engaged, or whatever, with the ASC chairman, will he now step up and apologise to Mr Daniels and the other highly skilled ASC employees who work hard to keep Australian submariners safe?

*Government senators interjecting—*

Senator JOHNSTON (Western Australia—Minister for Defence) (14:31): Let me say that I did not attack the workers directly at ASC. If Mr Daniels took offence, of course I would apologise to him. Of course I do and I unreservedly apologise because, if you had been at the launch of ship one, you would have heard me commend the workforce on their capacity. I said we had a long way to go in terms of productivity. The main problem I have had with that organisation has been the management. I sought to sit down with the chair of that organisation to say we must do better, and that has been my intent. For my trouble I do not think I have got very far; however, I am consistently, persistently and determinedly approaching that organisation so that we can build a further eight ships in Adelaide.

Senator GALLACHER (South Australia) (14:32): Mr President, I ask a further supplementary question. I refer the minister to comments made by one of his senior Liberal
colleagues that his remarks about the ASC were ‘some of the most stupid words I have ever heard from a senior minister’. Isn’t the minister’s senior Liberal colleague correct?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:32): Given what I know about the program, I got, I must say, overinvolved in the issues. It may be, for an outsider looking in, that he is absolutely right, but the bottom line in all of this is that I have had to look across this table at someone who has delivered more than probably $500 million in a lost program and who has never told the truth about it, who has never taken responsibility for it, who has never confronted the reality of her mismanagement. She was the worst finance minister we have ever seen because she has been the owner of this organisation through the whole thing. Now how do I get through to her? That is the question and that is the frustration.

Workplace Relations

Senator McKENZIE (Victoria) (14:33): My question is to the Minister for Employment, Senator Abetz. Can the minister update the Senate on the government’s moves to bring transparency to the governance of trade unions and so-called slush funds? Can the minister also explain any opposition to introducing this greater transparency?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:34): The government believes that honest union members have the right to know what union bosses are doing with both their own membership money and any money acquired from other sources. That is why the government has introduced the registered organisations bill. I simply ask: is the reason for previous opposition to the government’s reforms in this area that two-thirds of Labor senators are former union officials and that slush funds are rife in the union movement?

In Victoria this year alone we have seen revelations concerning no fewer than six Victorian Labor candidates who are beneficiaries of union slush funds. Labor’s member Melhem set up a clandestine slush fund that ripped off honest AWU members and bankrolled his political career and lifestyle. According to The Age, Mr Melhem squandered $40,000 on swish international and local restaurants, hotels, alcohol and electronics. On 14 May 2013 Industry 2020 made a $20,000 donation to an organisation operated by Labor MP Marlene Kairouz and Kirsten Psaila, a Labor candidate. On 16 December $1,550 was made available to Natalie Hutchins, Labor’s shadow minister for industrial relations. And so the list goes on. Labor’s shadow Attorney-General, Martin Pakula, received at least $15,000 from a secret slush fund—what has been described as a significant cost to the honest members of the National Union of Workers.

Why is it that Labor senators have opposed reforms that would introduce greater accountability to union affairs and slush funds? The Australian people are waiting for the answer. (Time expired)

Senator McKENZIE (Victoria) (14:36): Mr President, I ask a supplementary question. Can the minister further inform the Senate of the extent of any activities by union slush funds in my home state of Victoria?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:36): Indeed it could be said that Victoria is the slush fund capital of Australia. In 2006 the National Union of Workers’ slush fund known as IR 21 paid $10,762 to the campaign of Labor’s Martin
Pakula, a former NUW official. On 11 April 2013 it made a $1,500 donation to Mr Pakula's Lyndhurst SEC. When questioned about these shady transactions Mr Pakula claimed:
Any donations made to me by IR 21 or anyone else were properly disclosed …
The problem is that the $3,400 donation made to his campaign on 9 August 2006 was not in fact disclosed. The submissions of counsel assisting the royal commission noted that there is no explanation as to why this amount was not recorded in the donations part of the ledger. This is the legacy that we need to clean up. (Time expired)

Senator McKENZIE (Victoria) (14:37): Mr President, I ask a further supplementary question. Will the minister advise the Senate on the current level of disclosure and transparency that applies to such slush funds?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): The levels of transparency and disclosure that apply to slush funds are dangerously low. Unlike unions, such funds are not required to publish annual financial returns. They are not required to report to union members on their activities or explain where they get their money from.

Opposition senators interjecting—

Senator ABETZ: You can hear the chorus of the ex-union officials, chances are all of whom operated a slush fund. But they exist in the shadows with no scrutiny or accountability.

Opposition senators interjecting—

The PRESIDENT: Order! Pause the clock. Minister!

Senator ABETZ: I ask Labor senators: what is it that Labor senators have against scrutiny and accountability of large sums of money?

The PRESIDENT: Continue the clock.

Senator ABETZ: Why do they wish to shout me down? Why do they wish to keep all this money in the dark? With the government's legislation, senators will finally have the opportunity to put the interests of honest union members ahead of the interests of union bosses and Labor candidates who have ridden into parliament on the slush fund gravy train. I simply ask honourable senators: instead of interjecting, accept the will of the Australian people and the union members to clean up this mess.

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

Senator Ian Macdonald: Mr President, I raise a point of order on disrespect to the chair. It is certainly better having Senator Wong with her back to you than shouting all the time, but she has shown complete disrespect to you with her back to you most of the time during those questions, organising some stunt to take place now, I assume. I would ask you to bring her to order.

The PRESIDENT: There is no point of order, Senator Macdonald. Minister, I believe you have concluded your answer.

Renewable Energy Target

Senator LEYONHJELM (New South Wales) (14:39): My question is to Senator Cormann, the Minister representing the Minister for the Environment. The government and the opposition have abandoned talks on reform of the Renewable Energy Target. There is
growing concern that, without extra generating capacity being introduced quickly into the 
scheme, the already legislated penalty rate of $65 will be applied to renewable energy 
certificates within two years. This will take the cost of renewable energy certificates to an 
unprecedented $95 or more at current levels, thereby directly impacting on electricity prices. 
Does the government accept that the scheme in its current form will not achieve the 41,000 
gigawatt-hour target by 2020, therefore triggering in the renewable energy certificate penalty 
rate?

Senator CORMANN (Western Australia—Minister for Finance) (14:40): I thank Senator 
Leyonhjelm for that question and for his generous remarks on the weekend. Firstly, the 
government has not abandoned talks on reform of the Renewable Energy Target; it is Labor 
which has walked away, clearly still intent on pushing up the cost of electricity for families 
and businesses across Australia into the future.

As to the question whether the government recognises the target in its current form is not 
achievable, well, that is certainly the advice that we are receiving from the many experts in 
the renewable energy sector. The government remains firmly committed to reform of the 
Renewable Energy Target because that is important for our efforts to strengthen the economy 
and for jobs. The government wants Australia to be the affordable energy capital of the world, 
as the Prime Minister has previously indicated. That is because we want to keep building a 
stronger, more prosperous economy where everyone can get ahead, based on improving our 
international competitiveness and by reducing the cost of doing business in Australia. That is, 
of course, why we got rid of Labor's carbon tax. That is why, while we support renewable 
ergy, we want to improve the operation of the Renewable Energy Target moving forward.

Australian households have already installed more than two million solar systems with the 
help of the Renewable Energy Target, and the cost of solar PV installation is less than a 
quarter of the price it used to be. But Labor, by walking away from talks with the government 
about reform to the Renewable Energy Target, is putting the jobs at risk across all our energy-
intensive and trade-exposed sectors— in particular, across our manufacturing sector.

Labor seems intent to again punish Australian families and Australian businesses with 
higher energy costs. That is not our approach. The government's proposal of full reform is 
centred around four key elements: the RET should present a real 20 per cent of the amount; 
support for household solar systems should not be changed— (Time expired)

Senator LEYONHJELM (New South Wales) (14:42): Mr President, I ask a 
supplementary question. Does the government accept that higher electricity prices are 
inevitable unless the RET scheme is reformed?

Senator CORMANN (Western Australia—Minister for Finance) (14:42): Yes, we do, and 
that is why the government remains firmly committed to the reform of the Renewable Energy 
Target, as I have indicated. Labor knows some of the problems. Put simply, the current 
scheme is out of balance and needs fixing because electricity demand is declining. Forecast 
demand in 2020 is lower than previously anticipated. Forecast for total energy demand in 
2020 is now 15 per cent lower. So what was intended to be a 20 per cent target for 2020 is 
now tracking towards an effective 26 per cent target by 2020, with all of the related 
consequences in terms of additional cost pressures that come with that. That is why, as I have 
indicated before, we are committed to ensuring that the 20 per cent is a real 20 per cent and 
not a 26 per cent target.
We want to support household solar systems to remain as it is. Pressure on energy-intensive and trade-exposed sectors should be reduced to provide additional support for Australian jobs. The renewable energy sector should have greater clarity by removing the need for review of the RET every two years. (Time expired)

Senator LEYONHJELM (New South Wales) (14:43): Mr President, I ask a further supplementary question. Will the government now work with the crossbench to bring about reform to the Renewable Energy Target scheme?

Senator CORMANN (Western Australia—Minister for Finance) (14:43): The government will continue to work with all reasonable people right across the Senate and right across the community. We are committed to reforming the RET because we are committed to building a stronger, more prosperous economy. We are committed to reforming the RET because we actually want to ensure that Australian manufacturing has a chance to be competitive internationally and that we can continue to compete with businesses in other parts of the world that are not facing the sorts of government imposed cost pressures that manufacturing businesses in Australia are exposed to.

That is of course why we have put to the Labor Party—and we will put to anyone in the Senate and indeed across the parliament: work with us to ensure that our energy-intensive, trade-exposed industries are protected from the excessive pressure that the RET in its current form is imposing on them; work with us to ensure that we protect jobs and can create more jobs into the future by helping Australian business to be internationally competitive. (Time expired)

Defence Procurement

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:45): My question is to the Minister for Defence. Will the minister now undertake to fulfil his clear election promise to build 12 new submarines at ASC in South Australia?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:45): As I have been saying for a long time, the one really important ingredient that is missing from the Leader of the Opposition's case in this place is truth, because she has had my transcript and she knows very well that I said that the Labor Party's policy involves option 3 and option 4 and that we would support that going forward unless it was fantasy. But she conveniently never says that. And guess what: it was fantasy—and she never puts that undertaking in context.

Senator Conroy: Have you read Shanahan?

The PRESIDENT: Senator Conroy, have you read standing orders?

Senator JOHNSTON: What I sought to do was to take the politics out of this program, by saying, 'We agree with the government,' presuming that they had actually done something, presuming that all the talk, the doorstops, the splash, the politics, the rhetoric, actually was in front of something of substance. But of course, upon getting the portfolio, I found it was a complete charade. It was in fact a Walt Disney design. It was in fact a complete fantasy. And we have had to start from square one. Why will you not, Senator Wong—through you, Mr President—ever talk the truth about this project?
MOTIONS

Minister for Defence

Censure

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:47): I seek leave to move a motion censuring the Minister for Defence, Senator Johnston.

Leave not granted.

Senator WONG: Pursuant to contingent notice, I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion of censure of the Minister for Defence (Senator Johnston).

It is a surprise that the Leader of the Government in the Senate did not have the courage to take this censure. It shows how little this government actually wants to defend the Minister for Defence. This is a serious motion to move. I say to the Senate: the opposition does not move this lightly. What we have is a Minister for Defence who, over and over again, in the management of his portfolio has demonstrated that it is untenable for him to continue in the office of Minister for Defence. That is not only the view of the opposition; that is the view even of the gentleman described as a ‘fine man’—that is, the Liberal leader in South Australia.

Senator Ian Macdonald: Mr President, I rise on a point of order. I should not have to do this with the Leader of the Opposition in the Senate, but clearly this is a motion to set aside standing orders; the debate has to be on why we set aside standing orders, not the substantive motion. The Leader of the Opposition should be aware of that and I ask you to bring it to her attention.

The PRESIDENT: Thank you, Senator Macdonald. You would be also aware that it has been long practice in these debates that the debate is wide-ranging and does tend to cover other matters concerning the suspension purpose.

Senator WONG: I thank Senator Macdonald for his assistance.

Senator Moore: Worthy assistance!

Senator WONG: His worthy assistance—thank you, Senator Moore. We are seeking to suspend standing orders because, quite frankly, the Leader of the Government in the Senate did not have the courage to take the censure motion. That is what has happened. If anybody has a look at the way in which this matter has been debated and discussed in the last 24 hours in Australia, I think most reasonable observers would say this is a legitimate matter for debate here in this Senate.

We have a minister who has, first, insulted the men and women of the Australian Submarine Corporation by stating he would not trust them to build a canoe. We have a minister—a defence minister—who has gone out, via his comments, and undermined confidence in the nation's defence capability. What message does it send to the community and to the international community that the Minister for Defence says, about the people who maintain our submarines and who are building our air warfare destroyers, that he would not trust them to build a canoe? What does that say?

Another reason why we are seeking to censure is the demonstrable bias that this minister is bringing to this project. As I said earlier today, this is the largest procurement the
Commonwealth will make, and it is important that it be above reproach. What we saw yesterday in question time—and really the minister has done little but compound it with his answers today—was a minister demonstrating clear bias against one of the potential bidders in that procurement. He is effectively knocking out, by his comments, one of the potential bidders. In the substantive debate, I think it is reasonable for us to ask why it is that the government is doing that.

Again today, the Minister for Defence was asked by me—and the opposition has asked this on a number of occasions—to do nothing other than to make clear that he will deliver on the promise he made to the people of South Australia, standing outside the ASC with Mr Marshall, where he made a clear and unequivocal commitment to build 12 submarines in Australia, at the ASC. Today we heard again the minister—and I ask him to consider whether he might have misled the Senate when he did this—keep asserting that he said something different. I read out today—and I will do it again if he requires it—the direct quote from his transcript on 8 May 2013, and all of the footnotes and all of the qualifications that he sought to add today in question time are not there, because what has occurred is that we have a minister who is going to break a promise. In fact, one wonders whether there is a promise that this government is not prepared to break.

The opposition would say this to the chamber: the minister's conduct in the last 24 hours, on top of his conduct in the months to date, is deserving of the debate of a censure motion. We are seeking to suspend standing orders to have that debate because we think this minister's performance yesterday, when he sought to traduce the workers whom we trust to keep our submariners safe, is deserving of a censure debate in this chamber. We say to the crossbenchers, 'We ask for your support for the suspension of standing orders for this debate.' *(Time expired)*

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) *(14:53)*: You can tell it is only one month until Christmas. The groundswell of goodwill coming over to us from the Labor Party is just unbearable! Let us have a look at what this motion is all about. It is about trying to get at a very capable defence minister who, while in opposition, saw the demise of a Labor Minister for Defence—one Mr Joel Fitzgibbon—who had to resign from the portfolio. Why? Because he was in breach of Labor's own very weak ministerial code of conduct. Where were Senator Conroy and Senator Wong when all that was ventilated at estimates? They were running defence until finally Mr Fitzgibbon had to resign.

I simply ask the Australian people and the crossbenchers to do a compare and contrast. Do the juxtaposition: somebody who had so grievously breached the ministerial code of conduct and was brought kicking and screaming to a resignation, compared with this minister's alleged offence which is self-admittedly an overstatement during the heat of question time. That is all that is at issue here—an overstatement during question time. That is the compare and contrast I would put to the crossbenchers. I say to them, quite honestly, it is like chalk and cheese.

If you say that Mr Fitzgibbon's case is too far in the past, I would not agree, but let me give you something a little bit closer at hand—this year, when the shadow minister for defence attacked a man who had a distinguished 30 years of service in uniform, one Lieutenant General Campbell. When he was called upon to apologise, Senator Conroy said to the chair of that committee, 'Take it to the floor of the Senate.' That was the arrogance, that was the
viciousness with which he attacked this man in uniform, whom he accused of being 'engaged in a political cover-up'. Disgraceful! Where was Senator Wong then? Nowhere to be seen. Where was Senator Conroy's apology? Where was Senator Conroy's mea culpa? Nowhere to be seen or heard. So I say to the crossbenchers, have a look at Mr Fitzgibbon, have a look at Senator Conroy—both more grievous offences, without apology, than that which Senator Johnston, on his own admission, did yesterday at question time.

If we are to have censure motions each and every day when somebody overstates their case in this place, there will be censure motions against each other all day every day because, regrettably, in the heat of debate, some of us are wont to overstate our case. Indeed, I have needed to come into this place from time to time to withdraw words that I had previously spoken. It is part and parcel of the robustness and rigour of debate in this place. When somebody has the decency to put up their hand—as Senator Johnston did at 9.30 this morning, at the first opportunity when the Senate resumed and even earlier this morning he was on the airwaves admitting his overstatement—what more can a man or woman do other than acknowledge that which they had done incorrectly? It was simply an overstatement. That is all we are talking about. So I say especially to the crossbenchers, if you are to vote for censure and suspension of standing orders in relation to a senator's overstatement on one occasion—

Senator Conroy: Serial offender.

Senator ABETZ: which he withdraws the very next day, then we will be debating these matters all the time. Finally, I will take Senator Conroy's interjection. He says Senator Johnston is a serial offender. Senator Conroy, look in the mirror and you will see the biggest serial offender this place has. (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:58): I rise to support the suspension of standing orders—

Government senators interjecting—

Senator MILNE: I will support the suspension of standing orders because I think we should have a debate on the competence of the minister in this portfolio in relation to this matter. We have before us a procurement process that is going to be incredibly important and serious for the future of Australia's defence forces and we have a minister who has demonstrated that he does not have the capacity to deal with that procurement process. It is very well known that that is the case and that is the view within the government itself.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:59): I rise to support this censure motion and the urgency with which we need to bring it on. The sands are shifting underneath Senator Johnston as we speak. The Prime Minister's unofficial press secretary has announced today, online, what is going to happen. The last time that the Prime Minister's unofficial press secretary made an announcement like this, Senator Sinodinos went to the backbench. Here is what Dennis Shanahan has said online today:

DAVID Johnston’s position as Defence Minister is effectively over.

The only reason he remains in the job for now is that Tony Abbott is manic about not changing his ministry because he wants to appear a stable government after six years of Labor leadership ... Whether Johnston—
That is, Senator Johnston—
go as Defence Minister now or a bit later depends is a moot point. His long-term standing is mortally
damaged, he’s lost the confidence of his Cabinet colleagues and his comments have been publicly
disowned by the Prime Minister.

Johnston’s remark about the submarine corporation not being trusted to build a canoe is not some
simple slip of the tongue or “rhetorical flourish” which Abbott can claim is being blown out of
proportion. Notwithstanding ASC’s past difficulties Johnston’s made a huge political mistake.

I will keep quoting:
In itself the remark is bad enough; the Australian government may want to sell its share of the ASC and
the responsible minister has trashed the brand; the minister who has to make a decision on Australia’s
biggest procurement project appears to have a preconceived opinion and; other nations are confused
about his thinking.

But what makes it worse for Abbott is that the lack of a public strategy on the submarines and warships
and the mixed messages of hope and despair for workers and Liberal colleagues in South Australia and
Victoria represent a wider malaise in Coalition management.

And it goes on.

The last time we saw a statement like this from the Prime Minister's unofficial press
secretary, Senator Sinodinos spent a year on the backbench. We all know what is happening
over there, so let's have it on. The government should have accepted this censure motion. It
was quite cowardly not to accept this censure motion, and we should be having the debate
right now. I look forward to contributing in this debate because this minister has lost the
confidence of all of those opposite, particularly the South Australians. I am looking forward
to seeing if the whip can force Senator Birmingham, Senator Ruston and Senator Edwards to
stay in the chamber to vote to support Senator Johnston, because they have all come out
today. Mr Briggs came out today and said that he was wrong. Mr Marshall has already belled
the cat on the untenable position that Senator Johnston is in. So we all know where this is
going to end soon. We all know they are going to cling to Senator Johnston to try to stagger
through until the end of next week and then he will disappear. He is the biggest barnacle to be
scraped off by Mr Abbott in the next few weeks. We know it over here, we know it on the
crossbenches and you all know it over there. The time is coming to an end.

So it is urgent that we debate this now. It is important that the Senate expresses its view
about the conduct of the minister—about his dealings with defence pay, how he did not stand
up to get a fair pay rise for Defence Force personnel, how he allowed others to rail over the
top of him, and then he tried to pretend that he had not cut the pay and said that no-one is
worse off. It is important for the Senate, right now, to be able to have a chance to debate these
issues. I urge all of those in the chamber to support this suspension. Again the government
stands condemned for failing to take the suspension on the chin—

Senator Wong: Weak.

Senator CONROY: Exactly, Senator Wong—a weak government trying to protect its
own, but it is all over and you all know it. It is all over for Senator Johnston. Each and every
one of you knows what happens when The Australian says you are in the way of the Abbott
government. We have to scrape the barnacle off the bottom of the vessel and we have to move
on.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:04): Senator David Johnston is one of the best defence ministers Australia has had for many, many years. He is streets ahead of any of the three Labor ministers who occupied the portfolio during the Rudd-Gillard-Rudd years. He is, in my opinion, significantly better than some of the coalition defence ministers of recent memory. He is one of the best defence ministers this country has had in recent years. What the Labor Party is doing, in a cynical political exercise that has no merit in it whatsoever, is trying to hang him for a stray remark.

I ask—through you, Mr President—of the crossbenchers: apply the same test to yourselves. Everyone in this chamber should apply the same test to themselves. Should your political career be in peril by one moment of exuberance in question time? If we were to apply that test and we were to be honest with ourselves, each and every man and woman in this chamber has said things in a moment of exuberance that they would regret. But, unlike Senator Stephen Conroy, who not in a moment of exuberance but in a moment of calculated and despicable calumny, defamed a fine Australian general, General Angus Campbell, Senator David Johnston had the spine and the manliness and the character to come to the chamber this morning and say, 'I made a mistake yesterday. I apologise and I withdraw and I express my regret.'

I rise to oppose this motion, but, in a sense, I am arguing against my own interests, because nothing would be more serviceable to the coalition than to have a debate on the catastrophe that was the Labor Party's defence policy. This is the party that, in six years in government, reduced Australia's defence spending from not quite two per cent of GDP to 1.56 per cent of GDP, the lowest level since 1938. This is the party that went through three defence ministers in six years, and all of them—all three of them—were no-hopers! This is the party that was so interested in defence that at the 2013 federal election, it did not even produce a defence policy because no-one over there was interested enough to do it! This is the party that talks about the importance of the next generation of Australian submarines—and important they are—but do you know what? When they were in office, because their deeds always speak louder than words, they ripped $20 billion out of the Future Submarine program—that is right, Mr President—and progressed it not at all.

Mr Rudd, when he was Leader of the Opposition, said:

A Rudd ... Government would make it a priority to ensure that the necessary preliminary work on Australia's next generation of submarines was carried out in time for consideration and initial approval in 2011 …

Well, there was no initial approval in 2011 or in 2012 or in 2013. All there was was a degradation of the budget so that there was no capacity to build a future Australian submarine in time to replace the retiring Collins class submarines. That government, the government in which Senator Wong was the finance minister and in which Senator Conroy served as a senior minister, was so inert, so uninterested, so negligent about Australia's naval needs, and particularly its need for a next-generation submarine, that it left us with a four-year capability gap. There will be, at least, a four-year gap in Australia's defence capability—entirely as a result of your mismanagement, your negligence, your indifference and your incompetence!

The PRESIDENT: Through the chair.
Senator BRANDIS: And here, for the sake of a slip of the tongue in question time, they seek to politically hang the man who has been given the task of trying to recover Australia's strategic capability from the mess, from the wreckings that they left. Senator David Johnston is a fine defence minister; he has been given a Herculean task, and he is doing it magnificently.

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

The Senate divided. [15:14]

(The President—Senator Parry)

Ayes ....................39
Noes ....................33
Majority ..............6

AYES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Gallacher, AM
Ketter, CR
Lazarus, GP
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
Wright, PL

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Faulkner, J
Hanson-Young, SC
Lambie, J
Lines, S
Ludwig, JW
Madigan, JJ
McLucas, J
Moore, CM
O'Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE
Wong, L

NOES

Abetz, E
Bernardi, C
Brandis, GH
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Fifield, MP
Johnston, D
Macdonald, ID
McKenzie, B
O'Sullivan, B
Payne, MA
Ronaldson, M

Back, CJ
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Cormann, M
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ryan, SM
Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:16): I move:

That a motion to censure the Minister for Defence (Senator Johnston) may be moved immediately and have precedence over all other business today and be determined without amendment.

Question agreed to.

Senator WONG:

That the Senate censures the Minister for Defence (Senator Johnston) for:

(a) insulting the men and women of ASC Pty Ltd (ASC) by stating he 'wouldn't trust them to build a canoe';
(b) undermining confidence in Australia's defence capability;
(c) threatening the integrity of the Future Submarines Project, Australia's largest defence procurement, by demonstrating bias and failing to conduct a competitive tender;
(d) breaking his promise, made on 8 May 2013, to build 12 new submarines at ASC in South Australia; and
(e) failing to protect Christmas and recreation leave and failing to demand a real pay increase for Australian Defence Force personnel.

The Abbott government's Statement of Ministerial Standards states in its opening sentence:

Ministers and Parliamentary Secretaries are entrusted with the conduct of public business and must act in a manner that is consistent with the highest standards of integrity and propriety.

It goes on to say:

…it is vital that Ministers and Parliamentary Secretaries conduct themselves in a manner that will ensure public confidence in them and in the government.

The Minister for Defence has breached these requirements in the Prime Minister's standards. He made an extraordinary attack on the Australian Submarine Corporation yesterday, an attack that insulted the company and its workforce, undermined confidence in Australia's defence capability and jeopardised the integrity of one of the nation's biggest-ever Defence procurement contracts.

It was the latest instance of this minister's unacceptable performance in a portfolio which is critical for our national security. It comes on top of a broken promise to build the Navy's new fleet of submarines in Adelaide and his plan which cuts the real pay of Australia's servicemen and servicewomen. This minister has lost the confidence of the defence industry because of
his conduct. He has lost the confidence of the men and women serving in the ADF and he has lost the confidence of his own colleagues in the government.

As I have said, yesterday the defence minister said he would not trust the ASC to build a canoe—a nasty, cowardly and gratuitous slur on the ASC and on the 3,000-odd people who work for the company. The minister should be censured for this insult. It is a kick in the guts for the men and women, from management to the shop floor, who work hard every day and take pride in the work they do and who play an important role in developing, building, maintaining and sustaining Australia's defence capabilities, the men and women we trust to keep our submariners safe. They do not deserve to be treated like this by one of the most senior ministers in the government.

Some of the ASC workers visited Parliament House yesterday, and one of those workers, Andrew Daniels, was asked by the media how he felt about the minister's comment. He said: 'It's pretty disgusting. There's 3,000 ASC workers across two states—South Australia and Western Australia—and we do our best. We maintain submarines and we also build AWDs. There is no way we would put at risk our sailors—Australian sailors—no way we would be giving them second-class work, shoddy jobs or anything like that. We give them the best. That is what our job is: to maintain the submarines, to build the best AWDs. And here we are, we're being trashed. Well, I go home to my family and this guy's telling me I'm useless, and I don't feel useless. It's pretty gutting to 3,000 workers in South Australia and WA, and it's not a great feeling to have your defence minister, who you are out there doing your best job for the country, and he is trashing it.'

This is the minister in charge of defence policy and defence strategy in this country. He is the minister responsible for making some of the most difficult and serious decisions a minister in government can make. He is responsible for Defence procurement—for planning, acquiring and maintaining the equipment of our military personnel. He is responsible for policies and decisions critical to the development of our defence industry. This is a minister who needs to display maturity, judgement and leadership, not petulance, prejudice and pig-headedness. Australia is not served well by a hot-headed defence minister who trashes the reputation of a company and a workforce who are responsible for the sustainment of our submarine fleet and who are building our new air warfare destroyers.

Yesterday, the opposition expected the minister—as I think many people did—to come into the Senate after question time or during the Senate sittings last night to apologise, but he made no appearance. What he did do is come in this morning and sought to recast his insult as nothing more than a rhetorical flourish. These are thoughtless remarks by the minister. They undermine confidence in Australia's defence capability, they undermine confidence in the capacity and the ability of the ADF to do its job and they will undermine confidence in the Australian defence manufacturing industry.

These comments have been reported widely, including internationally—for example, in The Wall Street Journal. This is not just a slur on the ASC which will damage that company's reputation and commercial prospects; it damages perceptions of the wider Australian defence manufacturing industry—an industry which employs tens of thousands of people, which is important for our economy and which is strategically important for the nation's defence capabilities. We should have, and the country deserves, an Australian defence minister who is
working with that industry and championing that industry, not going out of his way to damage its reputation.

I am concerned, as are people on this side of the chamber and outside, that what we saw in Senator Johnston's outburst yesterday was a glimpse into the mindset of the Abbott government. It is a mindset which is prejudiced against the Australian build and a mindset which is prejudiced against the ASC—a prejudice which has tainted the Abbott government's whole approach to the Future Submarine project. That is the only explanation for why this government has spent months backgrounding against this company and these workers. It is a mindset prejudiced against Australian shipbuilding. We saw that when they barred Australian shipbuilders from even tendering to build the new supply ships, a decision which will ensure that jobs that could have been had in Australia are sent overseas.

I want to return to the issue of procurement and the integrity of the procurement process. We say that the minister's comments have compromised the integrity of the procurement process for the Future Submarine project. When it comes to procurement, this portfolio is the biggest of any portfolio in the Australian government—billions of dollars of government spending are involved. The commercial prospects of hundreds of manufacturing firms and the jobs of thousands of workers around the country are affected by defence procurement decisions. For this reason, these processes need to be above reproach. They must be conducted in a manner which promotes competition and value for money, in a way which is fair and equitable to industry and in a way which is free from bias, prejudice or favouritism.

These are principles which are laid out in a number of important documents which govern defence procurement. First, the CPRs, the Commonwealth Procurement Rules, state:

All potential suppliers to government must, subject to these CPRs, be treated equitably based on their commercial, legal, technical and financial abilities ...

This minister did not treat ASC equitably when he said that he would not trust it to build a canoe. The department's *Defence Procurement Policy Manual* says factors to be considered when identifying the risks associated with procurement include the risk of a breach of ethics and probity in the tender evaluation process, including through bias. The minister's comments about ASC have jeopardised the probity of the Future Submarine procurement by displaying bias against a potential Australian supplier.

The Department of Defence's guide cautions against probity concerns. It cautions against concerns which might involve, for example, allegations of bias in favour of particular solutions or suppliers and risks to the competitiveness or fairness of future defence procurement processes. I say to the chamber that bias and risks to the fairness of future defence procurement processes are exactly what we saw from this minister yesterday and, I regret to say, it is exactly what we are seeing from the approach that the Abbott government is taking to the Future Submarine project.

The principles of fairness, transparent processes, equitable treatment and the avoidance of bias or favouritism are central to probity of procurement. The minister's behaviour, his comment that he would not trust ASC to build a canoe, absolutely flies in the face of these principles. What it suggests to any fair-minded observer is that he is biased against that company. It suggests that he has prejudged its capacity to be involved in the Future Submarine project before it has even been given an opportunity to put its case or make its bid. The minister's comments undermine the ability of Defence to conduct a fair, equitable and
I have dealt with what the defence minister said. I have dealt with some of the impact of his comments on the company, on the workers and on the integrity of the defence procurement process. I would like to make some comments as to why he said it, because I think that everybody knows—observing the conduct of this minister in this chamber as the opposition and other crossbenchers have asked him questions, observing what has occurred in Senate estimates and observing what has been put into the paper—that very clearly all of this is about justifying breaking another promise. We know that the defence minister went to Adelaide last year, called a press conference in front of ASC's shipbuilding facility and said the following:

…I want to confirm that the 12 submarines as set out in the 2009 Defence White Paper and then again in last Friday’s Defence White Paper are what the Coalition accepts and will deliver.

We will deliver those submarines from right here at ASC in South Australia.

That was the promise before the election. What has been very clear, patent and obvious in the last months—as we have watched what the Prime Minister's office have backgrounded the media and what this minister has said here in this chamber and outside—is that all of that activity has been about justifying a broken promise. In many ways, one of the worst faults of this minister is not only that he was prepared to trash the workers and the ASC but that he was prepared to do it as cover for his broken promise. I think that is a fundamentally dishonourable thing to do. Instead of fronting up and telling people what the truth is, you try to denigrate those workers whom we trust, you try to denigrate that bidder, you want to knock them out of the bid to justify a decision that you know you either have made or will make—which breaks another election promise.

What we know since the election is the government has abandoned this promise and that is why yet again today in question time this minister would not repeat it. I gave him the opportunity to repeat what he told Australians and those workers in May of last year, and again he declined to do so. This government has abandoned this promise, as it has abandoned so many other promises. This government wants to acquire submarines from overseas. We know this from the Prime Minister's office backgrounding of the media from Japan. This is why this minister has made his extraordinary attack on the ASC, because he is attempting to justify the breaking of this promise.

The Abbott government is abandoning South Australia's defence manufacturing industry, just as it abandoned our auto-manufacturing industry. This government will jeopardise thousands of jobs in South Australia. It will jeopardise small and medium-sized businesses in South Australia and across the country that rely on defence contracts for economic opportunities. It will damage the viability of our shipbuilding industry nationally—a strategically important part of Australia's advanced manufacturing industry, an important source of jobs in our nation, an important source of advanced technical and engineering skills, an important source of sophisticated technological management and organisational capability. All of these things are essential for any country that aspires to have advanced and competitive manufacturing industry. All of this is at risk because of this government's broken promise on the Future Submarine project.

This censure motion also refers to the cut in real pay and conditions of the members of the ADF. That is what we are seeing under this government, and it is a disgrace. Under this
government, we will see the pay rates of Australia's service men and women go backwards in real terms over the next three years. Under this government, we will see ADF pay not keeping up with inflation over the next three years, meaning the men and women who serve our nation will not be able to keep up with the rising cost of living. Under this government, we will see members of the ADF lose their Christmas leave and other days of leave. Yet we have a minister in this place who said people will not lose anything. Again, this is another case of the Prime Minister saying one thing before the election and doing another thing afterwards. Who could forget Mr Abbott—

Senator Polley: So many examples.

Senator Wong: I take the interjection. There are so many examples but, on this occasion, this example is Mr Abbott saying this: ‘A fair go is the least a grateful nation can offer to serving and former military personnel.’ Well, the question this minister has never answered is how he can defend cutting real pay and cutting leave, and how that is a fair go.

This minister needs to be censured. He has already been cut adrift by his own colleagues, from the Prime Minister down. The Prime Minister issued a statement last night which is nothing other than a statement of no confidence in this minister, a statement which completely repudiates the minister's comments. The Assistant Minister for Infrastructure and Regional Development, Mr Briggs, said his comments were wrong. Senator Birmingham said, and I agree with him, there is no excuse for the minister's denigration of the workforce—

Senator Birmingham: That's not it.

Senator Wong: All right. He wants me to read the actual quote. I will do that. Senator Birmingham said there is no excuse for the minister's:

… denigration of the workforce or of the extensive capabilities that South Australia has

A senior Liberal MP is reported in The Australian as saying the defence minister's comments were:

… some of the most stupid words I have ever heard from a senior minister.

Mr Marshall, the leader of the South Australia Liberal Party, said the comments were deplorable. He said:

They were disgraceful comments about the ASC and he needs to do something to rebuild the confidence of the workforce … if he can’t then his position is untenable.

If this minister had any common sense or judgement, he would have come into this Senate after question time yesterday and apologised and withdrawn his comments. He insulted a whole company and its workforce. He has inflicted reputational damage not only on the company but on Australia's capability more generally. He has inflicted serious reputational damage on our shipbuilding industry. He has undermined the integrity of the defence procurement process. He has undermined confidence in Australia's defence capability. Who would have thought a defence minister who says he cares about national security would be happy to undermine confidence in Australia's naval capability?

Senator O'Neill: Disgraceful.

Senator Wong: It is disgraceful that a defence minister would be so cavalier with the perceptions of our defence capability. This minister has broken a promise to South Australians and to Australians that the Abbott government would build 12 submarines in
Adelaide. This is the defence minister who is presiding over cuts to the pay and conditions of Australian service men and women. This is why this Senate should censure this discredited defence minister.

Senator JOHNSTON (Western Australia—Minister for Defence) (15:35): I have not sought to insult the men and women of ASC. Indeed, what I said has been explained. The greatest insult I have ever seen to the men and women of the Australian Defence Force, and indeed to those employed in the defence industry, was when the former Prime Minister sent her bodyguard to the National Security Committee. That is the greatest insult to those men and women who are charged with providing the platforms and actually defending our country—to show no interest and send someone along whose security vet position is completely unknown to the National Security Committee.

I did say the wrong thing. But when you say that I have undermined the confidence in Australia's defence capability, can I tell you that ASPI adjudicated what you delivered in terms of the defence budget as 'an unsustainable mess'. When will you take responsibility for the fact that you elected to rip off the Defence portfolio in pursuit of a bogus exercise chasing a budget surplus that never eventuated? 'An unsustainable mess.' Compare that with the budget that we have delivered in Defence. You were simply the greatest underminers of confidence in Australia's defence capability in the six years that you were there, and you had your fingerprints all over the actual blatant facts of doing it. You ripped $16 billion out of the portfolio and delivered, as I say, an unsustainable mess.

Let's just talk about what, individually, the Labor Party did. I can recall when there was a circumstance where SAS pay was readjudicated and backdated such that serving soldiers on the battlefield in Afghanistan received debts from the government of $30,000, and interest was payable and taken from their pays. The initial response of the then minister was: 'It's not a problem. It has been fixed.' So there they were, out there fighting for us, and what thanks did the then government give them but a debt, a retrospective debt, of $30,000 and the deduction of interest? Of course, that very same minister had his brother in his office trying to do a hard sell of medical services to the Australian Defence Force. They actually commanded the surgeon general to go to the minister's office so that he could receive the hard sell. This is what they got up to. I have to say that the comparison is off the planet.

Then you say 'threatening the integrity of the Future Submarine program'. Well, can I tell you, the greatest threat to the Future Submarine program was the promises, the splash and all of the hype that the Labor Party delivered, and then, when the government changed, we found it was all a fraud. It was all a complete charade. It was all just a headline, it was a doorstop and it was nothing more than an exercise in fooling the Australian public. And that is what we are confronting. You set out to pretend that you were going to build 12 submarines, and I said that if this is fantasy we will have to reconsider it because time is against us. Collins has a limited life, and we must avoid a capability gap.

So here we are in 2014, and I have had to start from scratch, notwithstanding the promises of Kevin Rudd. Of course, you do not want to hear his promises that he would ensure that the submarines were built at ASC. If he wanted to ensure that, why didn't he do a contract? If he was going to cement that into place, why didn't he do what normal, faithful, high-fidelity governments do? They contract people. But, no, he did not. He said that construction work would begin in about 2017. Can I tell you, that is a very, very difficult proposition when we
have not even got to first pass in the program; indeed, Admiral Moffitt said you had 20 years after first pass. Now, where are we? We are light years away from having a capacity to deal with this. We must take urgent action. That is a complete and full threat to the integrity of the program. We are now in a position where we are scrambling to make up the gap, the distance and the pain that the Labor Party has left us in with submarines. Kevin Rudd went on to say that he would start this process this year with guaranteed continuity of work for South Australia's defence industry. But not one dollar did he put on the table at that time for this program. He did, some years later, put $214 million on the table under Minister Smith, of which only $60 million has been spent. That is the greatest threat to the integrity of the Future Submarine program. So what we saw were promises, doorstops, no decisions and no action. He went on to say that a Rudd government 'would make it a priority to ensure that the necessary preliminary work on Australia's next generation of submarine was carried out in time for consideration and initial approval in 2011'. And, as we all know, in 2011, absolutely nothing happened. They just sat there mouthing '12 submarines for Adelaide' and doing absolutely no work. I took them at their word. I thought there was actually something going on. I could not believe that they would perpetrate such a fraud and play so callously with our national security. But now I see what went on: they simply pretended that they were going to do 12 submarines. Right? They pretended. There is not a design, there is not a contract, there are no engineers and there is not even any training.

Senator Conroy talks to the Submarine Institute about having a plan. Well, a plan does not deliver anything. Put the money on the table. The money of itself does not deliver anything. Contracts deliver something. There is not a contract. Contracts actually deliver something. Senator Conroy says, 'We had a land based test site.' Well, can you take me to it—because it has never been built. When the senator tells people what Labor's legacy for the submarine program is, can I tell you it is actually a great big fat nothing. It is a little bit like his understanding of this portfolio. So nothing was done.

Let's look at what this motion seeks to talk about. I have sought to establish that the greatest threat undermining the integrity of the Future Submarine program is the fact that the Labor Party pretended to the Australian public that there was, in fact, a program running. They pretended to tell people, 'We are doing work assiduously, diligently and knowingly.' And all the time the finance minister and the defence minister knew that there was nothing happening.

The reason they knew that was, when they costed the program in 2009, pursuant to their white paper that had $275 billion worth of acquisitions, they were told by the department that the acquisition cost was more than $40 billion. We all know that, in acquisition in defence, it is one-third for acquisition and two-thirds for ownership. But we also know that if the program goes out over 20-plus years, you need to factor in inflation. So the out-turned dollar value of that $40 billion requirement to buy these mythical 12 Walt Disney class submarines was in fact $80-plus billion. That is why the file sat on Senator Faulkner's desk with a great big paperweight on it. That is why the finance minister said, 'We won't talk about that ever.' That is why successive defence ministers did not do anything. The numbers were so spooky.

What I am asking the former finance minister, the Leader of the Opposition in the Senate, to do is to have some courage to admit that, for six years, they perpetrated one of the truly great frauds of our time on the Australian public. They themselves made the greatest
contribution, ever, to undermining Navy's capability in this country. They took our defence spending back to 1938 levels, just callously. They just said, 'The Defence Capability Plan needs funding, but we're just going to rip the money out of it. You guys in Defence over at Russell, just move everything to the right. Just put it off into the never-never. We really don't care about defence. We care about pink batts. We care about school halls.' At the same time, they were saying to people up in the archipelago, 'Come on down; we've got compassion.' And when they did come down—50,000 of them in 800 boats—they expected the Australian Defence Force to stump up and man up and do the work whilst they were ripping the financial carpet out from underneath them.

When I went to Adelaide I wanted to say, as I have said on so many occasions, 'Let's get together in the Defence portfolio, take the politics out. Let's have the submarines, let's have a policy that isn't full of argy-bargy for the benefit of our service men and women—in this instance Navy.' I accepted the word of the minister of the day, Minister Smith. But I did put the caveat in, 'unless this is fantasy.' Of course, Senator Wong never wants to mention the words 'unless this is fantasy', because she knows that the whole thing was a great big fat lie. And she knows the value of the program. She knows that ASPI costed this project at $36 billion. She knows the government costed this program at $40-plus billion. That is why they did nothing ever on this. That is why they have, over six years, spent only $60 million. It boggles my mind that they can stand up here and talk about my sins in the face of what they perpetrated for six years.

Senator Wong wants to talk about petulance. My goodness! If we had a petulance Olympics she would be our gold-medal prospect. We would all stop to watch the TV because we would have a real chance at gold. She is undoubtedly our best hope in the petulance Olympics. She practices it every day. Who could forget when she was in government, not answering any questions—every time you put a bit of pressure on her. Seriously, this is far too important for petulance. When they were confronted with Manoora and Kanimbla being suddenly overnight completely debilitated by rust—because they refused to go aboard and have a look—they had to rush out and buy HMAS Choules. They did not plan to build a ship in Australia, they did not have a plan to build something in South Australia or Melbourne or up in the Hunter. They had to rush out and buy Choules for $100 million. When they were confronted with the fact that Aurora Australis was getting old and they needed a new icebreaker, what did they do? They contracted with a European firm, who were going to build European ships for us. Did they want to come to Adelaide? Did they want to go to Melbourne, did they want to go to the Hunter to build these ships? No. They committed, but—guess what—there was no money in the budget for that. So the hospital handball fell to the Abbott government. This is how good they were at managing money.

They would contract to do things and think, 'Well, we'll leave the money for another day.' That is what we are confronted with. Then, of course, HMAS Success, our No. 1 replenishment ship, needed another hull. So what did they do? Did they take it down to Adelaide or Melbourne? No, they decided that they would take it to Singapore. The audacity of them to stand there and tell us how to run defence procurement. All they could do was cut corners, take money out of the Defence portfolio and go offshore and buy anything that they could when they needed to, because it was always such an emergency. There was no plan, no
planning at all. The Defence Capability Plan was in complete disarray, to the point where they went to the last election telling the Australian people, 'We have no policy on defence.'

With all of the things that had happened in our region, with all of the flood of people on little boats, all of the requirements that we had, they did not even see it as serious enough to have a defence policy to take to the Australian people at the last election. No defence policy. I tell you the one really salient feature about this is that I think the Greens actually had a better defence policy than the Labor Party. And then, of course, when they were in opposition they chose a giant of defence understanding as the shadow! He comes along to Senate estimates and has to tap people on the shoulder, saying, 'What does that acronym stand for?'

The point about all this is that the only thing that this shadow minister has brought to the game is to insult one of our best generals, to actually personally attack one of our best generals, to actually get him at the bar table at Senate estimates and accuse him in a most scurrilous, scandalous way, a most cowardly way. And guess what; he has never apologised to that person. He sees that as a badge of honour. This is the respect they have for serving men and women.

For my sins I have worn the odium of two hours this morning and several questions today for what I said and which I regret. I have said on several occasions that the men and women who are doing the welding and the fitting out of those blocks are doing a good job. The problem we have is in management, and may I say I am desperate to fix that problem because we must have a naval shipbuilding industry in Australia. We have eight future frigates we want to build in Adelaide. I cannot in all conscience and credibility go to the Australian people, go to my National Security Committee, go to the government and say, 'If we are going to cost three times as much as the international benchmark for the production of these ships, we cannot do it in Australia.' I want to bring it down to 80 man-hours or thereabouts per tonne. At the moment, it is 150 man-hours. The point is eight million man-hours per ship against three or four million, which is what we need. I am working day and night to see that we can deliver about 6,000 jobs to Adelaide if we can go forward with this project.

This is just a waste of the Senate's time. It is absolute nonsense. You people have got your priorities really messed up—seriously—as my portfolio stands in testament.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (15:55): I rise to support this censure motion because the statement of the Minister for Defence that he would not trust ASC to build a canoe undermines our national security. His statement yesterday in the Senate was outrageous; but, more importantly, the minister's failure to turn up in the Senate before the Prime Minister cut him loose or even after the Prime Minister cut him loose before the Senate rose last night showed contempt and that he was convinced that he was right. ASC workers—and we heard from just one of them yesterday—do a great job in keeping our submariners safe, and the minister's mocking criticism of these workers was appalling. But, to make matters worse, his criticism is wrong.

But let's go back in time just a little bit. Let's go back in time to those euphoric moments after the government won the last election. What do we know happened in those few days? In among the euphoria of those opposite, the former Prime Minister John Howard picked up the phone five times to the new Prime Minister, Mr Tony Abbott. John Howard called the Prime Minister, Tony Abbott, five times, and what did he say in the course of that week? He said, 'Do not put Senator Johnston in charge of the Department of Defence, because he's not up to
it.' That is what the former Prime Minister said to the current Prime Minister, Mr Tony Abbott. John Howard knew this was going to end in tears. He counselled. He tried to cajole. He tried to convince the current Prime Minister that Senator Johnston was not up to this job. If the current Prime Minister had just taken the wise advice of the former Prime Minister, we would not be in this sad, sorry situation having to censure a minister in this chamber.

As we saw last night, the Prime Minister was the first to highlight the problem that the defence minister had caused for the government and for himself. When the defence minister denigrated the workers who help keep our submariners safe, this is what Prime Minister had to say:

… the Australian Submarine Corporation plays a vital role supporting the Royal Australian Navy and our key naval capabilities.

It was clear when this statement did not include any support for the defence minister that it was over. It is clear that the Prime Minister has no confidence in the defence minister. That last night was a statement of no confidence by the current Prime Minister. But even that was not enough to flush out the defence minister to do the right thing at the earliest opportunity, as is required by this chamber, to come into the chamber and apologise.

The Prime Minister is not the only one in the Liberal Party who has lost confidence in the defence minister. His colleagues have condemned him. One senior Liberal is quoted in today's papers as calling the defence minister's remarks as 'some of the most stupid words I have ever heard from a senior minister'. Another called them 'breathtaking'. The education minister—a senior figure in the Liberal Party in South Australia, Mr Pyne—told Adelaide radio this morning, 'The Minister for Defence should not have made that statement,' and 'The Prime Minister has made it clear that he does not support that statement,' so Mr Pyne cut him loose this morning. It is astounding that a senior cabinet minister would slap down a colleague in such strong terms. What is equally astounding is that it has taken the most senior member of the South Australian Liberal Party six months to grow a spine. For six months Mr Pyne has stood by silently watching as the Prime Minister, the Prime Minister's office, the defence minister and the defence minister's office have slandered the ASC. They are serial offenders on the ASC and Mr Pyne has said nothing. I welcome the fact that Mr Pyne has grown a spine and is starting to defend his home state—

Senator Wong interjecting—

Senator CONROY: It has taken a long time, Senator Wong. It is astounding that a senior cabinet minister would slap down a colleague in such strong terms.

An opposition senator interjecting—

Senator CONROY: That is right; he might actually start a petition against Senator Johnston like he started a petition against Mr Turnbull and the rest of the cabinet about their decision on the ABC. We know the measure of outrage from Mr Pyne—it is to start a petition! Look on the websites now to see if he has started a petition about Senator Johnston.

What about the foreign minister, the one person in the government who has been unequivocal in her support, the one person who has kept him in his job for just over a year and who insisted, despite the advice of the former Prime Minister, on keeping Senator Johnston in this job? What did she have to say today? Did she offer a full-throated defence of her embattled colleague? Did she offer her full support for the defence minister and express
her unshakeable confidence in his ability to manage the nation's defence? No, colleagues, she did not. What did she say? She said she 'accepted his statement'. Oh, dear, that was it—she 'accepted his statement'. There was no: 'He has got my absolute loyalty. He is doing a great job. He'll be sitting in that seat right there in February when we reconvene.' Senator Birmingham went even a little further. He offered even less than that tepid statement from the foreign minister. He said that there is 'no excuse for denigration of the workforce or of the extensive capabilities that South Australia has'.

It is not just the opposition who think the minister has denigrated workers at the ASC who play a crucial role in our national security. We had Mr Briggs, another frontbench colleague of Senator Johnston's, quoted in the paper today as not supporting the minister's comments, labelling them 'wrong'. Another South Australian frontbencher grows a spine on behalf of the state of South Australia. So we have seen a pattern from yesterday through to today that the minister's frontbench colleagues have abandoned him, but what about the backbench? Senator Sean Edwards stated that he was 'in full support of the ASC and the people in it. I note he did not say the same thing about the minister. The minister has no friends on his own backbench either.

I say to those senators, particularly the coalition senators from South Australia: support this censure motion; put your vote where your mouth is and stand up for South Australia in this vote. By their words they have abandoned the Minister for Defence, but today—right here, right now—is a chance for them to make it official. Stand up and be counted for your state.

What about other South Australian Liberals? Are they standing up for Senator Johnston? Steven Marshall, the South Australian Liberal leader, said that Johnston's comments were a 'massive slap' in the face of workers in South Australia and described his position as 'untenable'.

What about the wider community? Is there any support for the minister's outrageous remarks there? The Small Business Association of Australia stated this morning that the minister's comments show:

... a disturbing lack of faith in the country's proven capabilities as a quality manufacturer of goods for the world. Frankly, it also shows a deep disregard for the thousands of skilled workers and businesses that ASC supports.

Professionals Australia, who represent the engineers who work at the ASC to keep Australia's submariners safe, put out a release today that had the headline 'The Prime Minister must intervene: Johnston must go'.

The defence minister's role is to ensure our national security. He should not be undermining our national security. That is what his comments did yesterday and that is why he deserves censure. The fact that he would not front up to the Senate yesterday and had to be dragged in screaming and kicking after the Prime Minister cut him loose last night and after his colleagues bucketed him in the morning papers and on morning radio and TV is why he deserves censure today.

But this is not the only time the minister has failed his duties. The minister at estimates earlier this year told the hearing that he did not go to a meeting of the National Security Committee of cabinet because he 'wasn't going to add much'. The Minister for Defence, while we have troops in the field in the Middle East, said he did not go to the National Security Committee of cabinet because he 'wasn't going to add much'. Well, it is hard to argue with
him. I think it is pretty clear now that the minister is not the only person in cabinet who thinks he would not add much.

But the minister's disdain for the Australian defence industry has been seen before when he held a tender project for Australia's new supply ships and specifically excluded Australian companies from tendering. He actually said that no Australian company was allowed to tender for two supply vessels. Only a Spanish company and a South Korean company were allowed to tender. No Australian company was even allowed to put in a bid. He simply does not have a vision for Australia's naval submarine and shipbuilding industry. He doesn't believe we can build things in Australia, and we saw that again yesterday. Rip the ugly mask off and there it was: the ugly view that he 'wouldn't trust them to build a canoe'. The truth was out there.

The minister has constantly and consistently exaggerated claims about the issues with the AWD project. This is probably his most heinous offence. To save his own sordid political skin he has been willing to constantly mislead this chamber about the issues around the AWD. He has constantly misled the Australian public for short-term political gain. He has repeatedly claimed that the AWD project was operating at 150 man-hours per tonne. But BAE, the company actually building it, have told the Senate that they are currently beating their productivity targets and achieving 76 man-hours per tonne. Not 150 as the minister has constantly sought to say. The minister has zero credibility on that issue.

The minister is relying on a secret report that he refuses to release. It is called the Winter report. Instead, he talks down the Australian defence industry, cherry picking facts that he thinks support his case. But will he released the full report? Will he allow the Australian public, the Australian parliament, to look at it? No, he will not. You have got to have growing suspicions about why. The minister has a terrible track record of talking the Australian industry down. He is a serial offender.

We have known a long time now that the Prime Minister was worried about this minister. He was not even allowed to employ the staff of his choice, with the PMO choosing staff for his office, including, ironically, a former ASC executive general manager who is currently his chief of staff. So we have the Prime Minister's office knowing that they had a pretty average weak link picking his chief of staff. We have a minister who says the ASC could not build a canoe, but one of their former executives is running his office. No wonder Liberal MPs are out in force today condemning the defence minister.

While we are talking about the treatment of the ASC by the minister, I would like to highlight the report in The West Australian today. It says that the defence minister apologised to ASC Chair Bruce Carter a fortnight ago for his relentless and baseless negativity towards the ASC. So this minister is a serial offender. It got so bad that two weeks ago he had dinner—as he has just admitted in the chamber—with the chair of the ASC and he apologised. What does the minister say today? I do not remember that. It just turned up in the newspaper saying he apologised, but he has no recollection of that. But since that apology in just two weeks this minister has personally abused on Adelaide radio the interim CEO of the ASC just last week and then yesterday, to cap it off, he mocked the entire ASC workforce. The minister promised to stop denigrating the ASC two weeks ago and twice in that two weeks he has broken his word to the chair of the ASC.

It is worth reflecting on the minister's personal bias against the ASC and its workers. The minister has consistently and repeatedly criticised Australia's capacity to build our future
submarines. The minister has made claims about the strengths of the Japanese submarines, but they have been rejected by every submariner expert in the country. The Soryu is not the submarine for Australia. It does not have range, the endurance and the capability that meet Australia's unique needs, despite what Senator Johnston wants you to believe.

The minister has said that Australia does not need to run a competitive tender process. That is right: the minister says we don't need a competitive tender process; we do not need a funded project definition study to choose our next submarine. This was absolutely rejected by every single expert who turned up and bravely, in the face of the minister's abuse, scorn and denigration, told the truth to the Senate committee.

The minister has said there will be a capability gap—you heard him say it again today—if we build our next submarine in Australia. This again has been rejected not just by the experts but by the companies. Because they have seen that the fix is in for Japan, three companies have put unsolicited bids in because they can see the fix is in for Japanese submarines. So three companies have put in bids, and they will say around $20 billion and we can avoid the capability gap.

But the minister does not want you to believe that evidence from the experts, from the companies. He wants you to ignore it all because he needs an excuse that he can hang his hat on when this government is exposed for lying to the Australian people when it said before the Australian election—and Senator Johnston said it on behalf of Tony Abbott—

Senator Abetz: Mr Abbott to you.

Senator CONROY: Mr Abbott. He said, 'We'll build 12 submarines in Adelaide.' He said it before the election. And—just like the ABC, just like health, just like education, just like SBS—it was another lie and is another broken promise about to be exposed. That is what this whole farce is about. The minister knows that the fix is in for Japan, and he needs to create a complete and utter farce of lies because he knows he is going to be done like a dinner when the announcement is made that Japan are getting the subs. You cannot believe what he has been saying for the last six months. You cannot believe Tony Abbott on this—

The ACTING DEPUTY PRESIDENT (Senator Williams): Mr Abbott.

Senator CONROY: because he has already done a deal with Japan.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (16:15): The Labor luminaries that have brought us this censure motion are the same Labor luminaries that told the Australian people there would be no carbon tax. They are the same Labor luminaries that engineered the pink-batt debacle, which saw four Australians lose their lives. They are the same Labor luminaries that went to the Australian people at the 2013 election without a single word of defence policy. The person who moved the motion is none other than the former failed finance minister who ran up the biggest debt this country has ever seen, which we as a government now need to fix on behalf of the Australian people. And the seconder of the motion, Senator Conroy, was the architect of the debacle of Australian acquisition, namely the National Broadband Network. Labor have not only left us with a huge defence capability gap; they have also delivered a huge credibility gap.

I say in particular to the crossbenchers—and I would invite them very carefully to listen to what I am about to say—that censure motions are not to be treated in a flippant manner. They
are serious. I was here under the Howard government when Labor and those opposite used to move a censure motion nearly on a weekly basis, and it became laughable. Indeed, the only regret I had, serving in the Howard ministry, was that I was never censured. I thought I just did not quite cut the mustard. I just was not quite up there to be deserving of a censure motion. So freely were they given out that it demeaned the currency of a censure motion.

What I would say to those opposite and especially the crossbenchers is this: those that move censure motions need to come into this place with clean hands. When you see Senator Wong's past performance as a failed finance minister and as the failed climate change minister—remember, the greatest moral challenge of our time was climate change. Everything had to stop to fix it. And then, all of a sudden, it was just jettisoned like a used tissue, to be thrown away and forgotten about as though it had never previously existed. This is that sort of passion and commitment. It is faux passion. It is faux commitment. It is just pretence on behalf of the Leader of the Opposition in the Senate.

And then what about the clean hands of Senator Conroy, the man who brought us the debacle of the National Broadband Network, which misled the Australian people coast to coast by putting up on websites that the NBN was being rolled out here and rolled out there? When we came to government and opened the books, there was no rollout happening in those places at all. It was being put on the website simply as a political ruse, as an attempt to shore up the government of the day, which of course was the discredited Labor government. So the people that are bringing this motion to us have no credibility.

Let us set that aside. Let us have a look at what a censure motion should be all about. I simply pose this question: what is the actual allegation against Minister Johnston? Did he fail to administer his portfolio? No. Did he mislead the Senate? No. Did he fail to declare a conflict of interest—read Mr Fitzgibbon? No. Did he breach any parliamentary rule? Answer: no. What did he do? He simply overstated, as he said, in a rhetorical flourish at the end of a noisy question time while being constantly baited and interrupted by Senator Conroy. It was a matter that he regrets, and he has said so. So somebody makes an error by overstatement; he admits it, and then we are going to censure him for that. Excuse me. Is that going to be the standard for a censure motion—that you overstate something in a rhetorical flourish in the heat of a debate whilst being baited by those opposite, and you have the decency to apologise, but we will still censure you? What a waste of the Senate's time.

This is designed by the Australian Labor Party to ensure that the government's important program does not get through by the end of the year. This is a methodology employed by desperate oppositions since time immemorial, and we know the tricks that they play. And that is why the Leader of the Opposition in the Senate continually interjects during my contributions and everybody's contributions, every single question time. Indeed, I took a note of Senator Conroy's, her deputy's, interjections. Within the first five minutes of Senator Johnston's speech, he had interjected more than 13 times, and I lost count. This is their behaviour, yet they come in here and say, 'We are the upholders of parliamentary standards.' If only somebody could supply them with a mirror, what a sight they would see, and they would not be moving these sorts of censure motions.

So what is it that Senator Johnston is alleged to have done? I simply say that it is a measure of an individual to say, 'I overstated something. I regret it.' I would have thought that we were all mature enough to then move on. We are told that Senator Johnston heinously 'insulted the
men and women of the ASC. Well, he has already withdrawn that. The seconder of the motion, Senator Conroy, said this to a man who has given over 30 years of faithful service in uniform in the Navy: ‘You can't tell the Australian public the truth. That is called a political cover-up.’ In other words, under parliamentary privilege, he accused somebody in uniform of lying and being engaged in politics, but he comes in here saying, ‘Oh, I'm concerned that the Defence Force's reputation might be tarnished by something which the minister has withdrawn.’

Why doesn't Senator Conroy come in here and have the decency to apologise to Lieutenant General Campbell? When you come to this place with a censure motion, you have to come with clean hands. Senator Conroy was the architect of a deliberate ploy to trash the personal reputation of an individual in uniform such as Lieutenant General Campbell—he deliberately set up and pre-planned it for Senate estimates—but when caught out and exposed, he did not apologise. In the heat of the moment, Senator Johnston says something and is decent enough to acknowledge he should not have said what he did.

I say to the crossbenchers, you vote for this sort of censure motion, you vote for hypocrisy writ large. You will encourage the likes of Senator Conroy, who will do one thing and then demand the exact opposite of his political counterpart. That is not leadership; that is not statesmanship, especially not in the vital Defence portfolio, which requires bipartisanship.

Why is it that Senator Conroy so viciously attacked Lieutenant General Campbell at Senate estimates this year? Because he was being told chapter and verse how border protection was working and that which Senator Wong and Senator Conroy told the Australian people could not be achieved was actually being achieved. We were stopping the boats and, by stopping the boats, we were stopping the over 1,000 deaths at sea overseen by the Australian Labor Party's mismanagement of border protection. So we were not only saving lives but we were allowing ourselves to undertake a genuinely orderly intake of refugees whereby social justice can be served, whereby people can come into this country on a basis of need, not on the basis of being able to pay criminals to advance their cause by gatecrashing Australia. Senator Conroy did not want to hear any of that and so, as is Labor's wont, he made a personal attack under parliamentary privilege, accusing somebody of lying.

When he was asked to withdraw, he did not. When he was asked to apologise, he did not. Yet he comes in here, saying to the crossbenchers in particular, ‘Listen to me. I'm the upholder of standards. I'm the person you should be listening to.’ That is something I would invite the crossbenchers to keep in mind. Senator Conroy also told us that that for which Senator Johnston has already apologised was damaging perceptions of Defence personnel, that it would undermine confidence and that it would cause reputational damage. Yet calling a man in uniform a liar or saying, ‘You can't tell the Australian public the truth; it's called a political cover-up,’ does not damage perceptions of our men and women in uniform, does not occasion any reputational damage and does not undermine confidence? Excuse me: it does all three of those things for which Senator Conroy to date has not yet apologised.

We are told in this censure motion that we are threatening the integrity of the Future Submarine project and Australia’s defence capacity. Well, let us have a look at Labor's six years in government. The former government's decisions led to—just listen to this—119 defence projects being delayed, 43 projects being reduced in scope and eight projects cancelled, risking critical capability gaps. I wonder what that might have done to the
workforces right around this country. I wonder what another 119 defence projects might have been able to deliver by way of jobs. But here, today, we get this ridiculous display of crocodile tears and concern for workers who allegedly do not have a job. The problem is that there was no work done in the submarine space for the six years of the previous Labor government. Senator Johnston, excellent, capable minister that he is, was confronted with a blank sheet of paper, in circumstances where Labor had said, throughout their term, that they had plans, they were getting ready to build, everything was on track and all Senator Johnston had to do was take it over. I suspect Senator Johnston made the mistake of believing that which Labor had been saying. When he confronted his ministerial desk on coming to office, he saw that the plan was simply a blank sheet of paper.

If we are having a look at standards of ministerial conduct, I remind Labor of Mr Fitzgibbon, Labor's defence minister, who was forced to resign. Why? Because of the excellent work of one Senator Johnston. Oh! I wonder whether that might be one of the reasons that Labor have come in here with a trumped-up charge to try to even the ledger—a little bit of payback. I simply ask if the Labor Party wants to go through that which Mr Fitzgibbon did. Indeed, Senator Faulkner was part and parcel of a meeting, if the media reports are correct, that then led to Mr Fitzgibbon's resignation, after the expose so wonderfully undertaken by Senator Johnston—an expose which showed that a minister had been in breach of the ministerial code of conduct. He resigned. It was the right thing to do. But where was Senator Conroy's outrage at the time? Silence. And Senator Wong's outrage at the time? Silence. Yet they come in here and say: a man who apologises for what he has said should somehow be censured. I simply say: what a huge, huge double standard.

Now we are told as well that somehow Senator Johnston failed to protect the conditions and pay of our Defence personnel. Well, Mr Acting Deputy President, what do we have here? We have a situation where the Australian Labor Party in the 2013 election told the Australian people: 'The budget is on track to come in at an $18 billion deficit.'

Senator O'Sullivan: That was the 26th time in a row.

The ACTING DEPUTY PRESIDENT (Senator Williams): Order on my right!

Senator ABETZ: When the budget finally did come in, it was $48 billion in deficit—a gap of $30,000 million—

Senator Bilyk: Through the chair.

Senator ABETZ: Mr Acting Deputy President—

Senator Lines: He's that way. He's there—he's behind you.

The ACTING DEPUTY PRESIDENT: Order on my left!

Senator ABETZ: in circumstances where we were borrowing $1,000 million just to pay off the debt incurred by—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order!

Senator Lines interjecting—

The ACTING DEPUTY PRESIDENT: Senator Lines! Senator Abetz, resume your seat, please. Senator Lines, when I call for order I don't want the backchat, okay? If it happens again, I will take action. Continue, Senator Abetz.
Senator ABETZ: Thank you, Mr Acting Deputy President.

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

Senator Wong: Yes, I do, Mr Acting Deputy President. I think the point Senator Lines was making was: those of us on this side have been—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Wong, continue.

Senator Wong: chided for turning our backs to the chair, and I appreciate that, in the course of debate, one tends to move, but I think the point was that the Leader of the Government in the Senate had not actually turned around; I think that was the point that was being made.

The ACTING DEPUTY PRESIDENT: You make a point. Senator Abetz, I must admit that most of the time I have been looking at your back in your presentation. Please address the chair.

Senator ABETZ: Mr Acting Deputy President, I can understand you would prefer to look at my face rather than my back—

The ACTING DEPUTY PRESIDENT: I am human, Senator Abetz!

Senator ABETZ: but I confess that not many people would share that view! But, with respect, there is nothing in the standing orders that says how one faces the chamber.

Nevertheless, let us keep moving in relation to this issue of defence pay. We know that twice under Labor there were wage increases given to our Defence personnel that were under CPI. So when Labor does it, under Senator Wong and Senator Conroy, it is okay, but, if the coalition might do it, it would be the most heinous crime ever! It is this sort of immaturity and this sort of incapacity to come to grips with the issues before the nation that really does defy any explanation. I say to the crossbenchers: how can you vote for a censure motion being moved by a former Labor minister who oversaw two pay increases that were below CPI on the basis that we might be doing that in relation to one payment in relation to CPI? If that is a sin they are doubly guilty, and they have no credibility to be able to move a censure motion on that basis.

Further, we know that not only did they not increase according to CPI; they actually backdated certain reductions and left military personnel serving overseas with debts that had to be repaid. And they come in here appealing to the crossbenchers, saying, 'Haven't we looked after the defence forces so magnificently,' when they have done so, so much worse in this space.

But let us be very clear: as a government, we are committed to our Defence personnel. We are committed to our defence industries. But when you are left with a situation of a trajectory of getting this nation into $667 billion worth of debt, where we are borrowing $1,000 million a month just to pay the interest on the existing loans, what do you do? Well, I, as a minister on behalf of this government, went to the remuneration tribunal and said: 'All parliamentarians, the Minister for Defence, the Chief of Defence Force, all our judges and other people, should not be given a pay rise at all; there should be a zero per cent pay rise for the Chief of Defence Force, for the Minister for Defence, and for the Prime Minister,' and so, in those circumstances, a 1.5 per cent deal was, as the Defence Force Remuneration Tribunal...
determined, a fair offer in all the circumstances. Do we really want to keep borrowing money from overseas to pay the wages? If we pay the wages today of parliamentarians and Defence personnel and public servants with borrowed money from overseas, who has to repay it? It will be our children and our grandchildren who will have to repay that debt. We are not going to be party to that sort of inappropriate economic management. We have full confidence in Senator Johnston. *(Time expired)*

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (16:36): I rise this afternoon to support the censure motion as has been moved, and I do note that a censure motion is a serious motion of the Senate and it needs to be taken seriously, and the born-to-rule kind of response that we have had here this afternoon—

**Senator Fierravanti-Wells:** Give it a break!

**The ACTING DEPUTY PRESIDENT (Senator Williams):** Order! Order!

**Senator MILNE:** Thank you, Mr Acting Deputy President. I have not interjected on the coalition as they have spoken here this afternoon, because censure motions are very serious motions. I want to put it very clearly on the record that I recognise that, as do the rules of this parliament. They make very clear that a minister is accountable to the Senate, that a censure motion can be moved in the Senate and, while the Senate has no power to remove a minister, the Senate does have the power to censure a minister because of their accountability to the Senate. It would seem to me that Senator Abetz and some others who have spoken here today seem to think that the Senate have no right to hold a minister to account. We do have the right to hold a senator to account, and we are moving to censure the minister, Senator Johnston, in this parliament.

I would like to go through the reasons why I have joined, on behalf the Australian Greens, in supporting a censure motion. First of all, the Leader of the Opposition in South Australia, Steven Marshall, has come out and said that the minister needs to apologise to the workers of the Australian Submarine Corporation and to the people of South Australia for his remarks. There has been overwhelming criticism—

**Senator Canavan:** He has.

**Senator MILNE:** I do not believe the minister has apologised. What he said was this—

**Government senators:** He has!

**The ACTING DEPUTY PRESIDENT:** Order! Continue, Senator Milne.

**Senator MILNE:** Thank you, Mr Acting Deputy President. He has said, 'I never intended to cause offence.' Whether he intended to or not, he did. The second thing is that he said, 'I regret that offence might have been taken.' Yes, he regrets that offence might have been taken, but he did not say, 'I am sorry; I should not have said this.'

**Senator Nash:** Yes, he did.

**Senator MILNE:** He said he 'regrets'. In his statement to this Senate earlier today, before this happened, he did not say that he was sorry, just that he regretted that offence had been taken. Well, offence was taken, and offence was rightly taken, because it was a clear inference that the workers, the people at the Australian Submarine Corporation, were not up to the job.
I did think at the time, on 17 December 2013, that it was interesting that it was Minister Cormann who said at the time that Sophie Mirabella was appointed to the Australian Submarine Corporation:

… her legal background, and her extensive experience working with the manufacturing industry … will make a valuable contribution to the board.

And here we now have the minister saying that he would not even trust them to build a canoe. That could be a partial justification—that is, they appointed someone who knows nothing about submarines to the board; however, I return to the main points here.

This is an accumulation of things for me; it is not just about this latest insult. It is also the fact that the minister has before shown that, in my view, he undermines the integrity of and the confidence that we might have in the Australian Defence Force. We will all remember that the ABC ran a program with asylum seekers saying that they had burnt hands because they were forced to hang onto hot pipes on an asylum seeker boat. An investigation was called for and the minister said that he would not conduct an investigation, that he would not hear for a moment any allegations or criticisms of anyone in the armed forces and that, in fact, the investigation should be into the ABC. Of course, we have seen subsequently what the government thinks about the ABC with the cuts that have been made. But you cannot have a minister who will not take seriously complaints that people might have. At the same time, he should take seriously the praise people have and the agreement and the support people have for the armed forces. If you are the minister you have to take both sides of things seriously, and he did not.

Also in relation to my confidence in the minister, I want to go to the issue of the deployment to Iraq. Again, we have a situation where the minister was asked on television, 'Do you believe you can destroy the Islamic State?' He said, 'Yes, we can destroy the Islamic State.' He then went on in that vein without any evidence or anything other than the muscular rhetoric that the Prime Minister had shown and that we have seen in here today. We have seen that same rhetoric that the minister is capable of, but it has not been backed up by evidence; it has not been backed up by the kind of competence you would expect in a Minister for Defence. That is a serious issue for me in this case.

We have already heard that Mr Bruce Carter was told by the minister, less than a couple of weeks ago, that he would stop criticising the ASC in public and then, within a matter of weeks, he comes out and completely undermines any kind of confidence that people might have. The bigger picture here, though, is we have a minister, a defence minister, who is overseeing Australia's deployment of troops to Iraq and there is still no clarification from the government as to the legal basis for their engagement in Iraq. What I saw was Australia pleading with Iraq to let us be there after the Americans asked us to go and a lack of clarity around the legal status of our troops being there—to the point where the latest that was put out there was that they are there under diplomatic immunity. In the absence of the legals, they are advising troops to work alongside Shia militias who are involved in just as barbaric behaviour in many instances as the Sunni militias and the Islamic State have been capable of doing in various places, and my big question here has always been: what vulnerability has our defence minister put on our armed service men and women if they are caught up in war crimes in the future—accusations of war crimes? If they are associated, if they are—

*Senator Canavan interjecting—*
Senator MILNE: I will not be verballed by people with interjections like that. What I am making is a very straight legal point here as to whether the men and women in the armed services are going to be protected from accusations of being associated with people who may, in the future, be accused of war crimes if they are in the Shia militias or other militias with whom they are associated via the Iraq army. That is a point that I would have thought a defence minister would have wanted to have covered off before anyone sets foot in Iraq in this current conflict.

But I want to return to the big picture here in terms of Defence procurement. Defence procurement is a critical matter, and you would want to have confidence in the minister overseeing the process. What we have seen is a minister lose his cool, condemn the capacity, the competence and the capability of the ASC, undermine confidence and then say he is going to oversee a procurement process. I do not have any confidence that this minister can oversee a procurement process where he will be outdone on every front by the countries with which he is engaging. Defence procurement is not a simple handing over of the cash and taking whatever it is you are buying—in this case, a submarine, but it might be other defence equipment. There are all kinds of issues associated with it, and I am not confident that this minister is competent, having seen the behaviour to date overseeing such a procurement process.

Apart from that, of course, there is another broken election promise, made on 8 May 2013, to build 12 new submarines at the Australian Submarine Corporation in South Australia. That was a promise to the people. But, frankly, we are seeing election promises just being chewed up and spat out virtually every day. Nobody could have any confidence in anything that the Liberal Party had to say before the election, because after the election it was just meaningless. Then we had a complete attempt to cover up the broken promises. Further to the issue of procurement, I have wondered ever since the last election what was promised to Incat and associated companies in Hobart in terms of support for the Liberal Party at the last election. But I will not go into that now, except to say that it is a matter of concern.

Finally, I want to go to failing to protect the Christmas and recreation leave of and failing to demand a real pay increase for ADF personnel. When it was put to me that the government were expecting our men and women of the armed services to go and serve in Iraq and, at the very same time, came out with this decision to cut their leave and cut their pay, I said on that very day that it was appalling and that the people of Australia would not support it. Everybody can see that it is entirely the wrong thing to do. If you want to build loyalty in your Defence forces, if you want to give some sense that you mean it when you say you support them, then not only do you actually support them but you have a record of looking after them when they come home and of dealing with the issues. Yet we have seen some pretty shabby treatment of people who have come home from Afghanistan and, previously, Iraq and other conflicts.

I went to Sydney to see that fantastic production between the Sydney Theatre Company and the Australian Defence Force, The Long Way Home, with veterans talking on stage about their experiences of post-traumatic stress and of coming to terms with what they had to live with once they came back to Australia. It is a very moving and powerful piece. Sitting there you realise that it is all very well to do the big farewells and the big media stories at the time people leave for conflict duty, and it is all very well to stand up in here on condolence
motions, but if you are not prepared to actually put the money into looking after the people who come home and have to live with it for the rest of their lives, with either physical or mental anguish and disability, then we are not standing by our words that we support our men and women of the armed services.

It is in that context that I support this censure motion of the minister because I do not have the confidence that he has the temperament to oversee a procurement process, given his reaction to the issue of the Submarine Corporation and his reaction to the issue of the complaints about the ADF with the asylum seeker boat incidents. He just reaches a conclusion and does not investigate the matters properly. But, more particularly, the big picture here is: he should be saying he is sorry. He should not be insulting people who are working in that particular business. More particularly, as the defence minister of Australia, he has an obligation to have a level of competence that is not being demonstrated. If people do not have the confidence that he can oversee the procurement process, then the Prime Minister should take that on board and think about that very carefully, because it is pretty fundamental.

Senator FAULKNER (New South Wales) (16:50): This censure debate is a matter I genuinely wish that the Senate did not have before it. I get no pleasure that an Australian defence minister is the subject of a censure debate. I get no pleasure from the fact that the defence minister has left himself open to and has suffered from an avalanche of criticism, not only from the opposition but also from his own side of politics. Literally only a handful of Australians know the pressure a defence minister in this country is under, and I am one of that small handful.

Because of earlier comments in this chamber by the Deputy Leader of the Government in the Senate, Senator Brandis, who described me as a 'no-hoper' as Minister for Defence, I am now in no position to duck this debate. I reluctantly participate, but I have no choice; I will not allow myself to be accused of gutlessness by not speaking. I speak as someone who absolutely accepts the importance of a continuous and credible submarine capability for our nation into the future, and I speak as someone, I think, who does understand the challenges that are involved for ministers and government in our Future Submarine project. I am well aware, also, of the challenges a defence minister faces in relation to the crewing, availability and maintenance of our Collins class submarines and I also know the huge responsibility that a defence minister has for the safety of our submarine crews. There is no higher priority in this area than that.

I would like to acknowledge this afternoon how important the work of the ASC is. Along with the Department of Defence and the Royal Australian Navy, it has worked very hard to meet all the issues—procurement and otherwise—in relation to submarine design, manufacture and sustainment. I can assure you that the ADF know, the Department of Defence know and Defence personnel in this country know that, as defence minister, I worked hard and—I believe that I can say this not immodestly—worked successfully to take most of the partisan politics out of defence issues in this parliament. As defence minister, I did not pass judgement on my predecessors—Labor or Liberal—or did I engage, at that time, in partisan sniping about the then opposition. As a former defence minister, I have not passed comment about my successors—again, Labor or Liberal—and have been careful about entering debates regarding contemporary defence issues. But what I have done is be very
forthright in this chamber about the critical importance of government process and probity issues. In this debate, I intend to limit my contribution to those issues.

We have heard Senator Wong and others remind the chamber today that the procurement of Australia's next generation of submarines will be the biggest government procurement project in Australian history. The Minister for Defence is in charge of a multibillion-dollar project and it is critical that the fair and equitable conduct of that procurement project is not jeopardised in any way. I am concerned as to whether Senator Johnston's comments of yesterday in question time raise serious probity issues. There is a critical question of whether an Australian bid for the submarine project will be treated fairly. Let me take the Senate to the Commonwealth Procurement Rules. Procurement rule 5.3:

The Australian Government’s procurement framework is non-discriminatory. All potential suppliers to government must, subject to these CPRs, be treated equitably based on their commercial, legal, technical and financial abilities and not be discriminated against due to their size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.

I now go to the first part of paragraph 6.6, which is headed 'Ethical behaviour':

In particular, officials undertaking procurement must act ethically throughout the procurement. Ethical behaviour includes:

a. recognising and dealing with actual, potential and perceived conflicts of interest;
b. dealing with potential suppliers, tenderers and suppliers equitably …

And it goes on. I am concerned that the comments by the Minister for Defence yesterday are not consistent with these requirements to act ethically but particularly equitably.

Let me take the Senate to the Defence Procurement Policy Manual—a manual that I know well. Let me take the chamber to page 1.4-9, and the last part of paragraph 40:

‘Ethical’ generally involves honesty, integrity, probity, diligence, fairness and consistency. Ethical behaviour usually means acting consistently with the core beliefs and values of society; it includes the appropriate management of conflicts of interest and making decisions without being influenced by personal bias.

Then I go to paragraph 14 of the Defence Procurement Policy Manual, which is on page 3.2-3. I will quote a small part of that paragraph:

Some of the factors to be considered when identifying the risks associated with a procurement include—

and there is a range of them; one of the dot points—

breach of ethics and probity in the tender evaluation process, including conflicts of interest, bias, and breaches of confidentiality.

The issue here is: what do these requirements mean when it is the Minister for Defence, the minister who will be responsible for advising the National Security Committee of the cabinet on the procurement of Australia's next generation of submarines? What does it mean when that responsible minister comes into the Senate and says that he would not trust Australia's government owned submarine builder to build a canoe? Not my words, his. The issue for this parliament is whether a reasonable person would feel that the minister had an apprehension of bias.

Thirdly, let me take the Senate to the Australian government Department of Defence, Defence Materiel Organisation, Better practice guide: industry engagement during the early
stages of capability development: a guide to the effective management of pre-first pass 'probity' risks. This is the exposure draft release version that I am quoting from which was issued July 2013. I want to quote this too for the benefit of the Senate and senators. Paragraph 1 on page 5 of 38:

Defence cannot do this alone and looks to industry as its capability partner. Particularly in the early stages of capability development, it is vitally important that Defence develops close productive working relationships with innovative and sustainable Defence industry companies that understand and can respond to Defence's capability needs.

Paragraph 2, same page:

To further emphasise the importance of this relationship, it is widely recognised that the quality of Defence's engagement with industry, particularly in the early stages of capability development, can have significant implications for delivering required ADF capability and the achievement of value for money over the longer term.

Then paragraph 3, same page:

However, it is also the case that Defence's engagement with industry can, if not planned and managed appropriately, involve or give rise to ‘probity’ concerns that risk damaging Defence's reputation, the quality of Defence and Government decision making and Defence's ability to achieve best value for money capability solutions. During the early stages of capability development (ie prior to First Pass Approval) these concerns may involve allegations of bias in favour of particular solutions or suppliers and/or risks to the competitiveness or fairness of future Defence procurement processes.

This statement is unequivocal. It is unequivocal in stating the importance of protecting the reputation, the quality and the probity of Defence, and of government procurement decisions, as it should be.

Then, finally, I want to go to, as I have before in these sorts of debates, the 'Statement of ministerial standards', which of course is the document which sets out the expected standards of ministerial conduct in this country. I quote first of all the words of the Prime Minister in the foreword to the document. Mr Abbott:

Ministers and Parliamentary Secretaries are entrusted with the conduct of public business and must act in a manner that is consistent with the highest standards of integrity and propriety.

They are required to act in accordance with the law, their oath of office and their obligations to the Parliament.

In addition to those requirements, it is vital that Ministers and Parliamentary Secretaries conduct themselves in a manner that will ensure public confidence in them and in the government.

The statement goes on. In paragraph 1.1 on page 2 under 'Principles':

The ethical standards required of Ministers in Australia's system of government reflect the fact that, as holders of public office, Ministers are entrusted with considerable privilege and wide discretionary power.

That is of course absolutely correct, as we know, as it should be. Paragraph 1.2:

In recognition that public office is a public trust, therefore, the people of Australia are entitled to expect that, as a matter of principle, Ministers will act with due regard for integrity, fairness, accountability, responsibility, and the public interest, as required by these Standards.

These statements outline the foundation on which these standards are written. I would like to draw the attention of the Senate to the following specific paragraphs in this 'Statement of ministerial standards'. Firstly, 1.3(ii):
Ministers must observe fairness in making official decisions—that is, to act honestly and reasonably, with consultation as appropriate to the matter at issue, taking proper account of the merits of the matter, and giving due consideration to the rights and interests of the persons involved, and the interests of Australia.

Then paragraph 1.3(iv):
Ministers must accept the full implications of the principle of ministerial responsibility. They will be required to answer for the consequences of their decisions and actions—that is, they must ensure that:

- their conduct in office is, in fact and in appearance, in accordance with these Standards;
- they promote the observance of these Standards by leadership and example in the public bodies for which they are responsible; and …

And the standards go on. All ministers—all of them—and all members of the executive must fulfil their responsibilities in accordance with this Statement of Ministerial Standards. We do not know if the Prime Minister has raised any concerns about these issues with Senator Johnston. That is, of course, a matter for the Prime Minister, and it is a matter for the Minister for Defence. But it is reasonable for any senator, any member of this parliament, the media or the public to ask. But let me say what my view is: I expect that the Statement of Ministerial Standards will be adhered to by all members of the executive. In this case, I do not believe that that expectation has been met.

These issues are serious. Last night, after Senator Johnston's comments in question time, the Prime Minister felt that it was necessary for him to issue a supportive statement about the vital role of the ASC. No-one else has said this today in this chamber, but let me say that I am very pleased the Prime Minister did that. The Prime Minister should have done it; it was the responsible thing to do and I am glad that he did make that supportive statement, which I am sure made a difference to the management and, particularly, the workers at the ASC. Senator Johnston has, as we know, been criticised by state and federal politicians from both sides of politics and also from crossbenchers. I acknowledge that, in this chamber this morning, Senator Johnston made clear that he regretted making his statement, and, like others, I am pleased that he did so. But let me say this as a reluctant starter in this debate, courtesy of Senator Brandis: I believe it is critical that Senator Johnston, as defence minister, now assure the parliament that he has sought advice about all possible implications of his statements yesterday in question time on the submarine procurement processes. I want to know also, and I think we need to know, that that advice will be shared with the Australian parliament and that the parliament can also be assured that these processes have not been compromised in any way. It gives me no pleasure as a former Minister for Defence to say that I think, on this matter, the facts are clear. Senator Johnston made a serious mistake for which censure by this chamber is warranted. (Time expired)

Senator LAMBIE (Tasmania) (17:10): I rise to contribute on, and support, the censure motion put before this Senate by the opposition against the Minister for Defence, Senator Johnston. I congratulate the Australian Labor party for standing up for Australian jobs, Australian shipbuilding and Australian national security, and I urge all senators to support this censure motion. I agree with all five points of this censure motion. I agree that the Minister for Defence has insulted the men and women of ASC by stating he 'wouldn't trust them to build a canoe'; undermined the confidence in Australia's defence capability; threatened the integrity of Australia's defence procurement project; broken his promise made on 8 May 2013
to build 12 new submarines at ASC in South Australia; and cut the real pay and Christmas and recreational leave for Australian Defence Force personnel.

This is now a serious credibility and leadership crisis for the Abbott government, which is best described by this important question: how can any Australian believe any promises that this minister and, indeed, his Prime Minister make? The public record shows that this government, through the defence minister, Prime Minister and other Liberal Party ministers, has broken promises and deliberately misled ordinary Australians and the men and women of the Australian defence forces.

The government created the crisis surrounding Australian shipbuilding because of a failure of leadership by the defence minister and the PM. The defence minister should be sacked or, even better, should have enough integrity to resign for his incompetence and lack of honesty. That might buy the PM some time; however, we should not have to remind government members how vitally important it is for Australia to be able to manufacture ships and weapons. The government of Australia should have followed the advice that the new Governor-General, Sir Peter Cosgrove, gave in 2013 as the former Chief of the Defence Force. The now Sir Peter Cosgrove said:

Whenever I am asked why we should build submarines in Australia, my short reply is that we can't afford not to

Yesterday, I met with members of the AMWU who represent proud Australian skilled tradesmen. They build ships and submarines to defend our nation. I was proud to support those men and their families in their campaign to guarantee that $250 billion worth of shipbuilding over the next 12 years, for the service and defence of our nation, is carried out in Australia.

We are an island nation and I come from an island state. We should be able to build ships and submarines in order to defend Australia. Anyone who undermines our capability to build naval vessels should be charged with sedition or treason. They are obviously dangerously stupid, or working for Australia's enemies, and they certainly should not be allowed to hold high office or the position of minister in this parliament.

I have had my differences with the union movement in the past, and I do not believe the union movement gets it right every time; however, in this matter, the AMWU has got it absolutely right. Paul Bastian, the National Secretary of the AMWU, has given four good reasons why every Australian, including Tasmanians, should support Australian shipbuilding. Firstly, it is vital for national security, and he said:

Australia is an island nation dependent on maritime trade across our surrounding oceans. If our shipbuilding industry is allowed to die, we will lose the skills required to design build and maintain naval ships and submarines, skills that have been recognized as crucial throughout our history and in the recent Defence white papers tackling future strategic risks.

Secondly, it is good for our economy—and I quote: 'Commissioning a one-off build from overseas is sometimes cheaper than building at home in the short term. But this ignores the long-term economic benefits.'

Thirdly, 'Australian workers are productive and competitive'. That headline speaks for itself; however, I remind the Senate again that the only way we can become more productive and competitive is to guarantee that our power and electricity prices are the cheapest in the
world. While our competitors in America and the UK have power three times cheaper than ours, undue pressure will always be placed on Australian wages and conditions.

Finally, it is good for employment and nation building—and I quote: 'The Australian government has identified the need to build around eight warships at a cost of $100 billion over the coming decades. Adding maintenance across the ships' lifetimes, the outlay is closer to $200 billion.' I want Tasmania to have a share of that $250 billion worth of Australia's shipbuilding. I want to remind this parliament that Tasmania can also play an important role in Australian shipbuilding for our ADF.

If this defence minister is allowed to have his way, if he is allowed to remain in this high office, undermining national security by his lack of credibility, leadership and respect for the truth, then my state of Tasmania will lose all hope of ever contributing to that $250 billion national defence building program.

Tasmania has a maritime network taking the world by sea. Like other states, we have world-class maritime engineers, designers and shipbuilders. We have Incat, APCO Engineering, Australian Maritime College, Cawthorn Welding, Revolution Design, Plastic Fabrications, Richardson Devine Marine Construction, Sabre Marine & General Engineers, and the list goes on. Tasmania has world-class skills training and research: Australian Maritime College, Asia Pacific Maritime Institute, CSIRO, Skills Institute, and the list goes on. Why shouldn't Tasmanian designers, shipbuilders, tradespeople, apprentices, trainers and small business owners share in the work and the wealth that is generated by ships and other equipment for Australia's defence?

I am sure that all my fellow senators from Tasmania, no matter what political party they are members of, will have to agree with my argument. I am sure that Senator Abetz and Senator Colbeck are just as angry as I am with Senator Johnston for denying our shipbuilders the opportunity to contribute to the national defence.

Australia's leading defence writer, Ian McPhedran, recently reported:

A wave of anger has erupted from the ranks of the Australian Defence Force and the community following the government’s decision to cut pay and leave entitlements for military personnel.

I have said this before but this censure motion gives me an opportunity to say it inside this Senate chamber: I am not going to stand by silently and fail to act as this Liberal-National Party government steals money, holidays and entitlements away from those who are ready to fight and die to protect us from our enemies. Our ADF heroes did not die so that selfish politicians could take what they please from the public purse while soldiers who risk their lives to protect our freedoms are treated like dogs and thrown scraps from the nation's table.

It is possible to honour the dead and at the same time fight like bloody hell for the living. All Australian politicians must live up to the Anzac legend and not off it. What we have in the case of the Minister for Defence is a politician who is prepared to arrogantly live off the Anzac legend, a defence minister who is prepared to make a big-noting, self-serving, hypocritical speech on Remembrance Day or Anzac Day while being part of a Liberal Party plan to cut real pay and Christmas and recreational leave for our Australian diggers.

Senator Johnston, shame on you. How could you enjoy the luxuries and the perks of high office while forcing a real pay cut on our defence families? How could the defence minister allow his chiefs of defence on salaries of almost $800,000 to do his dirty work? Doesn't he
know what harm it does to the diggers' morale when the top brass—on $700,000 a year plus, and who have just received tens of thousands of dollars of annual pay rises—tell the troops that they are expected to take a pay cut and lose Christmas leave? The defence minister was MIA, or missing in action, when it came to delivering the bad news about the ADF pay cuts.

I have received from the Office of Parliamentary Counsel a first draft of a private member's bill, which will link Defence Force pay to the pay of politicians or the CPI rate, whichever is higher. Will the defence minister, once this censure motion has been passed, make amends and agree to support my private member's bill? This piece of legislation, if passed by the Australian parliament, will forever solve the Australian Defence Force pay crisis created by the minister and Mr Abbott.

Members of our Defence Force do not have a union. They do not have a strong voice in the room when their pay and conditions are negotiated. Our diggers cannot go on strike if their government forces them to take a pay cut, and to lose holidays and entitlements. Yet our diggers are expected, as part of their normal work conditions, to be killed or terribly wounded. The latest wage offer by the Abbott government—which effectively means a 1.5 per cent pay cut, and loss of up to six days of leave and important travel allowances—is further proof of why politicians, especially Liberals, cannot be trusted to manage ADF pay. It is also proof that ADF salaries should be automatically linked through legislation to the salaries of politicians or the CPI, whichever is higher. Who could reasonably argue against the proposal that our diggers, who are prepared to shed blood in war for us, should have their remuneration linked to those who send them to war?

My critics in the past have said that I will just be a lone voice in parliament, that I would have no effect on this debate. But what they fail to understand is that a lone voice armed with the facts, passion and the truth, in our parliament, a great chamber of democratic debate, can influence and change the course of history for the better.

The Parliamentary Library background research I commissioned for my private member's bill shows that in one year alone, 2012, Australian politicians were awarded a 34.3 per cent pay rise, from $140,910 to $190,550. This was an increase in one year of almost $50,000 for an Australian politician, while an Australian soldier received a pay rise of 2.5 per cent, or approximately an extra $1,900 per year. Sadly, the Parliamentary Library research reveals for the first time that the average yearly rise in Defence pays over the last 10 years has been approximately three per cent. This stands in stark contrast with the average yearly rise in politicians' pay, which since 2004 has been almost seven per cent. The politicians' pay rise included the 2012 pay rise of 34.3 per cent.

One of the important messages I have received from legal experts at the Office of Parliamentary Counsel is that my private member's legislation does not breach any provisions of Australia's Constitution. Therefore, anyone who says otherwise is simply trying to muddy the waters and let the Abbott government off the hook with regard to its appalling management of the Defence pay crisis. The national ex-service organisations, made up of the Australian Peacekeeper and Peacemaker Veterans Association, the Australian Federation of Totally and Permanently Incapacitated Ex Servicemen and Women, the Australian Special Air Service Association, the Defence Force Welfare Association, the Legacy Australia Council, the Naval Association of Australia, the Partners of Veterans Association of Australia, the Royal Australian Air Force Association, the Royal Australian Regiment
Corporation, the Vietnam Veterans' Association of Australia, the Vietnam Veterans Federation of Australia and the War Widows' Guild of Australia, have released a media statement which offers extraordinary criticism of this defence minister and his government. They did not make this statement, as the Attorney-General would have you believe, because of a slip of the tongue. They have put out these damaging statements because of a prolonged period of dysfunction and incompetent management of the Defence and Veterans' Affairs departments.

The national ex-service organisations have said:
The recent pay decision which purportedly “in no way reflects the value that the Government places on ADF personnel” is but one of a number of decisions in the ‘employment package’ for ADF members which have the effect of reducing the value of their total remuneration in a time of rising living costs hitting those in the lower ranks disproportionally.

We ask the Prime Minister to personally intervene recognising the unfair impact of these decisions;

- To ensure disabled veterans and war widows pensions adjustments remain as at present;
- Instigate a reworking of the Commonwealth’s position on the Workplace Remuneration Arrangement to provide an outcome for our service personnel that at least matches the expected increases in living costs over the next three years;
- Revise the pay case process to abolish the provisions for an “agreed case” to ensure no more behind closed door dealings and allow the ADF and Commonwealth proposals to be argued in open proceedings before the Defence Force Remuneration Tribunal for adjudication; and
- Ensure Defence engendered charges such as married quarter rent, uniform and ration charges are not increased by more than the salary percentage increase.

During the course of this censure debate, I am also offering the government and the defence minister a chance to give a guarantee that his government has not entered into a secret deal to put more troops on the ground in Iraq. Today my office received numerous information to suggest that this defence minister, along with the PM, has given a secret commitment to the United States to put more Australian boots on the ground in Iraq. I understand the seriousness of this allegation but, given the history of public deception that this minister and government has, now is the perfect time to stand in this Senate and tell me that the people who have contacted my office are wrong—because the defence minister is not here.

In closing, it is obvious that this Liberal Party decision to favour overseas ship and submarine builders over Australian companies smacks of self-interest rather than the national interest. If we really want to guarantee an Australian shipbuilding industry, must we also be forced to guarantee that the Liberal Party can get a kickback from the process? I support the men and women of our ADF and I support the men and women who build our ships and other defence machinery. I support this censure motion before the House.

The PRESIDENT: The question is that the motion to censure moved by Senator Wong be agreed to.
The Senate divided. [17:32]
(The President—Senator Parry)

Ayes .................... 37
Noes .................... 31
Majority ............... 6

AYES
Bilyk, CL (teller)  Brown, CL
Bullock, J.W.  Carr, KJ
Conroy, SM  Dastyari, S
Di Natale, R  Faulkner, J
Gallacher, AM  Hanson-Young, SC
Ketter, CR  Lambie, J
Lazarus, GP  Lines, S
Ludlam, S  Ludwig, JW
Lundy, KA  Madigan, JJ
Marshall, GM  McEwen, A
McLucas, J  Milne, C
Moore, CM  Muir, R
O’Neill, DM  Peris, N
Rhiannon, L  Rice, J
Siewert, R  Singh, LM
Sterle, G  Urquhart, AE
Wang, Z  Waters, LJ
Whish-Wilson, PS  Wong, P
Wright, PL

NOES
Abetz, E  Back, CJ
Bernardi, C  Birmingham, SJ
Brandis, GH  Bushby, DC
Canavan, M.J.  Cash, MC
Colbeck, R  Cornann, M
Day, R.J.  Edwards, S
Fawcett, DJ  Fierravanti-Wells, C
Fifield, MP  Leyonhjelmen, DE
Macdonald, ID  McGrath, J
McKenzie, B  Nash, F
O’Sullivan, B  Parry, S
Payne, MA  Reynolds, L
Ronaldson, M  Ruston, A (teller)
Ryan, SM  Seseija, Z
Simodinos, A  Smith, D
Williams, JR

PAIRS
Cameron, DN  Scullion, NG
Collins, JMA  Heffernan, W
Polley, H  Johnston, D
Xenophon, N  Mason, B

CHAMBER
Question agreed to.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (17:35): Mr President, I ask that further questions be placed on the Notice Paper.

PETITIONS

The Clerk: A petition has been lodged for presentation as follows:

F35 Joint Strike Fighter

To the honourable the President and members of the Senate in Parliament assembled. The petition of the undersigned brings to your attention the fact that Australia has agreed to purchase from the United States, at extraordinary expense, the Lockheed Martin F35 Join Strike Fighter - and that this aircraft is reported to be plagued by unsolved technical flaws of staggering complexity and uncontrollable financial liabilities.

Your petitioners ask the Senate to withdraw from the agreement made with the Lockheed Martin and divert the open-ended funding allowed for the purchase of the F35 to alternative, non-military purposes.

by Senator Ludlam (from 1,708 citizens).

Petition received.

NOTICES

Presentation

Senator Waters to move:

That the Senate—

(a) notes that:

(i) it has been reported that United States-based company, Halliburton, has been using radioactive isotope caesium-137 for coal seam gas drilling on behalf of AGL at Gloucester and on behalf of Santos in the Pilliga forest in New South Wales, and

(ii) community members and local landholders have been unaware of the use of radioactive material in their area; and

(b) calls on the Federal Government to ensure that the proposed use of radioactive material in resource development is specifically included in environmental impact statements and assessment documentation.

Senator Whish-Wilson to move:

That the Senate—

(a) notes the Japanese Government’s announcement that it plans to resume hunting whales in the Southern Ocean in 2015; and

(b) calls on:

(i) the Prime Minister (Mr Abbott) to directly raise with the Japanese Prime Minister (Mr Shinzō Abe) Australia’s objection to Japan’s plan to resume hunting in the Southern Ocean, and

(ii) the Australian Government to utilise international fora to stop the Japanese resuming hunting in the Southern Ocean.

Senator Whish-Wilson to move:

That there be laid on the table by the Minister representing the Minister for Trade and Investment, no later than noon on 27 November 2014, the substantially-concluded text of the China-Australia Trade Agreement.
Senator Leyonhjelm to move:
That the following bill be introduced: A Bill for an Act to amend the *A New Tax System (Family Assistance) Act 1999*, and for related purposes. *Family Tax Benefit (Tighter Income Test) Bill 2014*.

Senator Ludlam to move:
That the Senate—
(a) notes:
(i) that the Government’s 2014-15 Budget included cuts of $589.6 million from housing and homelessness initiatives, including axing the $44 million capital budget in the National Partnership Agreement for Homelessness (NPAH) used for shelters and housing for the homeless,
(ii) continued uncertainty over the future of the Government’s responsibility for housing places at least 3 400 highly specialised jobs across 180 initiatives providing services to 80 000 clients every year under the NPAH at risk, and
(iii) even at current levels of funding there are 100 000 people experiencing homelessness on any given night in Australia and another 225 000 Australian families on waiting lists for social housing; and
(b) orders that there be laid on the table, by the Minister representing the Minister for Social Services, no later than noon on Wednesday, 3 December 2014, statements to the Senate clarifying the Government’s commitment to:
(i) homelessness beyond June 2015, including progress on review and negotiations of the NPAH, and
(ii) affordable housing, including the future of the National Affordable Housing Agreement.

Senator O’Sullivan to move:
That the Senate notes:
(a) that the black coal industry is Australia’s second-highest export commodity, and indeed, Australia is the world’s leading coal exporter, and is the world’s fifth largest producer of coal; and
(b) that, in 2009-10, Australia exported 293.4 million tonnes of black coal to 33 destinations and directly employed 54 900 Australians.

Senators Xenophon and Ruston to move:
That—
(a) the Senate notes:
(i) the critical role of the Australian Broadcasting Corporation (ABC) as a provider of broadcasting services in regional, rural and remote Australia, and in many cases as the only such service in these areas,
(ii) the expectation of the Australian public that the ABC be as efficient as possible in meeting its obligations under the ABC Charter, and
(iii) that the Government has imposed efficiency and transmission savings on the ABC of $254 million to be achieved over 5 years, and the likely impact of that measure; and
(b) the following matters be referred to the Environment and Communications Legislation Committee for inquiry and report by 2 March 2015:
(i) the ABC’s current Charter requirements and whether those are being met,
(ii) the amount of local content produced by the ABC across all of its platforms, and whether this is properly representative of local communities and each state and territory,
(iii) the centralisation of the ABC’s operations to Sydney,
(iv) the current Board and Managing Director of the ABC, and whether they are acting in the best interests of Australia’s national broadcaster,
(v) whether the impact of the $254 million in efficiency savings is being fairly distributed across Australia,
(vi) whether quarantined funding for a regional broadcasting initiative is desirable, and
(vii) any related matters.

**Senator Rhiannon** to move:
That the Senate—
(a) notes that:
   (i) the New South Wales Government has decided to stop train services in Newcastle on Boxing Day 2014, with heavy rail services to Wickham, Civic and Newcastle stations scrapped,
   (ii) the truncation of the rail line into Newcastle has been strongly opposed by the local community, and
   (iii) the truncation will increase travel times for passengers travelling to and from Newcastle by up to 25 minutes and residents of the broader Hunter region will suffer as a direct rail connection into the heart of their regional centre is cut; and
(b) calls on:
   (i) the New South Wales Government to reverse its decision to truncate the heavy rail line into Newcastle, and
   (ii) the Federal Government to commit to investing in public transport infrastructure in regional Australia.

**Senators Macdonald, Williams and Bernardi** to move:
That the Senate—
(a) notes that:
   (i) a Sea Shepherd environmental vessel recklessly discharged up to 500 litres of diesel into the pristine waters of Trinity Inlet at Cairns in October 2012,
   (ii) the Sea Shepherd environmental organisation was:
      (A) fined $15 000 in Cairns Court for the pollution offence in July 2014, and
      (B) irresponsible for not taking sufficient care to prevent the discharge into the pristine waters and failed in its charter to protect and preserve marine life, and
   (iii) the Australian arm of the organisation is chaired by former Greens leader, Dr Bob Brown; and
(b) calls on the Sea Shepherd organisation and its Chairman, Dr Brown, to apologise to the people of Queensland for the organisation’s wilful and reckless damage to the Great Barrier Reef.

**Senators Ruston, Rhiannon and Singh, the Leader of the Palmer United Party in the Senate (Senator Lazarus), and Senators Wang, Xenophon, O’Sullivan and Muir** to move:
That the Senate—
(a) notes:
   (i) the majority of Australians believe the use of animal testing to evaluate safety of cosmetic products and ingredients is unnecessary, and
   (ii) the regulatory framework in Australia for chemicals, including cosmetics, is complex; and
(b) urges the Government to aspire to eliminate unnecessary animal test methods to evaluate safety of cosmetic products and ingredients.

Senators Di Natale, Leyonhjelm, Macdonald and Urquhart to move:
That the following bill be introduced: A Bill for an Act to establish the Regulator of Medicinal Cannabis, and for related purposes. Regulator of Medicinal Cannabis Bill 2014.

Senator Canavan to move:
That the Senate—
(a) acknowledges:
(i) the importance of agricultural exports to Australia’s overall balance of payments position as well as the viability and economic health of individual farmers, agricultural communities and regional Australia,
(ii) that Australian agricultural producers are internationally-competitive and currently receive low levels of Government support in absolute terms, and also relative to agricultural producers in other countries, and
(iii) that the current high barriers to international agricultural trade and the high levels of protection to their domestic agricultural sectors imposed by many countries are distorting international trade and adversely impacting on Australia’s agricultural exporters; and
(b) noting the substantial benefits to Australian agricultural producers arising as a result of the Government’s successful conclusion of free trade agreements with Japan, Korea and China, calls on the Government to continue to seek greater openness and access for Australian agricultural producers in overseas markets through bilateral and multilateral fora.

Senator Cormann to move:
That, for the purposes of paragraph 48(1)(a) of the Legislative Instruments Act 2003, the Senate:
(a) supports the making of regulations re-instating provisions the same in substance as the following provisions of Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 102: Schedule 1 Items 5 (Accountants’ certificate renewal period); 11 (Stamping fee provision); 12 to 17 (ASX24-related provisions); 27 (non-monetary education or training benefit not conflicted remuneration); and 28, 29 and 31 to 35 (Grandfathering arrangements); and
(b) rescinds its disallowance resolution of 19 November 2014 relating to the above regulation, to the extent necessary to permit the re-making of the aforementioned provisions in the regulations.

Senator IAN MACDONALD (Queensland) (17:35): I have a notice of motion. Unfortunately, I came to the division without it.

The PRESIDENT: You could indicate approximately that a notice of motion will be lodged in due course. If you give some very brief detail, that will be sufficient.

Senator IAN MACDONALD: My notice of motion highlights the fact that a vessel owned by Sea Shepherd, a company that former Senator Bob Brown chairs, has spilled oil into the Trinity Inlet of the Great Barrier Reef. The motion asks the Senate to note that not only did the Sea Shepherd do it but also the Sea Shepherd organisation was fined $15,000. It noted that Dr Brown was the head of that organisation.

The PRESIDENT: I may be able to assist you. I have a signed copy of the notice of motion in front of me now. It has been lodged.
Senator IAN MACDONALD: I am happy to read it out. The motion that I was intending to move was actually lodged on behalf of Senator Williams, Senator Bernardi and myself. It calls upon the Senate to condemn this and to seek an apology from Mr Brown to the people of Queensland for his reckless and wilful action in damaging the Great Barrier Reef. I know that all senators will support that motion.

BUSINESS
Consideration of Legislation
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (17:37): I move:

That the Omnibus Repeal Day (Spring 2014) Bill 2014 be listed on the Notice Paper as a separate order of the day.

Question agreed to.

NOTICES
Postponement
The following items of business were postponed:

General business notices of motion nos 508, 519 and 531 standing in the name of Senator O’Sullivan for today, relating to the Queensland coal industry, to the China-Australia Free Trade Agreement and to trade with India, postponed till 27 November 2014.

COMMITTEES
Treaties Committee
Meeting
Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (17:39): At the request of Senator Fawcett I move:

That the Joint Standing Committee on Treaties be authorised to hold private meetings otherwise than in accordance with standing order 33(1), followed by public meetings, during the sittings of the Senate, as follows:
(a) Monday, 9 February 2015;
(b) Monday, 2 March 2015;
(c) Monday, 16 March 2015; and
(d) Monday, 23 March 2015.

Question agreed to.

MOTIONS
Moree Boomerangs Rugby League Football Club
Senator WILLIAMS (New South Wales) (17:39): I move:

That the Senate:
(a) congratulates the Moree Boomerangs Rugby League Football Club for:
   (i) returning to rugby league in the New South Wales Group 19 competition after a 12-year break,
   (ii) changing the culture of the club to manage alcohol use,
   (iii) embracing the community and providing a safer environment at home matches,

CHAMBER
(iv) winning the Group 19 major premiership in 2013 and 2014, and
(v) being named the Good Sports Awards National Good Sports Club of the Year; and

(b) notes:
(i) the award was presented by the Assistant Minister for Health, Senator Nash, and
(ii) in the 2014-15 budget the Abbott Government committed $19 million to extend the successful Australian Drug Foundation’s Good Sports program for a further 4 years.

Question agreed to.

Uncommon Cancers

Senator DI NATALE (Victoria) (17:40): I move:
That the Senate—
(a) notes:
(i) that uncommon or rare cancers, including neuroendocrine cancers, together account for 40 per cent of all cancers,
(ii) that little progress has been made in improving survival rates for uncommon cancers, such as neuroendocrine cancers, in contrast to many common cancers,
(iii) that despite these poor survival rates, uncommon cancers have the least money spent on treatments, research and support,
(iv) the work of the Unicorn Foundation, which is the only medical charity in Australia dedicated to neuroendocrine cancers, and
(v) the important service provided by the Unicorn Foundation neuroendocrine nurse specialist in supporting people and improving the quality of life of hundreds of patients with neuroendocrine cancers;

(b) calls on the Government to support the Unicorn Foundation neuroendocrine nurse specialist service to ensure that neuroendocrine patients receive appropriate treatment and have improved quality of life.

Question agreed to.

BILLS

Freedom to Marry Bill 2014

First Reading

Senator LEYONHJELM (New South Wales) (17:40): I move:
That the following bill be introduced:
A Bill for an Act to amend the Marriage Act 1961 to reduce government intervention in marriage and for related purposes.

Question agreed to.

Senator LEYONHJELM: I present the bill and move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator LEYONHJELM (New South Wales) (17:41): I move:
That this bill be now read a second time.
I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator LEYONHJELM: I present an explanatory memorandum relating to the bill and I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

FREEDOM TO MARRY BILL 2014

As most of you are aware, there have been several attempts to pass marriage equality into law in this place, and all of them have failed. Of course, as did the sponsors of those bills, I hope the Bill I commend to the Senate today succeeds, but I do so for different reasons.

I feel it is important to outline my reasons, if only so those among you who doubt the value of marriage equality may see that there are other arguments in its favour, arguments with which you may not be familiar. Those arguments fall under three heads: liberty, conscience, and state power.

I turn first to liberty.

I support marriage equality not because I think people can somehow be rendered identical in their beliefs and attributes: already, many heterosexual people choose not to marry. No doubt many LGBTI people will choose likewise if this Bill becomes law. Rather, I support marriage equality because I think that people ought to have the freedom to choose their own life path. That is, they have liberty: as John Stuart Mill said, 'over his own body and mind, the individual is sovereign'.

When the law says that gay, lesbian, bisexual, trans, and intersex people cannot marry, in an important sense it is diminishing their liberty and their ability to make life plans: a major choice is closed off. The state is interfering, intervening, telling certain people that they can do what they want, except when they can't (while everyone else, of course, can). Indeed, it is worth noting that under current Australian law, intersex people cannot marry anyone at all.

My political tradition, classical liberalism, has always drawn a strong distinction between the public and the private spheres. I am aware that the common law has historically had a weak division between those two realms. It had to borrow the distinction from Roman legal systems. Therefore, I argue that while marriage may be part of the public sphere at common law, it is a private choice.

Many will be aware of classical liberals only when we talk about economics. It is not well known, for example, that Milton Friedman—probably the 20th century's most influential economist—supported marriage equality. However, a great libertarian economist's support for marriage equality should come as no surprise. It was economists like Friedman, Hayek, and Mises who published ground-breaking research showing that private individuals generally make better choices for themselves than do experts engaged to decide on their behalf.

Why, then, do we confine marriage choice to some people, and deny it to others?

I turn next to conscience.

One of the most difficult public conversations across the developed world over the last 250 years has concerned the role of religion in both law and public life. This arose at the same time as the Enlightenment idea that laws ought to be secular. To that end, I have built into this Bill protection for claims of conscience. As does the existing law, this Bill ensures ministers of religion do not have to solemnise marriages of which they disapprove.

For the avoidance of doubt, I should make it clear that I consider the view of many religions, that there is not only something wrong with marriage equality but also with LGBTI people, to be an error. I also maintain it is fair to say that religions have become used, over many years, to making and then manoeuvring the levers of power. When a secular state rules that a given lever no longer matters (such
as with blasphemy), the anguish for many sincere religious people is real. So it is also when the power to grasp a lever—in this case, that of marriage definition—is lost.

That is why this Bill protects conscience: I believe that those who seek rights—in this case, LGBTI folk—must not remake the world so that error has no rights. Think where that has led in the past.

However, because laws should not discount the future, I have also ensured that the Bill protects claims of conscience for civil celebrants in the private sector. I realise that the number of private sector authorised celebrants opposed to marriage equality is likely to be negligible. Nonetheless, a prudent lawyer drafts prospectively, in this case with awareness that there may come a time when the non-religious make moral claims that ought to be taken as seriously as the moral claims made by the religious.

I should note that during the drafting of this Bill, constituents tried to persuade me that authorised celebrants in the private sector are state actors by virtue of being licenced. If that were true, then by the same logic any professional or tradesman who needs a licence to practise from the state is in the state's employ: lawyers, builders, dentists. Present this argument to your solicitor or orthodontist and see how far you get.

However, that there are officers of the state in all this is a truism, so I turn at last to state power.

As I pointed out in my first speech in this place, the state is a wonderful servant but a terrible master. In an important sense, the state stands for all of us, and that quality of representativeness means that if it undertakes to provide a service, it must do so in a facially neutral fashion. The state cannot discriminate, and if it does so, that is an abuse of power.

This is brought home when one realises that some authorised celebrants are not only officers of a State or Territory, but also employees of the courts. Their functions—of whatever sort—are therefore linked to the core liberal principle of equality before the law. This Bill ensures that all those who come before such celebrants can be married.

The Freedom to Marry Bill 2014 enhances liberty, protects conscience, and restrains state power. I commend the Bill to the Senate.

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

Leave granted; debate adjourned.

MOTIONS

Centenary of Anzac

Senator MOORE (Queensland) (17:42): I move:

That the Senate—

(a) notes:

(i) That the Centenary of ANZAC approaches, and

(ii) two commemoration sites on ANZAC Parade in our nation's capital remain incomplete; and

(b) recognises:

(i) the community groups which are seeking to raise funds to build the memorials that have been approved for these sites, and commends their work,

(ii) the National Boer War Memorial Association which aims to enshrine the beginnings of Australian military history when 23,000 men and women from Australian colonial and Commonwealth contingents fought in the war in South Africa, and

(iii) the Australian Peacekeeping Memorial Project which seeks to complete a national memorial to recognise the over 90,000 Australians who have been deployed on peacekeeping missions.

CHAMBER
Question agreed to.

**International Development Assistance: Sanitation**

Senator MOORE (Queensland) (17:42): I, and on behalf of Senator Rhiannon, move:

That the Senate—

(a) notes that:

(i) on 19 November 2014 the world observed the second official World Toilet Day, the annual observance of which is intended to raise awareness about the need for all human beings to have access to adequate sanitation and to promote the use and benefits of toilets,

(ii) despite progress toward the Millennium Development Goals (MDGs), 2.5 billion people do not have a basic toilet and 1 billion people continue to defecate in the open, and almost 2 000 children die every day from preventable diarrheal diseases,

(iii) sanitation is the most off track target of the MDGs and is unlikely to be met by the deadline of 2015,

(iv) inadequate sanitation makes poor countries even poorer, which, in turn, makes the global economy weaker—poor sanitation and water supply result in economic losses estimated at $260 billion annually in developing countries,

(v) it is unacceptable that girls and women have to risk sexual assault just to visit the bathroom, and it is also unacceptable that many girls are pushed out of school and forced to defecate in the open for lack of access to toilets,

(vi) funding for water and sanitation programs is one of the best ways to save lives and to help build stronger economies around the world— for every $1 invested in safe drinking water and sanitation, an estimated $4 is saved in work time, productivity and healthcare costs in poor countries, and

(vii) mere access to toilets will not itself result in safe drinking water and sanitation, as people must be sold on the benefits of using toilets, and the waste contained by them must not be released untreated into the environment;

(b) recognises:

(i) the United Nations Deputy Secretary-General, Mr Jan Eliasson, for launching a new campaign earlier in 2014 to break the silence on open defecation, and to spur dialogue and action on the most lacking target of the MDGs, and

(ii) the renewed commitment from the non-government organisation sector, including WaterAid and the Global Poverty Project, to see an end to open defecation; and

(c) calls on the Australian Government to support diplomatic efforts to:

(i) ensure That the proposed Sustainable Development Goals contains a separate goal on water and sanitation that encompasses a commitment to ensuring universal and sustainable access to clean water, sanitation and hygiene in every home, every school and every medical facility,

(ii) end open defecation, and

(iii) reduce the amount of untreated faecal waste that gets released into the environment.

Question agreed to.

**East Coast High Speed Rail**

Senator RICE (Victoria) (17:43): I move:

That the Senate—

(a) notes that:

(i) discussions about East Coast High Speed Rail (HSR) have been going on for many years, and
(ii) under this Government there has been no meaningful action to progress East Coast HSR, and that ongoing delays raise the possibility of a proposed route being developed by other interests; and
(b) calls on the Government to immediately establish a High Speed Rail Authority in legislation to formalise discussions with state, territory and local governments, as well as industry and the community, to commence work on preserving the HSR corridor and progress other early planning, so that environmental and social impact studies can commence in 2015.

Question agreed to.

Disability Care: Abuse

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:43): I move:

That the Senate—
(a) acknowledges that an unacceptably high number of people with disability are subjected to neglect, violence and abuse in residential, institutional and home care settings;
(b) notes the disturbing evidence shown in the Four Corners report on 24 November 2014 in regard to abuse of people with disability in residential, institutional and home care; and
(c) calls on the Government to take urgent action and set up a national inquiry into the violence, neglect and abuse against people with disability in residential, institutional and home care settings.

Question agreed to.


The PRESIDENT: Leave is granted.

Senator FIFIELD: Everyone in this place would be concerned to hear of allegations of abuse or mistreatment of people with disability, who, as we know, are often in a vulnerable situation. It is particularly concerning when the alleged abuse—and some has been proved—has been perpetrated by people who are in the privileged position of providing support to people with significant disabilities. It is important that we are serious and sober when looking to respond to these important matters. Allegations of this nature should be referred to the relevant disability and police authorities. I do note that both the Victorian government and the Victorian opposition have agreed that there will be a Victorian parliamentary inquiry into sexual abuse in the disability sector in Victoria. The Commonwealth will study closely the outcome of the inquiry to see if there are lessons that can and should be learnt and changes applied at the national level.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:44): by leave—I thank the Senate for supporting this motion. This is, as Senator Fifield said, a very important matter. I note that Australia has obligations under a number of conventions to address the issue of abuse against people with disability in institutional settings. Anybody that attended the disability awards last night would have heard the talk and the support for a national inquiry. I think it would be fair to say, besides obviously celebrating the winners of awards, it would have been the topic of the night. I was inundated with people who were supporting the call for a national inquiry.

I am pleased the Victorian government is undertaking an inquiry but if we think that this abuse is only limited Victoria, we are very sadly mistaken. I have had a large number of people raise this issue and raise examples of abuse from other states, including in my home state of Western Australia. Australia has an obligation to ensure that this does not happen. We
have an national obligation to investigate this and put in place measures to ensure that people with disability are safe and protected and are not subjected to violence or abuse. In particular, we know that this has a gender related angle as well. It is essential that we address this issue.

I do not want the people who follow after me to be the people who have to stand up in this place and ask for a royal commission because in previous years we knew about this and did not address it. We have an obligation at a national level to address this issue. I urge the government to heed both the vote of the Senate and the call of the sector and the community to hold a national inquiry.

MATTERS OF URGENCY

The PRESIDENT (17:46): I inform the Senate that Senator Moore has withdrawn the urgency motion which she had indicated that she intended to move today.

DOCUMENTS

Consideration

The government documents tabled today were called on but no motion was moved.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator McEWEN (South Australia—Opposition Whip in the Senate) (17:47): On behalf of Senator Polley, I present the 16th report and the Alert Digest No.16 of 2014 of the Senate Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

Treaties Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:47): I present the 145th report of the Joint Standing Committee on Treaties tabled on 26 August and 2 September 2014.

Ordered that the report be printed.

Senator FAWCETT: I move:

That the Senate take note of the report.

The report contains the committee's views on three proposed treaties: the Force Posture Agreement between Australia and the US, the agreement between Australia and Japan for the transfer of defence equipment and technology and the agreement between Australia and the US for the sharing of visa and immigration information. The force posture initiatives were announced in 2011 and support our efforts to deepen our longstanding alliance with the US. Senators would be aware of the annual rotation of the US Marine Corps and US Air Force personnel in Northern Australia. This year's rotation reached 1,500 personnel. In the future that number will grow to 2,500. The Force Posture Agreement provides the legal policy framework and also puts in the requirements around the respect of Australian sovereignty and our law and imposes obligation for consultation. It reinforces the longstanding policy that
there are no foreign bases on Australian soil but provides certainty around the conditions of access for US forces to Australian owned facilities.

That agreement with Japan, despite all the bluster that has occurred today, relates to the transfer of defence equipment and technology. It facilitates the ability for the Defence Science and Technology Organisation here to work with Japan's Technical Research and Development Institute to work more closely together on areas of common interest and mutual benefit. The DSTO does fabulous work in a similar manner, particularly with the US, the UK and Canada. Given Japan's expertise in a number of areas, this is a welcome development.

Lastly, the agreement with the US to share visa and immigration information is required to allow the automation of existing immigration information sharing processes. That automation means that there will be more effective sharing of information and more effective capture of information that is relevant. That has already led to a number of cases where we have identified immigration and identity fraud.

The committee supports ratification of the treaties discussed in this report. On behalf of the committee, I commend the report to the Senate and seek leave to continue my remarks later.

Leave granted; debate adjourned.

Regulations and Ordinances Committee
Report

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:50): On behalf of the chair of the Regulations and Ordinance Committee, Senator Williams, I present Delegated Legislation Monitor No. 16 of 2014 for the Standing Committee on Regulations and Ordinances.

Corporations and Financial Services Committee
Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:51): I present the report of the Parliamentary Joint Committee on Corporations and Financial Services on the statutory oversight of the Australian Securities and Investment Commission and the takeovers panel together with the minutes of proceedings of the committee and the transcript of evidence.

Ordered that the report be printed.

Senator FAWCETT: I move:

That the Senate take note of the report.

The report covers a few areas, one being the oversight of the Takeovers Panel and the oversight of ASIC. Just to provide context to the Senate, this oversight period occurred when both the FSI review was occurring but also more importantly during the Senate Economics References Committee inquiry into ASIC. The committee determined that it would not seek to duplicate the work of the Senate economics committee during that period and hence focused on a number of other matters that are within the committee's terms of reference. Hence we had a dedicated hearing on the Takeovers Panel, as well as looking at some of the issues that ASIC is required to consider, such as emerging issues, high-frequency trading and dark pools, and the issue of penalties.
This report does deal with ASIC's performance in a number of these areas. However, we have now seen both the tabling of the economics committee report and, more importantly, the government's response to that. I can advise the Senate that future oversight reports will be looking in some detail at efficacy of ASIC's implementation of the recommendations that have been agreed to in part or in principle by the government. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Community Affairs References Committee
Government Response to Report

Senator CORMANN (Western Australia—Minister for Finance) (17:53): I present the government’s response to the report of the Community Affairs References Committee on its inquiry into the supply of chemotherapy drugs. I seek leave to have the document incorporated in Hansard.

Leave granted.

The document read as follows—

Australian Government response to the Senate Community Affairs References Committee Report: Inquiry into the Supply of chemotherapy drugs such as Docetaxel

Government response to recommendations

Recommendation One:
The committee recommends that the Government and industry parties, through the review, continue the examination of issues in chemotherapy drug pricing to ensure that existing funds under the Fifth Community Pharmacy Agreement as already agreed are appropriately directed to reflect the costs and benefits of the supply of chemotherapy drugs, and to ensure the ongoing supply of these drugs across all services, particularly in rural and regional areas. (3.41)

Response:
The Australian Government notes the recommendation.
The Australian Government supports the ongoing supply of chemotherapy infusions for all Australians, particularly in rural and regional areas.
The Department of Health has completed the 'Review of Funding Arrangements for Chemotherapy Services' (the Review).

On 30 November 2013, the Prime Minister, the Hon Tony Abbott MP and the Minister for Health, the Hon Peter Dutton MP jointly announced the Government's decision to provide an additional $82 million over 18 months from 1 January 2014 to 30 June 2015 to help hospitals and pharmacies deliver essential chemotherapy infusions to cancer patients.

For this period, the Australian Government is providing an additional $60.00 for each chemotherapy infusion prepared and dispensed under the PBS 'Efficient Funding of Chemotherapy' schedule. As a result of this increase, the Australian Government will now provide a new fee of $137.66 per infusion.

The funding arrangements for PBS chemotherapy infusions beyond 30 June 2015 will be considered, in conjunction with all other pharmacy remuneration, in the development of the broader funding arrangements for pharmacy following the expiry of the 5CPA.
Additional comments by Senator Nick Xenophon

Recommendation:
The Australian National Audit Office conducts an audit of the funding model for the supply of chemotherapy drugs every three years. (1.13)

Response:
The Australian Government notes this recommendation.

All Australian Government programmes are subject to independent audit by the Australian National Audit Office (ANAO), including any current or future funding provided to support the provision of PBS chemotherapy infusions.

The ANAO is currently conducting a 'Performance Audit of the Administration of the Fifth Community Pharmacy Agreement'. This audit is due to be tabled in the Autumn 2015 session of Parliament.

Treaties Committee Report

Senator IAN MACDONALD (Queensland) (17:53): I seek leave of the Senate to reopen the motion moved by Senator Fawcett in relation to the Joint Standing Committee on Treaties, which I did want to make a couple of remarks on, but which unfortunately had finished before I could get to the chamber.

Leave granted.

Senator IAN MACDONALD: I thank the Senate for that indulgence. I do note that 60 minutes is set aside for this section and a time limit of 10 minutes per speaker, so I hope not to delay the Senate for too long. I would like simply to congratulate Senator Fawcett and his committee on that work, particularly in relation to the treaty involving American troops in Australia. I did, in talking about that particular aspect, wish to heartily and thoroughly congratulate the defence minister, Senator Johnston, on his role in negotiating with the American government in relation to that very, very important procedure for Australia. Senator Johnston has done a magnificent job as Minister for Defence, and I know he probably spends almost as much time in the United States as he does at his home these days. He has been a very well-informed minister whose knowledge of his portfolio is not superseded by any previous defence minister in recent time.

There was a crass political exercise earlier in the day in relation to a motion of censure. These things are done on the basis of political arrangements in the chamber. If some senators think they can get a political handle or political one-upmanship on someone from an opposing party, they support this. You see the sort of people who lined up on that motion. It was almost as farcical as the decision of the Labor and Greens political parties to support the Palmer United Party on that farcical inquiry into the Newman government in Queensland. That inquiry is an absolute joke, and I think most people are treating it as such. Witnesses who have attended it realise that it is nothing to do with the corruption that Mr Palmer spoke about but simply a vindictive action by Mr Palmer and his party to pay back Campbell Newman for not giving him the mine and the coalmine he wanted.

Going back to Senator Johnston, he has done a marvellous job. A good friend of mine and a former distinguished Minister for Aboriginal Affairs, Senator the Hon. John Herron, as he then was, was censured I think about six times by this chamber—again, by a combination of those who opposed the then government politically. Senator Herron used to often say, and I
like to repeat it: 'You don't know where you are until you've been censured by at least five censure motions in the Senate.' These were censure motions that, as I said, were simply politically inspired and meant absolutely nothing.

So I say to Senator Johnston: keep up the good work; do not worry about the censure motion. You have a long way to go to catch up with then Senator Herron's record. He wore it as a badge of courage, because it showed that he was doing real work that the opposition parties did not like, and the only way they could challenge it was by moving these ridiculous censure motions in the chamber. As I said, Senator Herron wore it as a badge of courage—that he was doing such a wonderful job that the Labor Party wanted to keep moving motions of censure and getting their mates in the Greens, or then the Democrats, to join with them. Nobody takes much notice of them, and I would say that Senator Johnston should treat that political farce earlier in the day in the same way as most Queenslanders are treating the political farce that is the Palmer-inspired inquiry into the Newman government. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BILLS

Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014

Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator CORMANN (Western Australia—Minister for Finance) (18:00): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator CORMANN (Western Australia—Minister for Finance) (18:00): I table a revised explanatory memorandum relating to the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

CRIMES LEGISLATION AMENDMENT (PSYCHOACTIVE SUBSTANCES AND OTHER MEASURES) BILL 2014

This Bill will ban the importation of new psychoactive substances and deliver on the key Government election commitment to implement tougher penalties for gun-related crime.
The Bill will also improve Australia’s criminal justice arrangements by:

- streamlining Australia’s international transfer of prisoner scheme
- clarifying that slavery offences have universal jurisdiction to ensure agencies are able to investigate and prosecute these offences wherever they occur, and
- enhancing Australia’s anti-money laundering and counter-terrorism financing regime.

It will also make minor edits to the Commonwealth’s drug regime and arrangements for policing in certain airports.

**NPS**

New psychoactive substances are designed to mimic the psychoactive effects of illicit drugs, however their chemical structures are not captured by existing controls on those drugs. These substances are often presented as ‘legal highs’. This may suggest that they are somehow safer than illicit drugs, and that they have been tested or assessed by the government.

This is incorrect. These substances are potentially very dangerous. They have been directly linked to deaths and serious injury. They are untested chemical compounds which masquerade as illicit drugs, but are presented as being legal analogues of those drugs.

New psychoactive substances have been a growing problem for governments in Australia and overseas in recent years. Governments progressively ban these substances as evidence about their use and harm becomes available, yet manufacturers can alter the composition of these substances to avoid the law. The large number of potential new psychoactive substances and their rate of appearance means that we cannot stay ahead of the market.

This Bill changes the dynamic. From now, the Government will be in front. The Bill will introduce offences into the Criminal Code to ban the importation of substances based on their psychoactive effect and where they are presented as alternatives to illicit drugs. It will also amend the Customs Act to allow officers of the Australian Customs and Border Protection Service and the Australian Federal Police to stop these drugs, seize them and destroy them before they can be put on the market.

It will be up to a person whose goods have been seized on suspicion of being a new psychoactive substance to show why they should be returned to them. If an importer cannot do this—for example, by showing that the goods have a legitimate use—their goods will be destroyed.

These measures will not apply to imports for a legitimate purpose. Foods, medicines, industrial, agricultural and veterinary chemicals may all be psychoactive, but they serve important functions in our society and economy. They should not, and will not, be caught up in this regime.

Stopping the sale of new psychoactive substances requires a cooperative effort between the Commonwealth, States and Territories to ensure that health, law enforcement and education initiatives are all aligned. This Bill will complement the national framework for new psychoactive substances that the Law, Crime and Community Safety Council announced on 4 July 2014.

The Bill will stop people from importing these dangerous chemicals for use as alternatives to illicit drugs and pretending they are legal or safe. In combination with State and Territory initiatives under the national framework, we can prevent new psychoactive substances from becoming as great a challenge as other illicit drugs.

**Firearms**

In the lead up to the 2013 election, the Coalition undertook to implement tougher penalties for gun-related crime. As the Government, we are following through on that promise by creating a more comprehensive set of offences and penalties for the trafficking of firearms and firearm parts.

The entry of illegal firearms into the Australian community can have a significant impact on the size of the illicit market. This growing pool of firearms can be accessed by groups and individuals to commit
serious and violent crimes that can result in death. For example, in 2012 firearms were identified as
being the type of weapon used in 25% of homicides in Australia [Australian crime: Facts and figures
2013, Australian Institute of Criminology].

Currently, criminals could potentially evade firearms trafficking offences and penalties by breaking
firearms down and trafficking their constituent parts. This Bill will close this gap by enabling the
conviction of those who engage in the trafficking of firearm parts.

This Bill will also create a new offence in the Criminal Code for international trafficking of firearms
and firearm parts, complementing those international trafficking offences already in existence in the
Customs Act. This will extend the current cross-border firearms trafficking offences in the Criminal
Code, which are limited to trafficking within Australia, to capture the trafficking of firearms (and
firearm parts) into and out of Australia.

Finally, the Bill will introduce mandatory minimum sentences of five years' imprisonment for
offenders charged for these offences under the Code. The introduction of this type of penalty is
appropriate to ensure that high culpability offenders receive sentences proportionate to the seriousness
of their offending. However, this mandatory minimum sentence will not carry with it a specified non-
parole period, nor will it apply to minors. This will clearly signal the seriousness of the offence, while
providing courts with discretion to set custodial periods consistent with the particular circumstances of
the offender and the offence.

These amendments create a more comprehensive set of offences and penalties, reflecting the
seriousness with which this Government views gun-crime, and the gravity of supplying firearms and
firearm parts to the illicit market.

International Transfer of Prisoner Scheme

Australia's international transfer of prisoner scheme promotes the successful rehabilitation and
reintegration into society of a prisoner, whilst preserving the sentence imposed by the sentencing
country in the prisoner's home country. The scheme is important for community safety as it ensures that
prisoners can be reintegrated into that country's community and appropriately monitored, supervised
and supported during the enforcement of the sentence.

The International Transfer of Prisoners Act 1997, which governs our international transfer of
prisoner scheme, came into operation nearly 20 years ago. While it has been effective in enabling
prisoners to be transferred back to Australia and out of Australia to their home country, there are
opportunities to make the existing processes governing this scheme more efficient, timely and
simplified.

The existing processes will be streamlined by:

• improving arrangements governing unviable transfer applications by removing the requirement for a
decision to be made in unviable cases
• implementing timeframes for reapplications so that the Attorney-General is not required to consider
  a reapplication within one year from the date of refusal, and
• simplifying the process of notifying and seeking the consent of the transfer country.

These amendments will alleviate existing time and resource burdens whilst appropriately
maintaining prisoner's rights.

Slavery

The Bill also makes clear that the slavery offences in section 270.3 of the Criminal Code have
universal jurisdiction. Slavery is amongst the most abhorrent of all crimes and this amendment will
ensure that Australian law enforcement agencies have the appropriate tools to target this crime wherever
it occurs.
Minor Amendments

This Bill will also enhance Australia's anti-money laundering regime though amendments to the Financial Transaction Reports Act 1988 that will simplify the obligations of cash dealers under Australia's anti-money laundering regime, removing duplication and red tape.

The Bill will also validate investigatory action, if any, of the AFP and special members, in relation to State offences having occurred in certain Commonwealth airports during the period between the repeal and passage of Regulations. This Bill will also make a number of minor amendments to correct inaccurate references and grammatical errors in the Code and the Customs Act.

Conclusion

The Crimes Legislation Amendment (Psychoactive Drugs and Other Measures) Bill 2014 contains important measures that will ensure that Commonwealth criminal law remains up to date and effective in combating new and emerging illicit drugs, firearms trafficking and corruption, as well as ensuring existing processes for Australia's international transfer of prisoners' scheme are efficient and timely.

TAX AND SUPERANNUATION LAWS AMENDMENT (2014 MEASURES NO.6) BILL 2014

Today I introduce a Bill that implements a range of improvements to Australia's tax laws.

Importantly, this Bill will also help clear more of the backlog of the 92 unenacted tax and superannuation measures we inherited when we came to Government. This, in turn, will provide investment certainty and allow Australian business to actually get on with doing business. And where there is business, there is opportunity.

This Bill includes two measures that were left unlegislated by the former Government: One concerns business restructures, the other concerns investments in managed investment trusts. By taking action on these measures, the Government is delivering much-needed certainty to businesses and investors. Under the Abbott Government, Australia is open for business.

This Bill also supports the reintroduction of fuel duty indexation by ensuring that businesses who claim Fuel Tax Credits or receive grants under the Cleaner Fuels Grants Scheme continue to receive the appropriate level of credits or grants.

Fuel duty indexation will provide a predictable and growing source of revenue that the Commonwealth will use to help deliver the Government's new road infrastructure projects. In the long run, this will assist all businesses by reducing the costs of transporting goods around the country.

This Bill will make it easier for firms to restructure by extending the business restructure roll-over provisions. In the usual course of growing a business, a firm may reach a point where it needs to restructure. However, in some cases, this could result in an income tax liability for the owners of the firm, even though no real change in ownership will take place.

This is where roll-overs are important, because they make it possible for businesses to defer the income tax consequences from a restructure.

These amendments will extend some of the existing roll-over provisions to revenue assets and trading stock, and will also improve how the law operates. By removing income tax barriers to restructuring, the Government is supporting Australian businesses — large and small — to grow and succeed.

This Bill will also make amendments to the Managed Investment Trust withholding tax regime, which will increase certainty and reduce red tape for investors.

This Bill amends the Income Tax Assessment Act 1997 so that foreign pension funds can access the managed investment trust withholding tax regime, as well as the associated lower rate of withholding tax on income from certain Australian investments.
Under the current law, the managed investment trust withholding tax regime does not apply to payments made to a trust without 'presently entitled' beneficiaries.

This means that a payment from an Australian managed investment trust to a foreign pension fund may not fall within the managed investment trust withholding tax regime. As a result, a payment from an Australian managed investment trust to a foreign pension fund may be taxed at the highest marginal tax rate.

The amendments in this Bill mean that foreign pension funds will be treated as the final beneficiary of a fund payment and will have access to the concessional managed investment trust withholding tax.

Allowing foreign pension funds to access the managed investment trust withholding tax regime is both consistent with the original purpose of the regime and with industry practice.

By applying this measure from July 2008 (the date the regime commenced), industry will have certainty about the treatment of foreign superannuation funds that invest in Australian managed investment trusts.

It's all about certainty.

This Bill will also amend the law to give effect to certain taxation arrangements for the United States force posture initiatives, first announced in 2011 by the then-Prime Minister and the President of the United States.

The United States force posture initiatives in Australia currently involve annual rotational United States Marine Corps deployments, and better aircraft cooperation activities in northern Australia. This represents a significant development in Australia’s alliance and defence cooperation with the United States.

The Force Posture Agreement, which was signed on 12 August 2014, provides a legal, policy and financial framework to govern United States force posture initiatives in Australia. It contains important protections and assurances for both countries.

For example, it provides an exemption from Australian tax for Australian source income derived by United States contractors in connection with the initiatives in Australia. A legislative amendment to the tax law is required to give effect to this aspect of the Agreement.

The legislative amendment introduced by this Bill will apply only to United States contractors performing duties directly connected with the force posture initiatives in Australia, and not to United States contractors in Australia performing other unrelated duties for the United States Government. The exemption from Australian tax will only apply if the relevant income is taxable in the United States.

The Government remains strongly committed to ensuring that Australian workers and service providers are able to maximise the potential benefits of the United States force posture initiatives in Australia.

This commitment is embodied in the Force Posture Agreement, which obligates United States forces in Australia in connection with the force posture initiatives to strive to use Australian suppliers of goods, products, and services, including Australian workers and Australian commercial enterprises, to the greatest extent practicable, in accordance with United States laws and regulations.

As a result of these United States force posture initiatives, small businesses are likely to benefit from the increased demand for goods and services from the presence of United States personnel on rotational deployment in northern Australia.

The Government is also getting on with calmly and methodically implementing the Budget.

The Government has decided to give practical effect to the fuel excise indexation Budget measure by way of tariff proposals to be validated by Parliament within 12 months.

The Government announced as part of the 2014-15 Budget that it would reintroduce the indexation of fuel duty excise.
Funding constraints at all levels of government have become a significant impediment to the provision of the infrastructure that Australia needs to bolster the productive capacity of the economy and prosperity for the 21st century.

To provide a secure funding source for road infrastructure, the Government is committed to reintroducing the bi-annual indexation of fuel excise to the Consumer Price Index.

To give effect to this commitment, earlier today the Government tabled fuel excise and customs Tariff Proposals.

In difficult budget circumstances, this is the responsible way to immediately start building the productivity-boosting roads Australia needs.

This Bill will make important amendments so that when a tariff proposal increases the rate of fuel duty being collected, businesses who claim Fuel Tax Credits or grants under the Cleaner Fuels Grants Scheme continue to receive the appropriate credit or grant.

These amendments will apply to the tariff proposals tabled earlier today and any future fuel duty tariff proposal.

The amendments to Fuel Tax Credits will continue to ensure that fuel duty is a tax on final consumption of fuel rather than a tax on business inputs.

For those businesses using fuel in off-road operations or operating a vehicle with a gross vehicle mass in excess of 4.5 tonnes, indexation of fuel duty will not increase their business costs. This is because these businesses are able to receive fuel tax credits to offset the fuel duty paid.

This removes the incidence of fuel duty for these business activities and avoids imposing additional costs on business.

If passed quickly, these amendments will ensure businesses will be able to receive Fuel Tax Credits equal to the rate of fuel tax duty specified in the tariff proposal straight away. This will save businesses from having to claim extra Fuel Tax Credits at a later date and avoid any negative cash flow consequences that result from the use of tariff proposals.

The Bill will also make similar amendments to the operation of the Cleaner Fuels Grant Scheme.

Full details of each of these measures are contained in the explanatory memorandum.

The measures in this Bill are part of the Government's plan to secure Australia's future. The Government is committed to building a future that is just and prosperous, which means creating the right environment in which Australian businesses can grow and flourish.

The measures in this Bill are part of the Government's commitment to help investors, small business and corporate Australia get on with their jobs and create opportunities so that all Australians can benefit.

Debate adjourned.

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

Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014

Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator CORMANN (Western Australia—Minister for Finance) (18:02): I move:

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

Second Reading

Senator CORMANN (Western Australia—Minister for Finance) (18:02): I move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.
The speeches read as follows—

CUSTOMS AMENDMENT (JAPAN-AUSTRALIA ECONOMIC PARTNERSHIP AGREEMENT IMPLEMENTATION) BILL 2014

The Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 amends the Customs Act 1901 to implement Australia's obligations under Chapter 3 of the Japan-Australia Economic Partnership Agreement.

Chapter 3 sets out the rules of origin criteria and related documentary requirements for determining the eligibility of goods to obtain preferential tariff entry into Australia under the Agreement.

The complementary Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014, will amend the Customs Tariff Act 1995 to set out Australia's tariff commitments under the Agreement.

The Agreement was signed by Prime Minister, the Honourable Tony Abbott MP and his Japanese counterpart, Prime Minister Shinzo Abe, on 8 July 2014 in Canberra, Australia. The Governments of Australia and Japan have agreed to aim for the Agreement to enter into force early in 2015.

The Japan-Australia Economic Partnership Agreement is a comprehensive agreement that substantially liberalises trade with Japan and creates significant new commercial opportunities for Australian businesses. Japan is Australia's second-largest trading partner and the implementation of this Agreement will significantly boost Australia's position in this major market, as this Agreement is the most liberalising trade agreement Japan has ever concluded.

More than 97 per cent of Australia's exports to Japan will receive preferential access or enter duty free on full implementation of the Agreement. There will also be significant new market openings in services and investment.

The Agreement contains simplified and trade facilitative rules of origin and related documentary requirements. Goods imported into Australia that meet the rules of origin, implemented through this Bill, will be entitled to claim preferential tariff treatment in accordance with the Agreement.

The amendments include relevant obligations on Australian exporters and producers who wish to export Australian goods to Japan under the Agreement and obtain preferential treatment for those goods in Japan. The amendments also confer certain powers on authorised officers to examine records and ask questions of exporters or producers of goods exported to Japan in order to verify the origin of such goods.

The Agreement reflects Australia's close bilateral economic relationship with Japan.

CUSTOMS TARIFF AMENDMENT (JAPAN-AUSTRALIA ECONOMIC PARTNERSHIP AGREEMENT IMPLEMENTATION) BILL 2014

The Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014 is the second bill relating to the Japan-Australia Economic Partnership Agreement.
This Bill contains amendments to the *Customs Tariff Act 1995* to implement part of the Agreement by:

- providing duty-free access for certain goods and preferential rates of customs duty for other goods that are Japanese originating goods;
- phasing these preferential rates to zero by 2021;
- amending Schedule 4 to maintain customs duty rates for certain Japanese originating goods in accordance with the applicable concessional item; and
- creating a new Schedule 11 to specify excise-equivalent duties on certain alcohol, tobacco, and petroleum products and to provide for phasing rates of duty on certain goods as specified in the Agreement.

This Bill complements the amendments contained in the Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014.

**The ACTING DEPUTY PRESIDENT (Senator Peris):** In accordance with standing order 115(3), further consideration of these bills is adjourned to 27 November 2014.

**COMMITTEES**

**Intelligence and Security Committee**

Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mr Clare and Mr Dreyfus to the Parliamentary Joint Committee on Intelligence and Security in place of Ms Plibersek and Mr BC Scott.

**Rural and Regional Affairs and Transport Legislation Committee**

**Foreign Affairs, Defence and Trade Legislation Committee**

**Report**

**Senator RUSTON** (South Australia—Deputy Government Whip in the Senate) (18:04): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation, as listed at item 18 on today’s Order of Business, together with the *Hansard* records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

**BILLS**

**Migration Amendment (Character and General Visa Cancellation) Bill 2014**

**Second Reading**

Debate resumed on the motion:

That this bill be now read a second time.

**Senator KIM CARR** (Victoria) (18:04): The opposition will be supporting the Migration Amendment (Character and General Visa Cancellation) Bill 2014. This bill is designed to ensure that noncitizens who commit crimes in Australia and who pose a risk to the Australian community or have dubious integrity will be considered before a visa refusal or cancellation. Labor recognises that the government must have the capacity to act quickly against noncitizens who pose a threat or who may seek to do harm in our country.
The proposed changes in this bill represent the first significant updating of the visa cancellation provisions since the inception of the act. It is imperative that we have an immigration system that is able to easily identify people seeking to come to this country and who fail a character test. A number of changes contained in this bill arise from the review of the character and general visa cancellation framework conducted by the Department of Immigration and Border Protection in 2013. It is important to state that these changes will have no impact on the vast majority of those seeking to visit Australia. One area this bill seeks to address is the inadequate information sharing between the Commonwealth and the states and territories.

The bill provides greater power to the Commonwealth to obtain information from the states and territories that will allow a more rigorous assessment of visa applications and broader grounds for failing the character test. The bill contains amendments to the general visa cancellation provisions in sections 116 and 109 of the act—namely, to strengthen the measures for dealing with noncitizens who present an integrity, identity or fraud risk, to introduce lower thresholds for the cancellation of temporary visas or to provide stronger ministerial powers.

To expedite the process of visa cancellation there will effectively be a reversal of the onus of proof, where a noncitizen is serving a full-time sentence of imprisonment and has been found to objectively fail the character test. It is important to note that the changes in section 501 relating to the character test and those in section 116 relating to the general visa cancellation provisions are largely discretionary. However, although the minister or a competent officer is not compelled to make a decision, these changes mean that there are more circumstances in which visas can be cancelled. Labor expects that the minister's increased powers will be exercised in a manner consistent with the intention of the legislation.

The bill seeks to expand the powers of the minister to require the head of an agency of a state or territory to disclose personal information that is relevant to whether a person passes the character test and the possible refusal or cancellation of a visa. At present, arrangements for sharing information between state and territory agencies and the minister are informal. This bill also seeks to broaden the existing grounds for failing the character test. The grounds will now also include where there is a reasonable suspicion that a person has been or is a member of a group or organisation, or who has had or has an association with a group or an organisation or person that has been or is involved in criminal conduct. At present, this test requires a person actually to be aware of the criminal conduct of the group or the organisation. Where a noncitizen who has been convicted of a crime or crimes and received sentences totalling 12 months, regardless of how that total is reached, including serving the sentences concurrently, at present the person fails the character test if he or she has had one sentence of 12 months or a number of sentences totalling 24 months.

The bill also seeks to broaden existing grounds whereby there is a reasonable suspicion that the person has been or is involved in conduct constituting an offence of people smuggling or an offence of trafficking a person as described in the Migration Act; the crime of genocide; a crime against humanity; a war crime; a crime involving torture or slavery; or a crime that otherwise is of serious international concern whether or not the person or another person has been convicted of an offence constituted by a conduct. At present, the test requires that a person has actually been convicted of such an offence.
The bill also seeks to broaden the existing arrangements under circumstances where a person has in Australia or in a foreign country been charged with or indicted for one or more of the crime of genocide, a crime against humanity, a war crime, a crime involving torture or slavery, or a crime that is otherwise a serious international concern. This would ensure that such people come within the ambit of the character test even if the penalty was less than 12 months imprisonment.

The bill also seeks to broaden existing grounds for failing the character test in circumstances where a court in Australia or a foreign country has convicted a person of one or more sexual offences involving a child or provided such charge against a person that would ensure that such people come within the ambit of the character test even if the penalty was less than 12 months imprisonment.

The bill also seeks to broaden the existing grounds whereby it is believed there is a risk of a person who is engaged in criminal activity even if it is not a significant risk. There are also new circumstances where the person has had an adverse ASIO assessment, where there is an Interpol notice from which it is reasonable to infer that the person would represent a risk to the community or in circumstances where a person is mentally unfit to plead but has been found to have committed an offence and as a result has been detained in a facility or an institution. This extends the existing provision, which provides for a failure of the character test for persons who have been acquitted on the grounds of insanity yet have been found to have committed an offence and been detained in a facility.

The bill also contains provisions that allow for general visa cancellation powers under sections 109 and 116 of the act. These provisions seek to lower the threshold for the cancellation of temporary visas. Until now, this cohort has been considered against the same higher threshold tests that apply under the character provisions in section 501 of the act, which applies to permanent visa holders.

These changes also clarify provisions for the minister to cancel a visa when the decision to grant the visa was based wholly or partly on a particular fact or circumstance that no longer exists—that is section 116(1)(a)—or that never existed: 116(1)(aa). This part of the bill also seeks to clarify existing provisions that the minister may cancel a visa under section 116(1)(e) if the presence of its holder in Australia is, may be, would or might be a risk to the health, safety or good order of the Australian community or a segment of the Australian community or to the health or safety of an individual or individuals. This makes clear that it is enough that an individual Australian rather than the broader segment of the community may be at risk. It also makes clear that potential risk, as opposed to demonstrated risk, is enough to activate the power.

The proposed legislation also inserts a new ground for section 116 for the cancellation of a visa if the minister is not satisfied that a visa holder's identity has been confirmed. These provisions also seek to insert a new ground in section 116 for cancellation of a visa if the minister is satisfied that incorrect information was given by or on behalf of the visa holder as part of a relevant statutory process and that information was taken into account in the visa being granted.

These provisions also introduce personal ministerial powers to set aside and substitute decisions of delegates and tribunals and to cancel a visa personally on the grounds of section 109—that is, cancellation of a visa if the information is incorrect—or section 116, the general
visa cancellation provision, with or without natural justice where it is in the public interest to do so. This is to ensure that when there is a real and immediate risk posed by a noncitizen the Commonwealth can act swiftly to remove that person.

The bill inserts a new mandatory ground for cancellation of a visa where a person does not pass the character test because the person has a serious criminal record, as newly defined in the act, and is serving a full-time prison sentence. Where this provision applies there is an effective reversal of the onus of proof—that is, the visa will mandatorily be cancelled without notice, a cancellation notice will be provided after the fact and, where the decision is not revoked, the noncitizen will have access to a merits review. These provisions will help expedite the process of cancelling the visa of a person who has failed the character test and will ultimately expedite deportation upon release from prison. They will also ensure that, where such processes are not complete after the person's prison sentence is complete, the person can be placed in immigration detention rather than released into the community.

Labor supports these amendments, which provide for a more rigorous system to exclude noncitizens who do not adhere to the integrity standards that the community would expect of those who wish to visit or live in this country.

**Senator HANSON-YOUNG** (South Australia) (18:16): I rise to oppose the Migration Amendment (Character and General Visa Cancellation) Bill 2014 on behalf of the Australian Greens. We oppose this bill as it hands unprecedented power to the minister of the day to cancel and refuse a person's visa, denies procedural fairness, risks breaching fundamental human rights and will result in people being subjected to indefinite detention. The Minister for Immigration and Border Protection currently possesses wide-ranging powers to refuse and cancel visas. Why on earth he thinks he needs more powers is beyond me. These powers enable the minister to regulate noncitizens in Australia and to protect the Australian community from any risk that may be posed—these are powers that the minister already has. This bill seeks to significantly and unnecessarily expand the powers the minister currently has.

The amendments proposed by this bill have been rejected outright by legal experts across the country. They have said to the Senate committee that inquired into this bill that the Senate should oppose this bill as the changes have not been adequately justified and are completely unnecessary. The government's rationale has been completely insufficient in light of the drastic changes this bill seeks to implement. Simply stating that the character provisions have remained unchanged since 1999 is not sufficient, particularly when the current legislation is far reaching in its ability to revoke or cancel visas, which would have a significant impact on the livelihoods of people.

This bill is an attempt to bolster the government's narrative of fear and suspicion. That is why this bill has been put forward today. Rather than embracing diversity and celebrating the 'Australian way', this bill seeks to stir up xenophobic behaviour and establish a climate of fear in Australian communities. This bill, like many others put before this place by the Minister for Immigration and Border Protection, is just another power grab by the minister. The minister has handed himself unfettered power to determine a person's future. This extension of power is completely unacceptable, particularly when we are talking about people's livelihoods, their children's livelihoods and the impact on their entire families. It seems that
the desire for unchecked power has become a recurring theme in this place for the Minister for Immigration and Border Protection.

This bill, if passed, will give the minister unprecedented power to refuse or cancel a person's visa if they fail the character test or if the minister is satisfied that a refusal or cancellation is in the national interest. We know of course how this minister uses the argument of national interest. We have seen it used in this place to deny this chamber access to information that we have requested on a regular basis. It is quite simply not acceptable to leave it up to the minister to determine what constitutes national interest when making a decision about whether to refuse or cancel a person's visa. This is a 'trust me' moment by the minister—'Just trust me and I will do the right thing.' Well this minister has no track record of doing the right thing. We know that in fact, if anything, if we give this minister an inch he will take a mile.

The expansion of the minister's powers will enable him or her to revoke an individual's visa if incorrect information was provided at the time of application, to cancel a visa if the minister is not satisfied of the visa holder's identity, to retrospectively apply the new powers to past visa grant decisions and to overrule the decisions of independent authorities, such as the Administrative Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal. Of particular concern is the minister's ability to overrule merits review decisions and effectively deny a person natural justice. This is a minister who is drunk with power and just wants more. These changes will deny the right to a fair hearing. Should this bill pass, there will be no checks and balances in place on the minister's powers. This will undoubtedly result in incorrect decisions being made, putting people at risk of indefinite detention or, worse, putting them in harm's way.

Further to this, if this bill is passed it will increase the circumstances in which a person would fail the character test, will enable visa cancellation on the grounds of association and will make visa cancellation mandatory in certain circumstances where a person is suspected of failing the character test. This bill also seeks to significantly lower the risk threshold, which will result in an increase in individuals failing to pass the character test and to see individuals' visas cancelled in circumstances where they may not actually present a real risk to the community. That is, of course, the minister having his way and making his decision on the final decision. Let's not forget that there are mistakes made in relation to these areas. There have been mistakes made in relation to these issues before. Let's not forget the case of Dr Haneef.

Visa cancellation on character grounds can have significant consequences for individuals. Should a person be denied a visa on character grounds there is a very real risk that they will be subjected to indefinite detention or deportation potentially putting their lives in very real danger. This is particularly concerning, of course, for asylum seekers and refugees. A personal decision by the minister to cancel a visa may result in an individual facing indefinite detention as, unlike other individuals to whom the broadened cancellation powers apply, they cannot be removed from Australia due to fears of persecution or serious harm in their homeland. So this bill allows the minister to cancel their visa but, because they are a refugee, they cannot be removed from the country and therefore they are put in indefinite detention, indefinite incarceration, potentially for the rest of their lives.
The amendments will grant the minister the power to cancel a visa if he or she is not satisfied of the visa holder's identity or when incorrect information has been provided at the time of application. These powers will disproportionately affect asylum seekers and refugees, as they fail to recognise the realities of fleeing persecution. We know that often many asylum seekers regularly flee their homes in a hurry, without the time to collect their identity documents. Sometimes their identity documents were taken off them by the very authorities they are fleeing. Asylum seekers are often forced to flee for their lives by whatever means necessary, sometimes—believe it!—using false documents so that the authorities that they are fleeing cannot find them, hunt them down and kill them before they leave their countries. Governments routinely seek to control minorities and opposition groups by denying them passports or identity documents in the first place. Requesting an identity document after an asylum seeker has fled their country can raise interest in that person and their family remaining in their home country, making such inquiries far too dangerous to carry out. Doing so may result in those in genuine need of protection being subjected to indefinite detention or returned to danger. As you can see, Acting Deputy President Peris, the changes in this bill will overwhelmingly impact on those who, by no fault of their own, are not able to have these identity documents at hand.

Additionally, the bill states that an individual will not pass the character test if they have been assessed by ASIO to be, directly or indirectly, a risk to security. This amendment will have significant implications for refugees who are today locked up in immigration detention. These assessments, it is important to remember, are not reviewable. The people who these assessments are made of are not able to know why and are not able to see the evidence before them. They are not done in any transparent manner. All the people in immigration detention who have been given an adverse security assessment by ASIO have no right to know why ASIO believes they could be a potential risk to security.

It is clear that the broadened cancellation powers, which do not allow for adequate review, could result in further chances of refugees facing prolonged indefinite detention with no prospect of release, in violation of Australia's international human rights obligations. I understand that the current theme of this government is not to give two hoots about international conventions or obligations, but when we are passing legislation like this in this place, the Senate should consider it.

It is not just refugees and asylum seekers that will be affected by the changes outlined in this bill. The amendments will have significant implications for long-term residents. Individuals who have lived in Australia for most of their lives could be deported to a country where they have no family ties or livelihood. These amendments could also result in family separation.

Overall, the Australian Greens believe that the amendments proposed in this bill are unnecessary and have not been sufficiently justified by the minister responsible. This bill is nothing more than a power grab by the immigration minister. The minister has handed himself unfettered power to determine a person's future—to decide whether that person has a right to a life here in Australia. The extension of power is completely unacceptable, particularly when we are talking about the livelihoods of individuals and their families. The proposed changes threaten a person's fundamental human rights and will result in the very real risk of arbitrary and indefinite detention for refugees and asylum seekers.
The government seems to be obsessed with treating vulnerable refugees with total contempt in this country. Rather than treating asylum seekers and refugees with care and compassion, this government is obsessed with subjecting them to a life of uncertainty and fear. It is clear that this government is intent on stripping away all rights and protections for these people, putting at risk the very rights that as Australians we hold dear. Instilling fear and playing politics has become the order of the day rather than upholding and celebrating what makes this country great. This minister is obsessed with power. Every bill that is currently before this place at the moment by the immigration minister is about giving him more, unfettered power. He is drunk on power. He cannot get enough of it. He has got an addiction. It is for these reasons that the Greens strongly oppose this bill.

Senator IAN MACDONALD (Queensland) (18:28): The people of Australia agree with me and I think most in this chamber that Mr Morrison has been a magnificent Minister for Immigration and Border Protection, ably assisted I might say by his colleague minister in this chamber, Senator Cash. Most Australians were appalled at the situation where there was unfettered entry into our country. The coalition prior to the last election promised that we would stop the boats, and I have to say all credit to Mr Morrison and the government more broadly in that they have actually stopped the boats.

I chaired the Senate Legal and Constitutional Affairs Legislation Committee, which looked into the Migration Amendment (Character and General Visa Cancellation) Bill 2014. I did not get an opportunity to speak on the committee's report when it was tabled, so I just want to make a couple of very brief comments on the committee's view of this bill. In so doing, can I again thank the committee secretariat for the work that they have done in presenting a balanced report to the Senate for the Senate's information. Can I also thank all of those who gave evidence to the committee.

This committee has at times made recommendations that were sometimes not of the government's liking, but I am pleased to say that in most instances the minister has been prepared to look carefully at what the committee has said, and in some cases there have actually been amendments. So I thank the minister for that, but, more importantly, I want to emphasise that the committee system does work and that sometimes issues arise in the committees of parliament that were not properly assessed by the department and the advisers to the minister. I am pleased to see that the minister has an open mind on views of the committee.

The whole purpose of this bill—and I am repeating here something from the minister's second reading speech, so it will not be a big quote—is:

… to strengthen the character and general visa cancellation provisions in the Migration Act to ensure that non-citizens who commit crimes in Australia, pose a risk to the Australian community or represent an integrity concern are appropriately considered for visa refusal or cancellation.

Who could object to that? If people are here applying for visas, but they are committing crimes in Australia, or they are posing a risk to the Australian community, or they are representing an integrity concern, then clearly the minister should have all of the appropriate powers for visa refusal or cancellation.

The bill also introduces a mandatory cancellation power for noncitizens who objectively do not pass the character test' or 'are in prison'. Again, which Australian would think that was unfair? If someone were in a prison, obviously for committing a criminal offence, who would
think that it is unreasonable that their visa application should be closely assessed? I point out that a variety of submissions to the inquiry questioned the utility of the change.

There is a statement of compatibility with human rights, and this is set out in the explanatory memorandum. I just want to highlight that. The statement said:

The Australian Government is committed to protecting the Australian community from the risk of harm by non-citizens. The Government has a low tolerance for criminal, non-compliant or fraudulent behaviour by non-citizens and should be able to refuse entry to people, or cancel their visas, where they have committed serious crimes or present a risk to the community. Facilitation of entry needs to be complemented with strong cancellation powers and processes to ensure that the Government’s ability to protect the Australian community and maintain the integrity of the Migration Programme is maintained into the future.

Again I ask: which Australian could object to that?

You have heard from the previous speaker, representing the Greens, the usual form of inflammatory, usually inaccurate—usually inaccurate, and I emphasise that—commentary on this and any other bill. There is a standard approach by the Greens political party: throw out there every objection, every threat, every misstatement of the truth that you can grab from anywhere that might grab a media headline from the ABC or the left-wing press. A lot of what was said in the Senate today by the previous speaker fits that category: a bit short on fact and reality but good for a one-line grab in the media.

I point out that the Police Federation of Australia, in their submission to the inquiry, said that the proposed amendments are justified on the grounds that they ensure that the migration regime is properly ‘enforced in a manner that best protects the Australian community’.

I indicate that the committee noted:

… while the nature of Australia’s migration program has changed dramatically over the past two decades, the relevant frameworks in the Bill have not been substantially changed to reflect this change. Generally speaking, the committee considers that the provisions—of the—Bill represent a sound and justifiable approach to the need to update the relevant frameworks in the Act so as to bring them into line with the current migration program.

To put it another way, the current rules were there when we had an ordered migration program and when people understood what the rules were for entry into Australia. In the last 10 years or so there has been an influx of illegal maritime arrivals. Under the Howard government these were stopped. Under the Rudd-Gillard-Rudd governments, the doors were opened to anyone who had the thousands of dollars needed to pay a criminal people smuggler to come into Australia. This activity, of course, whilst it allowed in a lot of wealthy people who had the money to pay the criminal people smugglers, meant that those who were waiting in squalid refugee camps around the world for their chance to get into Australia under Australia’s very generous refugee entry provisions had to wait another year because some wealthy person had jumped the queue, paid the criminal people smuggler and then expected to be welcomed with open arms in Australia. Well, I am sorry; that is not how we do things in Australia. That is how the Greens political party would do it, that is how the Labor Party did it, but that is not the way that most Australians want. This bill is part of a general approach by the minister to do what the Australian people want him to do.
I conclude by making a brief reference to the recommendations of the committee. The second recommendation is that the committee recommends the Senate pass the bill, subject to recommendation 1. The committee acknowledges the human rights concerns raised by submitters. However, the committee noted that the statement of human rights attached to the explanatory memorandum stated that:

… questions of proportionality will be resolved by way of comprehensive policy guidelines on matters to be taken into account when exercising the discretion to cancel a person's visa, or whether to revoke a mandatory cancellation decision.

The current guidelines in ministerial direction No. 55 affirm Australia's commitment to upholding its human rights obligations with particular reference to non-refoulement, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The committee acknowledged in its report that:

… these guidelines are not binding when determining matters under the general visa cancellation framework but considers that the guidelines could be extended to apply to cancellation decisions made under the general visa cancellation framework.

So the committee, in its first recommendation, suggested to the minister and the government that the current directions be updated and extended so as to reflect the proposed amendments to the Migration Act and, in particular, to ensure the direction applies to cancellation decisions made under the general visa cancellation framework. I am sure that the minister would have carefully considered that recommendation of the committee and I would hope that the minister may have been able to adopt and accept that recommendation and put it into practice. With that qualification, I strongly support this bill, as did the committee that investigated it.

Senator WRIGHT (South Australia) (18:39): As the Australian Greens spokesperson on legal affairs, I rise to oppose the passage of the Migration Amendment (Character and General Visa Cancellation) Bill 2014. I do this on the grounds that it hands unprecedented power to the immigration minister and puts Australia at risk of breaching a number of fundamental human rights, including freedom from arbitrary detention and freedom of association. The bill also creates a perpetual environment of legal uncertainty for visa holders in Australia, subjecting them to the possibility of visa cancellation on the basis of an extremely wide executive discretion that, in most cases, cannot be subjected to meaningful review. I am joined by some of the most credible legal voices in Australia when I call on the Senate not to pass this harmful legislation.

The government has not articulated why these changes are necessary. We are not talking about a small tweaking of the legislation; we are talking about broad and sweeping changes that have the potential to harm a great number of people. This is part of this government's agenda to instil fear in the Australian community and to play to the worst in our country, rather than to the best. It is a part of their shameful agenda to break the hopes and spirits of those who come to us fleeing persecution. It is not only at odds with our obligations under international law; it is also at odds with who we can be as a nation—a generous, accepting, welcoming and diverse nation. I worry about this government's legacy into future years and the seeds of fear and division they are sowing. I fear that we will all reap this crop and I fear that the damage that they are doing to our social fabric will not be easily repaired.
This is complex legislation with far-reaching consequences, so it is important to consider exactly what this bill does. As currently drafted, the Migration Act contains a range of powers that allow the immigration minister to cancel a person's visa if he or she poses a risk to the safety of the Australian community. These already include powers to cancel or refuse visas on the grounds that the applicant or visa holder fails what is called the 'character test'. Currently, a person does not pass the character test if they have a substantial criminal record; a conviction for immigration detention offences; an association with persons suspected of engaging in criminal conduct or with past and present criminal or general conduct; or if they pose a significant risk of particular types of future conduct. Currently, the minister may also refuse to grant or may cancel a person's visa if he or she reasonably suspects that the person does not pass the character test and the minister is satisfied that the refusal or cancellation is in the national interest. This power can only be exercised by the minister personally.

The proposed amendments in this bill will change this situation drastically, further expanding the already broad scope of the character test by broadening the power to refuse to grant or cancel a visa. If passed, this bill will increase the circumstances in which a person would fail the already broad character test; make visa cancellation mandatory in certain circumstances where a person is suspected of failing the character test; increase the minister's powers to cancel visas for providing incorrect information; give the minister further, wide-ranging personal powers to cancel a visa where a person does not meet the character test, a person gives incorrect information in relation to a visa or a circumstance relevant to the grant of the visa no longer exists. These ministerial powers would not able to be reviewed on their merits. These powers may even, in some circumstances, go against decisions of independent tribunals that are based on the examination of evidence and finding on the basis of merit, including certain findings of fact.

The cancellation or refusal of visas on character grounds are serious matters. They might mean that a person would be deported to another country or subjected to immigration detention. For asylum seekers—people seeking protection from persecution—in Australia, the cancellation or refusal of a visa on character grounds can result in indefinite detention.

Many of these issues were explored by the 2013 Background paper from the Australian Human Rights Commission which reviewed the human rights issues raised by section 501 of the Migration Act governing the refusal and cancellation of visas. The commission's paper outlines the risk that people who are refused visas or those whose visas are cancelled may be subject to arbitrary detention and family separation. The Australian Greens are concerned that, if enacted, this bill has exactly this potential for harm.

But it is not just applicants for protection visas whose lives will be affected by the changes proposed in this bill. The proposed amendments will also apply to people who have resided in Australia for a long time—sometimes, from childhood. In many cases, Australia is the only nation, the only home, they have ever known.

Given what is at stake, the government needs to make the case for why the existing visa cancellation powers in the Migration Act—which have been widely criticised for already being excessive—need to be changed. It is yet to make this case. If the government wants to make these broad and sweeping changes, the onus is on it to explain how the existing laws are not working and why each of the proposed changes is a necessary and proportionate response, given the serious impacts such powers have on the rights and freedoms of people living in
Australia. As many commentators—including some who made submissions to the inquiry into the impacts of this legislation—have emphasised, the government has completely failed to make this case. No independent evidence or research has been made public that illustrates the need for these changes.

Although the explanatory memorandum says that the amendments aim to limit risk to the Australian community and to better capture visa holders who raise integrity concerns, it actually fails to set out why these amendments are a proportionate response to the harm that the bill seeks to avoid. It is a mere assertion.

The bill significantly expands the role for personal ministerial decision-making powers over visa cancellation and refusal—one individual; few checks and balances. The bill gives power to the minister to override any tribunal decisions, including those made through the Administrative Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal in relation to decisions not to cancel or not to refuse visas.

In addition, the bill proposes to exclude natural justice requirements from the exercise of ministerial powers. 'Natural justice' is really just another way of saying 'a duty to act fairly—to not be biased and to make sure someone has a fair hearing before making a decision'. Why would the minister's powers need to exclude this requirement? This is an unnecessary expansion of the minister's powers and undermines the integrity of the visa cancellation and refusal system. It puts those who are not yet citizens—or noncitizens who are permitted to be in Australia—at a perpetual risk of visa cancellation. As the Law Institute Victoria has submitted, this confers:

… on the Minister and his delegates a disproportionate amount of power to be exercised at any time at their discretion. In effect permanent residency is no longer permanent.

The situation is made worse by the introduction of mandatory cancellation provisions. At present, even if a person fails the character test they will not have their visa cancelled unless the minister, or a delegate, exercises a discretion to cancel. In considering whether to exercise this discretion, the minister may then take into account the particular personal circumstances of the visa holder, and without any action by the minister the visa will not be cancelled. This bill reverses the current position. Under this bill, all visas will be cancelled without notice in cases where a person is serving a full-time sentence of imprisonment for any offence, however minor, and the minister or their delegate is satisfied that the person has a 'substantial criminal record'. If the bill is passed, it is likely the minister will develop a blanket decree as to what constitutes a 'substantial criminal record', and there will be no opportunity for a visa holder to offer any other mitigating factors or explanations as to why the offence occurred.

Such a decision to cancel will be not reviewable by the Administrative Appeals Tribunal. So for a person whose past experience of trauma, torture or persecution may have contributed to the offence they have committed there will be no discretion; the cancellation of their visa will be mandatory.

Why on earth would the government need to go this far, when the minister can already intervene to cancel visas if the grounds warrant it? It is just another example of punitive overreach.
In addition, this bill provides that a person will not pass the character test where they have been assessed by ASIO as, directly or indirectly, a risk to security, or in circumstances where an 'Interpol notice' has been issued and is in force in relation to the person:

… from which it is reasonable to infer that the person would present a risk to the Australian community …

What is concerning about these provisions is that they effectively give up to ASIO the minister's duty to assess the risk posed by a person, without the minister or the person affected even being permitted to look at the reasons for the negative assessment. It is a case of, 'Take it on trust'—because ASIO never get things wrong, do they?

Of course this is especially worrying, because there is a real risk that ASIO's information, and, in particular, Interpol notices, can be wrong—and, indeed, have been wrong in the past, just as the Law Institute Victoria pointed out in their submission on this bill. They described the 2013 case of Egyptian asylum seeker Sayed Ahmed Abdellatif:

In Mr Abdellatif's case, it was found that an Interpol 'Red Notice' issued in relation to him at the request of the Egyptian government contained baseless information that he had been convicted of 'serious terrorism charges including murder and explosives possession.' Commenting on Mr Abdellatif's case, former Minister for Immigration Brendan O'Connor observed that Interpol notices were 'often wrong' and routinely contained false information, citing notices that had been issued in the past against Australian citizens in error.

And if we need any clear example about how governments or agencies or courts can get things wrong, we need look no further than the case of Australian journalist Peter Greste, still languishing in an Egyptian jail after a trial that excited condemnation from observers all around the world for its inadequacy, with the inexplicable verdict of guilty based on no credible evidence. Why is this government, so critical of the Greste decision and the findings of the Egyptian court in that case, so ready to rely on red notices issued at the behest of governments or institutions that are so potentially unreliable? And, again, these notices and assessments will cause visas to be revoked—deporting people, destroying lives—without the possibility of a review.

The features of Australian law being expanded by this bill, especially indefinite immigration detention, have consistently been criticised by domestic and international human rights bodies as amounting to arbitrary detention. This bill also seeks to limit the longstanding and fundamental right to freedom of association. Ironically this is one of the traditional rights that Attorney-General Brandis is so fond of citing and extolling, and it is a right that is now increasingly under threat throughout Australia. Under these provisions, a visa can be cancelled or refused on the basis of a person's association with another person who may not have even been convicted of any criminal offence but whom the minister 'reasonably suspects' has been involved in criminal conduct. This test, and in particular its reliance upon 'reasonable suspicion', applies an unacceptably low standard.

The proposed change is not limited to individuals who have been found guilty of criminal conduct by a court. Like many other clauses in this bill it does not require the minister to engage in any meaningful assessment of circumstances or evidence relating to the alleged conduct. As the Law Institute of Victoria has pointed out the minister would have the discretion to cancel the visa of a person in a range of possible scenarios that do not actually pose a risk to the Australian community: entering their usual church where the priest was
under investigation for a child sex offence, joining in with a group with no convictions watching a current television series that has been illegally downloaded, or attending a political rally that may turn out to have associations with criminal or terrorist organisations or be attended by others with such associations without any knowledge that that is the case. It could include people who are related to another person in some way but who do not have any involvement in, or connection to, the criminal conduct. It could even potentially be a case where a person 'associates' with someone through being a neighbour or an acquaintance through a sporting club. And so we see here an evolving landscape in Australia, where vague associations are layered upon suspicions and build up a picture that could lead to a totally innocent person having their visa and their right to live in Australia cancelled. The zeal with which this government sets about denying asylum seekers and refugees justice, dignity and respectful treatment in Australia is shameful.

And, yes, there is more. This bill also proposes to allow the minister to cancel a visa if he or she is not satisfied as to the visa holder's identity. The Australian Greens agree that establishing a person's identity is important for upholding the integrity of the migration program; however, the proposed changes do not acknowledge that there may be genuine and legitimate reasons individuals may have difficulties in providing evidence of their identity. The Refugee Advice and Casework Service have pointed out exactly how it has already occurred. They said:

... RACS has several clients who are from the Rohingya ethnic group who, according to the UNHCR, are among the world’s most persecuted people. Many Rohingya people have never been issued with any identity documents by the Burmese authorities and Burma (Myanmar) refuses to grant the Rohingya people citizenship, leaving them stateless. Retention of identity documents is a major problem for Rohingyas for both historical and political reasons.

The changes proposed in this bill are unnecessary in light of the broad cancellation powers and processes which are already available to the government to protect the Australian community.

The Australian Greens will not support this bill because overall it makes it far easier for visa holders or applicants to fail the character test. And then it waters down the principles and protections that come from natural justice when the consequences of such a fail are being applied. Even further, this bill dramatically restricts visa holders' human rights and reduces the procedural fairness available to a person who might be subject to these powers. This bill creates a very real risk of arbitrary and indefinite detention for applicants who are seeking protection and effectively renders all visa holders subject to the perpetual risk of visa cancellation.

This bill also expands the discretionary powers of the immigration minister without providing for judicial oversight or sufficient safeguards to protect against misuse or overuse of these expansive powers. In the future, when we look back on how we are treating people who are in Australia and seeking protection or residency, we will see that this has been a dark time. Year by year restrictions are growing, rights are being curtailed, the arbitrary use of powers by the minister and officials is being expanded, and protections, checks and balances are being dismantled. Essentially, this bill has the effect of handing unfettered power to the immigration minister of the day—whoever that is today and in the future—and that is simply unacceptable when we are talking about people's lives. This bill is shameful and should not
pass this place. Australia is so much better than this. The Australian Greens oppose this bill in the strongest possible terms.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (18:58): I thank senators for their contribution to the second reading debate on the Migration Amendment (Character and General Visa Cancellation) Bill 2014. I thank the Senate Standing Committee for the Scrutiny of Bills for their contribution in the consideration of the bill. I also thank the Senate Legal and Constitutional Affairs Legislation Committee for their reports on the bill. In relation to the committee's majority recommendations, I confirm that the work is underway on a new ministerial direction to replace ministerial direction 55 to reflect the proposed amendments to the Migration Act 1958 as they apply to character decision-making. Consideration will also be given to appropriate ministerial guidance in relation to the general visa cancellation provisions to address the committee's concerns.

The purpose of this bill is to strengthen the character and general visa cancellation provisions in the Migration Act to ensure that noncitizens who commit crimes in Australia, pose a risk to the Australian community or represent an integrity concern are appropriately considered for visa refusal or cancellation. The bill also introduces a mandatory cancellation power for noncitizens who objectively do not pass the character test and are in prison. This bill is part of the government's commitment to ensuring the protection of the Australian community and the integrity of our migration programs.

The current legislative framework for the character and general visa cancellation provisions has been in place for some time. Amendments are necessary to ensure that we keep step with modern jurisprudence. Further, with streamlined processes facilitating entry of temporary residents for economic and other purposes, it is clear that facilitation of entry at the visa application stage needs to be complemented with strong visa cancellation grounds and processes at the post-visa-grant stage. This includes having appropriate responses available where noncitizens in Australia do not abide by the law, including by breaching visa conditions or engaging in criminal activity or migration fraud.

Consistent with community views and expectations, the Australian government, unlike the Australian Greens, has a low tolerance for criminal, non-compliant or fraudulent behaviour by noncitizens. Entry and stay in Australia by noncitizens is a privilege, not a right, and the Australian community expects that the Australian government can and should refuse entry to noncitizens or cancel their visas if they do not abide by Australian laws. Those who choose to break the law, fail to uphold the standards of behaviour expected by the Australian community or try to intentionally mislead or defraud the Australian government should expected to have that privilege removed.

To meet this expectation, the government must not only have the ability to act decisively and effectively wherever necessary to deal with unlawful, fraudulent or criminal behaviour by noncitizens but also have the legislative basis to effect a visa cancellation or refusal for those noncitizens. The bill ensures that protection of the Australian community and integrity of migration programs is paramount. It is reasonable that if noncitizens do not abide by Australian laws then they forfeit their right to remain here. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Back): The question is that the bill now be read a second time.
Question agreed to.
Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Back) (19:02): As no amendments to
the bill have been circulated, I shall call the minister to move the third reading unless any
senator requires that the bill be considered in Committee of the Whole.

Senator HANSON-YOUNG (South Australia) (19:03): I just want to make it clear and
put it on the record that the Greens will not be dividing on this because of the hour of the day.
But I want to make it clear that we do oppose this bill—the second reading and the third
reading. We will not be bothering to move amendments because we think the bill should not
exist.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border
Protection and Minister Assisting the Prime Minister for Women) (19:03): I move:
That this bill be read a third time.
Question agreed to.
Bill read a third time.

Australian Citizenship Amendment (Intercountry Adoption) Bill 2014

Second Reading

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

Senator MOORE (Queensland) (19:03): The Australia Citizenship Amendment
(Intercountry Adoption) Bill 2014 amends the Australian Citizenship Act 2007 to extend
citizenship to children adopted directly from a country that is not a signatory to the Hague
Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.
These include South Korea, Taiwan and Ethiopia. Our party is supporting this bill, but I have
depth worries about the way it will work. I need to put on record my concerns and the
concerns of people that I have worked with over the last years who are engaged in issues
around adoption in this nation and also the concerns of many of the women who had children
taken from them. We had a Senate inquiry that considered their views and considered those
issues, and they have raised with many of us their concerns about this bill. But, nonetheless,
in supporting the bill the opposition has noted work that the government has done and also the
expectations of many families in this country that the bill will be passed.

We know that Australia has a long history of participating in intercountry adoptions, dating
from the Second World War. Perhaps the most dramatic instance of this participation was the
well-publicised—and well-televised, to a large extent—Operation Babylift in the final days of
the Vietnam war, when Australian families adopted 280 children from Saigon orphanages.
That was well known in the community, and it is something of which our community has
been proud. But also coming out of that experience have been some deep warnings to us, as a
community and as a government, about how the processes of adoption should be handled and
the sensitivities that must be taken into account when looking at any issue of adoption. It must
be the wellbeing of the child and the rights of the child that must always be paramount, and
not the preferences of families wishing to adopt.
Children must be protected from adults who intend to abuse and exploit them and from people who use them as commodities, not as people. That is why, in 1998, Australia signed the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. This convention exists to protect children and their families against the real risks of illegal, irregular, premature or ill-prepared adoptions abroad. The convention operates through a system of national authorities and acts to support and reinforce the United Nations Convention on the Rights of the Child, which has particular clauses about protection of children.

Labor supports the bill because we acknowledge that simplifying the immigration process will help Australians acting in good faith who genuinely want to adopt children from overseas. But we caution the government that those who have the oversight of the new citizenship procedures will bear a grave responsibility. It is essential that there should be no unintended consequences of liberalising the existing law. In particular, the risk of exposing children to trafficking must be avoided at all costs. This is a real risk. There are documented instances in the recent past which have proved that trafficking of children as a commodity does occur and that it does occur under the guise of adoption. The government must ensure that the most strict safeguards are in place to prevent these horrors happening. We must not compromise our commitment to international legal obligations. We must make sure that vulnerable children, or indeed vulnerable families who are seeking to grow their family, are not put in harm's way. Nor should we ignore the exploitation of children and families in home countries. Regrettably, this does occur. Families whose only desire is to provide a better life for their children might be tricked by false promises and misinformation into taking part in adoption processes.

Sadly—and this is a very recent experience—we have already seen such exploitation in Ethiopia, which led to our government's decision, when we were there, to close the Ethiopia-Australia Intercountry Adoption Program in 2012. This was a painful, difficult but absolutely necessary decision. There were a number of problems with the Ethiopian program, including the difficulty in identifying trustworthy orphanages. There had also been a significant increase in the number of private operators of adoption businesses in Ethiopia, which created an unhealthy competitive environment—a business environment—for overseas adoption. That kind of competition for overseas adoption possibilities does not sit well with Australia's responsibilities under the Hague convention.

In Ethiopia, there were not only dangers for children who might have become involved; many Australian parents were left in limbo. Some travelled to Ethiopia only to discover that a child they had believed to be available for adoption was in fact not there. Different documentation was being transported around purporting to be appropriate and legitimate adoption processes. I have met with families who were caught up in that process. It is painful and it operates, in the best possible way, as a warning that we must make sure that processes are completely stringent and that the communication links are transparent and open.

When I was in Ethiopia with one of the delegations, we met with the Ethiopian government. This was after our decision had been made to close this adoption program. They expressed the same concerns. These were people who had been working within Ethiopia itself to identify where the processes had gone awry and also to ensure that criminal aspects were investigated. It was tragic to hear the concerns that the government of that country had about...
the impact on their families and their children but also the concern that their legal process had been compromised in this way. Closing that program was the only responsible thing to do.

Labor expects that before reopening the program—or opening any program—the government will put in place procedures to ensure that future adoptions are carried out ethically and professionally. Unless the past issues in the Ethiopian program are resolved, the risk in reopening the program will be too high. The amendments in this bill will allow a child adopted overseas to be granted Australian citizenship once the adoption is formal in the child's home country. That will have the effect of the child not needing a visa, because he or she will be then an Australian citizen. Therefore, the adopting parents will not need to sponsor a visa application.

In March 2010, Labor introduced a sponsorship limitation in the Migration Regulations 1994 that prevents a sponsorship being approved if one of the proposed applicants is under 18 and the minister is satisfied that the sponsor, or the sponsor's spouse or de facto partner, has a conviction or an outstanding charge for a registrable offence. Sponsors, and their children and partners, of child category visa applications lodged after March 2010 are required to provide an Australian national police check and/or foreign police certificates as part of the process of assessing the applications. These police assessments are used by the immigration department to assess the sponsorship application and whether or not the visa application satisfies the public interest criteria relating to the best interests of the child. This process should be the minimum requirement for adopting parents seeking to have adopting children granted Australian citizenship. It is a sad reality that not everyone wanting to use these new arrangements will have the same admirable motives as many of the advocates for change do. It is tragic that child trafficking has occurred in countries that lack a properly vigilant adoption process.

As I have said, Labor supports the bill, but there has been significant unrest about this bill in the community of people who have been impacted by adoption practice in the past. They have made it known that they feel that this makes adoption easier and that, rather than understanding the special circumstances and needs of people caught up in the adoption process, this makes it seem to be rather a simple process.

There are many people with whom I work in the areas of people who have been impacted by adoption who do not believe that adoption should happen in any case. I do not share that view. I think there are occasions, when appropriately prepared and supported adoption processes are put in place, when it can have a very positive impact in the development of strong families and protect the best interests of the child, which must always be the key element of any process which is looking at adoption. However, their views must be acknowledged. Their experiences have so very recently been shared in this place and in the wider community through the programs supported by the government in an oral history project and work done through the Australian Institute of Family Studies, which talks about the longstanding impact of adoption practices in Australia and reflects the pain and quite tragic impact, in some cases, caused by adoption in Australia. It is important that that experience is understood and acknowledged and that the concerns raised about the need for specialist support for families and for people who are adopted are addressed, and that those processes are put in place to ensure that families who are working in adoption circumstances do have that support. This bill is looking particularly at the citizenship aspects of the process,
but it is important that when we are looking at the issues of adoption we learn from past experience. As I have already said, we have had the trafficking issues that occurred in the Ethiopian experience. Also, we should not be moving into any extension or 'streamlining', the word that has been used in this legislation, around adoption that does not acknowledge the need for personalised, accessible support to allow new parents and the children who are in the adoption process to have support as they move through to the new family arrangements. We have seen the dangers and we have seen the impact of when that support is not available.

That has been made clear now by the Australian Institute of Family Studies project around the adoption experience. When we are looking at the citizenship processes, we should also be looking at the necessary interaction between departments to ensure that we give new families who will be developed through the implementation of this legislation the best to support in the hope that they bond effectively in the future. We have spoken many times in our working group about the need for departments to work closely together. This is a clear example of this.

This legislation looks at the processes to allow the citizenship aspects to be more straightforward so that when families come back to Australia they do not have the extra worry about visa applications. That is only one step. We also need to ensure that the other aspects of the legislation that complement this process are taken into account.

We support this bill, to the relief of Minister Cash—she may have been concerned at some stages through my contribution about where we stand. In terms of the citizenship aspects, yes, we support the bill, with the provisos that we made about ensuring the strict processes around the legal situation in the country of origin of the children are strong and transparent, and that the government is completely sure of about this when checking the application for visa rights. At all times in this legislation, the best interests of the children should lie at the heart of every decision. I feel confident that the people who are working in this space, and I have met many of them, share those concerns and every effort will be made to ensure that through this adoption process the best interests of the child, the best interests of families and the need for support are maintained at the front of any decision.

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:17): The Greens have a great deal of concern with the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014. Having chaired the inquiry into forced adoptions just recently and been through the process of listening to the apology that had to be given because of past practices, I come to this from that perspective. The lessons I learnt were numerous but one that I did take very much on board is that we need to be extremely careful about the approach that we take to adoption. I think this bill takes us that one step too far down the road. There are many people in the community as well as those affected by forced adoption practices in the past who are extremely concerned about this bill and, in fact, I know do not want to see adoption at all. At this stage, the Greens and I do not go that far, but I can totally understand where they are coming from. I think we need to listen very carefully to their experiences and ensure that the mother and the child and their perspectives are taken on board—that is, the relinquishing family, the child and also the potential adoptive parents. But we need to focus on the best interests of the child. The Greens and I are concerned that this bill takes us one step too far and that maybe we are losing sight of the best interests of the child.

The DEPUTY PRESIDENT: Order! Senator Siewert, before I propose the adjournment do you want to formally move your second reading amendment?
Senator SIEWERT: Yes, I do. I move the second reading amendment standing in my name:

At the end of the motion, add: “but the Senate notes that:

(a) the Hague intercountry adoption convention (Hague Convention) provides the best assurance of safeguards for children and a transparent adoptive process, and intercountry adoption should occur between Hague Convention signatories to ensure the safety and best interests of the child; and

(b) Australia should seek to encourage countries to sign the Hague Convention rather than sign ad hoc bilateral agreements”.

Debate interrupted.

ADJOURNMENT

The DEPUTY PRESIDENT (19:20): Order! I propose the question:

That the Senate do now adjourn.

Sugar Industry

Senator CANAVAN (Queensland) (19:20): It is a great pleasure to rise tonight to speak about a very important industry, particularly to Queensland—the sugar industry. Sugar has traditionally been and still is an extremely important industry to Queensland, but it is also very important to the whole nation. Despite being concentrated largely in Queensland and northern New South Wales, it is our second largest export crop, just behind wheat. It earns export revenue for this country of about $2 billion a year. So it is very important. Indeed, about 80 to 85 per cent of the sugar we produce every year goes to export markets. There are about 4,500 cane families in Australia, supporting some 40,000 indirect jobs in the sugar industry, the milling industry and related industries. We produce about 35 million tonnes a year on 380,000 hectares. At the moment, this industry is in quite a bit of transition and change. We need to be mindful of the impact of that and whether the regulations and laws we have are fit for purpose, given the changes that are occurring, and a lot of changes are happening right now in the industry.

There are about 24 mills which produce sugar in this country, but overwhelmingly the ownership of those mills is concentrated in the hands of just two major companies. While there are seven different companies who own those 24 mills, based on tonnes produced around 53 per cent of the tonnes of cane produced in this country are now owned by one company, a company called Wilmar, which is Singaporean owned. They have about half the market. A Thai company called Mitr Phol Group, who now own Maryborough Sugar Factory, produce another 10 per cent. So more than 60 per cent of our sugar is produced by just two companies. It is actually very analogous and very similar to the situation we have in retail markets now, where about 60 to 70 per cent of groceries or packaged goods are sold by two companies.

This puts growers in quite an invidious position: they therefore only have a couple of companies to sell their sugar to. Indeed, it is worse than that because, while 63 per cent of the market is owned by these two companies, the reality of sugar growing in a district is that it is constrained to that district. Sugar is not a market based on a country; it is not a market that is even based on a state. It is a market based on a local area, the local conditions and the local mill. That is because, when sugar stands in a field and when it gets to maturity, every month that you do not harvest that crop the sugar content of that crop falls. So you need to get it off.
It is perishable in the ground, not just out of the ground. And to get it off you need to get it to a mill as soon as you can, and that means economically you can really only send it to the mill closest to your farm. So the reality for most canegrowers is that they have one mill to sell to and one only. They are put in a monopolistic or—in economic jargon—monopsonistic position because they have only one buyer of their product.

That has worked in the past, despite that anticompetitive position, because there has been a level of cooperation and joint ownership of sugar facilities between millers and growers. Until recently—indeed until 1999—Queensland legislation gave canegrowers around two-thirds of the ownership of the crop. So, whatever the price received for that crop, they would generally receive around two-thirds of the revenue. We got rid of that regulation and that is not in the law now. But, even after that, the growers co-owned the sugar marketing body with the mills. So canegrowers own about 50 per cent of Queensland Sugar Limited, who market sugar to overseas companies. That gives them a level of control and ownership and makes sure that the mills, who are clearly in a very strong bargaining position, do not abuse that position. That has been proposed to change, originally by Wilmar, but then Mitr Phol and other mills have come on board, including COFCO, who own Tully Sugar, to say that they want to end that arrangement. They do not want to market their sugar through this joint company—through QSL. Wilmar want to take sugar that they process and sell it through their own company. That is going to put canegrowers in a very invidious position in terms of negotiating with those companies.

We should be looking at whether the regulatory structure is right given that potential change in market dynamics. The Senate is doing an inquiry into these issues right now. A couple of weeks ago I was in a place called Babinda, which is just south of Cairns, and I went to a smaller place called Bellenden Ker, which is not really even a town; it is just a little village with a hall. Around 30 or 40 canegrowers turned up on a Sunday morning—most of us would still be in bed, and I wished I had still been in bed. On a Sunday morning they came down to tell me why this is such a bad idea. They are rightly very concerned about the changes that have been proposed. I just want to make this point: if Wilmar and other companies want to change the market landscape then we should look again at the regulations to make sure that we do not need to make any changes to the regulatory landscape in response to any changes that have been made, because if canegrowers are put in a less powerful negotiating position we need to look again at whether the provisions in the Competition and Consumer Act actually protect their bargaining position.

One thing that was put to me at this meeting, and has now been put forward in submissions by canegrowers and others is: why don't we have a code of conduct under the Competition and Consumer Act which would protect their position and ensure that they have a fair, transparent and resolvable negotiating position with mills? In this place a couple of months ago, the government tabled a regulation for a grain code of conduct. I know it is very important to Senator Nash's constituents in her part of the world, but, in fact, there is not that much difference between the issues in the grain markets and those in the sugar markets. In the grain markets there is usually only one bulk exporter of wheat through a terminal like Brisbane, Newcastle or Adelaide. Therefore, the grain growers are put in a very tough position when they try to negotiate with GrainCorp or, in its era, AWB. Looking at that market structure, we have decided that we need a code of conduct. We need some kind of
arrangement in place which ensures that there is an equal, or at least transparent, bargaining process between growers and bulk wheat exporters. That is exactly the same position, almost, as canegrowers are in. Indeed, I would say that canegrowers are in a worse position because you can store your grain; you can use your own trucks—or not necessarily your own, but you can contract with other trucks; you can hold over your grain to other years, because it is not perishable and it does not reduce in quality; and of course there is a larger domestic market for grain, at least on the eastern coast, which there is not for sugar. So canegrowers are in a worse position, but we have no specific protection for canegrowers at a federal government level. Until now, I do not necessarily think that we have needed the protection, because of the cooperative structure in the marketplace. But if that cooperative structure is removed then maybe we need to relook at that, and maybe we should be looking at grain markets and how they are regulated to see if that is something that should be translated into sugar markets.

I think, more generally, we need to be very careful now. The farming sector has changed in the last couple of decades. There has been increasing corporatisation; there has been increasing foreign investment; there are increasing issues around how about 135,000 farmers in this country can negotiate with just a few big corporations to buy or market their products. They do not have the bargaining position that big corporations do. When I was on this trip I went to a place called Mareeba—that was the next day. They do grow a bit of sugar there, but I did not talk sugar there. I talked to some horticulturalists and I said to them: 'Why don't you guys cooperate? Why can't you get together and, effectively, do what the Labor Party do and go on strike and get a better price?' They said, 'Yeah, we tried that a few years ago. Three of us who are growers in Mareeba said, 'We're not going to sell to the Cairns marketplace. We're going to stop selling. So, next Saturday, no-one drive down to Cairns to sell their product.'" They said that the guy who left at 4.30 in the morning drove past the two others who were already coming back from Cairns that morning. It is very hard for farmers to cooperate, because there are so many of them. There is always an incentive for some to do deals outside of a cooperative framework. Given that, we need to recognise that marketplace. Sure, we have laws in place to prevent those with too much market power from abusing that position and limiting Australian farmers' ability to make a decent return on their work and investments.

Territory Insurance Office

Senator PERIS (Northern Territory) (19:30): I rise in this adjournment debate to oppose the sale of the Territory Insurance Office by the Country Liberal Party government in the Northern Territory. On Monday the CLP government announced that they were selling the insurance arm of the TIO to Allianz Insurance, a German company, and the banking arm to People's Choice Credit Union. There are two aspects to my opposition to the sale. Firstly, it should not be sold and, secondly, the deal they have done to sell it is a complete dud.

The CLP had no mandate to sell TIO. In fact, they had a mandate not to sell it. Before the election in August 2012, CLP leader at the time said, 'The CLP stands firmly opposed to the sale of TIO and will fight to see it retained.' But after the election, they sold it. And they sold it against the clear will of the people of the Northern Territory.

The Territory Insurance Office is the only insurance company in the Northern Territory that provides loophole-free flood, cyclone and storm surge insurance. Of course, in the Northern Territory the provision of such insurance is vital. Territorians know this and they know that this sort of insurance will no longer be provided at an affordable price. That is why
they oppose the sale. If the CLP wanted to sell the TIO, they should have taken their plans to the election. Instead they arrogantly rushed through a sale behind closed doors without any consultation with Territorians.

Another reason that the TIO should not have been sold is that it makes a profit. Over the last five years the TIO made a profit of $305 million. This is a short-sighted sale. The CLP are selling the TIO to grab some quick cash to pay for their unfunded 2012 election promises. It is unequivocal that Territorians do not want it sold. Normally we Territorians are pretty laid-back people, but this sale has seen people take to the streets like no other issue. Local polls recently showed up to 90 per cent opposition to the sale.

I am sure that to people down south it will seem strange that Territorians have a deep affection for an insurance company. But these things are important when you live in cyclone country. We do not want the insurance crisis that hit Queensland where, in Weipa, people pay $10,000 to insure their homes compared with $2,000 in Brisbane. But that is what can now happen. The CLP have admitted that insurance premiums will rise—and this is from a government that promised to cut the cost of living. But they put power prices up by 30 per cent and now insurance premiums. In fact, the cost of living in the Territory is forecast to keep growing at the highest rate in the country for the next five years. Selling the TIO means premiums will go up and less protection will be provided.

Here in Canberra we have witnessed government MPs accuse their own Prime Minister of verbal gymnastics over his claims that he has kept his promise that there would be no cuts to the ABC or SBS. It would seem that Northern Territory Chief Minister Adam Giles likes the way his mate Mr Abbott denies the truth. How is this for a quote: 'We are not selling TIO. We are just transferring ownership.' That is actually what the Chief Minister said in response to suggestions he should not sell it. As Michael Gunner, a Territory Labor MP said yesterday, 'Adam Giles isn't going to the Christmas sales this year; he's going to the Christmas transfers of ownership.' And this is from a Chief Minister who said he wanted to have a mature conversation about selling the TIO. It is verbal gymnastics at its finest, but it does not work. It does not cut it with Territorians. In much the same way that Australians do not believe Mr Abbott, Territorians do not believe Adam Giles.

Another reason the TIO should not be sold is that it goes against the recommendations of the inquiry into developing the North. Here is a recommendation:

The Committee recommends that the Australian Government take measures to reduce insurance premiums back to an affordable level, which could include increasing competition in the insurance market in Northern Australia. The Australian Government has particular responsibility for the Indian Ocean Territories, but should also conduct negotiations with the governments of the Northern Territory, Western Australia and Queensland, with a view to allowing the Territory Insurance Office to extend its coverage across Northern Australia including the Torres Strait Islands.

The report further noted:

The Territory Insurance Office (TIO) in the Northern Territory is a government owned statutory insurance provider that has provided affordable insurance to citizens of the Territory since 1979. It provides a potential model for the creation of an insurance office covering Northern Australia.

The CLP government claim that they want to develop the North, but they are directly going against the recommendations of the report. TIO premiums will go up everywhere but insurance industry experts have said this will hurt insurance in the bush the most—especially
in areas prone to flooding and cyclones. In selling the TIO, the insurance equalisation policy has been abandoned, so the risk will no longer be spread. Territorians who live in flood areas will have to pay huge premiums.

The CLP and the Abbott government keep saying they want to increase home ownership in the bush, but huge insurance premiums are going to be a barrier to achieving this. It will also hurt businesses in the bush who already face high costs, including $3 a litre for petrol, which makes it very hard to compete. Now we are going to see insurance premiums add to the enormous costs.

Those are the reasons the TIO should not be sold. I will now outline why the actual sale is such a dud. The CLP originally claimed that they would get well over half a billion dollars for the TIO. But they have sold it for $424 million. The sale of the insurance and the banking gets only $284 million. The balance is just a motor vehicle accidents compensation scheme write-down which the government admits it already has in its coffers. So we have sold a company that has made a profit of $305 million over the last five years for a return of only $284 million.

In justifying the sale of the TIO, the Chief Minister continually pointed out that the Commonwealth would kick in 15 per cent of the value of the sale for infrastructure in the Northern Territory under the asset recycling scheme. But they haven't. The deal announced does not involve money from the Commonwealth. The asset recycling scheme does not exist in this deal. His justification for selling it simply does not exist. In fact, the Abbott government has refused to back the sale of TIO. They have ignored Adam Giles and they are not giving him any money, but he has gone ahead and sold it anyway. Giles claims that the sale of TIO will help build the north. He said:

We want to create an infrastructure nest-egg which is invested and grows over time, ensuring TIO’s legacy is felt by Territorians long into the future.

And he said:
Through its possible sale, TIO could serve all Territorians in a new way, by providing us with the funds to unlock our potential, creating the jobs and industries of the future
But all we have for infrastructure is $265 million. In promoting the sale Adam Giles referred to projects like a bridge to Mandorah and sealing the Tanami. These projects would cost billions, yet all we have is $265 million. Under Labor the NT had an infrastructure budget of up to $1.8 billion, and Adam Giles complained it was not enough. Now he says $265 million will build our future. The fact is that he is just going to use it to pork-barrel in the lead up to the next election. He has sold TIO for a pathetic amount. It is small change, and Territorians have been short-changed. We will never, ever get it back.

The Territory opposition has vowed that they will look working with the federal government to deliver its recommended public insurance model across Northern Australia. They will look at setting up government backed insurance scheme across Northern Australia. I will support this. If we are going to develop the North, we need insurance to be affordable. I will work with the Labor opposition to develop this plan because it is what Territorians want and what we need to develop the North.

The silence from the Northern Territory members of this parliament on the sale of TIO has been deafening. Natasha Griggs, the member for Solomon, and Senator Nigel Scullion of
course cannot criticise Adam Giles for breaking election promises, as they are too busy breaking their own promises. And they cannot criticise him for increasing the cost of living, especially after they voted to increase the price of fuel in the NT and they want a new GP tax. It is sad that they have decided to back the CLP rather than Territorians on this issue.

I condemn the sale of TIO and I condemn the dud deal that has betrayed all Territorians.

Public Transport

Senator RICE (Victoria) (19:39): Growing up in Altona and spending my life in Melbourne's western suburbs, I have seen a lot of change in the area over my time. One of the things that has happened is a huge population increase with wave after wave of new housing and new communities spreading west out to Werribee and beyond. I understand the pull to live in Melbourne's west; it is a fantastic spot. Its communities are diverse, vibrant and close to various industries and employers, and it is accessible to the bay and the city. But one thing the west does not have is fast, efficient, and reliable public transport.

If you are a worker who relies on taking the train from Altona to get into work in the city, you will often find the trains are overcrowded and do not run often enough. The rail service through Altona is the most unreliable in Melbourne and the one that commuters are most unhappy about. My mother and sister still live in Altona, and I used to travel to school by train from there over 30 years ago. There were more trains from Altona than now.

I follow the Altona Loop users Facebook group. Virtually every day a train is recorded by one of the group members as having been cancelled, and regular delays are tallied for the record. These are a daily record of the disruptions caused and the loss of productivity of our city's workers. Given they only have a train every 22 minutes even in peak hour, when a train is cancelled it is a big deal. It is no wonder that the patronage of the Altona line dropped by 30 per cent between 2008 and 2012, when passenger numbers on the rest of the Melbourne network soared.

A bit further out from Melbourne is the suburb of Point Cook. If you live there and perhaps you need to get the kids to school a couple of stations up the line, you will encounter daily traffic jams in your local streets just trying to get to your nearest train station. Poor bus connections are leaving communities like this stranded without a choice. Cars choke the streets despite poll after poll showing that the people of Melbourne want better public transport, not new toll roads.

Further out again is Caroline Springs. If you live in Caroline Springs, you have not got a train station, despite being on the Ballarat train line. Housing development in Caroline Springs began 15 years ago, and there are now over 20,000 who live there. Construction of their station is meant to start next year, but even then they will only have a diesel country service running hourly most of the day. And it is going to be a rail service stricken with a shortfall in funding, which was revealed in the media today as resulting in 'unplanned service disruptions, higher rates of system failures, speed restrictions', and 'deteriorating network performance that will not support long-term patronage growth'.

Things only get worse as you head out into regional Victoria. Vast areas of Victoria have such pathetic public transport it just does not provide a usable service for people. If you live in one of the suburbs of, say, Bendigo or Shepparton, you might have a bus service to get you to work, but quite likely it only goes once an hour—if that. And, if you live in Shepparton, you
have just five trains a day connecting you with Melbourne, the last one leaving Shepp at 4 pm. And the way they've 'fixed' the train service on the Albury line is to shift the goal posts: they have added 15 minutes to the journey time to take account of slow, unreliable service.

Public transport in Melbourne and across Victoria and Australia's major urban settlements can be improved immediately. More trains, trams and buses can be added to the existing network; upgrading the antiquated train signal system can deliver more frequent and reliable train services for commuters. Yet, despite the degraded state of our train network and the lack of buses, the Victorian government and the federal government are proposing to spend billions of dollars and suck up the vast majority of the transport budget on the disastrous East West Link tollway. The Abbott government has committed $3 billion, without sharing a business case or the details of a cost-benefit analysis with us; and, in an astoundingly blinkered move, the federal government is refusing to fund any public transport infrastructure. Taken alone, this ideologically driven policy is backwards in the extreme. But, when you consider it in the context of the Abbott government's brutal budget, it represents another hit to our community's most disadvantaged.

There are important links between the provision of public infrastructure and other factors affecting people's lives and household budgets. At a recent public hearing in Melbourne I sat with fellow senators who are part of the select committee inquiring into the impact of the Abbott government's budget. We heard from expert witnesses and advocates at that day's hearing, which had a particular focus on the federal transport budget. Again let us remind ourselves of the most glaring thing in the transport budget—that we have got a government that refuses to put a cent towards public transport projects in Australia.

What the Prime Minister cannot ignore is that Victorians, and indeed Australians living in all our traffic choked cities, want better public transport. Poll after poll shows this. Victorians do not want our transport budget funnelled into more polluting new toll roads at the expense of trains and buses or indeed at the expense of funding local councils, which maintain local roads and bridges. One of the experts we heard from at the hearing was Professor Jago Dodson from RMIT University in Melbourne. His key area of research interest is urban policy. Professor Dodson homed in on the interplay between planning, socioeconomic factors and access to infrastructure. He said:

… rapid suburban expansion which stressed the capacities of local and state governments to deliver services … local governments struggle to deliver good quality services in fringe areas. State governments struggle to deliver education, health, public transport and similar kinds of public services in these expanding areas of our cities. It is a problem that we have not really resolved.

We are not seeing any steps being taken by this government towards resolving these ongoing problems. All the while our urban communities and those on the urban fringe remain stranded without adequate public transport. What does the Prime Minister, who says he will only fund roads, think this means for a family's primary carer spending their days at home with the kids who just needs to get the shopping done on a given weekday and whose partner has been forced by a lack of public transport to take their only car to the workplace? In most parts of Melbourne's outer suburbs, where the bus service is erratic at best, this parent is stranded, under further pressure to manage the household.

In the areas that are most lacking public transport, many people are living with other compounding factors, leading to significant social disadvantage. The government's budget is
exacerbating these factors in several ways. Professor Dodson's evidence at the public hearing noted:

... we have suburban environments which ... in terms of systematic delivery of public services to these areas, the approach has been very ad hoc and haphazard ... such areas are therefore exposed in compounding ways to household budget pressures. In the current budget context, the increasing of health costs, the increasing of fuel costs, and the increasing of education expenses, particularly for tertiary education, are likely to have multiple effects, particularly in the suburban areas, which is where the households who are relatively less socioeconomically resilient are located.

I have great concern about these multiple effects of the budget cuts when combined with the government's complete lack of regard for the public transport infrastructure so desperately needed by Australian communities. Across urban and regional Australia the story is the same. We know what needs to happen—we need to stop spending money on exorbitantly expensive tollways that will not solve our congestion problems and instead invest in public transport and other community infrastructure. We can afford it. It is a matter of choice as to where the infrastructure budget is spent. The Greens are committed to spending our money wisely on public transport projects that will really make a difference in people's lives, rather than on massive tollway projects that will only serve to line the pockets of the road lobby, property developer and financier mates of the government.

Shipbuilding Industry

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (19:49):

I rise in the adjournment debate—just in case people have not heard enough about submarines—to talk about submarines and shipbuilding in Australia. Today originally we had an urgency motion, which was subsequently pulled because pretty much the whole day's productivity of both the House and the Senate was lost in a political debate around shipbuilding, particularly of submarines. The problem with political debates is that people tend to take sides and get entrenched in positions. There is plenty of ammunition on my side, and I am not going to throw it now—you have heard my colleagues speak on that—and the other side, I am sure, feel as though they have ammunition, but the Australian public actually expect us to be here to chart a path for the future that makes our industries sustainable and makes our Defence Force the best equipped in the world in that a manner that is sustainable and affordable. That is what the taxpayers expect. So I would like to talk a little about some of the substantive issues that get lost in political debates like the one we have had today.

What is fascinating in both the contributions here and the views of the public—and you see articles published, lots of comments on them and emails people send you—is there are a whole range of perceptions. There are perceptions in the political world, in the public and in the media about what has or has not happened that should shape the future. I would like to touch on a few of those. Firstly I want to talk about the history of shipbuilding, particularly of submarines here in Australia.

Everyone loves to talk about dud subs, but I can tell you that, when it comes to the Collins class submarine, that is a really inappropriate and unfair title. Yes, they had some problems. On the manufacturing side, the vast majority of the problems were with equipment that came from overseas or with work that was done overseas. The major welding reworks that delayed the entry into service of the first two submarines was done in Sweden. The welding problem was from there. The welds here in the four main sections of the boat never had a problem and
still have not had a problem. The original combat system was an American combat system from Rockwell. There were some other inputs—Computer Sciences of Australia and a few other people who were involved in partnerships—but essentially it was a Rockwell system. And it did not deliver. In fact, it took an Australian company, Acacia, to bell the cat. A gentleman called Ted Huber in South Australia was engaged to look at the system and assess it, and he said: 'You know what? It's not going to work.' So it was actually Australian expertise who belled the cat and said, 'This system is not actually going to be fit for purpose.' So when people love to look at the major things that delayed Collins, when it comes to the fundamentals of the design, and particularly to the Australian contribution, there is not too much that you can put your finger on and say: 'This is a unique Australian problem. Therefore, we should never build a submarine in Australia again.'

A lot of the problems in fact come down to the contracting arrangements in terms of split responsibilities. I compare and contrast, just like a school essay. I look at what happens with Toyota, who are making vehicles here in Australia. We do not have an Australian government owned factory making a car that is designed by someone else. No, they come here, they employ Australians and they make the car, but it is a Toyota factory. If we are going to learn anything from the Collins it would be that a future build should be a fixed priced contract with a company who are going to be responsible for actually building and delivering the submarine to the agreed standard. That could mean that they take over on a temporary or permanent basis facilities in Adelaide at ASC. They would employ much if not all of the workforce from there. But this split responsibility was a huge factor in Collins as to why many things went off the rails.

Interestingly, the Coles report which was done recently—and credit to the former government for commissioning the Coles report—identified, and I will read from key findings here:

The study found that the Collins Class submarines are capable submarines which are competently designed and operated by the Royal Australian Navy, however, many of the problems with the Collins fleet stemmed from a failure to put in adequate sustainment arrangements on entry into service (from 1996), and subsequently to adopt adequate processes for reliability. This has lead to maintenance backlogs, inefficient practices and reduced submarine availability.

Given my own background in aerospace and looking at what the forces have had to do to keep our aircraft airworthy, serviceable, mission ready, is part of the reason I am so adamant that we approach defence procurement from the point of view of making sure we develop in defence and in industry the kinds of sovereign competence we need in engineering and fabrication skills that we can actually have design assurance for the equipment that we have. What the Coles report clearly shows is that the Collins is a very capable submarine, and experience on operations or exercises with the US has shown that. What it was let down by was a poor logistics system.

So the current situation: ASC, yes they have some problems. Even the AMWU admitted in the Senate inquiry that has been recently held that there are problems with productivity. But they are getting better. I have been down there many times, being a South Australian senator, and I have watched the progress of ship 1, NUSHIP Hobart, and also ship 2, NUSHIP Brisbane, and what I see as a stark difference between ship 1 and ship 2 in terms of how they are approaching the work. The innovation they have brought in in terms of how to put the ship
together—how to integrate each module, fit it out, paint it, put the looms in so that the final connection is going to be so much quicker—says that productivity is increasing rapidly. I have no doubt that by the time they get to ship 3 they will have reached the benchmark that was set of 80 man-hours per tonne.

The other important thing to remember is that there is a learning curve. It is not just Australia—overseas as well. The US congress and their Government Accountability Office and the UK parliament is full of inquiries into shipbuilding productivity, because people get scared when they look at the first or second ship in a class and they go, 'Oh, my goodness, it is late and over budget.' A lot of people loved to say that the Virginia class is what Australia should be looking at. The first two boats were $1 billion over budget. The Astute class, built by the UK, was £2 billion over budget for the first three boats and four years late. There is the LPD-17 class of ship in the US. There were 6,000 defects found on the first vessel, and over subsequent vessels it has decreased.

What we saw here in Australia with the Anzac project was that, allowing for that learning curve, over time the productivity gets better, the quality gets better, the cost per vessel comes down and it is a successful project. So over time we will get better. Which means in the future we can look with confidence to things like the Future Frigate, which is why the government has invested the $78.2 million to do the early engineering work so that we can look at putting the Australian CEA radar and the Saab 9LV combat system, which is designed and built in South Australia, into an air warfare destroyer hull which will give us not only the learning curve and the efficiencies from those first three boats but a further eight, which starts giving us for the first time a sustainable footing for the Australian shipbuilding industry.

That is the only option that we have. If you look at the air warfare destroyer and the LHD, the decisions for both of those programs were made by the Howard government. That is at least seven years ago. We are just reaching the point where we are approaching the 'valley of death'. If we are going to address that valley of death now, decisions would have had to be made for a complete new build six or so years ago. So the only option to move forward is to find a way to use that learning that we have held in the AWD to carry that forward into a project. So this is the best way to (a) address a need and to (b) to continue to build Australia's sovereign capabilities in radar and combat systems and shipbuilding and to avoid that valley of death.

In terms of submarines, ASC at the moment is doing significant work on Collins. They are actually cutting hulls open, remediating issues, doing overhauls to then put them back together. Those are the level of skills that you need to build submarines. So Australian workers have not completely lost that. I see no reason why in an appropriate partnership, as we always do these things—whether it be with the Swedes, the Germans, the Japanese or even the French—Australian industry cannot be involved in the final design phases and construction of a submarine, which, as I have argued consistently, is the best way to assure the sovereignty that we need. These are the issues we should be discussing; not the cheap politics that we have seen for so much of today.

Senate adjourned at 20:00
The following documents were tabled pursuant to standing order 61(1)(b):

**Auditor-General**—Audit reports for 2014-15—
No. 7—Performance audit—Administration of contact centres: Australian Taxation Office.
No. 8—Performance audit—Implementation of audit recommendations: Department of Health.


**Defence Abuse Response Taskforce**—


**Order for the Production of Documents**
The Minister for Finance (Senator Cormann) tabled the following document:

Health—Ebola epidemic response—Letter to the President of the Senate from the Assistant Minister for Health (Senator Nash) responding to the order of the Senate of 17 November 2014.

The Minister for Finance (Senator Cormann) tabled the following documents:

Transport—Queensland—Ipswich Motorway—Moreton Bay rail link—Letters to the President of the Senate responding to the orders of the Senate of 25 November 2014 from—
Minister for Defence (Senator Johnston).

Minister for Finance (Senator Cormann), dated 26 November 2014.