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SITTING DAYS—2016

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- CANBERRA 103.9FM
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FORTY-FIFTH PARLIAMENT
FIRST SESSION—FIRST PERIOD

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

Senate Office Holders
President—Senator Hon. Stephen Parry
Deputy President and Chair of Committees—Senator Susan Lines

Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Government in the Senate—Senator Hon. Mathias Cormann

Leader of the Opposition in the Senate—Senator Hon. Don Farrell
Deputy Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Manager of Opposition Business in the Senate—Senator Hon. Penny Wong
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Liberal Party in the Senate—Senator Hon. Mathias Cormann

Leader of The Nationals in the Senate—Senator Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Fiona Nash
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Don Farrell

Leader of The Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and Senator Larissa Joy Waters

Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Dean Anthony Smith

The Nationals Whip—Senator Matthew James Canavan
Chief Opposition Whip—Senator Anne Elizabeth Urquhart

Deputy Opposition Whips—Senators Catryna Louise Bilyk and Jennifer McAllister

Australian Greens Whip—Senator Rachel Siewert

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

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1 Vacancy created by the resignation of Senator Stephen Conroy on 01 October 2016

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—R Stefanic
Parliamentary Budget Officer—P Bowen
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<tr>
<td>Prime Minister</td>
<td>Hon Malcolm Turnbull MP</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
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<tr>
<td>Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Cabinet Secretary</td>
<td>Senator the Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Minister Assisting the Cabinet Secretary</td>
<td>Hon Michael Keenan MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Counter-Terrorism</td>
<td>Senator the Hon Scott Ryan</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Cyber Security</td>
<td>Hon Dan Tehan MP</td>
</tr>
<tr>
<td>Assistant Minister to the Prime Minister</td>
<td>Senator the Hon James McGrath</td>
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<tr>
<td>Assistant Minister for Cities and Digital Transformation</td>
<td>Hon Angus Taylor MP</td>
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<tr>
<td>Deputy Prime Minister and Minister for Agriculture and Water Resources</td>
<td>Hon Barnaby Joyce MP</td>
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<tr>
<td>Assistant Minister for Agriculture and Water Resources</td>
<td>Senator the Hon Anne Ruston</td>
</tr>
<tr>
<td>Assistant Minister to the Deputy Prime Minister</td>
<td>Hon Luke Hartsuyker MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>Hon Julie Bishop MP</td>
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<tr>
<td>Minister for Trade, Tourism and Investment</td>
<td>Hon Steve Ciobo MP</td>
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<tr>
<td>Minister for International Development and the Pacific</td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td>Assistant Minister for Trade, Tourism and Investment</td>
<td>Hon Keith Pitt MP</td>
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<tr>
<td>Attorney-General</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Hon Michael Keenan MP</td>
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<tr>
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<tr>
<td>Minister for Justice</td>
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<tr>
<td>Treasurer</td>
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<tr>
<td>Minister for Revenue and Financial Services</td>
<td>Hon Scott Morrison MP</td>
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<tr>
<td>Minister for Small Business</td>
<td>Hon Kelly O'Dwyer MP</td>
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<tr>
<td>Minister for Finance</td>
<td>Hon Michael McCormack MP</td>
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<tr>
<td>(Deputy Leader of Government in the Senate)</td>
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<tr>
<td>Special Minister of State</td>
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<tr>
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<td>Hon Dan Tehan MP</td>
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<td>Hon Dan Tehan MP</td>
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<tr>
<td>Minister for Immigration and Border Protection</td>
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<td>Assistant Minister for Health and Aged Care</td>
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<tr>
<td>Assistant Minister for Rural Health</td>
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<td><em>Hon Jane Prentice MP</em></td>
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<tr>
<td>Minister for Education and Training</td>
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<td><em>Hon Karen Andrews MP</em></td>
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<tr>
<td>Minister for the Environment and Energy</td>
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</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases. Assistant Ministers in italics are designated as Parliamentary Secretaries under the *Ministers of State Act 1952.*
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Each box represents a portfolio except for (1) which is in the Education portfolio, (2) which is in Treasury portfolio and (3) which is in the Health portfolio. Shadow Cabinet Ministers are shown in bold type.
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Thursday, 13 October 2016

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

DOCUMENTS

Tabling

The Clerk: I table documents pursuant to statute and returns to order. Lists are available from the Table Office or the chamber attendants.

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

COMMITTEES

Meeting

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

Community Affairs Legislation Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 6 pm.

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

Environment and Communications References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.10 pm.

Parliamentary Joint Committee on Intelligence and Security—private briefing during the sitting of the Senate today, from 9.30 am.

Legal and Constitutional Affairs Legislation Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 4 pm.

Legal and Constitutional Affairs References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 4.10 pm.

The PRESIDENT (09:31): Does any senator wish to have any of those questions put? There being none, we will proceed.

Privileges Committee

Membership

The PRESIDENT (09:31): Yesterday I informed the Senate that I had received letters from Senator Ludlam and Senator Hinch seeking appointment to the Senate Standing Committee of Privileges. These are two nominations for one position on the committee, the position to be nominated by any minority group or Independent senators. In accordance with standing orders, a ballot will be held to determine which one of the two senators who have nominated is to be appointed. Before proceeding to the ballot, we will ring the bells for four minutes.

The bells having been rung—

The PRESIDENT: The Senate will now proceed to ballot. Ballot papers will be distributed to senators, who are requested to write on the ballot paper the name of the candidate they wish to vote for. The candidates are Senator Ludlam and Senator Hinch. I invite Senator Siewert and Senator Hinch to come forward to act as scrutineers.

A ballot having been taken—
The PRESIDENT: The result of the ballot is 39 votes for Senator Ludlam and 29 votes for Senator Hinch. Therefore, Senator Ludlam is duly elected as a member of Senate Standing Committee of Privileges.

BILLS

Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015

Second Reading

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (09:47): I move:

That this bill be now read a second time.

I am very pleased to commence debate in the 45th Parliament on the Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015. This bill was originally introduced by Senator Wong in 2015. It lapsed at prorogation in April 2016, was restored to the Notice Paper, lapsed again at the dissolution ahead of the election and was restored to the Notice Paper again to enable it to be advanced in the new parliament. This bill brings together a series of proposals designed to improve the operation of this significant joint statutory committee. The proposals are designed to make it more accountable and adaptable to the needs of the parliament and are also designed to enable the committee to have a greater amount of discretion in the way it conducts oversight of our intelligence and security agencies.

At the outset, I want to acknowledge the role of former senator John Faulkner in initiating the drafting and consultation on this bill. I might interpose here that Mr Faulkner recently gave up some of his time to come and address new senators on the way in which estimates runs. The bill is one of the legacies of Mr Faulkner’s long parliamentary career and his determination to support and enhance parliamentary oversight of our intelligence and security agencies. Then Senator Faulkner first prepared this bill for introduction in 2014, presenting it to the Parliamentary Joint Committee on Intelligence and Security for consideration and comment, but retired before he was able to introduce the bill into the Senate. Labor is pleased to pursue the reforms contained in this bill originated by Mr Faulkner. John Faulkner served in the cabinets of two Labor governments and under three prime ministers and as Minister for Defence. He understood better than most the importance of being strong on national security, but he also understood that strength on national security does not come from tough rhetoric—it does not come from chest thumping or inflammatory statements; it comes from having intelligence and security agencies of the highest calibre that can be trusted to protect the rights and the liberties of the Australian people without trampling upon them. John Faulkner also understood that effective and rigorous parliamentary oversight is critical to the maintenance of public support of our national security architecture, particularly in these times.

This bill serves both those objectives. Effective scrutiny and oversight strengthen public support for our agencies and they also strengthen the agencies subject to oversight. As elected representatives gather in the national parliament, we can never outsource our duty to ensure the security of our nation and the people who entrust us with the responsibility of governing. This is as true when we are in times of relative peace as it is when we see emerging threats to our national security. This parliament must not deny our intelligence and security agencies the
necessary powers and resources to protect Australian citizens and Australian interests. However, it must be recognised that these powers can impinge upon the values and freedoms on which our democracy is founded—values and freedoms which the Australian people correctly expect parliament to protect. As with so many things, this parliament must find the right balance between the security imperatives of our nation and the liberties and the freedoms of our people. The central plank of the intelligence and security framework is strong and effective accountability. Enhanced powers demand enhanced safeguards. Public trust and confidence in our security and intelligence agencies can only be ensured fully through strong and rigorous oversight and scrutiny.

I want to talk about the environment that we are confronted with. We know that over the last 15 years in particular this parliament has scrutinised and passed many pieces of legislation which have contributed to the development of a legislative architecture relating to our security and intelligence agencies. This has been in response to developments in the security situation, which has altered in new and significant ways over time. It also reflects changes in technology, which means that our intelligence and security agencies must operate in a higher level of sophistication with specialist expertise. There has generally been a high level of cooperation in the parliament to secure bipartisan agreement on national security legislation. Of course, bipartisanship does not mean taking an uncritical approach to proposals or additional or amended national security language or legislation.

In order to ensure rights and liberties are protected, it is essential that all parties approach legislative proposals with a discerning eye. In the current parliament, this Senate has dealt with a number of very significant pieces of national security legislation, and all have been subject to scrutiny by the Parliamentary Joint Committee on Intelligence and Security. Each piece of legislation has been amended as a result of recommendations of the committee, sometimes quite extensively. This is an example of the process of parliamentary scrutiny at work. Likewise, the addition of other perspectives in the Senate debate ensures all views are ultimately considered and represented before the legislation comes to a vote.

As agencies continue to seek, and are granted, additional powers to meet contemporary threats, so too must scrutiny and oversight keep pace. In recent years Australia has benefited from professional and well-run intelligence and security agencies. Labor acknowledges their work. They have demonstrated respect and understanding of the role of the parliament, the government of the day and our laws. But the personal integrity and quality of leaders of our agencies, as important as this is, are not reliable, effective safeguards against the abuse of security powers. It is the responsibility of parliament to prescribe safeguards that keep pace with the expansion of security powers that have been deemed necessary.

The purpose of this bill is to ensure that the adequacy and effectiveness of parliamentary oversight of intelligence and security agencies is in keeping with the development and enhancement of additional powers we have afforded to these agencies. It amends the Intelligence Services Act 2001, the Independent National Security Legislation Monitor Act 2010 and the Inspector-General of Intelligence and Security Act 1986. As legislative changes extending the powers of security agencies are implemented, the requirement for reliable and effective external oversight becomes more critical. If these changes which extend the powers of the agencies are given effect but are not accompanied by adequate safeguards, it will be
more challenging to maintain an essential level of trust in the community about the agency's operations. Trust is essential if our agencies are to be effective.

Not only are these safeguards important to protect the public interest but they also create an environment that protects the agencies themselves. It is to the parliament that these agencies are accountable and it is parliament's responsibility to provide oversight of their priorities and their effectiveness. It is not sufficient for the parliament to simply put in place a legislative framework for the oversight of agencies without conducting oversight itself. If the parliament is not a check and balance, it will not be possible to ensure agencies meet the requirements and the standards that the parliament itself has set. The parliament has no better or more authoritative forum than the Parliamentary Joint Committee on Intelligence and Security to do this job.

Just as the legislation governing our intelligence and security agencies must be under constant review, so too must be the legislation governing the operation of the committees. Just as we would expect amendments to be brought to the parliament to correct deficiencies and enhance the operation of our intelligence and security agencies, so too must the parliament assess the effectiveness of its own committee. Labor's submission to the Senate today is that the legislation governing the Parliamentary Joint Committee on Intelligence and Security can be improved. We present this bill as a means of doing so.

I want to briefly traverse the key measures in the bill. This bill removes current constraints on the membership of the committee to provide that, except for a minimum representation of one government member and senator and one opposition member and senator, the balance on the 11-member committee can be drawn from either chamber. Currently, the Intelligence Services Act 2001 mandates a composition of six House of Representatives members and five senators from the committees. Removing this current constraint will enable greater flexibility in determining PJCIS membership.

I note that the bill does not amend the requirement for the government to hold a majority. In relation to this provision, there is no reason why senators should be in the minority. I suggest to the Senate it should be left to the parties to draw members from the best available representatives. Because of the nexus that currently exists between the Senate and the other place, as well as between the parties, for example, in the past some senators on both sides have had to relinquish their places on the committee for a period in order to accommodate certain members of the other place for particular inquiries by a committee. The opposition found itself constrained by both the apportionment of membership between the Senate and House and the desire by the government to allocate its six members across the chamber in a particular way.

I reiterate: the bill does not amend the requirement for the government to hold a majority, but it does mean that there are fewer constraints placed on the choice of members for the committee based on the chamber in which they sit. I presume there would not be a senator who would object if this resulted in a greater number of senators on the committee. I note the continuing requirement that, before nominating members, the Prime Minister or the Leader of the Government in the Senate, as appropriate, is obliged to consult with the leader of each recognised political party that is represented in the House and in the Senate, as the case may be, and that does not form part of the government.
The bill also: provides for the committee to conduct its own-motion inquiries after consultation with the responsible minister; authorises the Independent National Security Legislation Monitor to provide the committee with a copy of any report on a matter referred to it by the committee; requires the Inspector-General of Intelligence and Security to give the committee a copy of any report provided to the Prime Minister or a minister within three months; gives the committee the function of conducting presunset reviews of legislation containing sunset provisions; and adds the Independent National Security Legislation Monitor and the National Security Adviser to officers able to be consulted by the committee.

As the role of agencies and the powers afforded to them develops, the greater the potential for that power to infringe upon individual liberties and, in turn, the greater the need for accountability in the exercise of that power. I do not in any way suggest that our security and intelligence agencies are acting otherwise than in accordance with the law. That is not my view. But, if powers were to be used inappropriately, there would be an erosion of public trust. Having appropriate and effective accountability mechanisms protects both the agencies and the public. As I said previously, it is the parliament to which the agencies are accountable, not the judiciary, and it is the parliament's responsibility to oversee their priorities and effectiveness and to ensure agencies meet the requirements and standards it sets.

I want to briefly turn to an international comparison. An increasingly complex and unpredictable security landscape in Australia and around the world means the powers of intelligence and security agencies have changed dramatically in recent years. This is as true in Australia as it is in many other similar democracies. The maintenance of public security in the current security environment has led to greater powers for the agencies charged with these responsibilities. However, the protection of democratic liberties and freedoms equally demands enhanced oversight of the exercise of these powers. This is the case at home and abroad.

As senators would know, Australia forms part of the Five Eyes intelligence and security network of nations, including the United Kingdom, the United States, New Zealand and Canada. With the exception of Canada, each of these countries has at least one committee of the legislature that exercises oversight of that country's intelligence and security agencies.

In the United Kingdom, the Intelligence and Security Committee of Parliament consists of nine members drawn from both the House of Commons and the House of Lords. The numbers from each chamber are not specified in the governing act. Similarly to our committee, the members of the intelligence and security committee of the United Kingdom are appointed by the house in which they serve, on the nomination of the Prime Minister in consultation with the opposition. Recent reforms provided that committee with greater powers and increased its remit, including oversight of operational activities and the wider intelligence and security activities of government.

The United States Senate Select Committee on Intelligence is established by resolution of the senate and consists of 15 senators: eight from the majority party and seven from the minority party. It meets roughly twice a week, generally in closed sessions. Most hearings involve appearances by senior intelligence community officials, who present evidence and answer senators' questions. There is also the House Permanent Select Committee on Intelligence in the United States House of Representatives.
The New Zealand Intelligence and Security Committee has a membership of five, notably including the Prime Minister and the Leader of the Opposition. Two of the remaining three are nominated by the Prime Minister, and one by the Leader of the Opposition.

As I said at the outset, Canada does not currently have a parliamentary committee responsible for intelligence and security. However, the new government, during the election campaign, promised to establish an all-party national security oversight committee if it was elected. The new Prime Minister has instructed the relevant minister to assist the leader of the government in the House of Commons in the creation of a statutory committee of parliamentarians with special access to classified information to review government departments and agencies with national security responsibilities.

As can be generally seen, the legislative branch of government has a central role in the oversight and scrutiny of the work of such agencies amongst our allies. Further, the membership of the parliamentary committees that I have outlined in general is more flexible than the situation that currently applies in Australia—something this bill is designed to address.

As a result of legislation that passed in the last parliament, from 1 March 2016 the parliamentary joint committee has already had a number of additional functions added to its previously existing responsibilities. These include: monitoring and reviewing the performance of the AFP's counter-terrorism functions under the Criminal Code Act; reporting to the parliament on matters appertaining to the AFP, or connected to those functions; reviewing matters relating to the retained data activities of the AFP and ASIO covered in annual reports on the mandatory data retention regime, including where this goes to operational matters, for the sole purpose of assessing and making recommendations on the overall operation and effectiveness of the regime; reviewing bills in relation to the mandatory data retention regime; conducting a review of a range of counter-terrorism legislation, by 7 March 2018; conducting a review of the mandatory data retention regime, to be commenced by 13 April 2019 and completed a year later; conducting a review, by 1 December 2019, of the new citizenship revocation powers contained in the Australian Citizenship Amendment (Allegiance to Australia) Act 2015. This is in addition to powers in other areas.

I express my hope that the bill will receive sensible consideration and, in time, I hope, support from all parties across the chamber, recognising that this is a bill that is designed to enhance the ability of the committee to protect the interests of the parliament and, through us, the Australian people. I commend the bill to the Senate.

Senator IAN MACDONALD (Queensland) (10:07): This is the first opportunity I have had to be in a debate that Senator Farrell has spoken in, so I take this opportunity of congratulating him on his appointment as deputy leader. I must say I look forward to his further advancement in the opposition in the years ahead.

Senator Farrell indicated in his opening remarks that this was a matter that former Senator Faulkner had an interest in. While I disagreed with then Senator Faulkner on many issues, I have always accepted his absolute commitment to parliament and to what he believed was right. So having this bill introduced by Senator Farrell with reference to the work that then Senator Faulkner had done meant I listened with a great deal of interest to what Senator Farrell said in his opening address and I tried to follow through the arguments that he was putting in support of this bill.
I want to say at the outset that in these days of heightened insecurity across the world, and Australia is no different, our intelligence and our security agencies have an even greater role to perform in protecting Australians. Regrettably, where that occurs throughout history it of necessity sometimes curtails some of the other freedoms that we would expect—some of the roles that parliament and others might have in looking at issues—because of this heightened security. We have to make sure that the agencies we entrust to look after our safety have everything going in their favour because, as I always point out, the bad guys—the terrorists, the criminals—are constrained by no-one and nothing. They are not accountable to anyone at all. They do what they like. But our agencies—our police forces, our security agencies—are always accountable to someone and so they have to act in the most appropriate manner all of the time. And sometimes that does constrain what they are able to do. I do not think this parliament should do anything that makes it harder for our security agencies and our police forces to do their jobs in protecting us. And while I accept that this bill has been introduced in good faith, it is not a bill that I could support or that the government could support for reasons that I will get onto shortly.

Just by way of background, I indicate to those who might be following the debate that the Parliamentary Joint Committee on Intelligence and Security has existed in its current form since the inquiry into the Australian intelligence agencies by Mr Philip Flood AO in 2004. Amongst his findings, Mr Flood recommended that membership of the then parliamentary joint committee on ASIO, ASIS and the Defence Security Directorate should be extended to include the Defence Imagery and Geospatial Organisation, the Defence Intelligence Organisation and the Office of National Assessments. Following the passage of the intelligence services legislation bill in 2005, which resulted from the Flood inquiry, the committee was re-established as the Parliamentary Joint Committee on Intelligence and Security.

The functions of that committee are outlined in the Intelligence Services Act, as amended. Briefly, section 29 provides that the committee's functions are:

... to review the administration and expenditure of ASIO, ASIS, AGO, DIO, ASD and ONA, including the annual financial statements ...

The committee is also required:

... to review any matter in relation to ASIO, ASIS, AGO, DIO, ASD or ONA referred to the Committee by:

(i) the responsible Minister; or
(ii) a resolution of either House of the Parliament

The committee also has to:

... monitor and to review the performance by the AFP of its functions under Part 5.3 of the Criminal Code—

which relates to terrorism. It is also to review the 'operation, effectiveness and implications' of: Part III of the ASIO Act, which relates to questioning and detention powers; division 3A of IAA of the Crimes Act, which relates to police powers in relation to terrorist acts and terrorism offences; divisions 104 and 105 of the Criminal Code, which relate to control orders and preventative detention orders; and sections 119.2 and 119.3 of the Criminal Code about declared area provisions.
The committee has other roles required by the act. I will not go through them all, but they are all set out in section 29 of the act. Under the Criminal Code, the committee is also able to review any regulation made for the listing or relisting of a terrorist organisation and report the committee's comments and recommendations to each house of parliament, so it has fairly wide powers. It can review and report on the declaration of any terrorist organisation under the Australian Citizenship Act. It can do all of those things that I have mentioned, and it is also required to prepare and table an annual report each year.

The committee, though, is not authorised by the act to initiate its own references, but may resolve to request the responsible minister to refer a particular matter to it for review. So if the committee thinks that there is an issue that needs to be addressed it can, by resolution, ask the relevant minister—no doubt the Attorney-General or the Minister for Justice—to make a reference on that particular matter. It is then up to the minister to either agree or disagree with that role.

The act specifically sets out what the committee is not able to do. It is important to understand these. The committee is barred from reviewing the intelligence gathering and assessment priorities of our intelligence agencies. It is prevented from reviewing the sources of information or other operational assistance or operation methods available to any of those agencies. It is not able to review particular operations that have been, are being or are proposed to be undertaken by any of our agencies. It is not entitled to review information provided by an agency of a foreign government where that government does not consent to the disclosure of the information. It is not allowed to review aspects of the activities of ASIO, ASIS, AGO, DIO, ASD or the Office of National Assessments that do not affect an Australian person. It is not allowed to review rules relating to the protection of privacy of Australians. It is not allowed to look at individual complaints about the activities of any of our agencies. It is not able to review the content of or conclusions reached in assessments or reports made by DIO or ONA, or to review sources of information on which such assessments are based.

It does not need me to go through and explain why the act that was passed several years ago made those prohibitions, because the last thing we want is individuals coming forward with a complaint which may or may not be genuine and then dragging our often secret intelligence agencies before a public parliamentary committee to respond to what may well be a frivolous complaint. I could give examples in relation to every one of those prohibitions, but I do not think it needs me to do that. Anyone who follows this area of law would understand the reasons for those prohibitions being put in place.

I will indicate—I think Senator Farrell made the same observation, but perhaps not with directly the same words—the Parliamentary Joint Committee on Intelligence Services has always been one of the most successful examples of effective bipartisanship throughout successive Australian parliaments and it has an excellent track record of conducting insightful and thorough investigations. I emphasise that it is a bipartisan committee. When it comes to the safety of Australians and our nation, politics does not enter into it. It does not matter which political party you are involved in. I would say with absolute confidence that there is no politicking and no partisan approach to the way our security agencies operate, because the job they are doing is to protect all of us. As I said earlier, it is essential that they have every power to do that.
This amending bill that we are dealing with today does a number of things. It expands the powers and the functions of the committee by allowing the committee to conduct a review into operational activities of the intelligence agencies and the Australian Federal Police. I shudder to think that any parliamentary committee would be asking our secret service people to explain their methods of operations: why they did things, the judgements they made or the secret information they get from other agencies from other nations with whom we have very close arrangements. It would just be a difficult constraint on those agencies. Remember, I said before—I was to emphasise this—the bad guys, the terrorists and the criminals have no constraints. They can do what they like and they are not answerable to anyone. Whilst our agencies act within the law, and the laws are made so that they do act appropriately and properly, having the agencies before a parliamentary committee to explain in detail every element of their operations, I think, would curtail them and would not only make their operations more difficult in the future but perhaps lessen their enthusiasm for protecting us properly in the case where they knew they would have to come and publicly explain their operations.

The bill also seeks to provide the committee with powers including operational oversight and presunset legislative review which would duplicate and overlap those of the Independent National Security Legislation Monitor and the IGIS—the Inspector-General of Intelligence and Security. These agencies are subject to oversight by these two statutory organisations. What this bill seeks to do is to give the committee its own powers to almost oversee the overseers, and that seems to be inappropriate. The bill does not provide adequate protection of operational activities, including methods and sources, to ensure that any reviews the committee conducts or any reports that either of the inspectors might be required to provide to the committee do not prejudice the operational activities of agencies and international relations—and that is very important as well.

If I could just perhaps elaborate a little further on some of those objections: the existing divide between the parliamentary committee and these independent agencies with oversight would compromise the independence of those two overseeing bodies by proposing that the committee receive direct reports from the IGIS on operational activities and could then commence its own inquiries. This would seem to be hugely double-guessing the existing agencies that are in place to oversee our security services.

The longstanding position in Australia is that operational oversight of the intelligence, security and law enforcement agencies is conducted by independent statutory oversight rather than by parliament. That has been around for some time. Currently, the IGIS, which serves a crucial role in overseeing and ensuring accountability for all operational activities, reports only to the minister, as I think is appropriate. I mentioned the Flood inquiry before and I will just quote from something that the inquiry found in its 2004 investigation:

Just as the advice that officials provide to ministers is not disclosed in Senate Legislation Committee hearings, the judgments of assessment agencies should not be subject to parliamentary scrutiny. Opening assessments to scrutiny by parliament would also weaken the instinct amongst assessors to provide forthright advice for government, which is vital for good assessment.

That is what the Flood inquiry reported and advised the parliament, following a very extensive inquiry back in 2004.
This bill, if it were passed, would enable the committee to conduct inquiries into legislation prior to a sunset date. This is an unnecessary duplication of the role of the INSLM, who has been granted powers that are tailored specifically to reviewing the operations, effectiveness and implications of Australia's national security agencies.

The amending bill also would enable the committee to conduct its own review into the activities of ASIO, ASIS, AGO, DIO, ASD and ONA, provided the PJC—the committee—has first consulted with the responsible minister. As I said, this is an unnecessary duplication of the role of the Inspector-General of Intelligence Services.

In 2014-15, under the coalition government, the Inspector-General received an increase of $840,000 in ongoing funding, allowing for the recruitment of additional staff to ensure effective oversight. So, the government has given these independent statutory officers all the resources necessary to properly oversee our security agencies—to make sure that they are doing the right thing. I think that is a system that works very well.

Of course, I do not know about—I am not privy to—the work of ASIO, or ASIS or any of the intelligence agencies, although as chair, once, of the parliamentary committee with oversight of the Australian Crime Commission I did get some limited insight into the work that is done by that agency and, indeed, others. But I have the highest regard for the professionalism and integrity of our services—particularly as they are overseen by independent statutory officers, in whom I think I can say confidently everyone in this parliament has confidence.

So, as I said, whilst I listened to the arguments and I understand the sentiments of the bill I think it is unnecessary. I think the system works well as it is at the present time and I would urge the chamber not to support the amending bill.

Senator McKIM (Tasmania) (10:27): I thank the opposition for bringing this Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015 on for debate. I want to start my contribution by just reflecting on the context—the global security environment within which we are having this discussion.

It is certainly true to say that at the moment we are facing on a global scale a very complex and rapidly-evolving security environment. It is one that brings with it specific and, to date in human history, unique challenges. That is why the Greens believe it is important that there is proper scrutiny through this parliament of Australia's security agencies. But, more importantly in that context, it is why we believe that we need a more strategic approach to law-making in this country around issues like intelligence gathering, data collection and the way that our security agencies operate.

I want to make the point up-front that in fact the Australian Greens do not believe that we are taking a strategic enough approach to making laws in this area. Of course, what we have seen in recent times—particularly in the last 15 years, since 2001-2002—is an ever-changing landscape of laws that the Australian people are told is there to protect us against some of the threats that I have just spoken about. We have seen a large volume of legislative change that has been made in the name of counterterrorism and national security, and I think it is beyond argument that the majority of those legislative changes have in fact eroded some fundamental civil rights and human rights that have existed in this country for many years. In many cases, these are civil and human rights that our ancestors fought for and in some cases tragically died.
to protect. We are now seeing some of these rights eroded away in the name of counterterrorism and national security. I think that is an unarguable statement.

Where discussion and, potentially, contention comes into this is: are those trade-offs worth making in terms of the advances that they bring protecting the Australian people? That is a discussion we want to place front and centre in this parliament and in the public conversation in this country. We urge both the coalition, currently in government, and the Labor Party, currently in opposition, to think very carefully about whether they would be prepared to support a more strategic approach around the way we are seeing our civil liberties eroded in the name of counterterrorism and national security.

I want to be clear that the Australian Greens genuinely believe it is time for a white-paper-style assessment—call it a blue paper if you like—of whether or not the legal changes that have occurred in the name of counterterrorism and national security have in fact made Australia safer, as we are told they were designed to do and, more specifically, whether that reduction in our civil liberties in this country has been worth any advance in national security and counterterrorism. As I said up-front, we are facing a very complex and rapidly-evolving security scenario around the world. The danger with taking a white paper approach is that it is a snapshot in time and then the world moves on, rendering all the work that had been done to generate a white paper less relevant than it otherwise would have been.

We believe that it is well within the competence of our policy makers and our security agencies to design a living white paper—one that is capable of evolving in very close to real time to respond to changes in the global security environment. We do not think this is a contentious idea. We see white papers in, for example, the Defence portfolio. We would pose the question: why don't we have a white paper process in the counterterrorism space and the national security space? There is nothing wrong with a strategic approach in this environment. We have seen white paper processes for tax, agriculture and defence. We have even seen a white paper for Northern Australia. But we have not for some time seen a white paper around national security in the context of counterterrorism.

Of course, a white paper process would involve the input of our security agencies, but it would also give a range of other experts from a number of other fields the chance to have a meaningful say. It should and could include an examination of the effectiveness of the dozens of legislative and administrative changes made since 2002. I will just place on the record that since that time we have seen new crimes created at least 12 times, legal powers have been extended at least seven times, police have been granted new powers at least 16 times and intelligence powers have been increased at least 12 times. In that period such laws have only been softened twice and new oversight created just once. This erosion of fundamental civil liberties in our country is unprecedented in Australia's peacetime history. We believe we owe it to our people, including the many Australians who have fought and at times died to protect these liberties, to make sure that this erosion is actually justified by an increase in the security of the Australian people.

I come now to this legislation. The bill seeks to amend a number of acts. Specifically, it seeks to amend the Intelligence Services Act 2001 by removing some of the current constraints on the membership of the Parliamentary Joint Committee on Intelligence and Security. It would change it from the current six members from the House of Representatives and five senators to one government member and one government senator and one opposition
member and one opposition senator, with the balance of the committee drawn from either chamber. We have heard contributions from both the government and the opposition today. I want to make the point that this committee is very much a closed shop; it is historically made up of members from the government of the day and the opposition of the day.

We are facing a context now where one-quarter of Australians did not vote for the coalition or Labor in the recent election—and that is a continuation of a declining trend in the vote of the political duopoly in this country. So the Australian Greens have a view that it is time the membership of this committee provided for an opportunity for a senator who is not from the government and not from the opposition to join in the role that this committee plays in our parliamentary system and in our scrutiny system. So I flag now that in the committee stages of this bill we will be moving an amendment which, if passed, will provide for a senator who is not a government or opposition senator to become part of the membership of this committee.

We understand the responsibilities that this would entail, the responsibilities that this would place on whichever member of the crossbench it is. I include the Australian Greens in that context, as members of the crossbench. We understand it would place a heavy responsibility on whichever non-government and non-opposition senator were appointed to fill a position on this committee, but we do believe that it is important that there be at least one voice on this committee that does not reflect the political duopoly, because what we have seen in Australia, certainly in the last decade to decade and a half, is a strong bipartisanship on national security matters.

My view is that the reason we have strong bipartisanship on national security matters actually owes more to politics than it does to a robust examination of the legislation that underpins Australia's national security. Neither party when in opposition want to appear weak on national security, so they fall into zombie lockstep with whoever is in government at the time and develop a bipartisanship that means legislation which is continually brought into this place—and we are facing more on the Notice Paper at the moment—and which erodes some of our fundamental civil and human liberties in this country is not adequately scrutinised. We believe we need more scrutiny; we believe there needs to be more justification put before the Australian people for this continued erosion of their civil liberties in the name of counterterrorism and national security; and we believe a crossbench senator, as a member of the Joint Committee on Intelligence and Security, could play that role or be part of playing that role. This is a closed shop committee open only to members of the political duopoly in this country, and frankly the Australian people deserve better.

I would like to respond briefly to some comments that were made by the previous speaker, Senator Macdonald. He spoke about the Independent National Security Legislation Monitor and the role that he plays in scrutinising national security legislation. Well, it is a crucial role that the Independent National Security Legislation Monitor plays, but I do want to be clear that the Greens remain unconvinced that in fact the Independent National Security Legislation Monitor is adequately funded, and we certainly believe the government is making more and more of a habit of ignoring the recommendations that come from the Independent National Security Legislation Monitor. In fact, the recommendations do not, as I understand it, currently even receive a response from government. That is not good enough. The government should at least do the Independent National Security Legislation Monitor the
courtesy of providing a response to his recommendations. The monitor does a great job in examining a wide suite of legislation. He does report to this parliament, but it is not good enough that the government does not provide a response to his recommendations, which ought to be tabled in both houses of this parliament.

We accept absolutely the crucial nature of the work that the Parliamentary Joint Committee on Intelligence and Security does. We believe absolutely that it is an appropriate body that has been established, and we support absolutely the measures contained in this bill—with the caveat around the membership of the committee that has been proposed by the Labor Party. We particularly support the part of this bill that provides for the Parliamentary Joint Committee on Intelligence and Security to conduct own-motion inquiries. That was spoken against by Senator Macdonald in the speech that he just made, and when this bill was previously debated, in the former parliament, it was spoken strongly against. But we do not accept the arguments that have been put up against this. We believe it is reasonable for this committee to conduct own-motion inquiries within the constraints that the act has established and we believe it would improve the scrutiny of our intelligence agencies for this parliament to be able, through this committee, to conduct own-motion inquiries. Of course, it is this parliament that has actually established our security agencies; they are creatures of this parliament. And this parliament has every right within the constraints that exist within the act to, through this committee, have own-motion inquiries conducted and reported back as appropriate.

As I said at the beginning of my contribution this morning, it is a complex area. It is a complex global environment—one that moves very rapidly and changes very quickly. This committee plays a crucial role in scrutinising the intelligence agencies that have been established by this parliament to make Australia as safe as it can possibly be, and we share that goal of making Australia as safe as it can reasonably be made. But we do believe that there has not been a strategic approach to this. We believe that the erosion of some fundamental civil and human liberties in this country has been done in a politically ad hoc manner rather than as a result of a carefully conceived strategy. We believe that owes much to the zombie lockstep in which both the coalition and Labor proceed in this space and we believe that having a senator who is not a member of either the government or the opposition on this committee would allow for a greater diversity of thought on this committee and a greater diversity of input to the processes of this committee.

In broad terms, we support this legislation because we think it will go some way towards improving the operations of the committee. However, as I said, we feel strongly enough that there should be a senator who is not from government or opposition on this committee and we will be seeking to amend this bill to provide for that, should that amendment be successful.

In conclusion, this is a challenging time for freedoms around the world. It is not only a challenging time because threats are arising; it is a challenging time because freedoms are being eroded in response to the threats that are arising. Both of those matters need to be considered strategically. They ought to be the subject of a white paper—a living, breathing white paper that can be adapted in response to the rapidly evolving global environment.

Also, we need to ensure that this committee is made up of members who have the capacity to bring some thoughts and some positions to this committee that, potentially at least—depending on who the appointed senator from the crossbench would be, should our
amendment be successful—bring a more strategic approach that is outside the political lock
step, which we so often see in the context of discussions and conversations in this parliament
and in the public debate in Australia around responding to the national security threats to
Australia that exist today.

Senator DODSON (Western Australia) (10:47): The matter of security, as we have heard,
is one that we in this nation take very seriously. We obviously try to balance the liberties and
freedoms that citizens would like to enjoy in our country. We take a fairly open-hearted
approach to most things and most people from different cultures and different persuasions,
and we generally try to abide by the laconic notion of a fair go for everyone. When that notion
butts up against the heinous nature of indiscriminate assaults and murders of innocent
citizens, in the most extreme consequences, by those who would want to destroy democracy
and want to destroy the privileges, rights and freedoms that people enjoy, I think we find it
very hard to get that balance right sometimes. I am not suggesting we have not got it right in
Australia, but I do know we butt up against the tension point between our sense of freedom as
a nation of people who tend not to understand, or tend not to have experienced, the atrocities
we see in the Middle East and other places pretty much nightly on our televisions. We have
experienced it in Bali with our citizens and in other places, and we are horrified when such
things happen.

In fact, today there was a report of a couple of Syrian citizens in Germany capturing a
wanted felon, a terrorist, and then reporting that person to the authorities. The appreciation of
the citizens of Germany for that helps them have a different view of people who are fleeing
from violence in other nation states and coming to their own countries. In fact, they have
suggested that such individuals should be honoured with a medal for their services to the
nation.

Here we are talking about something that is rather modest in its intent. The amending bill
began with people like Senator Faulkner in his time here and way back, as Senator Macdonald
said, with the recommendations in the report that came from by Mr Flood and others when we
were in the beginning of the horrors of many of these atrocities. Our maturity around the
necessity for incursions into the freedoms, responsibilities and rights of citizens was probably
not weighed as heavily as it is today. I am not suggesting that it was not.

I can recall, as a young person, being detained by the police. It was not just being detained
in the watch house; he actually had a whip, which he threatened to use. He had no power to
do this, but he had a whip and threatened to use it. On the floor of the cell he showed us an
iron circle to which people had been chained, or potentially could be chained. So the notion of
deprivation of liberty is a very important matter to me personally, but, I think, for most
Australians as well. But we do not like to be overencumbered by regulation and
authoritarianism, or by delegations, when we have a sense that our freedoms are being
infringed.

On the other hand, we know that there are people who, as Senator Macdonald said, have no
regard for any of this, who have no regard for the sanctity and uniqueness and beauty of
human life, and who are prepared to do whatever it takes to achieve an ideological outcome—
that is, fundamentally to destroy the principles of freedom and democracy in a nation state,
particularly in our country, Australia. It is sad that such things happen. As we come to the
parliament of Australia each day we notice outside the parliament officers with guns. When I
first started coming to the parliament to lobby in the old Parliament House that was a very rare sight. So the price of our democracy is pretty significant. I do not think we ought to be cowed by those who want to threaten it. Therefore, the necessity of a committee like the Parliamentary Joint Committee on Intelligence and Security is a critical matter. It is a critical function of the parliament, interfacing with the senior people who have the day-to-day responsibilities of guaranteeing the freedom and safety of the citizens of this nation.

Really, this bill is trying to get that right. I heard Senator McKim, from the Greens, speak of getting the balance of the membership right. I note that the bill proposes that the majority of the government will not be affected by this amendment. It does allow for 11 other members to be nominated by the houses. That is a matter for political movement, it would seem to me. People are capable of doing things in this place to ensure that the representation is there. But I take the point that is being talked about, that there is pretty much a de facto presence on this very important committee.

The responsibility that goes with that is of course paramount to how we deal with sensitive information that comes from the other amendments that are being proposed to have access to information and advice given by the national officer responsible for these matters. That access is not for the purposes of flaunting the information but so that we as representatives of the parliament can be informed about where and what it is our nation has been apprised of at the highest levels, whether it be at the ministerial level, the level of the security council or wherever it is that these matters go to for decision making—ultimately, the executive of government.

The importance of that is also to deal with the question of our responsibility as elected representatives, to try and get a balance between us as the elected representatives, who are accountable to the public and therefore have a trust placed in us to ensure that their safety is looked after in the best possible manner, and the functionaries. I have no doubt that that is what we seek to do and are doing to the best of our capacities. The bill is really about how we can improve in a minor way some of the functional aspects of this. It is not seeking to overcome and overtake the role and responsibility that the agencies have for our security, but it is trying to, I suppose, ensure that the public is aware that parliamentarians do not leave these things entirely in the hands of very capable functionaries who account to a particular individual—a minister—and not necessarily to the parliament. That is a complex matter, I understand and fully appreciate, and I am not suggesting that we ought to be overturning that. What I am suggesting is support for the proposal that we are putting forward on our side to have the capacity to be informed by reports on these matters and also to look towards initiating inquiries that are significant in this field, to pursue a matter. I would think that you would only do that, given the practicalities of this, after a long period of discussion—interacting with the relevant agencies and the minister responsible—and that it would not be just a case of a rabbit running down a hole hoping to find something. It would actually have to be something of great significance to do that.

We should recall also that intelligence gathering is not always left to those who are the specialists in the field. Often we require and rely upon citizens to inform us about what is going on in particular places to make sure that the eyes and ears, as it were, of the custodians of democracy and freedom that are in the hands of our citizens are also utilised beyond those
who are the specialists and the most efficiently trained. So the role for the public in much of this is also critical.

It is about getting the right balance between trust, freedom, efficiencies and capacity to make decisions. No-one is suggesting, through this bill, a frustration with any of that. We are talking about a capacity to be better informed through the committee on national security so that the parliament itself is not just tangential to what takes place at a higher level but is in fact integral to that in a very important way that underpins democracy. It is conditioned and governed, obviously, by the existing tenants of the legislation, so is not something that is being proposed in a vacuum here; it is being proposed in a context.

This is a very minor amendment to the existing legislation that we hope to win the support of the Senate for. It is not opening up a whole avenue for placing at risk the very important and significant matter of national security. In fact, it is trying to improve on that and lend greater support to those who have that onerous task of looking after us and ensuring our nation is safe and that the agencies are resourced. It is critical that their recommendations are taken up, but if they are not known then it is very difficult for those matters to be pursued—outside of the largesse of the minister or his or her responsibilities.

The question of global security weighs on us on a constant basis. Again, I recall some years ago going to the United States and to New York. People actually put money on the window sills of their houses so that people would not break in. There was a sense of fear that gripped the nation at the time—and it has probably only been enhanced by the terrorism acts that have taken place in America since my period there. The sense of fear is a very corrosive element to the principles of democracy and freedom. That is something we need to guard against most diligently whilst we balance the necessity for efficient and effective intelligence gathering and the capacity to orchestrate the activities necessary to undertake tasks while not being curtailed by unnecessary bureaucracy and management. It is getting both things right that is the challenge.

I think what we have tried to do on our side is suggest some minimal changes. They can be improved upon, I have no doubt, but the intent is to ensure, through the membership proposals, that there is a role for the parliament in a greater manner than there has been in the past. I think the capacity to look at sunset legislation is often important, because there may well be amendments that could be made to improve it, or there could be matters that are no longer relevant that ought to be removed as well.

The significant factor, I think, is community trust in its institutions. Primarily, citizens look to the parliament for that to be exercised on their behalf. That is why they elect us. We are elected to make decisions. I appreciate that sometimes those decisions are hard on people's senses of their own freedoms and their own sense of what and how they ought to enjoy their democracy. But we all have to balance the competing rights of each other and the diversity and differences that we bring to our wonderful democracy.

But if we do not appreciate that and if we do not bring those balances then we are simply allowing ourselves to slip more and more into some form of totalitarian state—and I am not suggesting that these amendments have any intention of doing that. We need to bring to the notice of the government and to the parliament the ways in which democracy and its significant structures can be better made to reflect the trust that citizens place in us and to ensure that agents that are brought into existence, that look after our security, are also held
accountable. Senator Macdonald's view about overseeing the oversighters is a point that I do not necessarily disagree with: But that is not what we are talking about.

What we are talking about is that there has to be a balance of all the various accountabilities that are required in a rather complex scenario of national security and intelligence gathering. If we can achieve that and improve upon that without placing at risk the necessities for security, confidentiality and privacy—those sorts of issues which are fundamental to good intelligence gathering and for good execution of activities to protect the nation—then that has to be paramount. But I do not think that the amendments that we are proposing in any way hinder or impact on that particular paramount goal.

I think this is a modest set of recommendations. They seek to get the balance right and to bring in a bigger role for parliamentarians—not to usurp, in any manner, the role, function and authority of the agencies—in order to bring some comfort, I think, to the public that security is not always a matter that has to wear a gun. Security is also about: how do you cultivate friendships, freedom and trust with the others who you may not necessarily agree with? It is a bit hard when you do not know who wants to blow you up. But if you do have good intelligence and you do have good security measures, you can hopefully identify that better and you can accord to those people the kind of matters of justice that are— (Time expired)

Senator XENOPHON (South Australia) (11:07): At the beginning of my remarks on this important bill, I would like to pay tribute to the late Dr Des Ball, Professor at the Australian National University's Strategic and Defence Studies Centre, who passed away yesterday after a lengthy illness. Professor Ball was a towering figure in Australian strategic and defence policy and a pioneer over more than four decades in researching the activities of the Australian intelligence community, most notably exposing decades of dissembling by successive governments about the role of the United States-Australia joint defence facilities. Together with Professor Richard Tanter, Professor Ball was earlier this year still publishing immensely detailed and scholarly papers providing new insight into the role of the joint defence facility at Pine Gap, including details of its intimate involvement in supporting US military operations and the global surveillance network run by the so-called Five Eyes intelligence partners.

Des Ball was a champion for greater transparency and democratic accountability for the Australian intelligence community, so it is appropriate that the Senate today is able to debate an important and timely proposal for enhancing parliamentary scrutiny of Australia's intelligence and security agencies. I am very pleased to support this legislation—and on behalf of my colleagues as well—the Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015, which is itself the legacy of another champion of parliamentary scrutiny and accountability, former Senator John Faulkner. I remember his words on that. This was a man who was a former defence minister and served not just his political party, the Australian Labor Party, but this country with distinction—a towering figure in the Senate. He made it very clear that, with increased power of our intelligence agencies, there must be increased levels of accountability.

This bill brings together a range of proposals designed to improve the operation of the Parliamentary Joint Committee on Intelligence and Security, a joint statutory committee of the parliament that has been functioning in its present form since the passage of the
Intelligence Services Act in late 2001. The bill seeks to broadly enhance the oversight of the Australian intelligence community by creating more substantive links between the joint committee and our other intelligence oversight agencies—the Inspector-General of Intelligence and Security and the Independent National Security Legislation Monitor.

The bill's measures to remove current restraints on the membership of the joint committee are particularly welcome. If the process of parliamentary oversight over our intelligence and security agencies is to command public confidence, the joint committee must be more broadly representative of the make-up of the parliament and not just confined to members of the government and the opposition. The previous membership of the member for Denison, Mr Andrew Wilkie, in the period of the Gillard government from 2010 to 2013 has already demonstrated that crossbench members of the parliament can and should make valued contributions to the work of the joint committee.

The record of the joint committee has been productive but limited by the frequent bipartisan consensus between the coalition and Labor. And with it there is an element of secrecy and a lack of transparency in the process, more so than needs to be, even allowing for the sensitivity of the matters that are dealt with. On occasion the joint committee has got things quite wrong, most recently in the case of its report dealing with the secrecy provisions surrounding the conduct of special intelligence operations by the Australian Security Intelligence Organisation—the amendments to section 35P of the ASIO Act. I voted against those provisions. They were something the joint committee said ought to be passed, but the change went to the Independent National Security Legislation Monitor, the Hon. Roger Giles AO QC, a former federal court judge and eminent lawyer and jurist. I made a submission to the inquiry. I do not think there were any other members of parliament who made a submission at that time. Professor Clinton Fernandes and I made a joint submission. Professor Clinton Fernandes is a professor at the University of New South Wales and at the ADFA campus here in Canberra.

This is what Mr Giles said after conducting the inquiry in relation to that in a summary of his report. He essentially stated that section 35P:

… creates uncertainty as to what may be published about the activities of ASIO without fear of prosecution. The so-called chilling effect of that uncertainty is exacerbated because it also applies in relation to disclosures made to editors for the purpose of discussion before publication.

He went on to say:

Journalists are prohibited from publishing anywhere at any time any information relating to an SIO—

a special intelligence operation—

regardless of whether it has any, or any continuing, operational significance and even if it discloses reprehensible conduct by ASIO insiders.

These were powerful words by the Independent National Security Legislation Monitor.

The issues identified by INSLM were that:

The basic problem with section 35P is that it does not distinguish between journalists and others (outsiders) and ASIO insiders. The application in this manner of broad secrecy prohibitions to outsiders is not satisfactorily justified, including by precedents in Australia or elsewhere.

Mr Giles also made this point:
Section 35P is arguably invalid on the basis that it infringes the constitutional protection of freedom of political communication. Section 35P is also arguably inconsistent with article 19 of the International Covenant on Civil and Political Rights and so not in accordance with Australia's international obligations.

That piece of legislation slipped by the joint committee for which this bill seeks to have a more flexible membership arrangement. So that safeguard did not work on that occasion. The law was passed. It was put in force. It then was subject to a review by INSLM. Fortunately, there have been no prosecutions under section 35P, as I understand it. Also, fortunately, that is something that will be rectified by the government.

The subsequent report of the Independent National Security Legislation Monitor that I referred to made the weaknesses of the joint committee's review very clear, and the fact that there is further amending legislation before the Senate underlines the need for a more rigorous approach and a wider range of opinion represented on the joint committee.

The need for enhanced parliamentary scrutiny and oversight is clear. In the 15 years since the tragedies, the horrors, of the terrorist attacks of September 11, 2001, a constant legislative drumbeat has accompanied what is commonly known as the war on terrorism. Successive governments and the parliament have repeatedly added to and elaborated our national security and counterterrorism laws. I note it was just yesterday that we commemorated the anniversary of the Bali bombings, where 202 innocent people, including 88 Australians, were killed by terrorists. The parliament has passed more than 70 different bills dealing with terrorism and, more broadly, national security issues. The exact number depends a bit on questions of definition, but the overall quantum of legislation is clear. We now have a very extensive and complex set of counterterrorism laws. As I have previously pointed out to the Senate, we have more counterterrorism laws than any other country. These laws are of great significance to national security and community safety, as well as to the rights, liberties and privacy of all Australians.

Back in October 2014, when the Senate was considering one of the long line of counterterrorism bills, I expressed the view that enough was enough and that we did not need more laws in this field and certainly should not enact greater powers for our intelligence and security agencies without a major expansion and strengthening of independent oversight of those agencies. That remains my broad view, subject of course to the overarching principle of community safety.

The record of our intelligence and security agencies in countering terrorism over the past 15 years is one of considerable success, thankfully. They have exercised the considerable investigative powers available to them and, in the process, thwarted many attacks on our soil and harm to Australians. Although the terrorist threat in Australia has not been on the same scale as in some other countries, it is significant, and serious threats and plots have been detected and thwarted. Our intelligence and security agencies have demonstrated considerable professionalism, but like all government agencies they are far from infallible.

There also have been some very significant missteps. The case of Dr Muhamed Haneef involved the provision of incorrect and misleading information from British police counterterrorism investigators to the Australian Federal Police, which in turn failed to properly assess that information. A review by the Inspector-General of Intelligence and Security of the case of Mamdouh Habib found that the Australian Security Intelligence

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Organisation repeatedly failed to properly document key decisions, including dealings with foreign security and intelligence agencies. Senior officers subsequently claimed to have little or no recollection of key events. There have been instances where agencies have failed to provide appropriate information to the IGIS, and at least one case where an agency, the Australian Secret Intelligence Service, sought to intentionally mislead the IGIS.

I would not wish to not pre-empt the findings of the inquiry by the New South Wales Coroner into matters relating to Man Haron Monis and the Martin Place siege of December 2014 and the tragic deaths of two innocent people, other than to say some of the evidence presented to the inquiry clearly raises serious concerns about the investigative and analytical capabilities of ASIO and the AFP as well as the operational response of the New South Wales police. I still cannot fathom why that man, that monster, was on the streets when he was, given his history.

Our intelligence and security agencies have very extensive powers and resources but are not infallible, and for that reason there needs to be very rigorous oversight and scrutiny. That is why this bill is both important and timely. It is a significant step towards a more rigorous scrutiny regime, more along the lines of the United States and German models of parliamentary intelligence committees, which have much more wide-ranging powers of review. In earlier debate on this legislation, one government senator suggested that greater parliamentary scrutiny, including the provision of highly classified IGIS reports to the joint committee ‘may limit the voluntary provision of information by Australian intelligence community agencies to the inspector-general’. If this were really the case—and I doubt it would be so—then the need for rigorous parliamentary scrutiny would only be greater. In any case, if the United States intelligence community can operate effectively—and clearly it does—in the environment of oversight by the US Senate Select Committee on Intelligence and the House of Representatives Permanent Select Committee on Intelligence, then so too can the Australian intelligence community.

Significantly, I would highlight the scope of the US Senate committee's responsibilities, which include access to classified intelligence assessments and access to intelligence sources and methods, programs and budgets. By law, the US President is required to ensure the committee is kept 'fully and currently informed' of intelligence activities, including covert actions and any significant intelligence failure. Australia's intelligence agencies have long been deeply entwined with their US counterparts, and that is appropriate. It is time that we looked again at the greater extent of parliamentary scrutiny and oversight that characterises the intelligence system of our ally. This bill is a modest but important step in that direction. I am very pleased to lend my support, and that of my colleagues, to this bill, and I hope that this bill is passed in this place.

Senator WATT (Queensland) (11:20): I rise to speak on the Parliamentary Joint Committee on Intelligence and Security Amendment Bill 2015. I note that this is not the first time that this bill has been debated in this place. It was restored to the Notice Paper after being introduced and debated in 2015. I want to acknowledge the contribution that other senators made to the debate of this bill in the last parliament. I also want to acknowledge the work of former senator John Faulkner in initiating the drafting of and consultation on this bill. Mr Faulkner's expertise and pursuit of the noble aims of this bill are well known. It is a pleasure and a privilege to speak on this bill, and in doing so I hope to help bring to fruition
the task that former senator Faulkner set himself in bringing about these important reforms to the monitoring of the Australian intelligence community.

This bill seeks to give this parliament a stronger mechanism of oversight over Australia's intelligence and security agencies to ensure that, while their powers are necessarily increased to keep up with the demands of current security threats, their accountability to this parliament is not diminished. As former Senator Faulkner explained:

Parliament must strike a balance between our security imperatives and our liberties and freedoms. (The) Key to achieving this balance is strong and effective accountability. Enhanced powers demand enhanced safeguards. Public trust and confidence in our security and intelligence agencies can only be assured through strong and rigorous oversight and scrutiny.

Since the terror attacks that occurred on American soil on 11 September, 2001 our modern world has unfortunately lived in an age where terror attacks not only are real and possible but seem to becoming more frequent. I well remember 11 September 2001. As a young lawyer, I was working in Townsville in North Queensland at the time, working on an unfair dismissal case. We managed in the afternoon of 11 September to secure our client a very good result, and so I went to the pub and celebrated with some friends of mine who lived in Townsville at the time. The night got quite late, and I remember the TV screens at Molly Malones, where we were celebrating, had all of sudden flicked across to what seemed to be pretty crazy events of planes crashing into buildings in New York. It brought a very sober end to the night. I remember on the way home from that, talking to one of my friends and saying, 'That was pretty serious, wasn't it?' And we agreed it was. Of course, the world has gone on to see how serious these kinds of events have become ever since.

Since that time, countries like Australia, which value democracy and human rights, have watched in horror as terrorist incidents have unfolded around the world. These incidents have caused us to fear attacks on us, whether it be when we are travelling overseas or even potentially at home. One of the most unfortunate aspects of this, apart from the terrible loss of human life that occurs in these attacks, is that terrorist attacks have been leapt upon by some politicians both in Australia and overseas as reasons to become suspicious of particular communities and to attempt to divide us. That is extremely sad to see.

These terrorist threats are not far off foreign problems that stop beyond Australia's borders. Just this week, as other speakers have noted, we paused to remember the anniversary of the Bali bombings, where terrorists attacked crowded nightspots in Kuta Beach and 88 Australians lost their lives. Unfortunately, since 2001, as I say, these attacks have become more frequent, yet they are no less shocking or ruthless in their execution. Just this year we witnessed horrific attacks take place in Nice, in France, in Brussels, in Istanbul and among many other places around the world. Australians, when overseas in these sorts of places, do face real threats and, unfortunately, there have been similar incidents on Australian soil, albeit nowhere near as destructive as what we have seen overseas. So these threats are real, and it is the responsibility of this parliament to protect our country and to protect our people. Parliament is therefore tasked with enacting strong laws and ensuring that our intelligence and security organisations are given the necessary powers and resources that they need to ensure the security and safety of our citizens.

There really is no greater responsibility for our parliament to uphold and there really is nothing more precious to protect than our democracy and our human rights. But protecting
our country and protecting our citizens to the utmost degree does create an uneasy balance between keeping our country secure and valuing the human rights and freedoms that our democracy guarantees. There is nothing more counter-productive that we could do in attempting to prevent terrorists who are trying to send a message about our way of life and there is nothing more destructive and nothing more counter-productive that we could do than to overreach in our response to those incidents in the powers that we give our intelligence agencies to monitor our people and any other restrictions that we place on Australian citizens in order to secure our safety. If all we do is overreach and introduce draconian measures that restrict our population's freedoms and human rights then, in a sense, we have achieved what the terrorists themselves are seeking to achieve. So we do need to be extremely careful whenever we are considering increasing security precautions. This is because, as well as protecting our lives, this parliament's task is to provide protection to citizens which allow them to exercise their civil rights and liberties. In doing so, this parliament must act as a check and balance against the state itself. Parliament must also ensure that the public have full trust and confidence in our intelligence and security organisations and, as a result, that they have full trust and confidence in each Australian's ability to participate fully in an open and free democracy. So we must find a way to strike that balance—the right balance between creating laws that provide protection to Australians from terrorist threats but do not stifle core freedoms to the point where people have no protection from the state or its intelligence agencies.

Today there are six intelligence agencies in the Australian intelligence community. These agencies are the keepers of strong powers, which include intelligence gathering and analysis. Four of these agencies undertake collection: ASIO, the Australian Security Intelligence Organisation, which is responsible to the Attorney-General; ASIS, the Australian Secret Intelligence Service, which collects foreign intelligence from human sources and is responsible to the Minister for Foreign Affairs; the ASD, the Australian Signals Directorate, formerly the DSD, which collects foreign signals intelligence, largely outside Australia. The ASD was given a legislative footing in 2001 and is responsible to the Minister for Defence. The AGO, the Australian Geospatial Organisation, collects geospatial intelligence from satellite imagery and other sources and is responsible to the Minister for Defence.

The other two agencies in the Australian intelligence community are analytical agencies. Firstly, the DIO, or the Defence Intelligence Organisation, which analyses the intelligence obtained by the Defence collection agencies and its overseas partners. And, secondly, the ONA, or the Office of National Assessments, which is established under its own act of parliament and is statutorily independent.

Australia is very fortunate to have agencies like these that work incredibly hard to meet their responsibilities professionally, thoroughly and with the utmost respect for our laws and security. I acknowledge the work and commitment of those agencies and note that this bill does not seek to diminish the powers or ability of those agencies to perform the important work they do.

In recent times the parliament has enacted laws that increase powers granted to these agencies, and this bill does not seek to curtail those powers. However, as former Senator Faulkner said: 'Enhanced powers demand enhanced safeguards.' Currently, a range of mechanisms are available to scrutinise the Australian intelligence community. At the heart of these
arrangements are the three pillars of oversight: ministerial responsibility, the Parliamentary Joint Committee on Intelligence and Security and the Inspector-General of Intelligence and Security.

The Parliamentary Joint Committee on Intelligence and Security is enshrined in the Intelligence Services Act 2001. That committee has a very important role. Its functions include: (a) to review the administration and expenditure of ASIO, ASIS, AGO, DIO, ASD and ONA, including the annual financial statements of those agencies; (b) to review any matter in relation to those agencies referred to the committee by the responsible minister or a resolution of either house of the parliament—and also their functions; and (c) to report the committee's comments and recommendations to each house of the parliament and to the responsible minister.

There are a number of restrictions on the committee's ability to review the actual intelligence gathered and/or assessments made by the agencies. As my colleagues in this chamber have mentioned today, this committee has been incredibly successful and is a very good example of bipartisanship, because we know that the protection of national security is a job for all parliamentarians.

What does this bill seek to do? At a time when the community is looking to the government and to the parliament to ensure that intelligence and security agencies have the powers they need, it is very important that the membership and functions of that parliamentary joint committee enable it to provide effective oversight.

The purpose of this bill is to ensure that the adequacy and effectiveness of parliamentary oversight of intelligence and security agencies is in keeping with the development of the enhanced and additional powers we have afforded these agencies. The bill seeks to amend the Intelligence Services Act 2001, the Independent National Security Legislation Monitor Act 2010 and the Inspector-General of Intelligence and Security Act 1986 to change the membership, powers and functions of the Parliamentary Joint Committee on Intelligence and Security.

I wish to briefly go over the measures this bill seeks to introduce. The bill removes current constraints on the membership of the parliamentary joint committee to provide that, except for a minimum representation of one government member and a senator and one opposition member and senator, the balance of the 11-member parliamentary joint committee can be drawn from either chamber. Currently, the Intelligence Services Act 2001 mandates a composition of six members and five senators on a parliamentary joint committee. Removing the current constraints will provide parliament with greater flexibility in determining its membership of the joint committee, but the bill does not amend the requirement for the government to hold a majority.

This provision is important because it means that senators can be equally represented on this committee. There is no reason why the House of Representatives needs to be disproportionately represented on this committee. As I have said previously, national security is a job for all parliamentarians, not just members of the House of Representatives. Again, to clarify, the bill does not amend the requirement for the government to hold the majority, but it does mean there are fewer constraints placed on the choice of members for the committee based on the chamber in which they sit.
There are a number of other amendments that this bill provides, and, in the interest of time, I will only very briefly refer to them. The bill also provides for the parliamentary joint committee to conduct own-motion inquiries after consultation with the responsible minister. It may be that matters come to the attention of the joint committee that equally require examination that the minister may not have necessarily considered such a priority, so I think it is a good move to give the committee the power to conduct inquiries on its own motion.

The bill authorises the Independent National Security Legislation Monitor to provide the joint committee with a copy of any report on a matter referred to it by the committee. That is an important step to make sure that the joint committee stays informed of all developments on these matters. The bill requires the Inspector-General of Intelligence and Security to give the joint committee a copy of any report provided to the Prime Minister or a minister within three months.

The bill gives the joint committee the function of conducting pre-sunset reviews of legislation containing sunset provisions and adds the Independent National Security Legislation Monitor and the National Security Adviser to officers that are able to be consulted by the parliamentary joint committee. Again those two roles, the Independent National Security Legislation Monitor and the National Security Adviser, are obviously key to our intelligence community's response to developments, and it is important that the joint committee has the ability to consult those particular officers and inform its deliberations. These amendments are quite modest and process based, but they are very important.

In wrapping up, I just want to go back to some of the points that I made earlier in my speech. There is not one person in this parliament who disputes that one of our most important roles is to protect the safety of our people, but equally—and perhaps this reflects my background as a lawyer—I would place a very high premium on protecting the human rights and civil liberties of Australian citizens. Fortunately, in recent years we have not seen many examples of the abuse of these kinds of powers by our intelligence agencies, but it is important to make sure that our parliament does retain a bit of a check and balance on the actions of agencies that have such far-reaching and intrusive powers into our community. Perhaps it is a function of growing up as a child in Queensland in the Bjelke-Petersen era, when the Queensland government of the day had the Special Branch of the police force, which was essentially operating as a secret police service, spying on Queensland citizens, preparing files on them and conducting extremely intrusive investigations into Queensland citizens for no reason other than their political beliefs.

So it is vital that, if we are going to enhance the powers of our intelligence agencies in order to protect our safety, in parallel we have a responsibility to the Australian people to also enhance the powers of this parliament to oversight the actions of those intelligence communities. Australians—not just me but Australians generally, I think—place a very high premium on their freedoms and their human rights. They expect them to be protected, and it is incumbent upon us as members of parliament to make sure that those protections remain in place and are strengthened as the legislation which provides powers to our intelligence communities also expands. I think it is through that combination—the combination of providing our intelligence agencies with the powers that they need and also providing Australians with protections from the abuse of those kinds of powers—that we strike the right balance to protect Australians well into the future and make sure that all Australians remain
safe from these terrible terrorist attacks that are becoming all too common right across the world.

Senator HUME (Victoria) (11:40): I rise today to speak on the Parliamentary Joint Committee on Intelligence and Security Amendment Bill, the PJCIS Amendment Bill 2015. This is a bill that proposes significant changes to the Intelligence Services Act 2001, the ISA. Firstly, it proposes to change the composition of the PJCIS. Secondly, this bill proposes to expand the powers and functions of the PJCIS by allowing the PJCIS to conduct a review into operational activities of the Australian intelligence agencies and the Australian Federal Police. It proposes to expand the powers and functions of the PJCIS by authorising the Independent National Security Legislation Monitor, the INSLM, to provide the PJCIS with a copy of any report on a matter referred to it by the PJCIS and requiring the Inspector-General of Intelligence and Security, the IGIS, to give the PJCIS a copy of any report provided to the Prime Minister or the minister within three months. The bill proposes allowing the PJCIS to conduct its own-motion inquiries, and it also proposes allowing the PJCIS to conduct pre-sunset review of legislation.

The government's position on this bill is not one of support. The well-regarded work that the PJCIS has conducted over many years is generally viewed as one of the most successful examples of effective bipartisanship throughout successive Australian parliaments. The PJCIS also has an impressive track record of conducting both insightful and thorough investigations. In light of these facts, the government is of the opinion that there is no need to amend the PJCIS's structure or powers.

Furthermore, the government has serious concerns about the content of this bill. Specifically, expanding the powers of the PJCIS will compromise the existing and appropriate divide between parliamentary and independent oversight by enabling own-motion inquiries and receipt of reports on operational activity from the IGIS. The government has serious concerns about the bill seeking to provide the PJCIS with powers, including operational oversight and pre-sunset legislative review, which would duplicate and overlap with those of the IGIS and INSLM. The government has serious concerns that the bill does not provide adequate protection of operational activities, including methods and sources, to ensure any reviews that the PJCIS conducts, or any reports the INSLM or IGIS are required to provide to the PJCIS, do not prejudice the operational activities of the agencies and international relations.

The amendments this bill seeks to make are unnecessary, and they compromise the important distinction between the appropriate parliamentary oversight of the Australian Intelligence Community's administration, as outlined in the Intelligence Services Act 2001, and the operational oversight that is more appropriately performed by independent statutory roles such as the Inspector-General of Intelligence and Security.

For those of my colleagues who are not aware of the beginnings of the PJCIS, the committee has existed in its current form since the Inquiry into Australian Intelligence Agencies by Mr Philip Flood AO, known as the Flood inquiry, in 2004. Among his findings, Flood recommended that the membership of the existing Parliamentary Joint Committee on ASIO, ASIS and DSD—the PJCAAD—should be extended to include the Defence Imagery and Geospatial Organisation, the DIGO, which has since been renamed the Australian Geospatial-Intelligence Organisation; the Defence Intelligence Organisation, the DIO; and the
Office of National Assessments, the ONA. Following the passage of the Intelligence Services Legislation Amendment Bill in 2005, the committee was re-established as the Parliamentary Joint Committee on Intelligence and Security—the PJCIS.

The functions of the Parliamentary Joint Committee on Intelligence and Security are outlined in the Intelligence Services Act 2001—the IS Act. Section 29 of the Intelligence Services Act provides that the functions of the committee are to:

- review the administration and expenditure of the Australian Security Intelligence Organisation (ASIO), Australian Secret Intelligence Service (ASIS), Australian Geospatial-Intelligence Organisation (AGO), Defence Intelligence Organisation (DIO), Australian Signals Directorate (ASD) and Office of National Assessments (ONA), including their annual financial statements
- review any matter in relation to ASIO, ASIS, AGO, DIO, ASD or ONA referred to the Committee by the responsible Minister or a resolution of either House of the Parliament
- monitor and to review the performance by the Australian Federal Police (AFP) of its functions under Part 5.3 of the Criminal Code (terrorism)
- review, by 7 March 2018, the operation, effectiveness and implications of the following:
  - Division 3 of Part III of the Australian Security Intelligence Organisation Act 1979 (ASIO questioning and detention powers)
  - Division 3A of Part IAA of the Crimes Act 1914 (police powers in relation to terrorist acts and terrorism offences)
  - Division 104 and 105 of the Criminal Code (control orders and preventative detention orders)
  - sections 119.2 and 119.3 of the Criminal Code ("declared area" provisions)
- review, by 13 April 2020, the mandatory data retention regime, as provided for under section 187N of the Telecommunications (Interception and Access) Act 1979
- review—for the sole purpose of assessing and making recommendations on the overall operation and effectiveness of the mandatory data retention regime—any matter that relates to the retained data activities of ASIO and is included in ASIO's annual report
- review—for the sole purpose of assessing and making recommendations on the overall operation and effectiveness of the mandatory data retention regime—any matter that relates to the retained data activities of the AFP in relation to offences against Part 5.3 of the Criminal Code (terrorism) and is set out in the AFP's annual report on access to telecommunications data
- review, by 1 December 2019, the operation, effectiveness and implications of sections 33AA, 35, 35AA and 35A of the Australian Citizenship Act 2007 (regarding the cessation of Australian citizenship) and any other provision of that Act as far as it relates to those sections; and
- report the Committee's comments and recommendations to each House of the Parliament and to the responsible Minister.

Under section 102.1A of the Criminal Code, the Committee may also review any regulations made for the listing (or re-listing) of a "terrorist organisation" and report the Committee's comments and recommendations to each House of the Parliament before the end of the applicable disallowance period—a period of 15 sitting days after the regulation was laid before that House.

Further, the Committee may review and report on the declaration of any terrorist organisation for the purposes of section 35AA of the Australian Citizenship Act 2007.

The Committee is otherwise not authorised to initiate its own references, but may resolve to request the responsible Minister refer a particular matter to it for review.
Section 31 of the IS Act requires the Committee to prepare and table an Annual Report as soon as practicable after each year ending 30 June.

The Parliamentary Joint Committee on Intelligence and Security has its limitations. The IS Act currently limits the inquiry powers of the PJCIS by providing that the functions of the committee do not include:

- reviewing the intelligence gathering and assessment priorities of ASIO, ASIS, AGO, DIO, ASD or ONA;
- reviewing the sources of information, other operational assistance or operational methods available to ASIO, ASIS, AGO, DIO, ASD or ONA;
- reviewing particular operations that have been, are being or are proposed to be undertaken by ASIO, ASIS, AGO, DIO or ASD;
- reviewing information provided by, or by an agency of, a foreign government where that government does not consent to the disclosure of the information;
- reviewing an aspect of the activities of ASIO, ASIS, AGO, DIO, ASD or ONA that does not affect an Australian person;
- reviewing the rules made under section 15 of the Act (to protect privacy of Australians);
- conducting inquiries into individual complaints about the activities of ASIO, ASIS, AGO, DIO, ASD or ONA;
- reviewing the content of, or conclusions reached in, assessments or reports made by DIO or ONA, or reviewing sources of information on which such assessments or reports are based
- reviewing the coordination and evaluation activities undertaken by ONA;
- reviewing sensitive operational information or operational methods available to the AFP; or
- reviewing particular operations or investigations that have been, are being or are proposed to be undertaken by the AFP.

These limitations are very important. They prevent inappropriate parliamentary influence being exercised over the operations, over the methodology and over the priority setting of the intelligence agencies. Responsibility for reviewing the operational activities of agencies is more appropriately given to the independent statutory role of the Inspector-General of Intelligence and Security.

The IGIS is responsible for overseeing and review of the Australian intelligence community in relation to its compliance with the law, compliance with ministerial directions and guidelines, proprietary and a respect for human rights. When exercising her inquiry function, the IGIS has significant powers, comparable to those of a royal commission—including obtaining information and requiring persons to answer questions and produce documents. The IGIS reports annually to parliament.

The Parliamentary Joint Committee on Intelligence and Security proposes two main changes to the Intelligence Services Act 2001 regime. Firstly, the bill proposes changes to the composition of the PJCIS by removing the constraints on the membership of the PJCIS to provide that the balance of members can come from either chamber. Current requirements are that six come from the House of Representatives and five from the Senate. The bill also proposes introducing a requirement that the Prime Minister and the Leader of the Government in the Senate must be satisfied that members to be nominated to the PJCIS are the most appropriate members available.
Secondly, the bill proposes to expand the powers and functions of the Parliamentary Joint Committee on Intelligence and Security by allowing the PJCIS to conduct a review into operational activities of ASIO, ASIS, AGO, DIO, ASD, ONA and the Australian Federal Police. It would also authorise the Independent National Security Legislation Monitor, the INSLM, to provide the PJCIS with a copy of any report on a matter referred to it by the PJCIS and require the Inspector-General of Intelligence and Security to give the PJCIS a copy of any report provided to the Prime Minister or the minister within three months. The bill would also allow the committee to conduct its own motion inquiries and allow the PJCIS to conduct presunset review of legislation.

The amendments to this bill would blur the existing and appropriate divide between parliamentary and independent oversight and compromise the independence of existing overseeing bodies by proposing that the PJCIS receive direct reports from the IGIS on operational activities and that it could commence its own inquiries. The longstanding position in Australia is that operational overseeing of intelligence, security and law enforcement agencies is conducted by the overseeing independent statutory agencies, rather than by the parliament.

Currently the IGIS, which serves a crucial role in overseeing and ensuring accountability for the operational activities undertaken by our security agencies, only reports to ministers. It is important to note that the appropriateness of the overseeing of intelligence agencies by parliament was examined in the 2004 Flood inquiry. That inquiry found:

Just as the advice that officials provide to ministers is not disclosed in Senate Legislation Committee hearings, the judgments of assessment agencies should not be subject to parliamentary scrutiny. Opening assessments to scrutiny by parliament would also weaken the instinct amongst assessors to provide forthright advice for government, which is vital for good assessment.

The proposals duplicate and overlap with the roles of the IGIS and INSLM.

The bill would enable the PJCIS to conduct inquiries into legislation prior to a sunset date. This is an unnecessary duplication of the role of the INSLM, who has been granted powers that are tailored specifically to reviewing the operation, effectiveness and implications of Australia's national security legislation.

The bill would enable the committee to conduct its own review into the activities of intelligence agencies, provided the PJCIS has first consulted the responsible minister. This is an unnecessary duplication of the role of the IGIS. In 2014-15 the IGIS received an $840,000 increase in ongoing funding, allowing for the recruitment of additional staff to ensure effective oversight.

The current roles of the PJCIS, IGIS and INSLM ensure there is effective overseeing of the functioning of all aspects of Australia's security and intelligence agencies whilst minimising duplication and overlap. The current division also respects the appropriate divide between overseeing by parliament and independent agencies. The committee examines the administration and expenditure of all Australian intelligence community agencies, and the committee has only a very limited ability to inquire into operational activities.

The IGIS is responsible for oversight and review of the Australian intelligence community in relation to compliance with the law, compliance with ministerial directions and guidelines, propriety and respect for human rights. When exercising her inquiry function the IGIS has significant powers, comparable to those of a royal commission. The INSLM's role is to review
the operation, effectiveness and implications of Australia's counterterrorism and national security legislation. This includes considering whether the laws contain appropriate safeguards for protecting the rights of individuals, that they remain proportionate to any threat of terrorism or threat to national security and remain necessary.

Should the committee be empowered to conduct its own reviews into the operational activities of the intelligence and security agencies, the bill does not provide adequate protection for operational activities, including methods and sources, to ensure reviews that the committee conducts, or any reports the INSLM or IGIS are required to provide to the committee, do not prejudice the operational activities of the agencies and international relations.

There is no demonstrated need for change. The PJCIS works well and has repeatedly demonstrated its ability to conduct insightful and thorough investigations. There is no demonstrated need to amend the PJCIS structure or powers. The government has referred each tranche of national-security-related legislation to the bipartisan PJCIS for review following its introduction into parliament, and has accepted every recommendation made by the committee. This consultative and collaborative approach has strengthened the transparency and accountability of our law enforcement and national security agencies.

This bill would only impose, at best, unnecessary changes. But at worst it would compromise the existing and appropriate divide between parliamentary and independent oversight. The risks that this bill poses have led to the government not supporting this bill and, similarly, I urge honourable senators not to support this bill in the chamber today.

Senator PRATT (Western Australia) (11:59): I rise today to speak on the Parliamentary Joint Committee on Intelligence and Security Amendment Bill. This gives me cause to reflect on a few issues that were very present in my mind when I first entered this place back in 2008. In moving from the state legislature to the federal Senate, I was very self-aware about the fact that as a member of the government, a government backbencher, I would become part of and complicit with some significant decisions on things like sending troops to war, the surveillance of citizens, our civil liberties and the arbitrary detention of people. These were issues that weighed very heavily on my mind then and they are issues I take very seriously today. So when my colleagues put it to me that there is something not quite right and not yet quite good enough about how our parliamentary oversight of these matters is conducted and managed, I take that very seriously.

I know that these amendments are just adjustments in the way we currently operate; but they are important adjustments and they were put forward by no less than former Senator John Faulkner, who himself has reflected very carefully on these issues. What is proposed is the removal of the current constraints on the membership of the committee to provide that except for a minimum representation of one government member and senator and one opposition member and senator the balance of the 11 members of the committee can be drawn from either chamber. The current rules on who is eligible to be a member are fairly arbitrary in terms of saying we have this many from this chamber and that many from that chamber. That does not give the Labor Party, which takes this matter very seriously—or, for that matter, other parties—the capacity to appoint the people who are best placed to scrutinise these issues.
When you have six members and five senators, that is a very arbitrary thing to do. So it is important that this parliament has more flexibility in determining the membership of this joint committee. It will allow for the joint committee to be made up of members who are more expert in this field, without the constraint of whether they are a member or a senator. For example, I remember discussing with my new colleague Anne Aly MP, the member for Cowan, the fact that, while she has considerable expertise in this area, it is very difficult for her to get a position on the committee—because, by the time you put the shadow defence minister on the committee, or the Leader of the Opposition or others who are also a priority, there is no room left for her to be on the committee. So perhaps someone in the Labor Party might like to make a decision that a Labor senator might be able to give up their place for someone like Anne Aly. These constraints also mean that our shadow Attorney-General, the Honourable Mark Dreyfus, has been unable to serve on the committee because of the limited number of positions available to opposition members of the House of Representatives. So having more flexible membership provisions, without affecting the political balance of the committee, would enable the committee to benefit from this experience and expertise.

As previous senators have noted, this bill does not amend the requirement for the government to hold a majority on the committee. As a senator who has been a member of a number of committees and a chair of a committee, I think I am in a good position to reflect on the operation of committees. We are constantly faced with leading to deliberate on and renew our sense of how we balance our decision-making and deal with important national issues. We need to ensure that we connect in this place good decision-making to proper processes that scrutinise all avenues and outcomes of legislation.

The bill provides the Parliamentary Joint Committee on Intelligence and Security capacity to conduct its own motions and inquiries after consultation with the responsible minister. I certainly think this is an important provision. When there is public debate about issues such as arbitrary intention or the quality of the intelligence that the parliament and the committee are receiving, there may not always be alignment between the views of the committee and the views of the minister. That means if a committee wants to interrogate those issues further they really need to be able to say to the minister: 'There is an important national security issue at stake here. It is time for us to be able to look more deeply into these issues.' This is an important extension but an essential one to enhance the oversight role of this committee.

This would bring the parliamentary joint committee in line with equivalent parliamentary committees in the US and the UK, which already have this power. But here in the Australian parliament our legislatures have, comparatively speaking, handed more power to government and more power to the agencies, while our parliamentary committees have been relatively more constrained in their capacity for scrutiny. In 2013 the UK's Intelligence and Security Committee of Parliament was reformed by the passage of the Justice and Security Act 2013. So we now need to be able to keep up with these international movements.

The PRESIDENT: The time for the debate has expired. The debate is adjourned and the resumption of the debate will be made an order of the day for the next sitting.
NOTICES

Withdrawal

Senator KAKOSCHKE-MOORE (South Australia) (12:07): I withdraw general business notice of motion No. 89 standing in my name and Senator Xenophon's name.

Presentation

Senator Siewert to move:
That the Senate:
(a) notes that the National Congress of Australia's First Peoples (National Congress) was formed in 2010 by Aboriginal and Torres Strait Islander leaders after the abolition of the Aboriginal and Torres Strait Islander Commission in 2005;
(b) acknowledges that the National Congress has a board of elected Aboriginal and Torres Strait Islander peoples;
(c) recognises that the National Congress is in a dire financial position; and
(d) calls on the Minister for Indigenous Affairs to fund the National Congress for three years at a cost of $15 million, and establish an interest-bearing sinking fund of $100 million to ensure that the National Congress is able to continue its vital work beyond the three year electoral cycle.

Senator Farrell to move:
That the following bill be introduced: A Bill for an Act to amend the Commonwealth Electoral Act 1918 to improve donation transparency and accountability, and for related purposes. Commonwealth Electoral Amendment (Donation Reform and Transparency) Bill 2016.

Senator Siewert to move:
That the Classification Amendment (CHC Domain Scores) Principles 2016, made under the Aged Care Act 1997, be disallowed.

Senator Di Natale to move:
That there be laid on the table, by no later than 1 December 2016, by the Minister representing the Minister for Foreign Affairs, the modelling referred to by New Zealand in the United Nations Framework on the Convention of Climate Change session SB145(2016) that details the Government’s emission and removals projections for 2030.

COMMITTEES

Selection of Bills Committee

Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:07): I present the seventh report of 2016 of the Selection of Bills Committee and seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 7 OF 2016
1. The committee met in private session on Wednesday, 12 October 2016 at 7.34 pm.
2. The committee resolved to recommend—that—
(a) the provisions of the Australian Crime Commission Amendment (Criminology Research) Bill 2016 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 9 November 2016 (see appendix 1 for a statement of reasons for referral);

(b) the Criminal Code Amendment (Firearms Trafficking) Bill 2016 be referred immediately to the Legal and Constitutional Affairs Legislation Committee but was unable to reach agreement on a reporting date (see appendix 2 for a statement of reasons for referral);

(c) the Great Australian Bight Environment Protection Bill 2016 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by the last sitting day March 2017 (see appendix 3 for a statement of reasons for referral);

(d) the provisions of the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016, the Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016, the Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016 and the Passenger Movement Charge Amendment Bill 2016 be referred immediately to the Economics Legislation Committee for inquiry and report by 7 November 2016 (see appendices 4, 5 and 6 for a statement of reasons for referral);

(e) the provisions of the Social Services Legislation Amendment (Simplifying Student Payments) Bill 2016 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 7 November 2016 (see appendix 7 for a statement of reasons for referral);

(f) contingent upon its introduction in the House of Representatives, the provisions of the Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 21 November 2016 (see appendices 8 and 9 for a statement of reasons for referral); and

(g) contingent upon its introduction in the House of Representatives, the provisions of the VET Student Loans Bill 2016, the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016 and the VET Student Loans (Charges) Bill 2016 be referred immediately to the Education and Employment Legislation Committee for inquiry and report by 7 November 2016 (see appendices 10, 11 and 12 for a statement of reasons for referral).

3. The committee resolved to recommend—that the following bills not be referred to committees:

- Broadcasting Legislation Amendment (Television and Radio Licence Fees) Bill 2016
- Competition and Consumer Amendment (Australian Country of Origin Food Labelling) Bill 2015
- Counter-Terrorism Legislation Amendment Bill (No. 1) 2016
- Criminal Code Amendment (Misrepresentation of Age to a Minor) Bill 2016
- Criminal Code Amendment (War Crimes) Bill 2016
- Guardian for Unaccompanied Children Bill 2014
- Independent National Security Legislation Monitor (Improved Oversight and Resourcing) Bill 2014
- Migration Amendment (Free the Children) Bill 2016
- Private Health Insurance Amendment (GP Services) Bill 2014
- Register of Foreign Ownership of Agricultural Land Amendment (Water) Bill 2016
- Water Legislation Amendment (Sustainable Diversion Limit Adjustment) Bill 2016.

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:

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CHAMBER
Australian Centre for Social Cohesion Bill 2015
Automotive Transformation Scheme Amendment (Securing the Automotive Component Industry) Bill 2015
Charter of Budget Honesty Amendment (Intergenerational Report) Bill 2015
Corporations Amendment (Life Insurance Remuneration Arrangements) Bill 2016
Customs Amendment (2017 Harmonized System Changes) Bill 2016
Customs Tariff Amendment (2017 Harmonized System Changes) Bill 2016
End Cruel Cosmetics Bill 2014
Freedom to Marry Bill 2016
Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014
Motor Vehicle Standards (Cheaper Transport) Bill 2014
Narcotic Drugs Legislation Amendment Bill 2016
Narcotic Drugs (Licence Charges) Bill 2016
National Integrity Commission Bill 2013
Privacy Amendment (Re-identification Offence) Bill 2016
Racial Discrimination Amendment Bill 2016
Racial Discrimination Law Amendment (Free Speech) Bill 2016
Recognition of Foreign Marriages Bill 2014
Regulatory Powers (Standardisation Reform) Bill 2016
Seafarers and Other Legislation Amendment Bill 2016
Seafarers Safety and Compensation Levies Bill 2016
Seafarers Safety and Compensation Levies Collection Bill 2016
Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016
Tax and Superannuation Laws Amendment (2016 Measures No. 2) Bill 2016
Veterans' Affairs Legislation Amendment (Budget and Other Measures) Bill 2016.

(David Bushby)
Chair
13 October 2016

APPENDIX 1

Proposal to refer a bill to a committee:

Name of bill:

Australian Crime Commission Amendment (Criminology Research) Bill 2016

Reasons for referral/principal issues for consideration:

Since an earlier version of this Bill was introduced into the 44th Parliament in 2015, there have been significant changes made to the Explanatory Memorandum that should be examined.

There has also been a significant change in the composition of the Senate and it would be appropriate to allow the new Senators the opportunity to engage with this legislation.

Very limited submissions were received by the previous inquiry into the 2015 Bill and a further referral would provide another opportunity for submissions from stakeholders.
Possible submissions or evidence from:
- Attorney-General's Department
- Australian Institute of Criminology
- Academics with specialisation in law, criminology and crime statistics.
- Australian and New Zealand Society of Criminology
- NSW Bureau of Crime Statistics and Research
- Crime Statistics Agency Victoria
- Australian Psychological Society
- Crime and Corruption Commission Queensland
- South Australian Office of Crime Statistics & Research

Committee to which bill is to be referred:
- Senate Legal and Constitutional Affairs Legislation Committee.

Possible hearing date(s):
- To be determined by the Committee.

Possible reporting date:
- 21 November 2016.

(signed)
Senator Anne Urquhart

APPENDIX 2

Proposal to refer a bill to a committee:

Name of bill:
- Criminal Code Amendment (Firearms Trafficking) Bill

Reasons for referral/principal issues for consideration:
- This is legislation which proposes changes to the criminal law. The criminal law has a significant impact on the rights and obligations of the Australian people, including potentially the ability to see them deprived of their liberty.
- It is appropriate and responsible for the Senate to properly examine the impact of proposed criminal laws, including in light of recent developments.
- There has also been a significant change in the composition of the Senate and it would be appropriate to allow the new Senators the opportunity to engage with this legislation.

Possible submissions or evidence from:
- Attorney-General's Department
- Australian Strategic Policy Institute
- State and Territory Bar Associations (e.g. NSW Bar Association)
- The Commonwealth Magistrates' and Judges' Association
- The Law Society of New South Wales
- Law Council of Australia
- Australian Human Rights Commission
- Department of Immigration and Border Protection
- State and Territory Police (e.g. Victoria Police)
Australian Federal Police

**Committee to which bill is to be referred:**

Senate Legal and Constitutional Affairs Legislation Committee.

**Possible hearing date(s):**

To be determined by the Committee

**Possible reporting date:**

First sitting Monday in 2017

(signed)

Senator Anne Urquhart

**APPENDIX 3**

Proposal to refer a bill to a committee:

**Name of bill:**

Great Australian Bight Environment Protection Bill 2016

**Reasons for referral/principal issues for consideration:**

Although BP pulled out yesterday the risk remains – 6 companies currently have expressed an intention to drill in the Bight.

**Possible submissions or evidence from:**

Environmental Groups, small business owners, Aboriginal TOs, NOPSEMA.

**Committee to which bill is to be referred:**

Senate Environment and Communications Legislation Committee

**Possible hearing date(s):**

December, January, February

**Possible reporting date:**

March, April

(signed)

Senator Rachel Siewert

**APPENDIX 4**

Proposal to refer a bill to a committee:

**Name of bill:**

Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016
Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016
Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016
Passenger Movement Charge Amendment Bill 2016

**Reasons for referral/principal issues for consideration:**

- No public consultation on the package to-date
- Stakeholders have expressed concern following the Government's new package being announced
- How this package places Australia in terms of international competitiveness
- Opportunity to explore economic modelling and costing assumptions that underpin the package.
Possible submissions or evidence from:
- Bodies representing regional bodies including farmers associations
- Tourism bodies like TTF, Qantas and regional councils
- Trade unions
- Superannuation peak bodies

Committee to which bill is to be referred:
Senate Economics Legislative Committee

Possible hearing date(s):
To be determined by the committee.

Possible reporting date:
Monday 7 November 2016

(signed)
Senator Anne Urquhart

APPENDIX 5
Proposal to refer a bill to a committee:
Name of bill:
- Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016
- Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016
- Passenger Movement Charge Amendment Bill 2016

Reasons for referral/principal issues for consideration:
To scrutinize the proposed changes of the backpacker tax and passenger movement charge and the impact they will have on agricultural and tourism dependent communities.

Possible submissions or evidence from:
- Tourism and Transport Forum Australia.
- Australian Federation of Travel Agents
- Tourism Australia
- AusVeg
- WA Farmers
- Department of Agriculture

Committee to which bill is to be referred:
Economics References Committee

Possible hearing date(s):
Wednesday 9 November

Possible reporting date:
Monday 21 November

(signed)
Senator Rachel Siewert
APPENDIX 6
Proposal to refer a bill to a committee:
Name of bill:
  Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016
  Treasury Laws Amendment (Working Holiday Maker Reform) Bill 2016
  Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016
  Passenger Movement Charge Amendment Bill 2016
Reasons for referral/principal issues for consideration:
  Effect on the backpacker sector and the tourism sector and associated sectors.
Possible submissions or evidence from:
  National Farmers Federation
Committee to which bill is to be referred:
  Economics Legislation Committee
Possible hearing date(s):
  31 October 2016
Possible reporting date:
  7 November 2016
(signed)
  Senator Skye Kakoschke-Moore

APPENDIX 7
Proposal to refer a bill to a committee:
Name of bill:
  Social Services Legislation Amendment (Simplifying Student Payments) Bill 2016
Reasons for referral/principal issues for consideration:
  Concern of the impact of the bill on young people
Possible submissions or evidence from:
  National Welfare Rights Network, ACOSS, Catholic Social Services, National Union of Students
Committee to which bill is to be referred:
  Community Affairs Legislation Committee
Possible hearing date(s):
Possible reporting date:
  November 2016
(signed)
  Senator Rachel Siewert

APPENDIX 8
Proposal to refer a bill to a committee:
Name of bill:
  Social Services Legislation amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016
Reasons for referral/principal issues for consideration:
- To determine what will happen to current mobility allowance recipients after they transition off the payment in 2020
- Consider the impact of the abolition of the Mobility Allowance in 2020.

Possible submissions or evidence from:
- Disability advocacy groups – ACOSS, AFDO, DANA, NDS, Queensland Advocacy Incorporated, People with Disabilities WA, Children and Young People with Disability Australia

Committee to which bill is to be referred:
- Senate Community Affairs Legislation Committee

Possible hearing date(s):
- To be determined by the Committee

Possible reporting date:
- 21 November 2016

(sign)
- Senator Anne Urquhart

APPENDIX 9
Proposal to refer a bill to a committee:
Name of bill:
- Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016

Reasons for referral/principal issues for consideration:
- Concern of the impact of the bill of people with a disability

Possible submissions or evidence from:
- People with Disability Australia, Women with Disabilities Australia, First Peoples Disability Network, National Ethnic Disability Alliance, National Welfare Rights Network, ACOSS, Catholic Social Services

Committee to which bill is to be referred:
- Community Affairs Legislation Committee

Possible hearing date(s):
- To be determined by the Committee

Possible reporting date:
- 28 November 2016

(sign)
- Senator Rachel Siewert

APPENDIX 10
Proposal to refer a bill to a committee:
Name of bill:
- VET Student Loans Bill 2016
- VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016
- VET Student Loans (Charges) Bill 2016
Reasons for referral/principal issues for consideration:
   An opportunity for stakeholders to provide feedback on the proposed arrangements

Possible submissions or evidence from:
   Industry/employer groups
   Training organization representative bodies/providers
   Students/Student representatives
   Unions
   States and Territory Governments

Committee to which bill is to be referred:
   Education and Employment Legislation Committee

Possible hearing date(s):
   To be determined by the committee

Possible reporting date:
   7 November 2016

(signed)
   Senator Mitch Fifield

APPENDIX 11
Proposal to refer a bill to a committee:

Name of bill:
   VET Student Loans Bill 2016
   VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016
   VET Student Loans (Charges) Bill 2016

Reasons for referral/principal issues for consideration:
   Involved serious and wide-spread changes, industry and stake-holder concerns, Bills require consideration and examination.

Possible submissions or evidence from:
   Education providers, unions

Committee to which bill is to be referred:
   Education and Employment

Possible hearing date(s):
   Week of 14th November

Possible reporting date:
   Monday 28 November 2016

(signed)
   Senator Rachel Siewert

APPENDIX 12
Proposal to refer a bill to a committee:

Name of bill:
   VET Student Loans Bill 2016
   VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016
VET Student Loans (Charges) Bill 2016

Reasons for referral/principal issues for consideration:
Scrubtinity of major changes to VET student loans – opportunity for stakeholder scrutiny

Possible submissions or evidence from:
- Australian Council of Private Education and Training
- TAFE Directors Association
- Consumer Action Law Centre
- Australian Education Union
- Department of Education and Training

Committee to which bill is to be referred:
- Senate Employment and Education Legislation Committee

Possible hearing date(s):
To be agreed

Possible reporting date:
7 November 2016 (as agreed with Senator Birmingham)

(sign)

Senator Anne Urquhart

Senator BUSHBY: I move:
That the report be adopted.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (12:08): I move:
At the end of the motion, add "and, in respect of the provisions of the Criminal Code Amendment (Firearms Trafficking) Bill 2016, the Legal and Constitutional Affairs Legislation Committee report by 7 November 2016".

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:08): I indicate that the Greens will support that amendment, though I also give notice that I will be moving an amendment, which has already been circulated in my name, to the motion that the report be adopted. The amendment provides that the Criminal Code Amendment (War Crimes) Bill 2016 be referred to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by the first sitting day of 2017.

We attempted last night to refer this bill to the Foreign Affairs, Defence and Trade Legislation Committee. The reasons for referral are grave. We are astonished that the committee did not support it, because we think this bill has changes that deserve public scrutiny. We are unaware of any consideration of this bill in public and we understand that the last time the war crimes offences incorporated in domestic criminal law were amended was in 2002.

The changes proposed in this bill seriously alter the governance of ADF personnel in combat and change the definition of a war crime. This is an issue that has just recently broken as a story on radio, with the internal Defence inquiry into potential war crimes on foot at present. This is a highly charged, complex topic and there is a need to hear from the ADF about why such changes are needed and what actions they are trying to take that are being prevented by existing war crimes legislation. Parliament should have a greater role in
debating the use of military force and the implications of those deployments. These are some of the most important decisions a nation can make, and that is what parliament should be for.

Australian forces operate under much more stringent rules of engagement than many of our allies, including the US. Anything that creates a risk of changing that needs to be carefully scrutinised. The announcement is also of concern since the Criminal Code was developed to reflect international law, and the extent to which Australia is following a dangerous precedent, set by the US, to expand international law's permissiveness around targeted killing must be explored. We also feel it is necessary to determine exactly what constraints the Australian Defence Force believes exists and who is in the list of persons not involved in hostilities, including civilians, medical personnel or religious personnel who not taking an active part in hostilities. Recent counterterrorism and national security views do not consider war crimes offences.

It is also of grave concern that proposed amendments did not arise from the recommendations of various recent reviews of national security and counterterrorism legislation and in fact appear to be materially different to the recommendations made by both the former INSLM and the COAG review of counterterrorism laws in 2013. We are aware of grave concerns about this bill from experts on the ground in actual war zones and protracted conflicts around the world in which we are implicated. This involves the International Committee of the Red Cross and Medecins San Frontieres.

For these reasons we strongly implore the government and the opposition to allow a full, thorough, public review of this legislation, and we believe the most appropriate committee therefore is the Foreign Affairs, Defence and Trade Legislation Committee.

The PRESIDENT: The question before the chair now is that the amendment moved by Senator Gallagher be agreed to.

Question agreed to.

Senator SIEWERT: I move:

At the end of the motion, add "and in respect of the Criminal Code Amendment (War Crimes) Bill 2016 the provisions of the bill be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by first sitting day of 2017".

Question negatived.

The PRESIDENT: The question now is that the motion moved by Senator Bushby, as amended, be agreed to.

Question agreed to.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (12:13): I move:

That:

(a) the following government business orders of the day be considered from 12.45 pm today:

  - International Tax Agreements Amendment Bill 2016
  - Industry Research and Development Amendment (Innovation and Science Australia) Bill 2016
No. 4 Statute Law Revision (Spring 2016) Bill 2016; and
(b) government business be called on after consideration of the bills listed in paragraph (a) and considered till not later than 2 pm today.
Non-controversial government business—
International Tax Agreements Amendment Bill 2016
Industry Research and Development Amendment (Innovation and Science Australia) Bill 2016
No. 4 Statute Law Revision (Spring 2016) Bill 2016

Question agreed to.

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (12:13): I move:
That the order of general business for consideration today be as follows:
(a) general business notice of motion no. 84 standing in the name of Senator Burston relating to firefighting foam contamination; and
(b) orders of the day relating to documents.
Question agreed to.

Leave of Absence

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:14): by leave—I move:
That leave of absence be granted to Senator Waters for today, for personal reasons.
Question agreed to.

COMMITTEES

Economics Legislation Committee
Economics References Committee

Meeting

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:14): by leave—At the request of the chairs of the respective committees, I move:
That the Economics Legislation and References Committees be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 3.30 pm.
Question agreed to.

MOTIONS

Photography in the Senate

Senator HINCH (Victoria) (12:15): I seek leave to amend general business notice of motion No. 34 standing in my name for today relating to photography in the Senate chamber.
Leave granted.
Senator HINCH: I move the motion as amended:
That the order of the Senate of 21 March 2002 restricting photography in the Senate chamber ceases to have effect on and from 28 November 2016.

Question agreed to.

The PRESIDENT: Just for clarity, what the motion has in effect done is repeal the order of continuing effect in the standing orders, No. 26. This will take effect from 28 November this year. By way of the media rules governing the media rules in the entire parliament, which the Speaker and I have joint responsibility for, rule No. 5.7 will be amended. In fact, it will be deleted because that also reflects what is in the Senate standing orders of continuing effect, which will then put the Senate in complete alignment with the House of Representatives for media rules. I want to make sure that is the effect of the motion, because your particular motion was not specific. Unless I hear anything to the contrary, that is the effect that will take place on 28 November.

COMMITTEES

Environment and Communications References Committee

Reference

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:18): I seek leave to amend business of the Senate notice of motion No. 1, standing in the names of Senator Waters and Senator Dastyari, proposing a reference to the Senate Environment and Communications References Committee relating to closures of electricity generators.

Leave granted.

Senator SIEWERT: At the request of Senators Waters and Dastyari, I move the motion as amended:

That the following matter be referred to the Environment and Communications References Committee for inquiry and interim report by 28 November 2016 and final report by 1 February 2017:

(a) the experience of closures of electricity generators and other large industrial assets on workers and communities, both in Australia and overseas;

(b) the role that alternative mechanisms can play in alleviating and minimising the economic, social and community costs of large electricity generation and other industrial asset closures, drawing on experiences in Australia and overseas;

(c) policy mechanisms to encourage retirement of coal-fired power stations from the National Electricity Market, having regard to:

(i) the 'Paris Agreement' to keep global warming below 2 degrees Celsius, and ideally below 1.5 degrees Celsius,

(ii) the state and expected life span of Australia's coal-fired power plants,

(iii) the increasing amount of electricity generated by renewable energy and likely future electricity demand,

(iv) maintenance of electricity supply, affordability and security, and

(v) any other relevant matters;

(d) policy mechanisms to give effect to a just transition for affected workers and communities likely impacted by generator closures, as agreed in the 'Paris Agreement', including:

(i) mechanisms to ensure minimal community and individual impact from closures, and

(ii) mechanisms to attract new investment and jobs in affected regions and communities;
(e) the appropriate role for the Federal Government in respect of the above; and
(f) any other relevant matters.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (12:19): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McGrath: At the COAG Energy Council meeting on 7 October the government, with the agreement of the states and territories, established an independent inquiry to develop a national reform blueprint to maintain energy security and reliability in the national electricity market. The review will draw together and build on the analysis and findings of a number of reports commissioned by all Australian governments through the Energy Council, including reports by the Australian Energy Market Operator and the Australian Energy Market Commission into future power system security and the impact of carbon mitigation policies. Any inquiry established prior to the reporting of the review is premature.

Question agreed to.

Education and Employment References Committee

Reference

Senator Urquhart (Tasmania—Opposition Whip in the Senate) (12:20): At the request of Senators Cameron, Rhiannon and Lambie, I move:

That the following matter be referred to the Education and Employment References Committee for inquiry and report by 30 November 2016:

The impact of the Government's Workplace Bargaining Policy and approach to Commonwealth public sector bargaining, with particular reference to:

(a) the failure of the Government to conclude workplace bargaining across the Australian Public Service almost three years after the process began – a process that has impacted on more than 150,000 staff nationally and 115 agencies during this time;

(b) the impact of the protracted dispute on service provision, particularly in regional Australia, and for vulnerable and elderly people;

(c) the impact on Australia's tourism industry and international reputation as a result of ongoing international port and airport strikes;

(d) the impact on agency productivity and staff morale of the delay in resolving enterprise agreements across the Australian Public Service;

(e) the effect of the implementation of the Government's Workplace Bargaining Policy on workplace relations in the Commonwealth public sector;

(f) the effect of the implementation of the Government's Workplace Bargaining Policy on the working conditions and industrial rights of Commonwealth public sector employees;

(g) the extent to which the implementation of the Workplace Bargaining Policy impacts on employee access to workplace flexibility, and with particular regard to flexibility for employees with family or caring responsibilities;

(h) whether the Workplace Bargaining Policy and changes or reductions in employees' working conditions and industrial rights, including access to enforceable domestic and family violence leave, are a factor in the protracted delay in resolving enterprise agreements;
(i) the effect of an expanded role for the responsible Minister in the Government's Workplace Bargaining Policy; and

(j) any other related matter.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (12:20): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McGrath: The government's current bargaining policy offers a pay rise that is reasonable and responsible in the current environment. Despite assertions, agencies have been successfully bargaining with their employees in line with the bargaining policy, and 11 out of 12 agreements have been voted up since the federal election. Nevertheless, the CPSU still refuses the government's reasonable pay offer, meaning that some public servants have not had a pay rise for almost three years. Unfortunately, the union remains more interested in organising and promoting industrial action than ensuring their members receive a pay rise.

Question agreed to.

Education and Employment References Committee
Reference

Senator Marshall (Victoria) (12:21): I move:

That the following matters be referred to the Education and Employment References Committee for inquiry and report by 7 August 2017:

The incidence of, and trends in, corporate avoidance of the Fair Work Act 2009, with particular reference to:

(a) the use of labour hire and/or contracting arrangements that affect workers' pay and conditions;
(b) voting cohorts to approve agreements with a broad scope that affect workers' pay and conditions;
(c) the use of agreement termination that affect workers' pay and conditions;
(d) the effectiveness of transfer of business provisions in protecting workers' pay and conditions;
(e) the avoidance of redundancy entitlements by labour hire companies;
(f) the effectiveness of any protections afforded to labour hire employees from unfair dismissal;
(g) the approval of enterprise agreements by workers not yet residing in Australia that affect workers' pay and conditions;
(h) the extent to which companies avoid their obligations under the Fair Work Act 2009 by engaging workers on visas;
(i) whether the National Employment Standards and modern awards act as an effective 'floor' for wages and conditions and the extent to which companies enter into arrangements that avoid those obligations;
(j) legacy issues relating to WorkChoices and Australian Workplace Agreements;
(k) the economic and fiscal impact of reducing wages and conditions across the economy; and
(l) any other related matters.

Question agreed to.
NOTICES
Withdrawal

Senator KAKOSCHKE-MOORE (South Australia) (12:22): At the request of Senator Xenophon, I withdraw business of the Senate notice of motion No. 4 standing in the name of Senator Xenophon for today, proposing a reference to the Rural and Regional Affairs Transport References Committee.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Reference

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:23): At the request of Senators O'Sullivan, Xenophon, Back, Fawcett, Rice and Sterle, I move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 27 April 2017:

(a) current and future regulatory requirements that impact on the safe commercial and recreational use of Remotely Piloted Aircraft Systems (RPAS), Unmanned Aerial Systems (UAS) and associated systems, including consideration of:
   (i) Civil Aviation Safety Regulation Part 101,
   (ii) local design and manufacture of RPAS and associated systems,
   (iii) importation of RPAS and associated systems,
   (iv) state and local government regulation, and
   (v) overseas developments, including work by the International Civil Aviation Organization (ICAO) and overseas aviation regulatory jurisdictions;

(b) the existing industry and likely future social and economic impact of RPAS technology;

(c) the international regulatory/governance environment for RPAS technology and its comparison to Australian regulation;

(d) current and future options for improving regulatory compliance, public safety and national security through education, professional standards, training, insurance and enforcement;

(e) the relationship between aviation safety and other regulation of RPAS for example, regulation by state and local government agencies on public safety, security and privacy grounds;

(f) the potential recreational and commercial uses of RPAS, including agriculture, mining, infrastructure assessment, search and rescue, fire and policing operations, aerial mapping and scientific research;

(g) insurance requirements of both private and commercial users/operators, including consideration of the suitability of existing data protection, liability and insurance regimes, and whether these are sufficient to meet growing use of RPAS;

(h) the use of current and emerging RPAS and other aviation technologies to enhance aviation safety; and

(i) any other related matters.

Question agreed to.
MOTIONS

Noble, Mr Marlon

United Nations Committee on the Rights of Persons with Disabilities

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:24): I move:

That the Senate:

(a) notes that the United Nations Committee on the Rights of Persons with Disabilities (CRPD) recently called for Geraldton man, Mr Marlon Noble, to have the conditions of his release lifted after serving more than ten years in prison without a conviction;

(b) acknowledges that people with cognitive impairment or intellectual disability are being incarcerated for an indefinite period without conviction; and

(c) calls on the Western Australian Government to commit to implementing the CRPD recommendation to lift the conditions on Mr Marlon Noble’s release.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (12:24): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McGRATH: As the matters concerning the individual are state based offences and concern conditions imposed by the WA Mentally Impaired Accused Review Board, this is entirely a matter for the Western Australian government.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator GALLAGHER: Labor will not be supporting this motion. We do not think it is appropriate to support it when we were not given enough prior notice to fully look into the case in question and before a Senate inquiry on the exact topic has reported. We do not want to pre-empt the report of the Senate Community Affairs References Committee's inquiry into the indefinite detention of people with cognitive and psychiatric impairment in Australia.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:24): I seek leave to make an extremely short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: I won’t take even that. My point is that the Labor Party asked me to defer this so they could consider it. I take offence at the suggestion that I have not given them enough time, when I did what they asked and deferred the motion. I want to put that on record.

Question negatived.

Peres, Mr Shimon

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:25): At the request of Senators Smith and Fawcett, I move:

That the Senate:

(a) notes the death, on 28 September 2016, of Mr Shimon Peres, a founding father, staunch defender, former Prime Minister and former President of Israel;
(b) extends its appreciation for Mr Peres' extraordinary lifetime of service to his own nation, and to advancing the cause of peace in the Middle East, which was internationally recognised through his receipt of the Nobel Peace Prize in 1994; and
(c) expresses its deepest sympathies to the family of Mr Peres and to the people of Israel at the loss of this extraordinary statesman.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator DI NATALE: Leaving aside the astonishing hypocrisy of the coalition, who have consistently denied leave on foreign policy motions and yet seek to introduce one today, it is important to put on the record that Shimon Peres has been described as an architect of Israel's nuclear weapons program, which to this day remains outside the scrutiny of the International Atomic Energy Agency; that he was the father of the settler movement, which involves the confiscation of large swathes of Palestinian land; and that in 1996 he oversaw Operation Grapes of Wrath, which involved the death of 154 civilians in Lebanon and involved the shelling of a United Nations compound, which killed 106 sheltering civilians. While he was awarded a Nobel peace prize in 1994, members of that committee have expressed regret that the prize could not be recalled on the basis of the actions that followed.

Question agreed to.

Carers

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (12:27): At the request of Senator Brown, I move:

That the Senate:
(a) notes that:
(i) National Carers Week 2016 runs from Sunday, 16 October to Saturday, 22 October, and
(ii) during National Carers Week, Australians are encouraged to show their appreciation for unpaid carers and learn about caring in Australia; and
(b) recognises that:
(i) an estimated 2.8 million Australians provide unpaid care and support for people who have a disability, mental illness, chronic condition, terminal illness or who are aged,
(ii) these carers make an extraordinary contribution to our communities as well as our national economy,
(iii) the replacement cost of this informal care is valued at $60.3 billion over the course of a year, and
(iv) any one at any time can become a carer.

Question agreed to.

Infrastructure

Senator WHISH-WILSON (Tasmania) (12:28): I seek leave to amend general business notice of motion No. 90, standing in my name for today, relating to investment in public infrastructure.

Leave granted.

Senator WHISH-WILSON: I move the motion as amended:
That the Senate:
(a) notes:
   (i) the Organisation for Economic Co-operation and Development (OECD) September 2016 Interim Economic Outlook which states that all countries have room to restructure their spending and tax policies by increasing infrastructure spending and using fiscal measures to support structural reforms,
   (ii) the International Monetary Fund (IMF) April 2016 World Economic Outlook which states that infrastructure investment is needed across a range of countries and that countries with fiscal space should not wait to take advantage of low interest rates, and
   (iii) the August 2016 and final speech of the former Reserve Bank Governor, Mr Glenn Stevens, in which he drew a distinction between borrowing to invest in the right investment assets – long-lived assets that yield an economic return – as opposed to borrowing to pay pensions, welfare and routine government expenses; and
(b) calls on the Government to:
   (i) distinguish between 'good' debt used to fund investment in transformative and productivity enhancing infrastructure, and 'bad' debt used to fund recurrent spending, and
   (ii) from the next budget update onwards, distinguish between borrowing for recurrent purposes from borrowing for capital, and increase borrowing to invest in public infrastructure that would help provide a more sustainable economic future and create jobs.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (12:28): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McGrath: The government agrees with both the current and former Reserve Bank of Australia governors on the important point that we need to be very disciplined about borrowing for recurrent expenditure. It is vital that we first reduce our current deficit and borrowing for day-to-day government spending. This would give Australia flexibility to consider ways we could fund productive infrastructure beyond the record $50 billion in national infrastructure the government is already investing in improving our productive capacity. We note that even good debt has to be paid back. The government does, however, welcome the Greens' commitment to balancing the budget, although we will not be supporting this motion.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator Whish-Wilson: The Greens do not say in this motion what Senator McGrath just said—that this is about 'balancing the budget'. This is actually about listening to the experts, both in this country and internationally, that now is a record low-interest rate period and a significant opportunity for the Australian government to take out debt for productive infrastructure, get money moving in this country to create jobs and invest in infrastructure in the places where it is most needed. It is not just the Greens that are saying this; it is the outgoing Governor of the Reserve Bank saying a very similar thing. Nearly every economist working for the major banks is saying the same thing. The International Monetary Fund is saying the same thing. The OECD is saying the same thing. This government is not spending money on infrastructure. Now is the time to be doing it. We are very disappointed that the government is not supporting our motion today.
The DEPUTY PRESIDENT: The question is that the amended motion moved by Senator Whish-Wilson be agreed to.
The Senate divided. [12:35]
(The Deputy President—Senator Lines)

Ayes ...................30
Noes ....................28
Majority ...............2

AYES

Bilyk, CL
Chisholm, A
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Kakoschke-Moore, S
Ludlam, S
McAllister, J (teller)
McKim, NJ
O’Neill, DM
Pratt, LC
Rice, J
Urquhart, AE
Whish-Wilson, PS

Cameron, DN
Collins, JMA
Di Natale, R
Farrell, D
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Marshall, GM
McCarthy, M
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Xenophon, N

NOES

Abetz, E
Birmingham, SJ
Canavan, MJ
Culleton, RN
Fawcett, DJ
Fifield, MP
Hume, J
Macdonald, ID
McKenzie, B
O’Sullivan, B
Payne, MA
Roberts, M
Ryan, SM
Sinodinos, A

Back, CJ
Bushby, DC (teller)
Cash, MC
Duniam, J
Fierravanti-Wells, C
Hinch, D
Leyonhjelm, DE
McGrath, J
Nash, F
Paterson, J
Reynolds, L
Ruston, A
Scullion, NG
Williams, JR

PAIRS

Brown, CL
Carr, KJ
Singh, LM
Sterle, G
Waters, LJ
Wong, P

Seselja, Z
Cormann, M
Bernardi, C
Day, RJ
Smith, D
Brandis, GH

Question agreed to.
COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Membership

The DEPUTY PRESIDENT (12:38): The President has received a letter requesting changes in the membership of a committee.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (12:38): by leave—I move:

That senators be discharged from and appointed to the Foreign Affairs, Defence and Trade References Committee as follows:

Appointed—
Substitute member: Senator Hanson-Young to replace Senator Ludlam for the committee's inquiry into the Trans-Pacific Partnership Agreement
Participating member: Senator Ludlam.

Question agreed to.

Northern Australia Committee

Membership

Message received from the House of Representatives notifying the Senate of the appointment of Ms King to the Joint Standing Committee on Northern Australia in place of Dr Freelander.

BILLS

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

Assent

Message from the Governor-General reported informing the Senate of assent to the bill.

NOTICES

Presentation

Senator Williams (New South Wales—Nationals Whip in the Senate) (12:40): by leave—I give notice on behalf of the Senate Standing Committee on Regulations and Ordinances that, 15 sitting days after today, I shall move:

No. 1—That the Class of Persons Defined as Fast Track Applicants 2016/010, made under paragraph 5(1AA)(b) of the Migration Act 1958, be disallowed.

No. 2—That the Class of Persons Defined as Fast Track Applicants 2016/007, made under paragraph 5(1AA)(b) of the Migration Act 1958, be disallowed.

No. 3—That the Class of Persons Defined as Fast Track Applicants 2016/008, made under paragraph 5(1AA)(b) of the Migration Act 1958, be disallowed.

No. 4—That the Commonwealth Electoral (Logo Requirements) Determination 2016, made under the Commonwealth Electoral Act 1918, be disallowed.
BILLS

National Cancer Screening Register Bill 2016
National Cancer Screening Register (Consequential and Transitional Provisions) Bill 2016

Second Reading

Consideration resumed of the motion:
That these bills be now read a second time.
to which the following amendment was moved:

At the end of the motion, add "but the Senate condemns the Government for outsourcing Australians' most sensitive health information to Telstra before the Parliament even saw the necessary legislation".

Senator GRIFF (South Australia) (12:42): This is not my first speech. I rise to speak very briefly on this package of reforms and to indicate the Nick Xenophon Team's in-principle support for this package. Establishing a national register should go a long way towards reducing duplication and unnecessary red tape across jurisdictions and, more importantly, assisting with the management of bowel and cervical cancer screening programs.

These bills, the National Cancer Screening Register Bill 2016 and the National Cancer Screening Register (Consequential and Transitional Provisions) Bill 2016, certainly have not been without criticism, but this is less to do with the underlying policy objectives and more to do with the contentious nature of the tender process that preceded them. The fact that the government chose to enter into a $220 million contract with Telstra Health prior to the passage of the enabling legislation demonstrates a complete disregard for the important role of this place in the legislative process and in ensuring transparency and accountability. Given the nature of the data that will be maintained in the national register, there are a multitude of privacy considerations that ought to have been considered before the awarding of the tender, particularly when the tenderer is a non-government entity. These criticisms, amongst others, have to a large extent formed the basis of the inquiry by the Senate Community Affairs Legislation Committee. That committee process has certainly been worthwhile in fleshing out these concerns. At the very least, we now have a redacted contract that we can also refer to for further consideration and clarification.

In terms of amendments, the opposition has indicated it intends to proceed with its proposal to restrict the operation of the register to a government agency or not-for-profit organisation. It claims Telstra Health does not have the requisite expertise to adequately manage the sort of sensitive data that would be kept on the register. I indicate for the record that the Nick Xenophon Team will not be supporting that proposal. However, I indicate that my colleague Senator Xenophon will also be moving a second reading amendment aimed at addressing at least some of the concerns around the tender process. That amendment will not prevent the passage or implementation of the bill but it will request that the Auditor-General undertake a review that looks at issues of value for money and efficiency in the contract. It is important to point out that the amendment does not require the minister to direct the Auditor-General—and the advice I have is that it is quite appropriate for the parliament to refer matters—

The ACTING DEPUTY PRESIDENT (Senator Reynolds): Senator Griff, it being 12.45, we will now move to government business, and you will be in continuation.
International Tax Agreements Amendment Bill 2016
First Reading

Bill received from the House of Representatives.

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:45): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Senator RYAN: by leave—I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to this bill, allowing it to be considered during this period of sittings.

I table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated into Hansard.

Leave granted.

The statement read as follows—

Purpose of the Bill

The purpose of this bill is to give force of law to the new Australia-Germany Double Taxation Agreement.

Key benefits for Australia would include implementation of the G20/Organisation for Economic Cooperation and Development (OECD) Base Erosion and Profit Shifting Project recommended tax treaty integrity rules, access to reduced rates of withholding tax on dividends, interest and royalties, and new clauses allowing arbitration for unresolved tax disputes and mutual assistance in the collection of tax debts.

Reasons for Urgency

This treaty contains new rules applying to specified pension payments commencing from 1 January 2017. It is therefore desirable that the new treaty is in force before that date.

In addition, Germany expects to complete its domestic implementation processes in September 2016 to allow the new treaty to take effect in Germany from 1 January 2017.

If the bill is not passed in the 2016 Spring sittings, the treaty will not take effect for withholding tax and German income tax purposes until 1 January 2018, delaying taxpayer access to the treaty benefits for a further year.

Question agreed to.

Second Reading

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:46): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This Bill will amend the International Tax Agreements Act 1953 to give the force of law to the new tax treaty signed by Australia and Germany on 12 November 2015. The tax treaty is known as the

The Bill will further enhance the already strong economic relations between Australia and Germany. It will encourage trade and investment between Australia and Germany that will support Australian firms and our economy. International trade and investment creates opportunities for Australia through the provision of goods and services and the injection of foreign capital.

As our economy transitions to broad based growth it is important that we continue to attract foreign investment. But we need the right policy environment for trade and investment in order to take advantage of these opportunities.

The Government has therefore modernised its existing bilateral tax treaty with Germany to reflect changes arising from international developments.

Australians are increasingly concerned about the actions of multinational companies and high wealth individuals who avoid paying their fair share of tax. This new Agreement replaces the old Agreement which was signed in 1972, bringing bilateral tax arrangements into the twenty-first century.

Importantly, the new Agreement is Australia’s first tax treaty that has incorporated the integrity provisions of the G20/OECD Base Erosion and Profit Shifting project, known as BEPS. These provisions are designed to minimise tax avoidance opportunities and ensure that multinational corporations pay the right amount of tax.

This new Agreement includes the BEPS minimum standards for protecting against treaty shopping, to counter the channelling of investments through conduit companies to exploit treaty protections with a view to avoiding Australian tax.

This is an important landmark in the fight against multinational tax avoidance and strengthens the Government’s already tough tax anti-avoidance laws. In relation to fiscal evasion, the new Agreement will:

• strengthen the integrity of Australia’s tax system and help detect and prevent evasion by authorising the revenue authorities of Australia and Germany to exchange taxpayer information on all taxes imposed in either country.
• enable mutual assistance in the collection of outstanding tax debts.

The new Agreement will also improve tax certainty for business by introducing new anti-discrimination and arbitration rules, as well as a range of rules to prevent potential double taxation.

From a trade perspective, the new Agreement will create new opportunities for Australian businesses by reducing withholding tax rates, helping to create a more favourable bilateral investment environment and making it cheaper for Australian business to access German capital and technology.

The new Agreement will also expand treaty benefits for income received by Australian managed investment trusts and certain German collective investment vehicles, and establish source country taxation of pensions in limited circumstances.

The new Agreement will enter into force following the enactment of this Bill.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (12:46): I rise to speak in support of the International Tax Agreements Amendments Bill 2016. This bill seeks to give force of law to the tax treaty signed by the Australian and German governments on 12 November 2015 by amending the International Tax Agreements Act 1953. The intention of the treaty is to reduce barriers to bilateral trade and investment between Australia and Germany, particularly in relation to taxation issues. It
seeks to achieve this by reducing source-country taxes on cross-border payments of dividends, interest and royalties. It also seeks to facilitate the exchange of information and mutual assistance in the collection of outstanding debts. Doing so will encourage a further expansion of trade and capital exchange between our two countries.

As noted in Treasury's evidence to the Joint Standing Committee on Treaties, our existing tax treaty with Germany, signed in 1972 and in operation since 1975, is Australia's oldest unamended tax treaty. By all measures we now live in markedly different times. This is particularly true with regard to how Australia engages economically with the rest of the world. But it is also true that this engagement involves increasingly complex and sophisticated arrangements in international trade and taxation.

For contrast, when the original treaty with Germany was signed in 1972, Australia's population had only just nudged over 13 million people and our estimated GDP was $51 billion. State-owned banks proliferated, our exchange rate and wages were set centrally and high tariffs insulated our domestic market, in an economy where agriculture and industry predominated. But in 1972 we were also seeing the foundations of a radically different Australia being laid. The recently elected Whitlam government was sweeping away the last vestiges of the White Australia policy, and, in a move that would have far-reaching consequences for our economic future, our government formally recognised the People's Republic of China.

Fast-forward to 2016, and Australia's population has close to doubled, with more than 24 million people. Our economy, now dominant by services, has grown to $1.6 trillion, and the focus of our trade has shifted to the Asia-Pacific region. If one fact typifies the radically transformed nature of our economic relationship with the world since that time, it is that, since starting with virtually no two-way trade in 1972, China has grown to become our largest trading partner by a clear margin, with more than $140 billion in two-way trade in 2014. Acknowledging that we now live in a very different world, it is important that the Commonwealth is prepared to modernise our tax and trade relations with the rest of the world. This bill would give effect to that, updating and modernising the arrangements between Australia and Germany and bringing our bilateral tax arrangements into the 21st century.

Germany is an important trade and investment partner for Australia. Indeed, it is one of our top 10 trading partners, with just shy of $17 billion in two-way trade in 2014, according to figures from the Department of Foreign Affairs and Trade. Germany is also a very important destination for Australian investment. It may surprise some in the chamber to learn that Germany is actually the fifth-largest destination for Australian investment abroad, with outbound Australian investment in Germany valued at $65 billion in 2014. A range of our largest Australian companies have a significant footprint in Germany. Sonic Healthcare and CSL Behring, both in the advanced medical sector, employ about 7,000 people in Germany. Australian superannuation funds and investment firms similarly have a broad range of interests in Germany, from electricity transmission and wind farms to internet start-ups.

The new provisions in the treaty broadly follow the OECD's Model Tax Convention on Income and on Capital and, in doing so, broadly reflect current Australian and international tax policy settings. Importantly, in evidence to the Joint Standing Committee on Treaties, officials from Treasury stated that there was nothing within the agreement that prevents either Australia or Germany from enacting domestic laws related to tax evasion or avoidance. Labor
welcomes that the agreement also establishes a framework to address international tax evasion by allowing the exchange of relevant information and enabling mutual assistance in the collection of outstanding tax debts.

While the government is talking up the elements of this treaty that address multinational tax avoidance, it must be noted that the government stubbornly refuses to close tax loopholes and increase transparency in Australia. We support the modest measures contained in this bill, but we remain convinced of the need for additional action by the Australian government to crack down on multinational tax avoidance—and we certainly welcome the unprecedented support in the House yesterday for our second reading amendment calling on the government to explain why it has failed to close tax loopholes and increase transparency in Australia.

Ultimately, Labor supports trade and investment between Australia and the rest of the world because, done fairly and sustainably, it helps generates economic growth, creates jobs, improves living standards and reduces poverty. We have a proud record as an advocate for an open and fair global trade and investment system, and for that reason Labor will be supporting this bill today.

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:52): I thank Senator Gallagher for her contribution and commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Reynolds) (12:52): 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 RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:52): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Industry Research and Development Amendment (Innovation and Science Australia) Bill 2016

First Reading

Bill received from the House of Representatives.

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:53): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.
Second Reading

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:53): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

A national conversation about innovation has been going on since this Government's launch of the National Innovation and Science Agenda back in December last year.

For us, innovation is a serious, long-term plan to secure Australia's future economic prosperity.

Australia is now in its 26th year of uninterrupted economic growth against a background of major structural reforms and global shocks, including the GFC.

Despite this growth, our productivity performance has been lagging for almost a decade. We need to be serious about our productivity because productivity growth is what will keep us competitive and maintain our standards of living into the future.

Innovation is a major driving force for productivity growth and it's why we're resolute in our commitment to it.

We're in an economy which, for decades, has been continually changing to be more specialised, more flexible, more service orientated, more in tune with the needs of customers.

The challenge the Government is focused on is making sure the policy environment is right for existing and new businesses to succeed as this continues, in a world where knowledge and innovation are becoming the main sources of competitive advantage.

In 2016–17, we are on track to provide $10.1 billion to support research and experimental development. This includes support through the R&D Tax Incentive, direct funding such as National Health and Medical Research Council and Australian Research Council grants, and support through the Higher Education system. This is an increase of 3.55 per cent on the Budget Estimate of $9.7 billion in 2015–16.

Over the last ten years we have seen a 52 per cent increase in Australian Government support for R&D—from over $6.6 billion to over $10.1 billion.

Our challenge is to turn this investment into real benefits for Australians.

Innovation matters to all Australians because it is about job creation. It is about new and improved opportunities to do business, and it underpins a healthy economy.

Innovation is about new or improved goods or services, new processes or new business models.

Innovation is not just about tech start-ups. And it is not about existing firms losing business and jobs to new firms. It is also about established businesses doing things better to stay competitive.

Innovation is happening on the factory floor, on our farms, at the supermarket checkout and in the office, in addition to the leading-edge research occurring in our science laboratories. It's all about turning ideas into a commercial opportunity—to create jobs and better the quality of our lives.

The word may have a renewed popularity around the world, but the idea resonates with our history.

From the stump jump plough and the Hills Hoist to the Cervical Cancer Vaccine, Australians have developed a reputation for identifying problems and applying insight, intellect and determination to solve them.
We can’t afford to be complacent, particularly as our competitors drive their own innovation agendas. We must be responsive and forward looking.

Australia needs to remain competitive globally. While the Australian economy has shown resilience, there are increasing risks to the economic outlook.

We have fallen in our ranking on the latest Global Innovation Index. Although this still leaves us in the ‘Innovation Leaders’ group we can and must do better.

Leading innovative countries like the UK and Sweden have established institutions like Innovate UK and VINNOVA that manage coherent, coordinated, national strategies for innovation. These institutions support high levels of public sector research translation for economic and social benefit. In many of these leading countries, the delivery of national innovation strategies is the responsibility of an independent agency, which operates at arm’s length from government.

This Bill creates a new Innovation and Science Australia board.

The new board will replace the current Innovation Australia board and redefine the activities of that board. It will continue to be chaired by Mr Bill Ferris, an active and persuasive advocate for innovation to successive Australian governments. The Bill also creates a new board position of Deputy Chair, which will be filled by Dr Alan Finkel during his term as Australia’s Chief Scientist.

Innovation and Science Australia will help us complete the first wave of the National Innovation and Science Agenda, pursue a second wave based on investment attraction and its 2030 Strategic Plan will guide our third wave.

Beyond that, it will work across the government—providing guidance around our $10.1 billion annual investment in Innovation, Science and Research—and will directly engage international, business and community sectors to improve the national innovation system’s overall performance.

It’s about bang for buck, about fostering an innovation ecosystem, and about linking our investment and our programmes together to create something more.

The composition of the membership of Innovation Australia will continue for Innovation and Science Australia. The members include some of the best minds in innovation and science in Australia today. The talent on this board represents innovators and entrepreneurs with proven records of success.

Innovation and Science Australia will continue the good work of Innovation Australia but will gain more strategic advisory responsibilities. Innovation and Science Australia has an ambitious work plan for the first 12 months of its operation and this legislation will help them to take it forward.

The work of Innovation and Science Australia will involve undertaking periodic audits of Australia’s science, research and innovation system to assess and make recommendations on alignment with Government priorities. The board will identify gaps and better understand the activity in the science, research and innovation system and the impact of whole of Government investment.

A further key activity for the new board will be to develop, for the Government’s consideration, a long-term, 2030 Strategic Plan, to be informed by the audit I have just mentioned. This plan will identify science, research and innovation investment priorities and specific areas for policy and programme reform.

Innovation and Science Australia will review the adequacy, capacity and condition of Australia’s innovation system on a regular basis. These reviews will inform any updates to the Strategic Plan and improve government policies and programmes.

As part of promoting public discussion, Innovation and Science Australia will be able to commission and publish research, including publishing the board’s advice to government when the board wishes to do so.

Innovation and Science Australia will also promote investment in industry, innovation, science and research in Australia including showcasing successful innovators, entrepreneurs and researchers. To
make this happen the board, through its membership, will establish strong and extensive business and community links.

Similar to other Commonwealth statutory bodies, the board will develop a Statement of Intent in response to the Government's Statement of Expectations. It is government practice for Ministers to issue a Statement of Expectations to a statutory body to provide greater clarity about the government policies and priorities it is expected to observe in conducting its operations. The Statement of Expectations and the Statement of Intent recognise the independence of Innovation and Science Australia's statutory functions.

This Bill will mean that Innovation and Science Australia will have the flexibility, capability and capacity to provide strategic advice on all industry, innovation, science and research matters. It will improve the outcomes of the Australian Government's substantial investment in science, research and innovation. All Australians stand to benefit if we can deliver on our potential.

Aside from establishing Innovation and Science Australia, the Bill also provides a transparent and accountable mechanism for implementing Commonwealth spending decisions on industry, innovation, science and research activities through legislative instruments. This mechanism has been structured to support collaboration across the whole of government on these activities, which is a key concern being addressed by the National Innovation and Science Agenda.

The ability for the Commonwealth to prescribe programs and identify operational elements of spending activities in subordinate legislation in this way provides a level of flexibility for the government to be agile and meet changing demands whilst ensuring its activities and programs are effective, robust, sustainable, and subject to parliamentary oversight.

To conclude, the story of Australia has been a story of innovation. We've shown we're a nation that can harness its ingenuity to create opportunity and prosperity. Our future prosperity depends on our ability to innovate. The Government will continue to play its part, getting the settings right to encourage existing firms to grow and new firms to start, creating new opportunities and driving jobs and prosperity. We can boost Australia's innovation capacity by better coordinating our investment in innovation, science and research activities.

This Bill lets us bring Australia's leading minds to bear—from business, commercialisation and research—to make our investments perform better for all Australians. It will point the way for turning today's investments to tomorrow's innovations, to the jobs of the future.

I commend the Bill to the Chamber.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (12:53): Labor support this bill, which essentially implements policies we announced before the election. The bill facilitates the transition of the Innovation Australia board to a new body, Innovation and Science Australia, and provides legislative authority for Commonwealth spending on science, research and innovation programs.

Innovation and Science Australia mirrors the agency announced in our policy, Innovate Australia, and is intended to provide independent advice to the government on innovation policy. We are pleased that the Turnbull government has taken this approach, and we look forward to working with the new agency in the future.

As senators would be aware, 'innovation' became a buzzword after Mr Turnbull replaced Mr Abbott as Prime Minister in September last year. The word had been all but banned under Mr Abbott, but under Mr Turnbull its use suddenly seemed to become almost compulsory. It is a good thing that the government now accepts that a modern economy must be an innovative economy. That said, however, there is much more to fostering a genuine culture of
innovation than talking about start-ups, disruption and gee-whiz technology, as the newly installed Mr Turnbull liked to do. The government has yet to show that it can get past its obsession with gee-whizzery.

A comprehensive innovation policy should aim at transforming the economy, industry by industry and firm by firm. That is the approach needed to make Australia more globally competitive and to create the high-skill, high-wage jobs of the future. It is an approach that proceeds incrementally, but an incremental approach is not a piecemeal approach. Yet, piecemeal tinkering is all the government has offered since it announced its National Innovation and Science Agenda in December last year.

The Abbott government ripped more than $3 billion from science, research and innovation programs. NISA has restored only $1 billion of that investment in the nation's future. This is innovation-lite, and it is not enough to create the culture of innovation that Australia needs in the wake of the mining boom. Labor is firmly committed to building that culture. It is why during the election campaign we announced investment of more than a billion dollars in science and research, on top of our commitments in schools, TAFE and universities. For Labor, fostering innovation is bound up with our commitment to social democracy. It is about building an Australia that not only creates wealth but where all have the opportunity to share in that wealth and realise their full human potential. We will support any measure that contributes to achieving this goal. In that spirit, we support this bill.

Senator Ryan (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:56): I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Reynolds) (12:56): 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 Ryan (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:56): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Statute Law Revision (Spring 2016) Bill 2016

Second Reading

Senator Gallagher (Australian Capital Territory—Manager of Opposition Business in the Senate) (12:57): This statute law revision bill is known as the Statute Law Revision (Spring 2016) Bill. The parliament has introduced these sorts of bills regularly since 1934. They deal with uncontroversial, technical matters which will not in substance change the
operation of the law. They all correct drafting errors, remove spent and obsolete provisions, and update cross-references.

This bill is called the Statute Law Revision (Spring 2016) Bill even though an identical bill to this was introduced into the last parliament on 17 March—during autumn. The only difference between this bill and the one introduced in autumn is the addition of one extra amendment in schedule 2. It corrects an amendment to the Customs Act by the Indirect Tax Laws Amendment (Assessment) Act 2012 which, due to a numbering error, referred to a non-existent provision of the Customs Act.

Now, the bill has reappeared as part of the Prime Minister's '25 point battle plan', supposedly to be expedited through the parliament. We were told that they needed to be rushed through as a matter of priority. Labor is happy to support this bill, which makes a number of technical changes to the law. Among other things, this bill: corrects drafting, clerical and typographical errors, including correcting the numbering of the Excise Act or replacing the words 'a item' with 'an item' in the Customs Act; amends the Public Lending Right Act, replacing references to the Attorney-General with the more flexible 'Minister administering the Copyright Act'; and repeals spent and obsolete provisions. None of this is groundbreaking; it is just part of the government's routine work.

Far from being about 'deregulation', this bill does nothing that has not been done regularly by governments since 1934. This bill does not reduce the regulatory burden on Australian business, nor does it remove or streamline any operative regulation. The Prime Minister should be embarrassed that his stocks have sunk so low that his government is so adrift, that he has to truss up routine legislative work like this as some kind of policy masterstroke. Nonetheless, this is a worthy bill. I thank the Office of Parliamentary Counsel for their hard work in maintaining the Commonwealth statute book and for their work on this bill, as with all other statute law reform bills. I commend the bill to the Senate.

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (12:59): I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Reynolds) (13:00): 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 RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (13:00): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
National Cancer Screening Register Bill 2016
National Cancer Screening Register (Consequential and Transitional Provisions) Bill 2016
Second Reading

Consideration resumed of the motion:
That these bills be now read a second time.

to which the following amendment was moved:
At the end of the motion, add “but the Senate condemns the Government for outsourcing Australians’ most sensitive health information to Telstra before the Parliament even saw the necessary legislation”.

Senator GRIFF (South Australia) (13:00): It is important to point out that the amendment does not require the minister to direct the Auditor-General, and the advice I have is that it is quite appropriate for the parliament to refer matters to the Auditor-General for inquiry, if it sees fit.

I had indicated I would be moving a further amendment, which would require an independent review of the operation of the bill two years after its implementation. The minister has provided my office with a letter confirming she would instruct her department to ensure that an independent review into the operation of the act is undertaken within two years after the commencement of the operation of the register. The minister has also indicated that the Department for Health has engaged Clayton Utz to conduct an independent privacy impact assessment to inform and guide the implementation of the register. Clayton Utz is currently finalising that PIA and proposes to recommend a periodic review of the operation of the register to ensure it is operating as intended and is appropriately managing and protecting privacy. The minister has indicated that she indicates to accept this proposed recommendation. I am satisfied that these undertakings will serve as an opportunity to assess the effectiveness of the national register, something which appears to have been somewhat lost in this debate. I indicate also that the Nick Xenophon Team is supportive of the changes that bring this bill in line with the recommendations of the privacy and information commissioner.

This brings me now to a related privacy issue that is particularly important to my colleagues and me and one that I will be addressing by way of a second reading amendment. The government previously agreed to introduce a mandatory data breach notification scheme and to consult on draft legislation in response to the 2015 inquiry of the Parliamentary Joint Committee on Intelligence and Security into the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014.

For those of you who are not familiar with this issue, the rationale of data breach notification is to allow individuals whose personal information has been compromised to take remedial steps to avoid potentially adverse consequences such as financial loss or identity theft. This is an area that my colleague Senator Xenophon has done a great deal of work on, and we are extremely keen for the government to reintroduce a bill that is consistent with the exposure draft during this session of parliament. Such legislation would strengthen the privacy laws that apply to Telstra Health and indeed any other corporation in possession of individuals' personal information. As such, I indicate I will be moving a second reading amendment requesting the exposure draft be introduced before the end of this year.
Lastly, I note that there has been a lot of concern about the penalties that will apply to Telstra Health for the unauthorised use or disclosure of personal information and the ownership of data stored on the register. In relation to the first of these issues, the bill currently proposes penalties of 120 penalty units or $21,600 for such breaches. As I understand it, the opposition intends to increase this penalty to 600 penalty units or $108,000. It is important to note two points in relation to this.

Firstly, pursuant to the Crimes Act 1914, the court can impose a penalty of up to five-times these amounts for corporations. Secondly, the privacy and information commissioner also has the ability to impose penalties way in excess of those just outlined and up to $1.7 million. I note that, according to the government, the penalties outlined in the bill are from a drafting perspective consistent with other relevant legislation. I am advised that, perhaps somewhat ironically, the only exception to this general rule appears to apply to the My Health Records Act 2012. The minister's office has advised that the penalty regime in that legislation is significantly out of kilter with normal drafting practices. I think it would be pertinent for the government to provide some further clarification around this.

In relation to the second issue, I note the government has raised concern about the possibility of unintended consequences over the opposition's proposed amendment. Again, I think it would be useful if, for the purposes of this debate, the minister could place on the record further details around those unintended consequences in order to assist in our deliberations. Noting that there is already a second reading amendment by Senator Polley, I foreshadow that I will be moving the second reading amendment circulated in my name.

Senator XENOPHON (South Australia) (13:05): I want to endorse the remarks of my colleague Senator Griff that this is an important piece of legislation. We also need to look at the whole issue about the need for screening and to have a register. I think that we have learned from the Australian Orthopaedic Association National Joint Replacement Registry that has been headed by Professor Stephen Graves, who has done outstanding work on this for many years, that having registers and having that level of transparency are absolutely critical in our health system. It drives better outcomes.

We can learn from the Scandinavians, in particular, Sweden, where, as I understand it, they have a national cataract register that looks at the outcomes of that eye surgery and other registers that drive greater transparency in relation to the health system, because it is through those registers that you do get better outcomes—to see who is performing well, who could be performing better and what the outcome are along longitudinal bases—and that is absolutely critical. But when it comes to cancer screening, it is about reducing the terrible death toll of cancer in this country, and about getting that early intervention; the early diagnosis and treatment that can be a matter of life or death or, at the very least, prolonging someone's life and their quality of life quite significantly.

As my colleague Senator Griff outlined in his contribution, I foreshadow that I will be moving a second reading amendment aimed at addressing at least some of the concerns around the tender process. The tender process concerns me deeply. I believe that it could have been handled much better. That is why I will be moving a second reading amendment that the Senate requests the Auditor-General to conduct, within the next 12 months, a performance audit under the Auditor-General Act 1997 to assess: (a) whether the Department of Health appropriately managed the procurement of services relating to the register; and (b) whether
the processes adopted for the procurement of services met the requirements of the Commonwealth Procurement Rules including consideration and achievement of value for money. These are important issues and I think that that it was somewhat arrogant and presumptuous—and maybe precipitous as well—on the part of the government to conclude the tender process without having had the appropriate scrutiny of the parliament. I think it showed a case of the executive arm of government not being subject to the appropriate scrutiny of the parliament. I wholeheartedly endorse the remarks of Senator Griff in relation to this.

The second reading amendment will not prevent the passage or implementation of the bill but it will request the Auditor-General to undertake a review. Of course, the Auditor-General is an independent statutory officer, and the Auditor-General can take it or leave it, in terms of whether the audit should take place or not. But I would like to think that if the Senate passes this second reading amendment, it sends a clear signal expressing the concerns of this chamber that the tender process ought to be looked at very closely. It could be that the Auditor-General will be looking at this in any event, but I think it is important that we express our alarm and our concerns in relation to this whole process. I hope there will be some opportunity in the committee stage to look at those issues.

As Senator Griff said, establishing a national register should go to reducing duplication and unnecessary red tape across jurisdictions. That is very important. I had some concerns with this bill and I agreed to a short inquiry so that the Senate could review the concerns raised by the opposition. The Scrutiny of Bills Committee noted in its seventh report that not allowing individuals to elect to have their personal information removed from the proposed national cancer screening register represented ‘a significant impact on the privacy interests of those individuals,’ and welcomed amendments made that addressed other aspects of the scrutiny committee’s concerns. I also welcome these amendments, and I thank the minister for working constructively with my office and with my colleagues in order to facilitate the passage of this legislation.

I will raise something in the course of the committee stages of this bill that relates to the issue of whether there should be an opportunity for general practitioners to be more heavily involved in this process, because it seems to be quite binary at the moment. I also endorse the remarks of my colleague Senator Griff that we need a commitment from the government that the exposure draft of the bill relating to the mandatory notification of data privacy breaches ought to be dealt with by this parliament, or at the very least the bill ought to be introduced, this year, because these are important issues. This is something that affects the lives of millions of Australians. As a general principle, we need to have those safeguards and guarantees when it comes to issues of privacy, including mandatory notification. Having said that, I look forward to the committee stages of this bill. I believe that this is a very useful step forward. But we must also examine not only the tender process but also the efficacy of this piece of legislation.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:11): The National Cancer Screening Register Bill 2016 creates a new legislative framework for the establishment and ongoing management of cancer screening registers. This bill will establish the national cancer screening register, which will
support the changes to the National Cervical Screening Program to be rolled out from 1 May 2017. The national register will also support the expansion of the National Bowel Cancer Screening Program, which is critical in the fight against bowel cancer. A number of amendments to other legislation will be required once the National Cancer Screening Register Bill 2016 receives royal assent, to enable certain information to be provided to the register. These are described in the National Cancer Screening Register (Consequential and Transitional Provisions) Bill 2016.

Not only will the national register provide an efficient approach for these two key national screening programs, it will futureproof Australia's approach to population-based screening, as it will have the ability to be expanded to other cancer screening programs in the future. The bill provides a principles-based legislative framework to support the government's policy objectives of supporting Australia's health system to meet current and future challenges. The bill will lay the foundation for future work to move towards a national integrated system that captures and reports on individuals' screening test results and on results of relevant follow-up procedures, up to and including the diagnosis with cancer or a precursor to cancer.

I thank members for their contributions to the debate on this bill. I note that the opposition and the Nick Xenophon Team have each moved a second reading amendment—and I am referring to the one that you moved as a second reading amendment, Senator Xenophon. The government will not be supporting either of these amendments.

This bill will serve to benefit the health of Australians through more efficient cervical and bowel screening pathways, made possible by the establishment of a national register. It will facilitate the monitoring of the effectiveness, quality and safety of screening and diagnoses associated with bowel cancer and cervical cancer. The register will also assist general practitioners and healthcare providers in their clinical decision-making, contributing to cancer detection, treatment and prevention in Australia.

The PRESIDENT: The question is that the amendment moved by Senator Watt on behalf of Senator Polley be agreed to.

The Senate divided. [13:18]

(The President—Senator Parry)

Ayes ................. 34
Noes ................. 27
Majority ............ 7

AYES

Bilyk, CL
Carr, KJ
Collins, JMA
Di Natale, R
Farrell, D
Gallagher, KR
Hanson-Young, SC
Kakoschke-Moore, S
Lambie, J
Ludlum, S
McAllister, J (teller)
Moore, CM
Polley, H

Cameron, DN
Chisholm, A
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Hinch, D
Ketter, CR
Lines, S
Marshall, GM
McKim, NJ
O'Neill, DM
Pratt, LC
AYES

Rhiannon, L
Siewert, R
Urquhart, AE
Whish-Wilson, PS
Rice, J
Sterle, G
Watt, M
Xenophon, N

NOES

Abetz, E
Back, CJ
Birmingham, SJ
Burston, B
Bushby, DC
Canavan, MJ
Cash, MC
Culleton, RN
Duniam, J
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Hume, J
Macdonald, ID
McGrath, J
McKenzie, B
Nash, F
O’Sullivan, B
Parry, S
Paterson, J
Payne, MA
Reynolds, L
Ruston, A
Ryan, SM
Scullion, NG
Sinodinos, A

Question agreed to.

Senator GRIFF (South Australia) (13:20): I move:
At the end of the motion, add "but, to enable individuals whose personal information has been compromised in a data breach to take remedial steps to avoid potential adverse consequences, the Senate calls on the Government to introduce by the end of the 2016 sittings a bill consistent with the exposure draft of the Privacy Amendment (Notification of Serious Data Breaches) Bill 2015".

Question agreed to.

Senator XENOPHON (South Australia) (13:21): I move:
At the end of the motion, add "and the Senate requests the Auditor General to conduct, within the next 12 months, a performance audit under the Auditor-General Act 1997 to assess:
(a) whether the Department of Health appropriately managed the procurement of services relating to the Register; and
(b) whether the processes adopted for the procurement of services met the requirements of the Commonwealth Procurement Rules including consideration and achievement of value for money".

Question agreed to.

Original question, as amended, agreed to.

Bills read a second time.

In Committee

Bills—by leave—taken together and as a whole.

Senator POLLEY (Tasmania) (13:22): by leave—In respect of the National Cancer Screening Register Bill 2016, I move amendments (1), (2) and (3) on sheet 7945 together:
(1) Clause 26, page 26 (line 16), omit "The Minister", substitute "(1) The Minister".
(2) Clause 26, page 26 (lines 16 and 17), omit "a person", substitute "a permitted entity".

(3) Clause 26, page 26 (after line 20), at the end of the clause, add:

(3) In this section:

permitted entity means:

(a) a Department of the Commonwealth, a State or a Territory; or
(b) a body (whether incorporated or unincorporated) established for a public purpose by a law of the Commonwealth, a State or a Territory; or
(c) a person in the service or employment of a Department mentioned in paragraph (a) or a body mentioned in paragraph (b); or
(d) a person who holds or performs the duties of an office or position established by or under a law of the Commonwealth, a State or a Territory; or
(e) an entity (whether incorporated or unincorporated) established for a charitable purpose.

(4) This section has no effect to the extent (if any) to which its operation would result in the acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) otherwise than on just terms (within the meaning of that paragraph).

These are critical amendments being proposed by Labor. The amendments will go to the heart of the government's action to hand this sensitive information to a for-profit operator.

As I have outlined, there are clearly concerns with the shambolic way the government has approached this important legislation—in particular, their rush to sign the contract with Telstra before the legislation was even seen by the parliament. This is unprecedented. The existing cancer-screening registers are managed by governments and not-for-profit organisations with expertise in managing the registers. For example, the Victorian psychology service operates Victorian and South Australian registers for the National Cervical Screening Program, and yet the government signed a $220 million contract with Telstra only four days before the election was called.

Let's be clear: Telstra is a for-profit company, whereas the intention of the register is to save lives. Telstra has never operated a register like this. In fact, the Senate inquiry heard that a for-profit corporation has never managed a cancer-screening register anywhere in the world.

As I have mentioned, the register will hold extremely sensitive information about our health: human papillomavirus vaccination status, screening test results and cancer diagnoses. Certainly, this is not information that most Australians would be comfortable disclosing to a telecommunications provider. There is a clear question for this parliament: do we think that outsourcing this private and sensitive health information to a for-profit company is a good step for the future of our health system?

As the Royal College of General Practitioners, which represents 33,000 GPs, said at the inquiry into the legislation:

RACGP would be far more comfortable with it being operated by a government, tertiary institution or a not-for-profit entity that has little interest in how the data in the registry might otherwise be used for pecuniary reasons.

So let's be clear: there is no question about the value of the register. Labor strongly supports the register and the improvements to the bowel and cervical cancer screening programs it will enable. But as we have heard time and time again during the inquiry there was a question about the government's decision to outsource operations to Telstra.
The government knows it is a substantial change. This is why they rushed into signing a contract but could not bring themselves to mention it in the parliamentary debate. They rushed to sign the contract before caretaker kicked in and before the legislation had been introduced to parliament. The repercussions are clear: it has been a bungle.

These amendments would restrict the operation of a register to a government agency or to a not-for-profit organisation. Our amendments would allow the register to be operated by one of the organisations that actually have experience and expertise in this area, like the Commonwealth Department of Human Services or the Victorian psychology service. I commend Labor's amendments to the chamber.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:26): I can indicate to the chamber that the government does not support the amendments moved by the opposition. Successive governments have successfully partnered with the private sector to deliver many programs and services, and continue to do so. Implementing these amendments would be an extraordinary limitation on any government's ability to continue with these partnerships, and would certainly send a concerning message to the private sector.

The proposed amendments would negatively impact on the government's ability to deliver the register by 20 March 2017 for the National Bowel Cancer Screening program and by 1 May 2017 for the renewed National Cervical Screening Program. Significant delays in the implementation of the register will have significant consequences for the renewed National Cervical Screening Program as well as for the introduction of MBS items for the new HPV test, which has been recommended by the Medical Services Advisory Committee and supported by jurisdictions as a more effective screening test for protection against cervical cancer in women.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:27): I am just interested in seeking some clarification about the timing of the contract with Telstra—in particular, when that was signed and why, indeed, that was signed prior to any legislation being passed by the Senate?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:28): Thank you, Senator. While I am just waiting for the actual date for you, my understanding is that it was very much a timing issue. Given the very real length of time that it takes to actually put these arrangements in place and with the dates we were trying for to attain delivery of this, it was a timing arrangement to have that in place. The date of the contract I will provide to you very shortly—

Senator Polley: It was 4 May, actually, Minister.

Senator NASH: It was 4 May 2016. Thank you very much for your assistance, Senator!

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:28): I am specifically interested in why the contract was signed in the absence of any specific legislation that would allow this contract to actually operate. I understand the timing, but it is a massive risk—it is a leap of faith to come in here and expect the Senate to pass legislation when what is happening is that we are entering into uncharted territory. We are handing over
senior health information on Australian men and women. We are providing that information to a for-profit company, which is not something that we have ever done before—particularly within the cancer registry space. It is a big decision to do that.

Traditionally, these registers have been managed by government, and have been managed by specific for-purpose NGOs created specifically to manage this information. To hand it over to a for-profit, large telecommunications company is a big step. It was undertaken without any guarantee that the legislation would be approved by the Senate. So on what basis was the contract signed and why was it done before the passage of any legislation?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:30): I reiterate what I was saying earlier. I think most people who have been following this are well aware of the timing and the hard marker dates that we are trying to get to in terms of delivering this. Without an operating register for the renewed NCSP there is no safety net for women participating in cervical screening, which risks their health and safety. There are a number of factors that have come into play where I think it is common sense to take into account the timing, the end marker and the period of time it will take to put those arrangements in place. So I appreciate your concern, Senator, but given that very timely issue, and in terms of those hard marker dates, it was simply appropriate to begin the process.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:31): But existing state registers would have continued to operate, so that information would have been collected. I agree with the intent of this legislation. I think it is important that we try and consolidate this information into a single national register. We certainly agree with the intent here. But I just want some clarification. The existing state registers would have continued. I am not sure about the timing imperative.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:31): My understanding is that the states are not able to collect all of the information required, that only some of that information can be done by the states.

Senator XENOPHON (South Australia) (13:31): I can indicate that I and my colleagues Senators Griff and Kakoschke-Moore will not be supporting this amendment. We understand the sentiment and the intent behind it. I believe the opposition and the Australian Greens have every reason to be concerned about the whole tender process being dealt with before the legislation was considered. That is something I hope the Auditor-General will be looking at in due course. Of course, it is for the Auditor-General to consider whether his office goes down that path. But the deal has been done. There is an opportunity for greater scrutiny of that through the ordinary courses of the parliament. To rip up this deal now would, I believe, trigger the just compensation provisions in the Constitution, which could mean that the Commonwealth would end up paying twice. So in economic terms I do not believe this is a practical amendment, although I do understand the very serious concerns as to why this amendment has been moved.

Senator POLLEY (Tasmania) (13:32): I would like to ask the minister why, when this was already in the 2015 budget, it took until 5 May to introduce the legislation, which is now causing the imperative that we deal with it so quickly?
Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:33): My understanding is that a privacy impact statement had to be undertaken to assess the state and territory legislation.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:33): Referring specifically to the proposed amendments by the Labor Party, I am interested in what they seek to do—at least, the issue around penalty units and also the amendment around data breaches. They try and bring this legislation in line with My Health Record. That was one of the recommendations from the Information Commissioner at the inquiry that was held. Given that that was a recommendation from the Information Commissioner, I am interested in understanding the basis for opposing the legislation around increased penalties and data breaches.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:34): In relation to the higher penalty for breaches of the privacy provisions, firstly it is considered unnecessary. Under the Privacy Act, there is capacity to penalise up to $1.8 million. That is my understanding. I think it has to be taken into account as well that while obviously Labor is targeting this at Telstra Health we may well see family GP practices—and I am sure you would understand this, senator—also subject to the proposed increase in penalty should they make a breach. I think we have got to take into account also that Telstra are going to be very well aware of the reputational aspect of anything that might cause them to be considered as having done the wrong thing. I think we will find they are extremely focused on that, and we think that is appropriate.

In terms of data breaching—and I assume you are talking about the mandatory notification for data breaching moved by the Labor Party—certainly the bill, as amended by the government yesterday, already imposes a legal obligation on a contracted service provider. The contracted service provider and the secretary are to notify the Information Commissioner when they become aware of a data breach, or a possible data breach, in the handling of personal information on the register. The government amendment also includes a requirement for certain actions to be taken in response to the data breach, including containing and evaluating the risks associated with the breach and prevention of future breaches. Other steps include the Department of Health working with the Information Commissioner about notifying affected individuals. Any data breaches will be handled using established protocols for personal information breaches. As you referred to before, the amendments are in line with the provisions in the My Health Records Act 2012. It ensures a very systematic and measured response. At the same time I think we need to note that any mandatory requirement may well not give us the outcome we are looking for.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:36): In regard to the haste with which we are proceeding with this legislation, what are the financial implications for the contract with Telstra if this legislation were not to pass during this sitting period?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:37): My advice is that there are delay penalties, but the
bigger impact—and I think everybody would be well aware of this—is actually not getting it up and running at the date that is targeted.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:37): Could you provide me with some advice about the quantum of those delay penalties?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:37): I will have to take that on notice for you, Senator, but I will endeavour to come back to you very quickly with it.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (13:37): I have just one further question about the recommendations made by the Information Commissioner. I note that many of those have been adopted by the government and I think they are sensible changes. I am interested as to why the government initially was of a persuasion not to have an inquiry into the legislation, not to take that evidence, because without those changes the legislation that was proposed to the Senate would have been inconsistent with My Health Record and many of the changes that the Information Commissioner has suggested.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:38): My understanding is that it was simply a matter of time.

The TEMPORARY CHAIR: The question is that amendments (1) to (3) on sheet 7945 be agreed to.

The committee divided. [13:42]

(The Temporary Chair—Senator Ketter)

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

AYES

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

NOES

Abetz, E  Back, CJ
Birmingham, SJ  Bushby, DC
NOES

Canavan, MJ  
Cash, MC  
Duniam, J  
Fawcett, DJ  
Fierravanti-Wells, C  
Fifield, MP  
Griff, S  
Hinch, D  
Humey, J  
Kakoschke-Moore, S  
Lambie, J  
Leyonhjelm, DE  
Macdonald, ID  
McGrath, J  
McKenzie, B  
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O'Sullivan, B  
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Paterson, J  
Payne, MA  
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Roberts, M  
Ruston, A  
Ryan, SM  
Scullion, NG  
Sinodinos, A  
Smith, D  
Williams, JR (teller)  
Xenophon, N  

PAIRS

Brown, CL  
Seselja, Z  
McCarthy, M  
Cormann, M  
Singh, LM  
Bernardi, C  
Waters, LJ  
Day, RJ  
Wong, P  
Brandis, GH  

Question negatived.

Senator POLLEY (Tasmania) (13:45): by leave—In respect of the National Cancer Screening Register Bill 2016, I move amendments (1) through to (8) on sheet 7946 together:

1. Clause 4, page 3 (lines 21 and 22), omit the definition of contracted service provider.
2. Clause 4, page 6 (line 10), definition of protected information, after “personal information”, insert “, key information”.
3. Clause 18, page 19 (line 13), omit “120 penalty units”, substitute “600 penalty units”.
4. Clause 22A, page 20 (line 24) to page 23 (line 31), omit the clause, substitute:

22A Data breaches

(a) the entity is:

(i) the Commonwealth, the Minister or the Commonwealth Chief Medical Officer, performing functions under this Act; or

(ii) engaged by the Minister, on behalf of the Commonwealth, to perform services for or on behalf of the Commonwealth in connection with functions of the Commonwealth, the Minister or the Commonwealth Chief Medical Officer under this Act; or

(iii) any other person performing work relating to the purposes of the register; and

(b) the entity becomes aware that:

(i) a person has, or may have, contravened this Act in a manner involving an unauthorised collection, recording, disclosure or other use of information about an individual; or

(ii) an event has, or may have, occurred (whether or not involving a contravention of this Act) that compromises, may compromise, has compromised or may have compromised, the security or integrity of the register; or

CHAMBER
(iii) circumstances have, or may have, arisen (whether or not involving a contravention of this Act) that compromise, may compromise, have compromised or may have compromised, the security or integrity of the register; and

(c) the contravention, event or circumstances directly involved, may have involved or may involve the entity.

Note: This section applies to an entity when the entity becomes aware of a matter referred to in paragraph (b) regardless of when that matter arose or occurred or if the matter is ongoing at the time the entity became aware of the matter.

**Notifying the Information Commissioner**

(2) The entity must, as soon as practicable after becoming aware of the contravention, event or circumstances, notify the Information Commissioner of the contravention, event or circumstances.

Civil penalty: 600 penalty units.

(3) If an entity has given notice under subsection (2) on becoming aware that a contravention, event or circumstances may have occurred or arisen then, despite subsection (2), the entity need not give notice again on becoming aware that the contravention, event or circumstances has occurred or arisen.

**Steps to be taken if contravention, event or circumstances may have occurred or arisen**

(4) The entity must, as soon as practicable after becoming aware that the contravention, event or circumstances may have occurred or arisen, do the following things:

(a) so far as is reasonably practicable contain the potential contravention, event or circumstances;

(b) evaluate any risks that, if the contravention, event or circumstances has occurred or arisen, may be related to or arise out of the contravention, event or circumstances;

(c) if there is a reasonable likelihood that the contravention, event or circumstance has occurred or arisen and the effects of the contravention, event or circumstances might be serious for at least one individual—notify all individuals who would be affected.

Civil penalty: 600 penalty units.

**Steps to be taken if contravention or event has occurred or the circumstances have arisen**

(5) The entity must, as soon as practicable after becoming aware that the contravention or event has occurred or the circumstances have arisen, do the following things:

(a) so far as is reasonably practicable, contain the contravention, event or circumstances and undertake a preliminary assessment of the causes;

(b) evaluate any risks that may be related to or arise out of the contravention, event or circumstances;

(c) notify all affected individuals;

(d) if a significant number of individuals are affected—notify the general public;

(e) take steps to prevent or mitigate the effects of further contraventions, events or circumstances described in paragraphs (1)(b).

Civil penalty: 600 penalty units.

(6) If an entity has given notice under paragraph (4)(c), then despite paragraph (5)(c), the entity need not give notice under paragraph (5)(c).

(5) Clause 22B, page 24 (lines 2 and 3), omit “section 18 or subsection 22A(1), (2), (4), (5) or (6)”, substitute “this Act in connection with personal information or key information about an individual included on the register”.

(6) Clause 26, page 26 (line 16), omit “The Minister”, substitute “(1) The Minister”.

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CHAMBER
(7) Clause 26, page 26, after subclause (1), insert:

(2) Ownership of information included in the register or otherwise obtained under, or in accordance with, this Act is retained by the Commonwealth despite any agreement under subsection (1).

(8) Clause 27, page 27 (lines 1 to 6), omit subclause (2), substitute:

(2) The Secretary may, in writing, delegate his or her functions or powers under paragraph 17(3)(g) (about disclosing information) to an SES employee, or an acting SES employee, in the Department.

These are essential amendments which go to the heart of protecting Australia's most sensitive health information. Let's remember the government did not want this legislation scrutinised. When Labor and the crossbenchers referred the legislation to a committee they said it was unnecessary, and the health minister went so far as to label it 'hysterical'.

This is an inquiry which has forced the government to make amendments to their own legislation after the Information Commissioner identified critical issues and potential loopholes. No wonder the government did not want parliament to examine the legislation closely; they had completely botched it. This is their reputation. After all, they had signed a contract with Telstra before passing or even introducing the legislation.

While Labor is pleased the government has finally come, kicking and screaming, to make some of these adjustments to their legislation there is more that needs to be done. Firstly, individuals should be notified when their most sensitive health data is breached. Under the government's draft legislation, if and when there are data breaches, Telstra only has to tell the Department of Health. This is the same department that had a breach of health information recently, which took weeks to be made public, with the health minister only standing up and mentioning it in a speech at a GP conference. While we understand the government will not accept Labor's amendments to ensure that the Privacy Commissioner is notified of breaches, it is not enough. Individuals deserve to be told if their most private health information is accessed inappropriately, so Labor's amendments will mandate disclosure of data breaches to affected individuals.

The government will argue that the Privacy Commissioner can notify individuals if he chooses but, again, not good enough. Individuals must be told. It simply beggars belief that the government does not consider this important enough to make the change. This is consistent with Labor's position across all portfolios. The government says it agrees, but is dragging its feet on mandatory disclosure legislation. Despite many promises, the government is yet to implement data breach notification laws that would make it mandatory to let Australians know when their personal information has been compromised.

Secondly, Labor has already proposed an amendment to increase the penalty for unauthorised use or disclosure of information. Under these bills the penalty for recording, using or disclosing information without authority is only $21,600. That is a drop in the ocean for an organisation like Telstra, which reported profits of almost $2.1 billion in the six months to 31 December 2015. Labor's amendments would increase the penalty for unauthorised use or disclosure of information from 120 penalty units, which is $21,600, to 600 penalty units, which is $108,000. Under the Crimes Act 1914 a court can impose a penalty up to five times this amount on a corporation. So if Telstra is the register operator it could be fined up to $540,000 for breaching the legislation. Again, the government will argue that the Privacy Commissioner can seek tougher penalties, but this should not be discretionary. If individuals
or organisations inappropriately use Australians' most sensitive health data, they should be punished severely and automatically.

Thirdly, Labor has proposed an amendment to make explicit that the Commonwealth will be custodians of data in the register. The explanatory memorandum states:

Although the bill does not address issues of ownership or custodianship of information, the Commonwealth will be custodian of data in the register.

There should be no question of explicitly outlining this in the bill as well, yet the government is refusing to include it. This raises several questions about why the government does not want to clearly state that the Commonwealth is the custodian of the data. This is an important consideration in relation to access and use of this data and, given the sensitive information at hand here, Labor's amendment is essential. These amendments are crucial. I ask that the Senate properly consider the repercussions if they are not agreed to.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:50): I can indicate to the chamber that the government does not support the amendments as put forward by the opposition.

Senator XENOPHON (South Australia) (13:51): I can indicate that I, along with my colleagues Senators Kakoschke-Moore and Griff, do not support these amendments. I would like confirmation, subject to the government confirming to me what they have confirmed previously, that it will be introducing mandatory reporting legislation next month based on the exposure draft. Also, could the government confirm that Telstra will be an entity covered under the government's proposed legislation? I ask the minister that as well, so that is on the record.

If this amendment is passed, subject to the assurances and to the commitments and undertakings from the minister, it will create a separate data breach application notification regime just with this register, which would be inconsistent with the proposed laws. It is much cleaner to improve the mandatory data breach notification laws so that all affected entities are covered at once.

The current regime will suffice until the new legislation. We need to ensure that the government's new legislation is scrutinised and passed this year. I need that confirmation because our opposition to the amendment is conditional upon those assurances.

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (13:52): I can confirm all of those for you.

Senator POLLEY (Tasmania) (13:52): I will put on the record that, once again, we are left with having to trust a government that has consistently bungled this process from day one.

Senator XENOPHON (South Australia) (13:52): The simple retort to that is that if the government duds us on this they are not going to get cooperation on pretty much anything else. I expect that the government will meet its commitments in respect of this. If they don't, there will be consequences from our point of view.

The TEMPORARY CHAIR (Senator Ketter): The question is that amendments (1) to (8) on sheet 7946 be agreed to.
The committee divided. [13:57]
(The Temporary Chair—Senator Ketter)

Ayes ...................... 29
Noes ...................... 35
Majority ............... 6

**AYES**

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**NOES**

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**PAIRS**

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Senator Smith did not vote, to compensate for the vacancy caused by the resignation of Senator Conroy.

Question negatived.

Bills agreed to.

Bills reported without amendments; report adopted.

Third Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:00): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

QUESTIONS WITHOUT NOTICE

Attorney-General

Senator O'NEILL (New South Wales) (14:01): My question is to the Attorney-General, Senator Brandis. Did the Attorney-General seek legal advice in relation to the Legal Services Amendment (Solicitor-General Opinions) Direction 2016 before tabling it in the Senate on 4 May 2016, or did he rely on his own opinion?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:01): Senator, as I have been saying ad nauseam, I actually consulted the Solicitor-General in relation to the matter on 30 November. I invited him to put his views in writing, which he did some 14 weeks later, and I had regard to those views.

The PRESIDENT: Senator O'Neill, supplementary question.

Senator O'NEILL (New South Wales) (14:01): I refer to the submission of Dr Gavan Griffith QC, who was the Solicitor-General for 14 years, in which he says that the direction was:

… ultra vires and of no effect as a lawful direction …

Is the Attorney-General confident that the former Solicitor-General, Dr Gavan Griffith QC, is wrong?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:02): I have read the remarks attributed to Dr Griffith, but the legal services direction was published—the current Solicitor-General having been consulted in relation to it and on the advice of my department.

The PRESIDENT: Senator O'Neill, final supplementary question.

Senator O'NEILL (New South Wales) (14:02): Given that such eminent and well-respected legal figures as Solicitor-General Gleeson SC and former Solicitor-General Gavan Griffith QC state the direction is legally invalid, how can senators possibly be asked to accept the Attorney-General's assertions to the contrary when he has a reputation for being 'slippery' with the facts.
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:03): I have nothing to add to my previous answer.

National Security

Senator DUNIAM (Tasmania) (14:03): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General update the Senate on the counterterrorism operation that occurred in Sydney yesterday?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:03): Thank you, Senator Duniam, for asking a serious question. This morning, the New South Wales Joint Counter Terrorism Team charged two juveniles with terror-related offences, being: acts done in preparation for, or planning, terrorist acts, under section 101.6 of the Commonwealth Criminal Code, an offence which attracts a penalty of life imprisonment; and membership of a terrorist organisation, under section 102.3 of the Criminal Code, an offence which attracts a maximum penalty of 10 years imprisonment.

The juveniles, both aged 16 years, were arrested yesterday, by the New South Wales police, in possession of two bayonet-type knives. This successful disruption is the result of the highly effective coordination of the New South Wales Joint Counter Terrorism Team, which includes the New South Wales police, the Australian Federal Police and ASIO. Australia's law enforcement and security agencies are among the best in the world, and, on behalf of the government, I commend those officers for disrupting, quickly and safely, what is alleged to have been plans for an imminent terrorist attack.

I can further advise there is no ongoing threat to the community in relation to this particular incident. Nevertheless, the national terrorism threat level remains at 'probable', as it has been since, under the old scheme, it was elevated to 'high' on 12 September 2014. That means that a terrorism event is assessed to be likely. We have experienced four terror-related attacks in Australia since the national terrorism threat level was raised in September 2014. This is now the 11th planned attack disrupted by our law enforcement and security agencies in that time.

The PRESIDENT: Senator Duniam, a supplementary question.

Senator DUNIAM (Tasmania) (14:05): I thank the Attorney for the answer. Can the Attorney-General provide further information about the current threat environment?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:05): Sadly, Senator Duniam, this disruption continues to highlight the disturbing trend of increasingly young Australians subscribing to violent terrorist ideologies, and it underscores the need for us to remain vigilant against the ongoing threat of radicalisation in our communities.

Since 12 September 2014 when, as I have said, the national threat level was raised, 51 people have been charged as a result of 21 counterterrorism operations around Australia. There remain around 110 Australians currently fighting or engaged with terrorist groups in Syria and Iraq and around 200 people in Australia being investigated for providing support to individuals or groups in the Syria-Iraq conflict, including through funding and facilitation or for seeking to travel to the conflict zone.

The PRESIDENT: Senator Duniam, a final supplementary question.
Senator DUNIAM (Tasmania) (14:06): What is the government doing to prevent such acts occurring and to keep Australia safe?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:06): Senator Duniam, as you know, the government is committed to doing everything it can to tackle the threat posed by terrorism and those who support it. Since August 2014, the government has invested an additional $1.3 billion to support Australia's efforts in combating terrorism and has engaged in a program of significant counterterrorism law reform designed to give our law enforcement and security agencies the tools they need to disrupt and combat terrorism.

The Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016 and the counterterrorism legislation amendment bill, both of which I introduced during this sitting of the parliament, continue the government's significant record on enacting a range of effective counterterrorism laws that will strike the right balance between the safety of our communities and the individual freedoms so integral to our society.

DISTINGUISHED VISITORS

The PRESIDENT (14:07): I indicate to honourable senators the presence in the gallery of the Deputy Speaker of the Parliament of the Republic of Fiji, the Hon. Ruveni Nadalo. On behalf of all senators, I wish you a warm welcome to Australia and particularly the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Attorney-General

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (14:08): My question is to the Attorney-General, Senator Brandis. I refer to the submissions of the former Solicitor-General Gavan Griffith QC to the Legal and Constitutional Affairs References Committee. Does the Attorney-General agree with Mr Griffith QC that an independent Solicitor-General protects against the risks of the provision's, in his words, 'dodgy advice'?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:08): I do not agree with everything Dr Griffith has to say and I do not agree with all of it. I am not alone in disagreeing with Dr Griffith, by the way, because another former law officer of the Crown has expressed a different view. He recently said:

… that the Solicitor-General's advice was given a high status within government, higher than advice from the Australian Government Solicitor or from the private bar. Nevertheless, he would, occasionally,
seek another legal opinion. He explained that he might seek another opinion on particularly important political issues:

Or two. Or three. Perhaps I might feel I needed two to outweigh the Solicitor-General's advice, and I would go and get very senior advice. And I've done that. And I would do it again.

Do you know which senior law officer recently expressed that opinion? It was Mr Mark Dreyfus. I do not agree with Dr Griffith, but neither, apparently, does Mr Mark Dreyfus in his contribution to Professor Gabrielle Appleby's book *The role of the Solicitor-General*. I would have thought that Mr Dreyfus's words, which—

**Senator Wong:** Mr President, I rise on a point of order.

**Government senators interjecting**—

**The PRESIDENT:** Order on my right! I need to hear the point of order.

**Senator Wong:** I know the Attorney is very obsessed with Mr Dreyfus. I know that. We all know that. But I would suggest—

**The PRESIDENT:** What is the point of order, Senator Wong?

**Senator Wong:** The point of order is on direct relevance. We did not actually ask about Mr Dreyfus. I know Senator Brandis thinks about him a lot. We asked about Mr Griffith QC and his views. I have not intervened for a minute, but as yet he has not actually got to the point.

**The PRESIDENT:** I believe the Attorney-General answered it up-front by saying he does not agree and that there are other people who disagree. So I think he did answer the question quite succinctly.

**Senator BRANDIS:** Mr Dreyfus's views, which on this occasion accord with mine, must have been fresh in his mind since the book which quotes him was only published last month. This is why I find it very difficult to understand how Mr Dreyfus could, without hypocrisy, have attacked me for allegedly doing the very thing that he said he did and would do again.

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

**Senator FARRELL** (South Australia—Deputy Leader of the Opposition in the Senate) (14:12): Why has the Attorney-General, to quote Mr Griffith QC, sought to convert this great office into one of 'closet counsel' within the Attorney-General's political office?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:12): Senator Farrell, you are adorable! You are very, very popular on this side, but I am particularly grateful to you for this question today! It does happen to be the case, Senator Farrell, that on this issue I agree with Mr Dreyfus, although I do not agree with his hypocrisy in attacking me in a press release for taking precisely the same course that he said to Professor Appleby in her recently published book that he did and would do again. As Mr Dreyfus went on to observe:

Because, despite the fact that I say the Solicitor-General has got higher status, she or he is still …

**Senator Wong:** Mr President, I rise on a point of order. Again, as I said, Senator Brandis may be obsessed with Mr Dreyfus—

**Senator Fifield interjecting**—
Senator Wong: It is not inconvenient. I know they have a thing, but they can have their arguments elsewhere. The question was about the submission of Dr Griffith QC about what this Attorney-General is doing. It is a serious issue. It is a quote from a man who was the Solicitor-General for 14 years and much more eminently qualified than the Attorney-General. He ought to respond.

The PRESIDENT: Thank you, Senator Wong. I do agree with your point of order. I remind the Attorney-General of the question.

Senator Cormann interjecting—

The PRESIDENT: Order on my right!

Senator BRANDIS: No jokes about the Dreyfus affair, thank you, Senator Cormann. As Mr Dreyfus said:

And, most difficult legal problems are capable of another outcome.

Senator Wong: Mr President, I rise on a point of order. Now Senator Brandis is simply flouting your ruling.

The PRESIDENT: I did remind the Attorney-General of the question. The Attorney-General only has one second in which to answer.

Senator BRANDIS: I do not agree.

The PRESIDENT: Senator Farrell, a further supplementary question.

Senator FARRELL (South Australia—Deputy Leader of the Opposition in the Senate) (14:14): I again refer to Dr Griffith QC, who says 'a government of integrity' would not shirk independent legal advice even if it is inconsistent with the government's political preference. Why is the Attorney-General further undermining what little integrity this government has?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:14): Far from doing so, Senator Farrell, what I am doing is following a well-established practice, which was also followed, as we have learned, by my immediate predecessor in this office, Mr Mark Dreyfus, who—if I might read it to you again, Senator, since you were not listening the first time—said that he might seek another opinion on particularly important political issues:

Or two. Or three. Perhaps I might feel I needed two to outweigh the Solicitor-General's advice, and I would go and get very senior advice. And I've done that. And I would do it again. Because, despite the fact that I say that the Solicitor-General has got higher status, she or he is still just a barrister.

The PRESIDENT: Senator Wong, a point of order.

Government senators interjecting—

The PRESIDENT: On my right!

Senator Cormann interjecting—

Senator Jacinta Collins interjecting—

The PRESIDENT: Senator Cormann and Senator Collins!

Senator Jacinta Collins interjecting—

The PRESIDENT: I mentioned Senator Cormann first, but you were shouting; you couldn't hear me.
Senator Cormann interjecting—

The PRESIDENT: Order, Senator Cormann! Senator Wong, a point of order.

Senator Wong: Again, this goes to direct relevance. I do not understand how quoting Mark Dreyfus can possibly be relevant to the question. Unlike the Attorney, the former Attorney-General Mr Dreyfus never had Solicitors-General like Gavan Griffith come out and say the things about him that this man has said about you.

The PRESIDENT: Thank you, Senator Wong. You are now debating the point. Order! There is no point of order. The Attorney-General answered the question at the commencement of his answer quite succinctly.

Senator BRANDIS: As Mr Dreyfus said: … despite the fact that I say that the Solicitor-General has got higher status, she or he is still just a barrister. And, most difficult legal problems are capable of another outcome. I mean, if I've learnt [anything] in my legal career, I've learnt that.

(Time expired)

Climate Change

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:16): My question is for the Minister representing the Minister for the Environment and Energy, Minister Birmingham. Minister, today the UN asked 30 questions about Australia's lack of ability to meet its pledged climate change targets. In fact, the UN achieved the impossible by bringing the US and China together to criticise and question Australia's climate policy. Minister, how can the government make it all the way to 2020, or even 2030, and achieve a reduction in pollution without any credible policy pathway to get there?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:17): I thank Senator Di Natale for his question. I am very pleased to report to the Senate—and to ensure that Senator Di Natale is well informed of the reality—that Australia is not only on track but ahead of track to meet our 2020 emissions reduction targets. The government is absolutely confident that, just as Australia has been a global citizen, every time we have made a commitment in relation to emissions reduction targets we have not only met those commitments but exceeded those commitments. We are a country—

Senator Back: Kyoto.

Senator BIRMINGHAM: Thank you for that, Senator Back. Indeed, the first Kyoto reporting period saw Australia meet and exceed its commitment. We are confident that the 2020 target will be met and exceeded by the actions of the Turnbull government and predecessors, and that we can deliver—as we do, as a good citizen—the types of actions that people expect us to. We welcome the fact that the Paris Agreement is coming into force of entry. We welcome the fact that there is strong global cooperation, which Australia is, yet again, a party to, in setting 2030 targets that are amongst the toughest targets in the world on a per capita basis, and amongst the toughest targets in the world in terms of their relativity to the size of our economy. This is actually strong action from Australia which, once again, we will deliver. The 26 to 28 per cent reduction compared to 2005 levels under the Paris Agreement is a target that is comparable with other developed countries and delivers significant reductions in emissions per capita and per dollar of GDP, as I indicated. We have
met every single target to date; we are confident we will meet every single target into the future.

**The PRESIDENT:** Senator Di Natale, a supplementary question.

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (14:19): Market analysts RepuTex do not agree. They have modelled that by 2030 Australia's pollution will have declined by just two per cent under current policy settings—nowhere near the measly 26 to 28 per cent target, and an insult to the 60 to 80 per cent reduction that the science demands. Minister, will you answer the question from the US government about whether the Australian government plans to introduce any new policies that we do not know about?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (14:20): Australia submitted its last biennial report in December 2015, as part of the UNFCCC processes of assessment against activity and actions in relation to climate change policies and the meeting of targets. In that report, Australia scored better than New Zealand and the Netherlands, and the same as France, the US and Germany on completeness. On transparency, Australia scored better than France, Norway and Germany and the same as the EU, New Zealand and the United States. It is a demonstration that we have in place peer assessed and globally assessed measures and activities that demonstrate Australia delivers and meets its commitments. We have policies in place that are meeting the 2020 commitments. Those policies are subject to reviews over coming years that are well-known and well-published. As a result of those reviews, the pathway will become clearer for meeting the 2030 targets—just as we have done on every single prior occasion.

**The PRESIDENT:** Senator Di Natale, a final supplementary question.

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (14:21): Given the government's scare campaign on the carbon price, will the government now answer the question from China requesting modelling on what the repeal of the carbon price has meant for our fast-accelerating energy-sector emissions, and how this has led to poorly allocated investment in our already pollution-intensive economy?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (14:21): As is frequently the case in this debate, the Greens confuse means with ends. The ends are that Australia is meeting its international obligations in relation to reducing emissions levels. The means that the Greens want to talk about are, of course, the application of new taxes to get rid of parts of the economy that they just do not like. We are committed to the means of reducing our emissions most efficiently in a way that best protects Australia's economic interests and meets our international obligations—but without destroying the jobs or livelihoods of other Australians. The Greens can continue, if they want, with their fixation on wanting to introduce new taxes and new measures that would be focused more on disrupting the Australian economy, creating job losses across the Australian economy and creating higher prices for Australians. We will stand by the fact that our policies in place, right now, are working and are meeting and exceeding the targets we have committed to.

**Attorney-General**

**Senator JACINTA COLLINS** (Victoria) (14:22): My question is to the Attorney-General, Senator Brandis. I refer to the submission of the former Solicitor-General, Dr Griffith QC, to the Legal and Constitutional Affairs Committee in which he says the result of
the Legal Services Amendment (Solicitor-General Opinions) Direction 2016—I stress the direction, not the minister's attempt to divert attention by referring to Attorneys-General's conduct—will be the demeaning of the office to the equivalent of attracting monkeys'. Does the Attorney-General agree?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:23): I do not agree.

The PRESIDENT: Senator Collins, a supplementary question.

Senator JACINTA COLLINS (Victoria) (14:23): I again refer to the submission of the former Solicitor-General, Dr Griffith QC, in which he states: The Law Officers Act might be better to be repealed rather than the Office demeaned to this level … Does the Attorney-General agree?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:23): Senator Collins, I do not—Senator Collins is not educated in the law, but legal propositions are innately contestable. That is the point about the law.

The PRESIDENT: Senator Wong, a point of order.

Senator Wong: My point of order is on relevance, again. The Attorney continues to refer to Mr Dreyfus seeking additional opinions. The issue in question is that this Attorney is trying to stop, prevent, ministers and other parts of the Commonwealth seeking advice from the Solicitor-General. It is entirely different. He is seeking to prevent ministers and other parts of the government seeking independent legal advice from the Solicitor-General unless he ticks off on it.

The PRESIDENT: On the point of order, Senator Brandis.

Senator BRANDIS: On this question and previous questions today and previous questions throughout the week the point that is being sought to be made in various ways is that I am on my own on this.

Senator Wong: You are.

Senator BRANDIS: We have just heard Senator Wong affirm that that is the point of the Labor Party's question. I am quoting my immediate predecessor in office, who also, by the way, happens to be my accuser, and he said that he engaged in precisely the same practice for which I am being criticised by the Labor Party.

The PRESIDENT: I have been asked to rule on relevance, as a point of order.

Senator Wong: He should withdraw.

The PRESIDENT: Withdraw what, Senator Wong?

Senator Wong: The assertion that it is precisely the same practice is a mislead. It is not precisely the same practice. No Attorney-General has issued a direction.

The PRESIDENT: That is a debating point. I intend to rule on the point of order. Senator Macdonald on the same point of order?
Senator Ian Macdonald: Is the leader of the opposition able just to get up and start speaking without even being called by you to make a point of order? Can you bring her to order and make sure she understands and obeys the standing orders?

The PRESIDENT: I remind all senators that they must observe the standing orders in relation to seeking the call and being given the call. On the point of order, Senator Wong raised a point of order on relevance of the Attorney-General’s answer to the question asked by Senator Collins. The question asked by Senator Collins was: 'Does the Attorney-General agree?' The Attorney-General, straight up, said, 'No, I do not agree' and then he enhanced his answer. As I and past Presidents have always allowed, if you answer the question you can enhance that answer providing you are on the topic.

Senator Jacinta Collins: He is talking about a different topic. That is the point.

The PRESIDENT: That is not a different topic. He is supporting his answer. The Attorney-General has the call.

Senator BRANDIS: Thank you very much indeed, Mr President. The point I was making is the reason I disagree with Dr Griffith and agree on one occasion with Mr Dreyfus is that, as Mr Dreyfus says, most legal problems are capable of another outcome. If I have learnt anything in my legal career, I have learnt that. Mr Dreyfus is quite right, because, Senator Collins, the essence of the law, and this direction was a legal rule, is that legal propositions are innately contestable.

The PRESIDENT: Senator Collins, a final supplementary question.

Senator JACINTA COLLINS (Victoria) (14:27): I again refer to the submission of the former Solicitor General, Dr Griffith QC, who in relation to the direction—not in relation to past conduct of Attorneys-General; in relation to the direction—said:
The image of a dog on a lead comes to mind.
Isn't it true that the direction—I stress 'the direction'—was the Attorney-General's attempt to bring the Solicitor-General to heel? (Time expired)

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:28): Senator Collins, I do not agree with that at all and I think it is a very unfortunate choice of words. What it implies is an attack on the independence of the Solicitor-General. Every Solicitor-General is a barrister, and every barrister is independent. Nobody can tell a barrister what to say in their advice, whether it be the Solicitor-General, whether it be the Attorney-General, whether it be the most junior man or woman admitted to the bar yesterday—every barrister is absolutely independent in the advice they give their client. That is in fact a pillar of the bar—the independence of the bar of which Mr Gleeson is a member, of which I am a member and which upholds that principle of independence absolutely.

Renewable Energy

Senator ROBERTS (Queensland) (14:29): My question is to Minister Simon Birmingham, representing Mr Frydenberg. As a servant to the people of Queensland and Australia, I ask: is the minister aware of the Queensland government's destructive 50 per cent renewable energy target by 2030, one of the highest in Australia? With energy security, reliability and prices threatened by policies of the extremist Greens, is the minister aware of
the recently released frightening manifesto of the Queensland Labor government that outlines these outrageous policies? Is the minister cognisant of, or even sympathetic towards, the reality that a 50 per cent renewable energy target presents real and present danger to the security, prosperity and health of my home state of Queensland? Can the minister please inform senators how the federal government envisages the subsidies of $10 billion required to attract the companies to build these renewable energy projects being funded? Although the Labor government bizarrely claims energy prices will fall, contrary to all other experiences, how will the minister guarantee prices will not increase?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:30): I thank Senator Roberts for his question, which at least, unlike questions from those opposite, is focused on policy and the interests of the nation. Senator Roberts, we are aware of the stated intentions of the Queensland government and I can tell you—through you, Mr President—that energy security of course is critical to all Australians and must be a top priority for a successful economy. Queensland, we recognise as a government, is home to a range of businesses, including major electricity users like the three LNG export plants and Boyne Smelters. These businesses, and many others, are dependent on a secure, reliable and affordable energy supply to deliver vital export dollars for Australia.

We cannot afford to let them suffer the same fate that is threatening some business and industry in my home state of South Australia. We have had four South Australian large economic contributors who, by being without power for 15 days, have cost the economy tens, if not hundreds, of millions of dollars. Those businesses, of course, now face big repair efforts as a result, and it comes on top of other incidents that show the challenge of high price and low reliability due to the unique circumstances in SA. Last Friday, Minister Frydenberg called a meeting of the COAG Energy Council to discuss those events in SA. That meeting agreed that the prime responsibility—the prime responsibility—of ministers is to ensure the security, reliability and affordability of the energy system for all Australians. They commissioned an independent review, to be led by Dr Alan Finkel, our Chief Scientist, to develop a blueprint for energy security with recommendations outlining the policy, legislative and governance settings.

Queensland has not offered any evidence that its unrealistic 50 per cent target can be met without compromising security. The Palaszczuk government has made the completely ridiculous claim that there will be no closures of coal fired generators as a result of this policy, despite the huge loss of coal fired generation it assumes will occur. Our department estimates the cost to be $27 billion. (Time expired)

The PRESIDENT: Senator Roberts, a supplementary question?

Senator ROBERTS (Queensland) (14:32): Can the minister produce for the Senate empirical evidence—that is, measured data and physical observations—that categorically proves humans are affecting climate change and, as such, these deindustrialisation renewable energy policies are required to stop the benefits of a naturally variable climate?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:33): The Turnbull government accepts the science of climate change. We take our advice from the Chief Scientist, the CSIRO, the Bureau of Meteorology, the Department of the Environment and Energy as well as leading world scientific organisations such as the World Meteorological Organization. According to the World Meteorological Organization, global
average temperatures have increased by almost one degree since the start of the industrial revolution; 2015 was the warmest year on record for the globe. According to the CSIRO, Australia's climate has also warmed by around one degree since 1910. Eight of the 10 years of Australia's warmest years on record have occurred since 2002, according to the Bureau of Meteorology.

The reality of climate change is why we are a party to strong global action to reduce emissions. It is why we are delivering the types of policies that are sensibly meeting and exceeding our emissions reduction targets, as I outlined in response to Senator Di Natale before, but doing so in a way that is far more focused on the protection also of jobs in our economy while reducing our emissions. *(Time expired)*

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

**Senator ROBERTS** (Queensland) (14:34): Will the government support an urgent Senate inquiry into the Australian renewable energy market with terms of reference focusing on energy security, reliability and prices?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (14:34): As I outlined in relation to the primary question, the government has taken action to respond to some of the challenges in the energy market, particularly those posed by the increasing mix of renewable generation. It was at the COAG Energy Council meeting on 7 October that an independent inquiry was established to develop a national reform blueprint to maintain energy security and reliability in the national electricity market, under the leadership of Dr Finkel. This review will draw together and build on the analysis and findings of a number of reports commissioned by all Australian governments through the energy council, including reports by the Australian Energy Market Operator and the Australian Energy Market Commission into future power system security and the impact of carbon mitigation policies. It is the view of the government that any inquiry established prior to the report of the Finkel review being completed would be a premature undertaking.

**Australia-Singapore Comprehensive Strategic Partnership**

**Senator IAN MACDONALD** (Queensland) (14:35): In directing my question to the Minister for Defence, Senator Payne, can I congratulate her on this morning's signing of the memorandum of understanding with the Singapore government. Minister, could you indicate to the Senate how the signing of this morning's defence memorandum of understanding in support of the comprehensive strategic partnership further strengthens the wonderful cooperation between Australia and Singapore?

**Senator PAYNE** (New South Wales—Minister for Defence) (14:36): I particularly thank Senator Macdonald for his interest in this very important issue, not just for our defence relationship with Singapore but also for his area of northern Queensland. I was very pleased just this morning to sign a memorandum of understanding concerning military training and training area development in Australia with my Singaporean counterpart, Dr Ng. It is a major step forward following the Turnbull government's announcement in May that Australia and Singapore would jointly develop military training areas and facilities in Australia, enhancing Singapore's training opportunities. It is in direct alignment with the 2016 white paper to increase Defence's international engagement to further develop our international partnerships with our allies and our partners.
The signing of the memorandum of understanding affirms the commitment from the governments of both Australia and Singapore to take the next steps to implement this historic agreement. The MOU provides an assurance of enhancing our bilateral defence relationship and committing to these investments in North Queensland. It represents a 25-year commitment to increasing training area access and investment by the Singaporean government to upgrading military training areas.

This MOU will bring us closer as defence partners. It will generate significant local economic activity over the next 25 years. It will, importantly, complement our very close existing defence relationship with Singapore based on a long history of engagement, practical cooperation, education and training. We will, of course, continue to hold our shared interests in regional stability and security—many of the issues to which Prime Minister Lee referred in his remarks to the joint sitting of the houses yesterday. Specifically, the memorandum of understanding cements our agreement to grant Singapore enhanced access for unilateral land training from the current six weeks per year to 18 weeks per year, and from the current 6,600 troops per year to 14,000 troops per year. (Time expired)

The PRESIDENT: Senator Macdonald, a supplementary question.

Senator IAN MACDONALD (Queensland) (14:38): I thank the minister for her answer, particularly for the mention of North Queensland. Could the minister tell the Senate about the long-term benefits to Townsville and Rockhampton—two major cities in the north—that will flow from the defence MOU?

Senator PAYNE (New South Wales—Minister for Defence) (14:38): This is an important aspect of the MOU between Australia and Singapore because it is a milestone that will deliver significant economic opportunities for the Townsville and Rockhampton regions. As part of the memorandum of understanding, priority will also be given—and this is a very important part of the announcement—to local businesses around the Townsville Field Training Area and the Shoalwater Bay Training Area in support of both the phases of development and the ongoing training activities, which will, of course, boost regional jobs and growth.

Roughly $1 billion will be invested in each of the Townsville and Rockhampton regions between 2016 and 2026. It is a very significant undertaking. As Singapore's training presence begins to increase, the demand for support services and opportunities for local businesses will expand. As the training presence reaches maturity, the government expects there will be an additional $10-16 million annual investment in both Townsville and Rockhampton. This is significant for jobs, significant for business and significant for—(Time expired)

The PRESIDENT: Senator Macdonald, a final supplementary question.

Senator IAN MACDONALD (Queensland) (14:40): Thanks to the minister for that very exciting news for North Queensland communities. Could the minister tell the Senate what the next steps are for planning and implementation of the memorandum of understanding? Perhaps, the minister could also let the Senate know if she is intending to more directly advise the people of Townsville about these new initiatives in their region.

Senator PAYNE (New South Wales—Minister for Defence) (14:40): In fact, following the signing of the memorandum of understanding this morning I am looking forward to travelling to Townsville with my counterpart, Dr Ng, this afternoon to meet with community leaders, including business and local government. Defence will commence engagement with
community groups and stakeholders. I am also intending to appoint a dedicated community liaison officer in North Queensland to ensure that businesses and other stakeholders are able to receive timely updates on implementation and that they have a point of contact for their inquiries.

The detailed planning for facilities development will occur in early 2017, concurrent with master-planning activity. Defence will provide an initial business case on upgrades to government in 2017, and we anticipate construction of facilities will commence from late 2018 to 2019. The scale and complexity of these developments is quite significant, and it needs to be done properly. But implementing this initiative also gives Australian servicemen and women access to better training facilities, and it will enhance our capability as well. We are keen to progress—(Time expired)

**New South Wales: Shark Nets**

**Senator WHISH-WILSON** (Tasmania) (14:41): My question is to the Minister representing the Minister for the Environment and Energy, Senator Birmingham. It has been reported that the New South Wales Premier, Mike Baird, will be writing to the environment minister regarding the installation of shark nets. Can them minister confirm that the environment minister has received a letter from the New South Wales Premier? And will the minister be fully examining this proposal from Mr Baird as a controlled action requiring assessments under the EPBC Act?

**Senator BIRMINGHAM** (South Australia—Minister for Education and Training) (14:42): I thank 'Senator Surfer' for his question. State governments are appropriately focused on public safety and managing risks from sharks. The Minister for the Environment and Energy has a legislative role to ensure that shark safety activities—

**The PRESIDENT:** Senator Birmingham, I did not hear it up-front—what you said. But you probably need to withdraw that remark about Senator Whish-Wilson.

**Senator BIRMINGHAM:** I refer properly to Senator Whish-Wilson.

**Senator Whish-Wilson:** I'm okay with that.

**Senator BIRMINGHAM:** I thought you were. The Minister for the Environment and Energy has a legislative role to ensure that shark safety activities are consistent with national environmental law. He is committed to working with states to find a path that achieves both public safety and good outcomes for the environment. Minister Frydenberg has been clear that public safety is of paramount importance, but he is committed to protecting the marine environment, including sharks.

It is the responsibility of state governments to consider whether shark safety activities will have a significant impact on matters protected under national environment law. The environment department continues to work with state agencies to help them understand their obligations, noting that the white shark is listed as a vulnerable and migratory species under the EPBC Act.

New South Wales has conducted its shark meshing program since 1937. Similarly, Queensland has conducted shark safety activities continuously for over 50 years. These activities predate the EPBC Act and, therefore, do not need to be referred to the Australian government for assessment. The department of the environment has not at this stage received referrals from New South Wales—
The PRESIDENT: Pause the clock. On a point of order, Senator Whish-Wilson?

Senator Whish-Wilson: I have a point of order on relevance, Mr President. I asked whether you had received a letter from—

Senator Ian Macdonald: He just said that!

Senator Whish-Wilson: No—I missed that. I asked whether you had received a letter. And would this be a full-controlled action fully assessed under the EPBC law?

Government senators interjecting—

The PRESIDENT: Order! I did hear the minister respond to part of your question. Also, I think the minister indicated that any applications would be treated by way of the law—if I can paraphrase what the minister said. So the minister has been relevant.

Senator BIRMINGHAM: As I was midway through saying—I had got through the words 'the department has not received referrals from New South Wales', or Queensland agencies for that matter, in relation to shark management actions.

The PRESIDENT: Senator Whish-Wilson, a supplementary question.

Senator WHISH-WILSON (Tasmania) (14:44): What evidence will the minister be using to determine that shark nets will make the ocean safer for swimmers and surfers on the North Coast of New South Wales. For example, how many sharks will need to be killed in those nets to make it safer for oceangoers?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:45): The minister and the department will undertake a proper assessment against the terms of the EPBC Act to first consider whether the matter is a controlled action and, if it is a controlled action, to then assess the proposed actions against the terms of that act. Those terms, I am sure, are well understood to the minister. They provide opportunities for the department to request further evidence and information as to the impacts of the proposed actions but, of course, the act does provide provisions to ensure that public safety is also considered amongst those different factors.

The PRESIDENT: Senator Whish-Wilson, your final supplementary question.

Senator WHISH-WILSON (Tasmania) (14:45): No doubt the minister is aware that shark nets are designed to entangle and kill all sharks to reduce their inshore population numbers. Is the minister also aware that these nets kill protected and endangered species such as whales, dolphins and turtles, and thousands of non-dangerous and endangered sharks?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:46): As I indicated before, there will be proper consideration of any application that is made by the New South Wales government, as there would be by any other agency that put forward an application, or any other entity, for that matter. It will be assessed properly against the terms of the EPBC Act and, of course, any impacts upon other species, particularly species listed under the EPBC Act, would be considered as factors within such an application and its assessment.

Attorney-General

Senator CHISHOLM (Queensland) (14:46): My question is to the Attorney-General, Senator Brandis. I refer to the Prime Minister's statement yesterday that the conflict:
… appears to be a legal difference of opinion between the Solicitor-General and the Attorney-General. What is the cause of this breakdown in the relationship between the Attorney-General and the Solicitor-General? Is the validity of the Legal Services Amendment (Solicitor-General Opinions) Direction 2016 the only legal difference of opinion between the Attorney-General and the Solicitor-General?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:47): Senator Chisholm, it is wrong to characterise the difference of legal opinion that I have with Mr Gleeson about the effect of the direction as a breakdown of relations. Lawyers disagree with each other about the law all the time. That is why I was at pains to try and explain to your colleague Senator Collins that legal propositions are intrinsically contestable. The best evidence of that you could possibly have is to go down the road and look at the High Court of Australia, where almost half of the decisions that the High Court gives are majority decisions in which some of the justices dissent from the majority opinion of the court. At every level in the legal profession, from the most junior lawyers of the land to the justices of the High Court of Australia, lawyers have differences of view about legal propositions. That does not mean there is a breakdown of relations between them. In fact, the entire system of our law is based upon a dialectical process of argument.

Opposition senators interjecting—

The PRESIDENT: On my left: you have a colleague on his feet waiting to ask a question. Senator Chisholm, your supplementary question.

Senator CHISHOLM (Queensland) (14:48): I refer to the High Court matter between the Bell Group in liquidation and the state of Western Australia. Did the Solicitor-General provide any advice in relation to this matter, and did the Attorney-General have or raise any concerns about the advice or the manner in which it was provided?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:49): As I recall, in fact, the Solicitor-General appeared on behalf of the Commonwealth in the High Court in that matter. In relation to advice: as you know, the Commonwealth does not disclose legal advice.

The PRESIDENT: Senator Wong, a point of order?

Senator Wong: It is a point of order. The point of order is direct relevance. The Attorney-General was not asked about the content of the advice; he was simply asked whether advice was provided in relation to the Bell Group in liquidation matter.

The PRESIDENT: The Attorney-General has concluded his answer. Senator Chisholm, your final supplementary question.

Senator CHISHOLM (Queensland) (14:49): Did the Solicitor-General provide any advice in relation to the prorogation of parliament, and did the Attorney-General have or raise any concerns about the advice or the manner in which it was provided?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:50): As I have said in answer to your previous question, the Commonwealth does not comment on legal advice or the fact of legal advice.
Opposition senators interjecting—

The PRESIDENT: Order! The Attorney-General has answered the question.

Workplace Relations

Senator PATerson (Victoria) (14:50): My question is to the Minister for Employment, Senator Cash. Can the minister update the Senate on recent events that highlight the need for improved governance arrangements for registered organisations?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:50): I thank Senator Paterson for his question. I can inform the Senate that just this week the New South Wales CFMEU has done a deal to hand senior leadership positions to a Mr Brian Parker and a Mr Darren Greenfield. In relation to the second gentlemen, this is the same Darren Greenfield who has been referred to authorities for making a death threat to a colleague, and, further to that, taking weekly $2½ thousand kickbacks for the CFMEU from crime figure George Alex.

In relation to Mr Brian Parker, he has been referred to authorities for perjury, obstructing a Fair Work building inspector and gross neglect of duty. He pressured female superannuation fund executives to leak to him confidential lists of member details, and, when one of those executives was asked by the Heydon royal commission about this leak, she initially denied the truth because 'she was absolutely terrified of what Mr Parker might do to her or to her family'. Commissioner Heydon asked the CFMEU to consider removing Mr Parker from his position. Surely the CFMEU's members deserve better than this. They deserve better than the officials who lead them, who have a history of abuse, intimidation and violence. With deals being done like this, and with examples like this, it is little wonder that we still have approximately 100 CFMEU officials facing our courts.

The PRESIDENT: Senator Paterson, a supplementary question.

Senator PATerson (Victoria) (14:52): Thank you, Senator Cash; those are very disturbing revelations. What action is the government taking to tackle lawlessness and misappropriation within the union movement?

Senator Bilyk: You need to toughen up!

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:52): Senators will be aware that the government has proposed vital reforms to protect hard-working union members by cleaning up the bad behaviour of trade union officials and providing stronger laws for both trade union and employer organisations. Why have we done this? Because hard-working union members should not have their money misappropriated to pay for, for example, extravagant holidays, sex toys, tattoos, concert tickets, imported cars and dating services; they should not have their money misappropriated by officials who think that the hard-working members' money is their own to fund their lifestyles.

We have repeatedly brought legislation before this Senate to ensure greater transparency and more accountability of both union and employer organisations. But you have heard the shrieks from those on the other side— (Time expired)

The PRESIDENT: Point of order, Senator Macdonald?
Senator Ian Macdonald: I am sorry to interrupt the question and I did not want to interrupt the minister, but I heard Senator Bilyk say, in response to Senator Cash's first answer, that the 'women should toughen up' and I would ask that she be asked to withdraw that.

The PRESIDENT: There is no point of order.

Senator Wong: If I may make it clear: as I understood it, Mr President, Senator Bilyk was actually suggesting Senator Paterson toughen up.

The PRESIDENT: In any event, there is no point of order. Senator Paterson, final supplementary question.

Senator PATERSON (Victoria) (14:54): We all need to toughen up. How will the government's reforms help to protect union members and employees?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:54): Those who run both union and employer organisations need to be accountable to their members. The current laws clearly have not prevented numerous examples of bad behaviour. Members fees should be spent for the benefit of the members, not swindled on private follies by those in charge. As a policymaker, when you have a proven fact that the laws are weak and not deterring behaviour then the appropriate policy response is to toughen up the laws, which is what we are seeking to do.

The former ACTU chief Bill Kelty said this last November:

I was always on that side of the debate which said that unions are public bodies so they are accountable to members …

… … …

I wouldn’t allow this sort of industrial behaviour and the extravagant payments and expenditures to officials. Unions have to take their responsibility to members very seriously—

(Time expired)

Renewable Energy

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (14:56): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to Mr George Christensen MP, who describes wind turbines as 'bird-chopping, eco-crucifix monstrosities' which are 'useless'. Does Mr Christensen speak on behalf of the government?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): Senator Urquhart, even though it is the last question on Thursday afternoon, you get the prize for being the first opposition senator all week to ask a question about policy. Senator Urquhart, I am not familiar with Mr Christensen's remark, but I am sure I can rely upon your attribution of those words to Mr Christensen. If he said that, I must say that is a rather flamboyant thing to say—almost a quixotic thing to say. However, what Mr Christensen says on the matter is his opinion and his opinion alone.

The PRESIDENT: Senator Urquhart, a supplementary question.
Senator URQUHART (Tasmania—Opposition Whip in the Senate) (14:57): How does the Prime Minister reconcile Mr Christensen's statement with his own statement only three months earlier:

South Australia is a leader in clean energy generation, also benefits from our programs which support renewable including of course the RET.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:57): The difference, Senator Urquhart, is that the Prime Minister's views are the views of the government and Mr Christensen's views are his own views. He is a backbencher, and one of the glories of my side of politics is we have a backbench that is entitled to have a different view from the executive, a backbench that is entitled to have a different view on policy issues from the frontbench.

This government supports renewable energy, as you know, and if you listen in particular to what Senator Birmingham, who represents the portfolio in this place, has had to say on many, many, many occasions this year you would understand how strongly this government is committed to renewable energy. That does not mean, however, that you cannot have a conversation about it.

The PRESIDENT: Senator Urquhart, a final supplementary question.

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (14:58): Why did the government choose to wage an ideological war against renewable energy rather than offering sympathy and support to South Australians during a time of crisis?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:59): If there is one side of politics that is waging ideological warfare when it comes to energy supplies, Senator Urquhart, do not look over here because it is not us. Look at yourselves, Senator Urquhart; look at your allies, the Greens, if you want to see a political party that is waging ideological warfare on the question of energy supply and renewables.

Resources and Northern Australia

Senator O'SULLIVAN (Queensland) (14:59): My question—

Senator Cameron: Jobs in the bush maybe?

Senator O'SULLIVAN: You bet it's jobs in the bush!

The PRESIDENT: Senator O'Sullivan, question.

Senator O'SULLIVAN: My question is to the Minister for Resources and Northern Australia, Senator Canavan. Can the minister advise the Senate, in light of his statement on the northern Australia white paper—and a very good statement it was—whether there are any impediments standing in the way of further progress in the resources sector?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (15:00): I thank the senator for his question—and I am very happy to make Senator Cameron happy: it is a question about jobs in regional Queensland, because that is what our plans are: to create jobs in regional areas all around Australia and in particular in northern Australia, through our northern Australia agenda. A big part of that agenda is to support the resources sector, as the biggest part of the economy in northern Australia. Another big part of it, of
course, is to build dams across Australia—to finally have the guts in this nation to build dams, to create wealth, to allow people to grow more food and create jobs.

This week, as part of our northern Australia statement, I was lucky enough to catch up with Phillip Hams, who lives up at GoGo Station up in the West Kimberley and is doing great work up there on the tens of thousands of hectares of black soil that exist on his station. They are putting in centre pivots, they are growing food, and we want to support those types of investments.

Unfortunately we have one state government that is not supporting these programs. Every state government in this nation has signed up with the federal government to deliver water projects throughout this country. We have agreements with Premier Weatherill in South Australia, we have agreements with Premier Andrews in Victoria and we have agreements with other premiers in other states. The one government we do not have an agreement with—

**A government senator:** Is it a Labor government?

**Senator CANAVAN:** It is a Labor government. Some Labor governments have signed up, but we do not have an agreement with Premier Palaszczuk in Queensland. They spent a week, a couple of weeks ago, in Townsville talking about jobs. It was all talk, no action. All they need to do is sign a piece of paper, and jobs will be created in North Queensland. I must say we even have the Greens on side. The other week, Senator Whish-Wilson responded to an interjection from Senator Williams and said: ‘Yes, Senator Williams, including pipelines and dams.’ Even Senator Whish-Wilson wants to build dams, but Premier Palaszczuk is holding up jobs in regional Queensland. Sign the document, just like other state governments, and help us create jobs in the bush.

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

**Senator O'SULLIVAN** (Queensland) (15:02): A fine answer that was, thank you, Minister.

**Senator Cameron interjecting—**

**Senator O'SULLIVAN:** Well, listen, Doug, because these things are relevant. Is the minister aware of any recent announcements that put at risk Queensland's ability to deliver sustainable economic growth?

**Senator CANAVAN** (Queensland—Minister for Resources and Northern Australia) (15:02): I thank again the senator for his question. To deliver those dams, to create more irrigation, we need secure electricity as well. We need to pump that water, and we need energy in the North as well. It is difficult because prices for electricity in the North are high. They are high—we do not have as much access to baseload as other parts of the country—but it is going to be made even harder in North Queensland if the Queensland government is successful in progressing a 50 per cent renewable energy target in that state. It is an unachievable, unrealistic target.

But it is very interesting, I think, that, in their reports that they released yesterday, the Queensland government, on page 71, footnote 69, say:

Each of the policy credible pathways considered already includes a carbon price imposed on the electricity sector.
So that is the way they are going to meet the renewable energy target: they are going to put a carbon tax on Queenslanders to meet their renewable energy target. They say there is no cost for Queenslanders. There will be a cost, because they support a carbon tax, just like the Labor Party does here.

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

Senator O'SULLIVAN (Queensland) (15:03): Is the minister aware of any other potential roadblocks to developing the resources sector, particularly in my home state of Queensland?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (15:03): We have companies that are willing to invest in Queensland. Our whole northern Australian agenda is about attracting investment to our country, in agriculture, in tropical health and in resources too. We have investors that are ready to go, that want to start projects, that are starting to employ people, such as in the Galilee Basin with the Adani Carmichael mine project, but we have people in this country who are opposing that project tooth and nail, against the wishes of the local people, against the wishes of the local communities. Earlier in the week I mentioned that Glencore are reopening a coalmine at Collinsville. Today in the paper JIm Nugent, who works there at the local Collinsville food store, is happy that that is happening. They are going to put more business in his town. It is going to create more jobs in his community. The people at Collinsville Workers Club are happy with that. We support workers in regional Queensland, and that is why we support these projects.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Attorney-General

Royal Commission into the Child Protection and Youth Detention Systems of the Northern Territory

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:04): I have additional information to provide in relation to two questions I was asked earlier in the week. Yesterday Senator Sterle asked me questions without notice regarding the resignation of Mr Brian Martin as Royal Commissioner into the Child Protection and Youth Detention Systems of the Northern Territory. As I said in my press conference on Monday, 1 August, and as I told the chamber yesterday, Mr Martin told me on the morning of Saturday, 30 July, of his wish to resign. The transcript of my press conference, which has been online since 1 August 2016, the day of the press conference, begins with me saying that. The original transcript, issued by my office, was drawn from a live captions service, tweeder, which did not include the opening remarks of the press conference. When my office was made aware of the fact, the full audio was immediately checked, and the transcript was amended and published online. As I said, it has been online since 1 August.

I can also confirm that, following Mr Martin's indication to me on the Saturday morning of his wish to resign, the Administrator of the Commonwealth, in Executive Council attended by Senator McGrath and me on the afternoon of 1 August, revoked Mr Martin's letters patent as royal commissioner and issued letters patent to Justice Margaret White and Mr Mick Gooda to serve as royal commissioners.
As well, on Tuesday Senator Gallacher asked me about consultation with Mr Mick Gooda, and I provided certain information to the Senate. As well as that, at my request, one of my senior advisers, Dr Susan Cochrane, also contacted Mick Gooda and spoke to him for approximately 45 minutes in order to seek his views, and she reported those views to me. So Mr Gooda was consulted both by me and, at greater length, by Dr Cochrane.

**Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (15:07):** In relation to the Attorney-General's follow-up on questions taken on notice during question time this week, I also asked a question this week about when the Solicitor-General first sighted the legal direction, including the reference to section 10B, the new insertion of section 10B; on what day was he made aware of that; when did he first sight it; and whether he was given the opportunity to consult or provide feedback. I am just following up on whether there might be an answer to that question.

**Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:07):** Not at the moment, Senator, because I have not made that inquiry yet. By the way, Senator, if my memory serves me correctly, I did answer part of that question. What I took on notice was the first of the two matters that you have referred to.

**Medicinal Marijuana**

**Mental Health**

**Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (15:08):** I rise to table my responses to questions taken on notice on Monday to Senator Hanson and also to Senator Siewert. I seek leave to incorporate those responses.

*The answers read as follows—*

**Response to Question without notice from Senator Hanson — Monday 10 October:**

The Australian Government's decision has been to regulate medicinal cannabis products as therapeutic goods. There are constitutional limits to the extent that the Commonwealth can regulate therapeutic goods. All therapeutic goods are subject to both Commonwealth and state/territory legislation.

In the case of medicinal cannabis products, some states, such as Queensland and Victoria, have decided to introduce or enact new legislation to facilitate access to these products. Other states have determined that there is no need to change their legislation.

This is a matter for state governments to decide. In Queensland, access to medicinal cannabis products was absolutely prohibited until December 2015, regardless of any decisions at the Commonwealth level. In December 2015, the Queensland government made changes to their regulations to enable, for the first time, access to medicinal cannabis products.

The Commonwealth has no power to directly intercede and overrule the state governments and so is working with them to ensure, as much as possible, a harmonised approach.

The recent decision by the Therapeutic Goods Administration to schedule medicinal cannabis products to schedule 8 of the Poisons Standard under certain circumstances is intended to facilitate state/territory laws around medicinal cannabis products. However, this decision has no legal effect unless adopted by the states and territories. Our understanding is that the states either intend to adopt the decision or to do something equivalent.
The Bill that the Queensland government is debating is about providing a pathway for access to medicinal cannabis products, which are whole plant extracts. This is different to 'synthetic cannabis' that is sometimes sold on the black market for recreational use and there is no evidence that these whole plant extracts are in any way detrimental to patient welfare.

The legislation passed unanimously by the Parliament in February this year is aimed at facilitating the cultivation of cannabis for manufacture into medicinal cannabis products that are standardised, safe and of appropriate quality, specifically to protect patients from the risks associated with black market cannabis, which has unknown quantities of cannabinoids and the potential for contamination with bacteria, fungi, heavy metals and other material that represent a risk to the health of the patient.

In the case of medicinal cannabis products, some states (Victoria and Queensland) have decided that special medicinal cannabis legislation would make access easier for patients. However, in all states, access to medicinal cannabis products will be subject to state and territory drugs and poison legislation, just as every other medicine used in Australia is.

Although the Poisons Standard provides a classification of drugs and poisons into Schedules it is a recommendation to states and territories. Scheduling of drugs and poisons, and hence access, is implemented through relevant state and territory legislation. Examples of controlled drugs where there are separate state/territory controls on access include:

- Stimulants such as Ritalin and dexamphetamine, and
- Opioid dependence treatments such as methadone and buprenorphine.

In relation to medicinal cannabis please note this is an unapproved drug whereas the examples just given relate to drugs that have gone through a full approval process with TGA.

Response to Question without notice from Senator Siewert — Monday 10 October:

Funding for the Partners in Recovery (PIR) and Day to Day Living (D2DL) programs is transitioning to the NDIS between 1 July 2016 and 30 June 2019.

To ensure service continuity and NDIS rollout, PIR and D2DL have been extended for a transition phase of three years, with an initial funding extension of 12 months to 30 June 2017.

Partners in Recovery and Day to Day Living clients are being progressively transitioned to NDIS in line with regional timeframes detailed in Bilateral Agreements with the relevant state and territory governments (noting that a bilateral agreement with Western Australia is still under negotiation).

PIR and D2DL services continue to be available to existing clients, including where a region has not commenced rollout, where a client is ineligible for NDIS (for example if they do not meet age requirements), or if they have not yet applied for NDIS in a region that has commenced rollout.

When NDIS rollout commences in a region, PIR and D2DL Organisations will be required to assist NDIS-eligible clients to apply, and will be provided with an in-kind allocation in their budget which reflects the level of NDIS service delivery required to support NDIS rollout.

The Council of Australian Government has made a commitment that existing program clients will not be disadvantaged through the transition to the NDIS. Existing program clients found not eligible for the NDIS will receive support under Continuity of Support (CoS) arrangements.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Attorney-General

Senator MOORE (Queensland) (15:08): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Opposition senators today relating to the Solicitor-General.
Thursday, 13 October 2016

I am sure the government senators are really surprised at that statement. I would like to thank the Attorney for the answers he did give us today, because I learnt much from those answers. I was very pleased to find out that there is actually a book that talks about the role of the Solicitor-General, and that will be on my reading list automatically, I think. There was also a reference to collected speeches from Mark Dreyfus, which are already on my reading list in terms of the process. I do take a lot of interest in the various speeches made by Mark Dreyfus and, indeed, prefaces to books—

Senator Brandis: Madam Deputy President, a point of order. I have the greatest respect for Senator Moore's respect for the Senate, but she does appear to be mocking Mr Dreyfus now, and I wonder whether that constitutes a reflection.

The DEPUTY PRESIDENT: It does not.

Senator MOORE: I reject that point of order, and I will continue with my deep respect for at least one person involved in this debate, which is the shadow Attorney-General. I was also particularly interested in having some information about the independence of barristers. I had not actually had that information before, so I thank the Attorney for that.

I think most of the issue relates to the statement constantly repeated by the Attorney that there can be differences of opinion amongst people with legal qualifications. No-one doubts that. In fact, you only have to be in this place for a short time to see that there will be, can be and often are differences of opinion between people with legal qualifications, but that was not the point of the questions. In terms of the process, the opposition was exploring issues around the legislation, which has been brought before us, that looks at the role of the Solicitor-General, and also the opinions that have been brought forward by a person who previously held that position. Whilst we know that there will be further debate on this process, particularly tomorrow in the legal and constitutional committee inquiry into this legislation, I think it is important to note that the issues we were raising are not so much about a difference of opinion but actually about the process leading up to the introduction of this legislation.

We do not doubt that the Attorney, the leader of the government in this place, has every right to have differences of opinion on information that comes forward. What we do say and what we question—and there was a specific question about the relationship between the Attorney and the Solicitor-General—is that there must be some understanding of the deep respect for that role. This is the point that has been brought forward. In terms of the Attorney's relationship with the Solicitor-General, there must be not only a private understanding of a strong legal respect but also a public understanding that these two senior legal officers in our system have respect for each other and the views they put forward. Never, never was there any intent to say that they had to have the same opinion.

Certainly through the answers to this place over the previous few days a key issue around consultation has arisen. When the Attorney was bringing forward the legislation into the Senate on the way that opinions by the Solicitor-General may be taken by members of the government and the very important aspect of that role, the issue was whether the current Solicitor-General had been given the respect of appropriate consultation on that decision. Answers were made and there will be a process taking place tomorrow. For me, one of the core aspects has been the ongoing public discussion around how the Attorney and the Solicitor-General interact. That was the core issue in terms of what the opposition has been asking over the last few days. And today's answers by the Attorney actually bring me no
closer to any understanding of what this relationship is. It is not about having different opinions; it is about having an effective working relationship based on respect. So, in terms of the questions we asked today, we brought forward the opinion of a previous Solicitor-General on what the impact of this legislation would be. I know that the Attorney—not to a question on this particular issue—did refer to some language as being 'flamboyant'. I think the statements that were made by the previous Solicitor-General did tend to be flamboyant as well, but he clearly made the point that should the changes be made the role, the focus, the integrity and the status of the Solicitor-General could be impeded. In fact, in his opinion it would be impeded. It is important in this place that we understand what the exact relationship is— (Time expired)

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:14): We saw it all today; we saw it all yesterday and we have seen it all week—a huge lack of imagination on the part of the Australian Labor Party in the Australian Senate. All week, they tried, hopelessly and unsuccessfully—and I will come to why 'unsuccessfully' in a brief moment—to prosecute the most spurious of arguments against the Attorney-General.

You are right; they could have been focusing on issues of substance, rising consumer confidence in the economy. They could have been talking about industrial disputation in the construction sector and why industrial relations reform, which this Senate will debate in a few weeks' time, is important. They could have discussed a whole variety of issues—but, no. They started on a course of action that failed this afternoon with Senator Brandis's revelation that Mark Dreyfus is guilty of grand hypocrisy.

So let's start at the beginning. I have great respect for Senator Moore, but Senator Moore's suggestion that this is actually not about contestability and legal advice and that this is actually not about whether or not the Attorney-General is free to get other sources of legal advice—that is exactly what this issue is about. And why do we know that? Because that is how Mark Dreyfus started the argument on 7 October.

Let me read from Mr Dreyfus's media statement of 7 October. To make it easy for you, I will start with the title: Brandis opinion shopping another sign of government dysfunction'. Mr Dreyfus uses some very, very colourful language. He says:

… that Attorney-General Senator George Brandis has been 'opinion shopping' for legal advice goes to the heart of concerns about the failure of Senator Brandis to work with Australia's second law officer …

And I will come in a moment to why that is not true. It goes on to say:

The job of the Solicitor-General is to provide legal advice to the government, to government ministers and to Heads of Department. Senator Brandis has clearly hobbled the ability of the Solicitor-General to do his job …

This is not true, and I will come to why that is in a moment. He goes on to say:

Senator Brandis' failure to consult the Solicitor-General breaks a century-long tradition of Attorneys-General and Solicitors-General working together on Commonwealth legal matters.

These are big grand statements from Mr Dreyfus. Finally, he goes on to say that the Attorney-General needs to explain:

… why he is not seeking the advice of the Solicitor-General on issues of public importance … Senator Brandis has failed to consult the one person that he is expected to consult for legal advice.

This is not true—not true.
Today, Senator Brandis ended the week with a king hit against the Labor Party and its senators and their appallingly useless, futile efforts to brand Senator Brandis as a failure in his role as the chief legal officer of the nation. In contrast, Senator Brandis is an outstanding Attorney-General for this Commonwealth.

Let's get to the core of the issue. What is Mr Dreyfus's real view about opinion shopping? Do not ask me. Do not even ask the Labor senators on the other side. Let's ask Mr Dreyfus himself. There it is for the world to see on page 174 of the book by Professor Gabrielle Appleby, *The role of the solicitor-general*. You just have to go a little way down the page. For those of us that can read English, it is easy to see; it is crystal clear. It says:

Some former Attorneys-General indicated that they were willing to seek alternative legal opinions where they disagreed with the Solicitor-General's advice …

They 'were' willing to seek other advice—what Mr Dreyfus would call 'opinion shopping'.

Then it says:

Similarly, Mark Dreyfus indicated that the Solicitor-General's advice was given a high status within government … Nonetheless, he—

Mr Dreyfus—

would, occasionally, seek another legal opinion. He explained that he might seek another opinion on particularly important political issues—

Mr Dreyfus says—

"Or two. Or three. Perhaps I might feel I needed two to outweigh the Solicitor-General's advice, and I would go and get very senior advice. And I've done that. And I would do it again …"

Mr Dreyfus is accusing Senator Brandis of things he has done himself in the past and that he believes are totally respectable and credible. The idea that there should not be contestability around important legal advice that governs the affairs of the Commonwealth is just ridiculous.

*(Time expired)*

**Senator GALLACHER** (South Australia) (15:19): Over the last 44 years, there have been 17-odd Attorneys-General, and there are some pretty august names in there: Gough Whitlam QC, Lionel Murphy QC, Kep Enderby QC, Sir Ivor Greenwood QC, Bob Ellicott QC, Senator Peter Durack QC, Senator Gareth Evans QC, Lionel Bowen, Michael Duffy, Duncan Kerr, Michael Lavarch, Darryl Williams QC, Philip Ruddock, Robert McClelland, Nicola Roxon, Mark Dreyfus QC and Senator George Brandis QC. Out of those 44-year history of the Australian Parliament, only one Attorney-General has had the capacity to actually be the story. Only one Attorney-General has an uncanny ability—as journalist Mark Kenny says—to put himself in the dock, not anybody else.

All week there have been questions about whether he has handled the public statements properly, where there has been contestability about who said this and Senator Brandis said that. It is amazing. Whether it is the building of a bookshelf for his office, creative use of entitlements—the allegations are all in the public and media—the story is Senator Brandis. Whether it is his description of the Hon. John Howard, the most successful Liberal Prime Minister in this country's history, as a lying rodent', always the story is Senator Brandis.

The tragedy is: the Attorney General should be above all of this. The Attorney-General should be looking after the constitutional issues and the important legal mechanisms that make this great democracy function. They should not be the story. We should not have an
Attorney-General, proclaiming across the floor of the Senate, that everybody has a right to be a bigot. That is not a considered approach. He might well be entitled to do that, but in my humble opinion our Attorney-General should be looking for the things that will bring us together and not the things that will tear us apart.

When he gave the answer to Senator Peris that 'everybody has a right to be a bigot', Senator Brandis became the story for that news cycle. The commentariat spent an inordinate amount of time discussing the rights and the ins and outs of all that, and I do not think it brought anything to his role as Attorney-General, and it certainly did not do our constitutional respect any good.

So the capacity to be the story is, as Mark Kenny states in *The Sydney Morning Herald*, an uncanny ability, and our Attorney-General has continually demonstrated his capacity to be the story. With the Northern Territory royal commission, trying to deal with that awful situation up there, the story became who said what and when. With the shackling of the Solicitor-General's office in terms of approach to advice, the story is who said what and when. At the forefront of all of this is our Attorney-General's capacity to be the story—not for the issues to get resolved and not for proper progress to be made in important legal areas but, once again, for Senator Brandis to be the story. He has displayed this uncanny knack.

In the last 40-odd years, among those 17-odd attorneys-general, there have been many colourful characters, divisive characters, people of very strong political opinions and people who have articulated arguments about their positions held and their positions carried out. But no-one in that list—and I can probably go back to 1972 and look at those attorneys-general—really demonstrated this extraordinary capacity to be the story. That is very unfortunate, because Senator Brandis is approaching three years and 24 days as the Attorney-General. Serving for seven years and 210 days was Daryl Williams QC, who would be the least known of attorneys-general. He was the longest serving, at seven years and 210 days.

**Senator Brandis:** No, he was not. He was not the longest serving. The longest serving was William Morris Hughes.

**Senator GALLACHER:** Well, in my information here he served for seven years and 210 days. But my point, I suppose, is that people on that list have done their jobs to the best of their ability and been as political as they can, but they have not been the story, and their credibility has not been the story. On that point I will rest.

**Senator PATERSON** (Victoria) (15:24): Well, here we are again: day 4 of the most wet-lettuce opposition Senate attack I have seen in my short career and, I am sure, for many years before that in this place. It is day 4 of avoiding all major policy issues that this country faces. It is day 4 of pursuing the Attorney-General in what some may characterise—I would say fairly—as an obsession. So I was most amused in Senate question time today to hear the Leader of the Opposition in the Senate in fact imply that the opposite is the case and that the Attorney-General is obsessed with his shadow counterpart, Mr Dreyfus, the member for Higgins—sorry, I correct myself: the member for Isaacs. He is just a resident of Higgins. The member for Isaacs is in fact, I think on the evidence, obsessed with the Attorney-General, not the reverse, and the entire opposition seems to be affected by and to share this obsession, because in almost every question on every day this week, and with every motion to take note of answers after question time this week, we have dwelt yet again on this issue of the Solicitor-General. This might have been a reasonable issue to pursue for one day, or even two
if they were really passionate about it and really interested in the intricacies of the relationship between the Attorney-General and the Solicitor-General, but to be continuing to talk about this issue, to the exclusion of almost all other issues—and, frankly, more meaty, weighty policy issues which affect the interests of their constituents—I think constitutes an obsession.

As Senator Brandis said, though, brownie points go to Senator Urquhart for taking up a policy issue in the last question of the week, the last question of question time today, the question of wind farms. I was saddened to hear, though, as a former fellow member of the Environment and Communications Committee, her lack of concern about herds in relation to wind farms. But I am sure that is not a reflection of her lack of concern for the environment and animals more generally.

In question time today, we had Senator O'Neill, senator for New South Wales, stand up and ask a question about the Solicitor-General. She could have asked, as my colleague Senator Duniam did, about counter-terrorism raids taking place in her home state. That might be of interest to her constituents. I suggest, if you ran an opinion poll, it would probably be of more concern than the Solicitor-General. We had Senator Farrell, senator for South Australia, asking about the Solicitor-General. I suspect his constituents are more interested in the fact that they had no power for 24 hours—that their power system entirely failed under a Labor government of some 14 years that he has had some hand in. But no; he would prefer to pursue the issue of the Solicitor-General. We had our new Senate colleague Senator Chisholm from Queensland ask a question about the Solicitor-General. I suspect, again, that his constituents might be more interested in the partnership with Singapore cemented this week, which Senator Macdonald asked about and which will be of tangible benefit and interest to his constituents, particularly in the north of Queensland, where a number of bases will be enhanced in a joint relationship with Singapore. We could have asked about that issue, but we did not.

This issue has been well ventilated and well explained. But I have to say I am pleased that we have gone into the fourth day of this issue, because it has unearthed a very timely publication, I must say, by Professor Appleby—and full congratulations to her and her publishers on getting such a timely publication out just very recently, to precede this debate. We heard in a media release from Mr Dreyfus on 7 October that it is a shocking practice to engage in what he describes as 'opinion shopping for legal advice'—that is, seeking alternative legal advice to that of the Solicitor-General. Without having delved into Mr Dreyfus's role as Attorney-General, I would have thought that it would be an entirely reasonable thing to rely on more than just one person for legal advice. The Solicitor-General is an eminent lawyer, but he is not God. His views on law are no doubt worth seeking, but not to the exclusion of all others. As it happens, it turns out it is not just the current Attorney-General who has that view and that belief; it is also a distinguished previous Attorney-General—a short-serving one, to take up Senator Gallacher's point, but an Attorney-General nonetheless: Mr Dreyfus, who himself said in an interview with Professor Appleby in her recently published book:

Perhaps I might feel I needed two to outweigh the Solicitor-General's advice, and I would go and get very senior advice. And I've done that. And I would do it again. Because, despite the fact that I say that the Solicitor-General has got higher status, she or he is still just a barrister. And, most difficult legal problems are capable of another outcome. I mean, if I've learnt [anything] in my legal career, I've learnt that.
Well, I suggest that Mr Dreyfus has a little bit more to learn in his legal career, and I hope we see evidence of that soon.

Senator CHISHOLM (Queensland) (15:29): What we have seen today is really a continuation of what we have seen from Senator Brandis since the dispute with the Solicitor-General first started, and that is a consistent effort to be tricky with his answers. I think we need to look at where this is all heading for the Attorney-General. In my view, it is a descent by the Attorney-General into a real Donald Trump view of the world. What goes on in the locker room—I am not talking about the locker room here; that is another matter for Trump. I do not know what happens in the Attorney-General's locker room. What I am referring to here is an effort from Trump, like what we are seeing from the Attorney-General, to suggest facts do not matter. They are creating their own world views of how they operate and how they answer their questions.

Let's go through the pattern of what we saw today and what we have seen since this first became an issue. Since the Solicitor-General's statements last week, the Attorney-General and other government members have simply doubled down on their misleading statements, which are clearly at odds with the acknowledged course of events. Senator Brandis is continuing to deny the sky is blue and is setting a very bad example both as Attorney-General and as Leader of the Government in the Senate. The answers the Attorney-General gave today—indeed, all this week—leave a lot to be desired.

Misleading parliament is not the only worrisome part of this whole sordid affair. There is the continued procedural bungling by the Attorney-General who is clearly not across his brief. Let's look at the history of some of those issues. First there were the proposed changes to section 18C of the Racial Discrimination Act, where the Attorney-General infamously said, 'You have a right to be a bigot.' The Attorney-General did a real good job there of building community opposition to that one. Let's not forget the poorly-treated President of the Human Rights Commission, Professor Gillian Triggs, and the inability of the Attorney-General to maintain that relationship. You can see a real pattern of events occurring here. Then there was the claim to have consulted with the Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Gooda, before establishing the Don Dale royal commission, when no such consultation occurred. Now there are the false claims to have consulted the Solicitor-General on the proposed changes that would effectively reduce the quality of the advice that the government receives.

Yesterday, we saw this bungling spread to the other side of the parliament as well. Yesterday, for the first time in the history of Federation, an opposition second reading amendment was carried in the House. This was not the government's plan; the government simply forgot which way they were supposed to be voting. This is what I am saying: this is the pattern of what we are seeing from the government. The Attorney-General is supposed to be a leader, and this is what is happening under his watch. This means the House of Representatives passed a unanimous resolution about how bad the government is on multinational tax avoidance.

While we are talking about the Attorney-General's slippery story, let's not forget the desperate power grab at the core of this. Do not take my word for it; what does the former Solicitor-General Dr Gavan Griffith, who was in the role for 14 years, have to say about the proposed changes? He says 'the result will be the demeaning of the office to the equivalent of...
attracting monkeys.' This is from the former Solicitor-General Gavan Griffith, who was in the role for 14 years. He went on to say:

A government of integrity should not shirk from obtaining disinterested peak advice of integrity from its SG. It should not shop around, or even refrain from obtaining the second law officer’s advice on matters where is suspects the advice may be contra the government’s preferences.

At a time when this bumbling government cannot even run a parliament properly, it should be taking all the independent advice it can get.

I come back to my important point about the Trump world view and how this fits into it for the Attorney-General. What we have seen is the unravelling of this strategy from Donald Trump in America, where he has been trying to operate in a post facts world. That is clearly starting to do him damage. I think what we have seen from the Attorney-General over the last couple of weeks as he has had to answer questions on this is a similar thing occurring. My advice to the Attorney-General is that he needs to start being honest in this parliament and answer the questions properly. The trickiness must stop. It is important for the Attorney-General to front up and answer the questions.

Question agreed to.

New South Wales: Shark Nets

Senator WHISH-WILSON (Tasmania) (15:34): I move:

That the Senate take note of the answer given by the Minister for Education and Training (Senator Birmingham) to a question without notice asked by Senator Whish-Wilson today relating to policies to mitigate the risk of shark attacks.

The issue of shark encounters in this country is very sensitive. It always grabs headlines and people's attention. Australians love to go to the coast to swim, surf and recreate at our beaches. I myself am a very passionate surfer and scuba diver, and the issue of sharks is never far from my mind when I am in the water. But I think we need to be very careful that the sad number of shark encounters that have led to the loss of human life and damage, both psychological and physical, to surfers, swimmers and people in the community at places like the north-east coast of Australia, around Ballina, is kept in perspective and that we have a calm conversation about how we mitigate risks of shark attacks and shark encounters.

I want to make very clear that my personal opinion and the opinion of my party is that we need to be very cognisant of the fact that the ocean is not a risk-free environment. You go into the ocean at your own risk. It is good to understand those risks, and education and awareness are absolutely critical in that respect. To politicise this issue to get a headline in The Daily Telegraph or to respond in a way that actually encourages fear and misunderstanding is not productive. This is an issue about which we need to have a science based understanding as well as a community based understanding. There are a number of things we can do in this country to mitigate the risks of shark attacks. Those technologies are being trialled. I myself have been involved in a couple of mitigation strategies. Putting in shark nets at a place like Ballina on the New South Wales coast is a last-century solution.

Shark nets kill all marine life indiscriminately. They are actually designed to capture and entangle sharks—any kind of shark—and reduce their near-shore populations. But they also kill other protected species, such as turtles, dolphins, whales and of course hundreds, if not thousands, of non-harmful shark species and, of course, also protected and endangered
species. There is no evidence that they make us safer in the ocean—no evidence at all. I do not want to see any Australians given the false impression that because there are shark nets along beaches on the North Coast of New South Wales that somehow they are going to be 100 per cent safe from the risk of shark attacks—they will not be.

So this is an issue that we need to take very seriously. The New South Wales government is coming to the federal government to seek approval on this issue, because under environmental protection and biodiversity and conservation laws, which are federal laws, we have a duty and an obligation—but it is also a moral obligation—to assess the impacts of things such as shark nets, which kill sharks and other species. This is something I expect the minister will take very seriously and that there will be a full assessment on the potential impacts.

I want to say, as someone who does surf and who is aware of the issue, that this is a deep issue to me. I understand the fear and loathing and the concern in communities around shark encounters—I understand that very well. But it is never going to be 100 per cent safe when you go in the ocean, especially as a surfer. When you surf different spots and different places all around the coastline, some will never be netted and cannot be netted. There would literally have to be thousands of nets linking this country together, if that is what we wanted to do, and that would not reduce the risk of shark attacks. There will still be that risk. Yet, in this day and age we should not consider culling species in the ocean—we should be protecting them. We should have a mature and calm conversation about how to reduce the risks and what devices and processes we can employ. We should understand that the ocean is where sharks live and that this is perfectly natural. We need to have an awareness of that when we take risks by going into the ocean.

Question agreed to.

**BUDGET**

**Consideration by Estimates Committees**

_Senator FAWCETT_ (South Australia—Deputy Government Whip in the Senate) (15:40):

At the request of the respective chairs, I present additional information received by committees relating to estimates:

Additional estimates 2015-16—

Finance and Public Administration Legislation Committee—Additional information received between 3 May and 11 October 2016—Prime Minister and Cabinet portfolio.

Foreign Affairs, Defence and Trade Legislation Committee—Additional information received between 15 September and 12 October 2016—Defence portfolio.

Legal and Constitutional Affairs Legislation Committee—Additional information received between 5 May and 13 October 2016—Attorney-General’s portfolio

Budget estimates 2016-17—

Finance and Public Administration Legislation Committee—Additional information received between 14 September and 11 October 2016—

Finance portfolio.

Prime Minister and Cabinet portfolio.

Foreign Affairs, Defence and Trade Legislation Committee—Additional information received between 15 September and 12 October 2016—
Defence portfolio.
Foreign Affairs and Trade portfolio.
Legal and Constitutional Affairs Legislation Committee—Additional information received between 5 May and 13 October 2016—
Attorney-General’s portfolio.
Immigration and Border Protection portfolio.

COMMITTEES

Publications Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:40): On behalf of Senator Reynolds, the Chair of the Publications Committee, I present the first report of the Publications Committee.

Ordered that the report be adopted.

Finance and Public Administration References Committee

Report

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (15:40): On behalf of the Chair of the Finance and Public Administration References Committee, Senator McAllister, I present the committee's report on Aboriginal and Torres Strait Islander experience of law enforcement and justice services, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator URQUHART: I move:
That the Senate take note of the report.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Legal and Constitutional Affairs References Committee

Government Response to Report

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (15:41): I present the government’s response to the report of the Legal and Constitutional Affairs References Committee for its inquiry into the use of smoke alarms to prevent smoke and fire related deaths. I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—
Australian Government response to the Senate Legal and Constitutional Affairs References Committee report:
Use of smoke alarms to prevent smoke and fire related deaths.

BACKGROUND
On 25 June 2015, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee for inquiry:
The use of smoke alarms to prevent smoke and fire related deaths, with particular reference to:
a) the incidence of smoke and fire related injuries and deaths and associated damage to property;
b) the immediate and long term effects of such injuries and deaths;
c) how the use, type and installation set-ups of smoke alarms could affect such injuries and deaths;
d) what smoke alarms are in use in owner-occupied and rented dwellings and the installation set-ups;
e) how the provisions of the Australian Building Code relating to smoke alarm type, installation and use can be improved;
f) whether there are any other legislative or regulatory measures which would minimise such injuries and deaths; and
g) any related matter.

The Committee received 29 submissions and held three public hearings in Brisbane (29 October 2015) and Canberra (4 December 2015 and 22 February 2016).

On 20 April 2016, the Committee tabled its report which included seven recommendations.

GOVERNMENT RESPONSE

The Australian Government (Government) has an indirect role in relation to the use of smoke alarms and wider building and construction matters.

The Department of Industry, Innovation and Science represents the Commonwealth on the Australian Building Codes Board (ABCB). The ABCB is the standards writing body responsible for the National Construction Code (NCC) which comprises the Building Code of Australia and the Plumbing Code of Australia. The Commonwealth is one of ten government members (including local government) on the ABCB, there are also five industry representative members.

The NCC provides the states and territories with model regulation that is fully or partially adopted through their respective legislation, for which they remain responsible for implementing.

As set out in the ABCB’s submission to the Committee, ‘some level of building regulation is considered necessary by all governments to protect the health and safety of building occupants, provide for buildings that have an acceptable level of amenity and sustainable design, contribute to consumer confidence and reduce the potential for downstream costs arising out of poor construction’ (ABCB, Submission 21, August 2015, p. 4).

The NCC sets out the minimum performance requirements for smoke alarms for new buildings and new building works. This includes referencing Australian Standard 3786, which the two mainstream smoke alarm technologies, ionisation and photoelectric, may satisfy. It also requires connection to mains power and interconnection where more than one smoke alarm is required. Further, the NCC points to the importance of location and maintenance of any device.

The Government considers that based on evidence submitted to the Committee and the Committee’s findings, it is appropriate for both ionisation and photoelectric smoke alarms to be permitted, noting that states and territories can determine if any restrictions should apply. The Northern Territory for example only permit photoelectric alarms in residential properties.

The Government does not agree that either ionisation or photoelectric smoke alarms should be given preference unless there is further evidence available to make a compelling case for favouring one technology over the other.

The Government agrees with the Committee that there are gaps in data relating to smoke and fire-related incidents.

The Government notes that the ABCB is continuing to review and analyse evidence relating to different smoke alarm technologies, including a project in collaboration with Fire and Rescue NSW. It will be
important to consider additional data arising from these studies before consideration is given to potential amendments to the NCC.

The Government notes the regulation of smoke alarms is a matter for consideration by the states and territories. While all jurisdictions work through the ABCB to try to achieve a nationally consistent code for new residential buildings, states and territories still have the ability, through their own legislation, to apply the use of smoke alarms in new and existing building as they see necessary. To assist jurisdictions, the Minister for Industry, Innovation and Science will write to state and territory building ministers to provide the Committee inquiry report and this Government response.

A response to each of the Committee’s seven recommendations is provided below.

**Recommendation 1**
The committee recommends that Australian governments collaboratively establish a national database of residential fire incidents and that state and territory fire and emergency services are adequately resourced to collect and report data to that national database.

**Response**
The Government notes this recommendation.
States and territories are responsible for collecting and reporting information on residential fire incidents. The resourcing of these activities, including potentially sharing such information in one form or another, is therefore a matter for their consideration.

**Recommendation 2**
The committee recommends that Australian governments consider establishing a national residential fire reporting and recording mechanism to capture statistics of currently unreported residential fire incidents.

**Response**
The Government notes this recommendation.
States and territories are responsible for collecting and reporting information on residential fire incidents. The resourcing of these activities, including any options for capturing unreported residential fire incidents is therefore a matter for their consideration.

Regarding the establishment of a national residential fire reporting and recording mechanism, the Government would not support any proposal to create a new mechanism that detracts resources from the states and territories developing fire-prevention practices and managing fire incidents.

**Recommendation 3**
The committee recommends that the NCC is amended to require the installation of interconnected, and preferably mains powered, photoelectric smoke alarms, supplemented where appropriate by ionisation smoke alarms, in every residential property and specify the type of smoke alarm to be used at different locations within each residential property, taking into account the different smoke detection properties of photoelectric and ionisation smoke alarms.

**Response**
The Government notes this recommendation.
A requirement for interconnected, mains powered smoke alarms for new residential buildings is already included in the NCC, along with location requirements and a further requirement that smoke alarms meet Australian Standard 3786, which enables the use of any technology that satisfies the minimum time deemed necessary to alert occupants to the risk of a fire and evacuate the building.

The Government also notes the committee's view in relation to ionisation smoke alarms:
"However, the committee does not agree that ionisation smoke alarms should be banned: photoelectric and ionisation smoke alarms detect different fires in different ways and are therefore fit for purpose in particular locations." (Committee Report page 33).

As the regulation of smoke alarms is a matter for consideration by the states and territories, any proposed amendments in relation to smoke alarms in the NCC should be considered by states and territories through the ABCB.

Any proposed amendments should also take account of additional evidence that may be available through the ongoing investigations being undertaken by the ABCB in collaboration with Fire and Rescue NSW.

Recommendation 4
The committee recommends, to give effect to Recommendation 3, that all state and territory governments adopt the amended NCC and agree to apply it to all residential properties, irrespective of the age of a property.

Response
The Government notes this recommendation.

The regulation of smoke alarms is a matter for consideration by the states and territories. The Government notes that while the NCC is not intended to apply retrospectively for existing residential properties, unless significant alterations and/or additions are being undertaken, states and territories have the ability, through their own legislation, to apply the use of smoke alarms as they see necessary.

It should be noted, however, that the cost of states and territories requiring smoke alarms to be installed in all residential properties, irrespective of the age of a property, as per Recommendation 3, would be significant.

Recommendation 5
The committee recommends that all states and territories implement mandatory compliance checks of smoke alarms in residential properties whenever a property is sold, tenanted or hired.

Response
The Government notes this recommendation.

The regulation of smoke alarms is the responsibility of state and territory governments. This issue is therefore a matter for their consideration.

Recommendation 6
The committee recommends that the Commonwealth, state and territory governments develop and implement a package of measures, including but not limited to a website and resources for key stakeholders, to educate Australians about:
- different types of smoke alarms;
- the benefits associated with installing smoke alarms with different smoke detection properties in particular locations within a property;
- the smoke alarm requirements that apply to residential properties in each jurisdiction;
- the importance of regular smoke alarm testing and maintenance;
- who has responsibility for installing and maintaining smoke alarms, and advice about how to do this or seek assistance to do so; and
- the triggers for compliance checking of smoke alarms (for example at time of sale, tenancy or hire).

Response
The Government notes this recommendation and agrees in principle with its intent.
The regulation of smoke alarms is the responsibility of state and territory governments. Any public awareness and education measures in relation to smoke alarms should be considered and led by the states and territories, including through the ABCB where appropriate.

It is noted that some of the recommended measures are already the subject of public awareness material produced by state and territory government fire service authorities and product manufacturers' specifications. Such material should emphasise both the effectiveness of smoke alarms and the importance of installing and using them correctly.

**Recommendation 7**

In the event Australian governments are unwilling to amend the NCC and apply it to all building stock irrespective of classification and age, the committee recommends that they consider implementing a nationwide smoke alarm household installation scheme that includes consultation with:

- fire and emergency services, housing providers and the real estate agency industry; and
- individuals and organisations working with vulnerable members of the community.

**Response**

The Government does not support this recommendation.

The appropriate mechanism for the regulation of smoke alarms already exists via the ABCB and the NCC, which is supported by the Australian Government and all state and territory governments. The Government therefore supports a more targeted approach to addressing the use of smoke alarms by the states and territories via the ABCB and through the NCC.

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**Foreign Affairs, Defence and Trade References Committee Report**

**Senator GALLACHER** (South Australia) (15:41): I present the report of the Foreign Affairs, Defence and Trade References Committee on the planned acquisition of the Joint Strike Fighter, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator GALLACHER**: I move:

That the Senate take note of the report.

I am pleased to table this report of the Foreign Affairs, Defence and Trade References Committee into the planned acquisition of the F-35 Lightning II Joint Strike Fighter. Government, opposition, Australian Greens and the Nick Xenophon Team senators worked cooperatively during this inquiry, and I am pleased that the majority report recommendations have the support both of the government and the opposition.

The committee is satisfied that the F-35A is the only aircraft able to meet Australia's strategic needs for the foreseeable future, and that sufficient progress is being made in the test-and-evaluation program to address performance issues of concern. However, the committee is not convinced that any of the available alternative aircraft raised in evidence are capable of meeting Australia's air defence needs.

Nonetheless, in light of the serious problems that have led to the re-baselining of the F-35 program in 2012 and the ongoing issues identified by the United States Director, Operational Test and Evaluation, the committee retains a healthy scepticism towards assurances by Defence regarding cost, schedule and capability outcomes for the F-35.
The report makes three key recommendations for Defence and the government, focusing on: (1) the development of a hedging strategy to address the risk of a capability gap resulting from further delays in the acquisition of the F-35A; (2) the development of a sovereign industrial capability strategy for the F-35A to ensure that Australian aircraft can be maintained and supported without undue reliance on other nations; and (3) the establishment of Australia as the Asia-Pacific maintenance and sustainment hub for the F-35.

There have been significant changes to the acquisition schedule over the life of the F-35 program, including the recent re-baselining in 2012 and the limited scope and considerable cost to further extend the life of the Classic Hornet fleet. The committee therefore considers it prudent for Defence to develop a hedging strategy to mitigate the risk of a capability gap resulting from further delays.

The support solution for sustainment is still under development. However, the F-35's reliance on mission data loads produced by the US Reprogramming Laboratory, together with the Autonomic Logistics Information System and the global support model could impact on Australia's sovereign ability to make decisions around how, when and where we deploy capability.

The potential for other nations to be prioritised over Australia for the provision of repair parts and for the development of software—for example, mission data files and electronic warfare—may negatively impact on Australia's capability. A balance must be found between the benefits of the global support solution and preserving an acceptable level of sovereignty regarding the maintenance of Australia's capability. As such, the committee strongly supports Defence's efforts to develop mission data reprogramming capabilities in Australia. Further, the committee encourages efforts to establish Australia as the F-35 Asia-Pacific maintenance and sustainment hub. This would have the dual benefit of increasing Australian industry participation in the F-35 global support solution as well as developing in-country maintenance and support capabilities.

The F-35 program has had a positive impact on Australian industry and indeed the Australian economy. As a result of being able to compete for business in global F-35 program supply chains, and with the support of government programs, Australian companies have won a number of significant contracts and secured over US$554 million worth of design and production work. This figure is expected to increase significantly over the life of the program as it matures, resulting in rising production volumes and future sustainment opportunities.

Australian industry submitters and witnesses told the committee they have received a range of benefits from their involvement in the F-35 program, including: capability and network development; job creation; long-term investment; increased skills and experience; and opportunities for future work. The committee was pleased to hear that the F-35 program has delivered considerable employment opportunities to Australian industry as well as helping to offset declining employment rates—in particular, in the automotive manufacturing industry—by engaging a large number of people out of its engineering and manufacturing workforce.

Throughout the inquiry, the committee received evidence criticising the F-35A and raising concerns regarding the aircraft's performance in testing and subsequent delays in acquisition time lines. Submitters and witnesses raised concerns regarding the F-35's manoeuvrability and flight capabilities, stealth capabilities, mission systems, mission data loads, Autonomic Logistics Information System and escape system. Many submitters called for the aircraft's
procurement to be cancelled. It is difficult to accurately understand and critique the capabilities of the F-35 without access to detailed classified performance data. As such, the committee does not draw definitive conclusions regarding the details of the aircraft's performance in testing in its report. For the same reason, the committee is sceptical of the accuracy of analysis and conclusions calling into question the suitability of the F-35A—nearing that these submitters do not have access to the classified information necessary to accurately assess the capability of the F-35A, nor do they have access to classified information regarding current generation Russian and Chinese developmental aircraft.

However, even if the submitters' data and conclusions were beyond doubt, the majority of submissions which argued against the procurement of the F-35A asserted that Australia's only alternative is to acquire the F-22 Raptor. As this aircraft is not in production, is unlikely to ever be reinstated to production and its sale to any foreign government remains prohibited by the United States Congress, the committee is unconvinced that the F-22 is a realistic alternative to the F-35A. Furthermore, the evidence was not able to demonstrate that alternative aircraft such as the JAS-39E Gripen, the Eurofighter Typhoon or the Dassault Rafale would be better able to meet all of Australia's requirements.

The committee therefore concludes that the F-35A remains the only currently viable aircraft that is capable of meeting Australia's near term strategic needs and, as such, should be a key element of Australia's air combat capability. I commend the report to the Senate.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:50): I rise to make a few remarks to support the Chair of the Senate Foreign Affairs, Defence and Trade References Committee, Senator Gallacher. I too confer that, certainly in the short to medium term, the joint strike fighter, the F-35A is an aircraft that Australia should be investing in. There is nothing that appears to be on the market or available to Western nations in the near to medium term that will provide the capabilities this aircraft is promising to offer. That does not mean in my mind that we should not have a healthy degree of scepticism about promises made, particularly in the medium to longer term, about its ability to continue to defeat threats in our region. I note that those threats will continue to evolve, particularly as other nations who may be peer competitors in an air combat space develop their ability to very precisely target the characteristics of the aircraft that are marketed as being its key strength—that being stealth—and also its ability to assimilate and disseminate significant amounts of data to increase the situational awareness of the entire combat packet, which is undoubtedly a force enabler but also introduces significant failure modes in the whole system.

I maintain the position I have had for some time—that, while Australia should continue its involvement in this program, we should not be aiming for a situation where we have an air combat capability which is completely reliant on the one aircraft type. At the moment, we have the Super Hornet and the Growler, which is planned to be held as a second platform type. I believe that into the future Australia should maintain a multiplatform fleet to provide some redundancy, some options, because, as we have seen with this aircraft as it goes through what is still a developmental phase, there have been single-point failures where the entire fleet has been grounded because of one issue.

Australia needs to maintain its options, in particular around the sovereign capability to do design support and engineering work. Clearly, we will never build the entire aircraft here, but we need to retain the capability in our engineering workforce to understand issues such as
fatigue and how to do appropriate risk assessment. If there is a repair scheme, a software update or some other element of the technical airworthiness of the aircraft that the OEM or, indeed, the global support network for the aircraft cannot supply, either in the time frame that we need or with the priority effort to areas that are important to us, then we need to be able to make informed, risk based decisions for the Air Commander as to whether or not he can continue to deploy that platform in combat operations.

That takes me in part to the Defence Industry Policy Statement and how it should apply to something like the Joint Strike Fighter platform. I think Air Force and Defence are wisely embedding both civilian and uniformed engineers into organisations such as the joint program office in the States, but I make the point that, as we have more and more aircraft in our fleet which are reliant on a design support network overseas, we will not have the breadth of positions to take young graduates from university and give them the hands-on training needed to take them from a qualified person to a competent person in the field who can do those engineering activities. If we aim to be a smart customer and a smart operator of the Joint Strike Fighter into the coming decades then we need to make sure that we not only procure the aircraft but provide the training opportunities for young engineers to become competent in the role. We will never find enough places to embed people in either the United States air force or with the OEM, so we need to find other possibilities for that.

That brings me back again to the Defence Industry Policy Statement. If we accept the fact that air combat capability has a fundamental input to it, which is design engineering, then rather than looking at this program in isolation and looking at other programs—for example, something like the replacement for the training aircraft, the PC-9, in isolation—Defence has the opportunity, in fact the obligation, to look at that fundamental input to capability from a programmatic perspective. It should say, 'If we do not have enough places within the Joint Strike Fighter program to provide this training and development of competence for our young engineers then there is no logical reason, in terms of combat capability, with something like the PC-9 replacement for us not to hold a systems program office or do that engineering effort.' The rationalist approach to procuring that aircraft would be: let the OEM or another contractor do it by power by the hour for the aircraft, rather than doing it from an Australian sovereign perspective.

But if we take the programmatic perspective, perhaps this is actually the lowest cost and most effective way to provide training opportunities for young engineers, who can develop an understanding of structures, power plants, engines, airframes, avionics and systems which they can then transfer into our combat capability such as the Joint Strike Fighter. That is the kind of opportunity that the Defence Industry Policy Statement provides, and I would certainly encourage Defence, as they look to making sure that we have the sovereign ability to operate this aircraft into the future, to take the opportunities to grow that workforce.

My final comments are on the test and evaluation for this platform. My background is as an experimental test pilot in the military and I am aware that many people fall victim to the conspiracy of optimism. If there were one program in recent military aviation history that has had many people fall victim to a conspiracy of optimism it would be the Joint Strike Fighter program. Too much reliance has been placed on modelling, computer simulations, glossy brochures, marketing programs and unrealistic expectations and not enough focus has been placed on engagement in test and evaluation. I am pleased to see that there has been an
increased focus on test and evaluation but I maintain the position, which I have put to Defence on many occasions, that Australia needs to invest more in the people we have engaged, not only in operational test and evaluation as the aircraft starts to be fielded but in making sure we have engineers and aircrew who are involved in the development and certification flight test activities. That is where we will develop the necessary deep understanding of any flaws, failures, weaknesses or strengths in the system. We can then adapt that understanding to our doctrine, procedures and tactics so that we can exploit the capabilities and compensate for any deficiencies in the system to maximum effect.

The US Office of the DOT&E has highlighted a number of areas where there are ongoing concerns with the rate of progress through the T&E program. When I hear people talking about thinning out the number of test points in order to meet schedule, my background means I become nervous about the quality of the final clearances that are achieved. Again, I would encourage Defence to make strategic and investments into test and evaluation so that we are not just a receiver of what another country wishes to give us but active participants gaining information and access to raw data so that we can make our own analysis of what it is telling us about the capabilities of the platform.

I commend the report to the Senate. The program is something we should continue with. It is, for the short to medium term, the most likely aircraft to meet our air combat capability needs. But I would make those three points again: we should expect to need a multiplatform fleet into the future; we should expect that the threats in our region and beyond will evolve and that the core characteristic of this platform may no longer, in the medium to long term, be the bulwark that it currently is advertised to be against emerging threats; and that we need to use the opportunities presented by the Defence Industry Policy Statement to develop sovereign capability, both in our industry and among our uniformed and civilian defence personnel, in particular in the design support and engineering network, to assure the continuing airworthiness and combat capability of this platform into the future.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

FIRST SPEECH

The PRESIDENT (16:00): Pursuant to order, I now call Senator Griff to make his first speech and ask that honourable senators observe the usual courtesies.

Senator Griff (South Australia) (16:00): Thank you, Mr President, and thank you to all in this chamber, to my colleagues, to the Clerk and her office, and of course to the attendants for the kind welcome and assistance given to me so far. It is an honour to be here and to give my first speech as South Australian senator 101 since Federation, which, given Senate school and the steep learning curve I have been on, is a most appropriate number.

That I am able to stand here today in this role in this place was never certain. That is why I would like to begin this speech by paying respect to my mother, Vilma, who as a 30-year-old found herself alone with a 2½-year-old Stirling to raise. She went to work to support the two of us in those early days when women were only paid half of what men earned for the same work. Without question and without fail, she was there for me through the good times and the bad. She did her best to give me the opportunities that have shaped me, and it is from her that I inherited my sense of fairness and responsibility. She could not be here today, but she is
I come to this place not as someone who has moved through a union or political ranks, or as a lawyer, but as someone who, for over 40 years, built and operated both small and medium sized businesses, worked for large corporations, as well as small family owned businesses, and as someone who has directly employed and mentored many hundreds of people. My views are coloured by life experience and my politics are neutral. I am certainly not a political animal, nor a career politician—until now. I stand in this place as someone who can be trusted to deliver in the best interests of people and not politics.

I have been a Liberal supporter. In fact, I was one of the youngest members of the LCL when I rocked up there when I was about 12 years old—a long time ago—in Adelaide. I have been a Labor supporter and a Greens supporter. In fact, I have either been a member of or voted for candidates from all three parties at various times in my life. I am not locked to a set political ideology. I believe in freedom of thought and I am open to ideas from all sides and will base decisions I make in this place on the merits of what is presented to me. However,
there is one exception. I am not open to fear and hate campaigns for political gain and control, whether it be demonizing refugees and asylum seekers, and particularly those who are now living—if you can call it that—in offshore detention centres, or the singling out of a particular race or religious belief and branding them to be 'un-Australian' and dangerous; or using this fear as an excuse to restrict civil liberties or even invade or justify interference in another country.

Fear is a powerful tool, but one I personally find abhorrent and destructive. This is a truth deeply rooted in my family's history. Half of my family came from Ireland—I think the families of the majority of people here came from Ireland as well—and the other half from Lithuania. Those who left Lithuania did so during a time when the country was part of Russia. They were Jewish and from a small village named Zidik. They belonged to a people targeted for their faith and targeted for their ethnicity, and as a community they endured pogroms and forced exile under Russian rule during World War I.

In 1941, during World War II, the whole community met its end in Nazi mass graves. My ancestors survived only because they left, and made Australia their home. There they met the Irish side of my family, who as children grew up playing with Ned Kelly's sister Kate. Maybe there is another interesting angle I could have added, but I don't think I can do so at this point. Each contributed to the diverse fabric of our society, just as those who find their way to Australia by plane or by boat can do, if given the chance.

One fanatic or a handful of fanatics does not equal an entire people, and using fear and suspicion to divide, to single people out for simply being, is cowardly and self-serving. Fear is not a responsible way to govern, or to grow a movement. My hope is that all in this chamber will join me in rejecting fear as a weapon of mass manipulation.

The Australia I want to live in does not rule by fear but is one that builds a better tomorrow. This is an Australia that nurtures its young and teaches them the real-world skills needed to make their way in the world. It supports families from school to retirement and cares for our elderly, who must be respected for the contribution they have made to our communities.

This is an Australia that ends predatory gambling, which lures people with the promise of easy money, where our children are no longer exposed to gambling advertisements during sports broadcasts and where our government actually introduces essential, recommended reforms, including the $1 bets that make poker machines much less addictive. If we are to put an end to problem gambling we need social media sites to operate on an opt-in basis for serving gambling ads, rather than bombarding users with hard-to-resist offers. For the 400,000 Australians who struggle with problem gambling or who are at risk of developing a full-blown gambling addiction, and with $23 billion lost to gambling each year, the government has a duty of care to its citizens, not to its donors. With the highest per capita gambling losses in the world, this is a massive drain on our collective wellbeing and one that can, quite frankly, be avoided.

I want to see an Australia which builds an education system that delivers for our young people, a system that is measured on employability and not simply by NAPLAN or ATAR ratings. An ideal system would ensure students leave school job-ready and would provide a real, substantial career path for those who choose not to pursue university. I want to see these
young people equipped to fill the shortages in the trades and professions our communities need, identified through real, very real, partnerships with industry.

The 2015-16 figures from the Department of Employment show just how urgently this is needed. In the last financial year, 38 percent of apprenticeship vacancies were unfilled. For every vacancy there was an average of 22 applicants, but an average of only 2.4 applicants were considered suitable by employers for the role. Think about that for a moment. Our young people are graduating from school without the basic skills needed to even apply for entry level apprenticeships.

Even those who complete university fall into a similar trap. Too often, a student's decision to study at university is not based on a real understanding of their future career or their personal strengths. Instead, it is based on their perception of a future career, or the need to just do something or, more than likely, the need to get their parents off their back. I believe pre-university internships will help students make the right choice and very much lessen the drain on the higher education public purse. Key to this, of course, is ensuring educational institutions more accurately match course demand with available jobs, and, in the case of many universities, not load up the cost and availability of specific degrees when the prospect of future employment is limited. Australia already has too many law graduates, for example, who instead of becoming solicitors end up as baristas. Nick didn't help me with that one, by the way.

If we are failing our young, we are also failing our elderly. Too often those who contributed to their communities end their working lives relying on government support that, in some cases, reduces them to living below the poverty line or making them wait for important surgery or an ACAT assessment or spend months waiting to find a home or residential care provider that is able to support them.

Building a better Australia for our elderly means we should not be cutting the Aged Care Funding Instrument, which will potentially strip between $6,000 and $18,000 a year away from individual nursing home residents with complex and serious healthcare needs. And while the model in its present form is without a doubt being rorted by some operators, with funding often diverted to non-resident-care areas, the planned blanket cuts will overwhelmingly punish the majority of operators who are doing the right thing. These cuts will not save money. They are simply a cost-shifting exercise from the Commonwealth to state governments, which will result in more aged-care facilities being unable to treat complex healthcare patients, because payments have been slashed. Many in the aged-care sector will be relegated to the state hospital system, where costs are about five times as high each day.

If we are to build a better Australia for all we must not let our economy be hollowed out. A strong economy is a complex economy, capable of harnessing the creative power of the people it supports and driving real innovation that leads to growth. That means Australia must continue to make things.

Every year, the federal government alone spends $60 billion on goods and services, with $8 billion going directly overseas. Even the crockery used in the members’ dining room, which carries the Commonwealth's crest, was made overseas. We must accept that the government has a role to play in the economy, and that begins with procurement policies across all levels of government. In the future, I want governments to buy Australian-made
first. We are needlessly exporting billions of dollars in jobs and missing out on all the economic activity that comes with buying local.

It is also time for government to once more take responsibility for providing and running essential utilities such as electricity, water and gas and, in the case of the federal government, the NBN. Some might say that these services should not be a core function of government and that they are better managed by private enterprise. That, absolutely, is not the view of the public. The public will continue to hold governments of all persuasions to account for the performance of what they see as core human needs.

Whilst privatisation over the years has given billions to governments that have not managed their budgets well, it has been a disaster for everyday Australians. We have seen an increase in costs and often a reduction in service levels and, importantly, maintenance. The recent statewide power blackout in South Australia that left 1.6 million people in the dark could well be just one example. It is time to reverse the trend of governments, and particularly state governments, absolving themselves of responsibility and bring utilities back into public hands.

As an aside, I also must mention that the first time that I met Nick was around 20 years ago when I was running the Retailers Association and Nick was a new member of the SA parliament. At that time he was actually holding up the privatisation of SA's electricity assets. Absolutely everybody was attacking him at the time apart from my association. Back then I was the only business leader that supported Nick in his opposition to privatisation, so you can understand why I feel so strongly about this issue.

Finally, I want to see electoral reforms that ensure truth in advertising and political parties very much included in privacy laws, spam laws and other provisions. Why should a political party be exempt from laws that apply to everyone else? The creeping role of dark money in politics is a threat to Australian democracy, and to combat it we need more timely disclosure of donations and a substantial lowering of disclosure amounts.

My belief is that we should actually look to the UK model, where TV political advertising, as an example, is banned and only a small number of party political broadcasts are permitted. Such a model, rolled out into all media, would create a more level playing field and limit the donations arms race, which everybody in this room follows.

These are just some of the policy objectives I will be pursuing in my role as an NXT senator for South Australia. With that, I also want to acknowledge Nick Xenophon—he hates me saying that. You are a good friend, Nick, and it is an honour to sit alongside you and Skye on these benches. I would not be standing here today without Nick, whose relentless advocacy for South Australia won the support of the 231,000 people who voted for NXT at the recent election.

Together with my colleagues Skye Kakoschke-Moore and the member for Mayo, Rebekha Sharkie, I will do all in my power to ensure the government continues to invest in South Australia's future and to ensure that our state is very much a significant contributor to Australia's future prosperity.

As no-one gets elected alone, I would like to say thank you to all of our candidates and the over 2,000 volunteers who worked tirelessly throughout the campaign. A special thank you
goes to Rachel Pace, our party campaign coordinator. Rachel, we could not have done it without you.

Finally, I would like to pay tribute to my beautiful wife, Kristin, from whom I draw my strength, and to my amazing kids, Cassie, Asher, Natan and Teya. You are the reason I am here. Your love and support is only matched by my love of being on this journey with you.

To all in this chamber tonight, I believe that together we can do great things for our communities and to build a better Australia. It is not going to be easy and it is likely we will not agree all of the time, but I am up for the challenge.

DOCUMENTS

National Cancer Screening Register Legislation
Tabling

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (16:22): I table some answers to Senator Xenophon as a result of the debate on the National Cancer Screening Register bills earlier today.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee
Report

Consideration resumed of the motion:
That the Senate take note of the report.

Senator WHISH-WILSON (Tasmania) (16:22): The Greens initiated this inquiry into the joint strike fighters. It was a most enlightening Senate inquiry into a $60 billion procurement program by the Department of Defence into the joint strike fighter. Four words that would best encapsulate this acquisition of the joint strike fighters would be 'too big to fail'. The words of President Dwight D Eisenhower were very clear to me during the inquiry. In fact, I have a copy of the quote which I read to one of the witnesses from Lockheed Martin in the US who had flown in. It said:

Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.

That is only part of the quote from President Eisenhower, but he went on to warn about the risks of the military industrial complex if it is not properly scrutinised and policed.

I think if there was ever a case study of what not to do with a military procurement and how not to go about spending taxpayer moneys on our defence it would be this joint strike fighter program. Another quote says that the F35 program:

… is actually not on a path towards success, but instead on a path towards failing to deliver the full Block 3F capabilities, for which the department is paying almost USD400 billion …

That is $400 billion of US taxpayers' money. It has been spent essentially on one major company, Lockheed Martin, and a number of smaller suppliers. That quote is from Michael Gilmore, the US defense department's director of operational testing, only a few months ago.
In fact, it is from August 2016. So it was after our inquiry wrapped up going into the double dissolution.

Defence procurement is often characterised by large numbers and opaque decision making. The reason it is important to scrutinise this joint strike fighter acquisition is that we have the biggest defence procurement program of submarines about to hit our shores—pardon the pun! They are coming very shortly. We need to be very, very careful about how that money is spent, and we need to learn from this joint strike fighter acquisition.

Even by our standards, Australia's planned acquisition of 72 F35A joint strike fighters stands out for its cost and time overruns and lack of a backup plan. When even US testing authorities are uncertain whether the aircraft will be fit for service, the basis for the enthusiasm shown by Australian defence officials—all documented in this report—deserves greater scrutiny.

The Greens cannot support the majority recommendations in this report. It seems entirely likely that Australia will eventually be forced to follow Canada's lead and leave the joint strike fighter program and reassess its options rather than simply insisting that there is no plan B to these joint strike fighters.

The report makes for compelling reading. In particular, chapter 3 sets out the setbacks and the challenges that have beset this program since its inception. There are meant to be systems in place to prevent such debacles from occurring; however, they have occurred. This program has been beset by a litany of problems and serious issues. These were covered at length during the inquiry. They have been acknowledged in the report. The chair's report rightly concludes that it cannot draw definitive conclusions on the performance capability of the aircraft.

It is therefore baffling that the chair's report goes on to state that it is satisfied that the joint strike fighter will suit Australia's needs. Given the operational capability of the aircraft remains unproven, it is simply impossible to reach this conclusion. This underscores the fundamental problem with Australia's participation in this acquisition. The Greens will continue to scrutinise this acquisition. Our recommendation is that the Australian government cancel its contract to acquire the joint strike fighter and restart an open tender process to acquire new aircraft.

Senator XENOPHON (South Australia) (16:28): In the very limited time available, I indicate that this is a very important report. It is a major acquisition, and there have been major questions raised on the acquisition of the F35 joint strike fighters as to whether they will be adequate for Australia's needs and whether there will be significant cost overruns, which is what I fear.

I also wish to commend Senator Peter Whish-Wilson for instigating this inquiry, which I was very pleased to co-sponsor because this is an important inquiry. We need to make sure that as taxpayers we get the best value for money in any acquisition but also that importantly for our troops, our Air Force, it provides the best defence possible for the Commonwealth of Australia. The fact that there have been serious concerns raised around the world, the fact that the Israelis, who know a thing or two about defence, have real concerns about this program and are going down a different path in that the F35s they are aquiring are quite different from the F35s that our nation is acquiring, the fact that the Canadians have gone down a different
path and the fact that there appears to be a lack of contestability in this process is all very concerning. It raises issues of capability as well. I seek leave to continue my remarks later on this very important issue.

Leave granted; debate adjourned.

MOTIONS
Defence Facilities: Chemical Contamination

Senator BURSTON (New South Wales) (16:30): I move:

That the Senate:

(a) supports the efforts of the Department of Defence and other Commonwealth and state government agencies responding to environmental and health issues arising out of firefighting foam contamination at RAAF Base Williamtown in New South Wales and Army Aviation Centre Oakey in Queensland, including engaging the University of Newcastle Family Action Centre (UNFAC) to develop and deliver mental health awareness and stress management activities in the Williamtown area;

(b) notes that:

(i) some landholders in the immediate vicinity of Williamtown Air Base and Oakey Army Aviation Centre are reporting difficulties accessing equity, property value impacts and difficulty selling their land,

(ii) the Department of Defence has met with a number of lending institutions and the Australian Property Institute to discuss property lending policies and practices and how valuations are conducted in the Williamtown area, and

(iii) the Department of Defence has committed to review the issue of property acquisition once detailed environmental investigations at RAAF Base Williamtown and Army Aviation Centre Oakey have been concluded; and

(c) calls on the Government to expedite environmental investigations of the impact of firefighting foam contamination at Williamtown and Oakey to enable landholders to address the dilemma of land remediation or relocation, and move on with their lives and deal with issues of mental health and stress management.

During the 2016 election campaign, I was approached by the Salt Ash Community First group, through my twin brother, Graham, who was a One Nation candidate for the seat of Paterson. I attended a meeting at a private residence in Salt Ash to be briefed on contamination of residents in an investigation zone that the local residents call 'the red zone', allegedly from the RAAF base at Williamtown. The contamination is caused by leaching of contaminated carcinogenic firefighting chemicals from the base to surrounding areas. These chemicals are in the form of firefighting foam known as aqueous film-forming foam, AFFF, and are used primarily to control fires involving flammable liquids such as fuel and oil. The foam suppresses fire by producing a film over the fuel and oil that effectively starves the fire of oxygen. Defence used this foam across many of its facilities in fire control systems, in the testing and maintenance of those systems and in firefighting training.

The acronyms for the contaminants contained within AFFF are PFOS and PFOA. These contaminants were a common ingredient in household products not so long ago. You might remember Scotchgard. They can still be found in non-stick frypans. The contamination is not confined to the RAAF base at Williamtown but can be found locally at another 16 Defence bases around Australia. Possible federal government liability extends to a further 20 privately owned airfields, being a total of 36 bases Australia wide.
The major concern of the contamination is that it cannot be neutralised and has a cumulative effect over time in the human body. The chemicals are known to be associated with testicular cancer, kidney cancer, liver disease, thyroid disease, immune suppression, reduced fertility and hypertension. More than 650 homes as well as a primary school are caught up in the red zone. This may well involve 2,500 to 3,000 men, women and children at Salt Ash alone. Advice to residents throughout the red zone includes warnings not to drink water from dams, ponds or bores or to drink milk from cows or goats or to eat eggs or fish produced in the red zone. Commercial and recreational fishing in the Tilligerry Creek and Fullerton Cove has been suspended, with compensation being provided by the government. The fishing ban has since been partially lifted, about two weeks ago, although the ban on the consumption of flathead fish is still in place.

The Department of Defence has identified contamination in Moors Drain, which carries stormwater from the base and discharges into Tilligerry Creek. During heavy rain, flash flooding occurs on properties adjacent to Moors Drain. The defence department refers to the drain as an off-site mitigation pathway for the chemicals. The Salt Ash area has a very high water table and, during heavy rain, contaminated surface water rises and lies in many drains and gutters, where foaming is clearly visible. You can just imagine the effect this has on the residents. I have also witnessed this foaming, particularly along the main road through Salt Ash. The chemicals can also be transmitted through the atmosphere and humidity.

Health risks are not the only impact on residents. Residential and business properties are deemed worthless, with banks not willing to provide loans against equity that would allow affected residents to relocate or carry out their own mitigation works. Valuers are not willing to put a valuation on any property in the red zone because of the contamination, and therefore the property owners have lost all their equity. As a result, the residents feel trapped in their own homes, unable to carry out any remediation work or to relocate to a safer environment.

During a briefing about three weeks ago from the Minister for Health and Aged Care and the Minister for Defence, I put a suggestion that the government consider meeting with major banks and the Real Estate Institute to implement a scheme to allow affected properties to retain their values, and as such restore the equity that existed prior to the contamination being publicly known. Defence Minister Payne agreed with that request and has kindly responded as in the motion. Towards the end of the briefing, and following concerns I raised in relation to mental health issues that I consider will soon arise, the health minister indicated to me that the University of Newcastle family action strategy was about to be announced by the government. The plan is to alert local practitioners of the human health programs in place to deal with any medical conditions that may be linked to the PFOS and PFOA contamination.

A Senate inquiry in May was very critical of Defence's response to the contamination as 'slow and reactive' and 'seemingly focused on limiting its liability rather than addressing the needs of residents'. This is borne out in a confidential report commissioned by Defence in 2003—yes, 2003, 13 years ago—when this contamination was first investigated. At the end of the executive summary of that report, it states:

In addition to environmental harm, such obvious pollution incidents have the potential to seriously damage Defence's reputation as an environmental manager and good corporate citizen.

It is apparent that Defence has covered up the contamination issue since 2003 and has not acted on any of the report's recommendations.
I will highlight the key findings and recommendations to make the point. Some key findings of the report were:

Defence currently uses—aqueous film forming foam— AFFF product that contains non-biodegradable … (PFOS/PFOA) that are environmentally persistent, bioaccumulative and toxic to animals and humans.

PFOS is acutely toxic to frogs and honey bees. Both PFOS and PFOA have been implicated with a variety of cancers and toxic health effects in humans that have had long term exposure to products containing PFOS/PFOA.

In 2002 the US EPA forced products containing PFOS/PFOA off the market.

The repeated uncontrolled or poorly managed use of AFFF products that contain PFOS/PFOA is cause for major environmental and health concern. There is the risk that poor AFFF management practices across some of Defence’s facilities may have resulted in PFOS/PFOA contaminating of soil, surface water and groundwater, both on and off base. Furthermore, the biodegradable part of AFFF consumes a lot of oxygen as it breaks down. The consumption of oxygen may influence the biological/chemical/geological conditions of groundwater and surface waters by driving anaerobic systems and causing the asphyxiation of aquatic fauna.

... ... ...

The main issues associated with fire fighting foam waste-water management are based around how it is collected, contained and disposed of…. there are no regulatory actions that specifically encompass the use and disposal of products containing PFOS/PFOA.

... ... ...

Most reports distinctly state that fire fighting foam waste-water should not be disposed of into watercourses, soils, or foul stormwater drains …

... ... ...

Best management practice for AFFF waste-water, as indicated by reports and literature, include the appropriate collection and containment of AFFF waste-water, and disposal via a sewage treatment plant or by incineration.

There has been some issues with AFFF waste-water affecting the oil separation process, with many separators requiring constant repairs or replacement.

... ... ...

In many cases across Defence the AFFF waste-water is being released into the environment … with the potential of AFFF pollutants … contaminating soil and groundwater on Defence bases as well as contaminating surrounding farm land and surface waters.

The recommendations of the report were:

Defence should consider undertaking site testing … to determine if its facilities are contaminated by PFOS/PFOA and the extent of the contamination, and also consider establishing monitoring wells in areas where AFFF is repeatedly used and released …

Defence should consider restricting the use of AFFF across its facilities in accordance to NICNAS recommendations.

Defence should consider facilitating industry partnerships into researching the behaviour of AFFF mixtures and waste-water as they may occur in the Australian environment.
AFFF waste-water management system should be designed to contain the most probable worst case AFFF discharge, to minimise the risk of any AFFF waste-water reaching watercourses, soil, or stormwater drains.

The management of AFFF across Defence should meet the best practice methods used by others, as indicated in reports (manufacturer recommendations, US Defense, UK Defence, consultants’ reports) and in scientific literature.

If open ponds are used to store AFFF waste-water they should be managed to restrict access by fauna (e.g. using netting or synthetic liners).

It is imperative to contact the local waste authority to determine suitable waste disposal methods and if any pre-treatment or dilution is required.

At a recent briefing I had with a defence spokesman, he admitted the existence of the report and stated that it was the catalyst for the actions that are taking place now—some 13 years later. This contradicts the information I received at another briefing in Newcastle, just after the election, by the then acting CEO of Hunter Water, Mr Jeromy Bath. He stated that Hunter Water knew of the foam contamination several years ago and had reported it to all of the appropriate authorities, believing they would immediately act on it. However, it was not acted on until about 18 months ago—well after authorities were alerted by Hunter Water. Mr Bath said that Hunter Water was very remorseful in not making the contamination issue public themselves when they first became aware of it.

Further, Hunter Water has received $3.5 million to provide reticulated water to affected properties within the red zone. This work should be completed by April 2017 and under budget. In the meantime, bottled water is being provided at no cost. An issue that has arisen is that, when the houses of residents are connected to the reticulated water, some houses may not withstand the increased water pressure and the plumbing will need to be renewed to current standards. These supplementary works should also be part of any compensation package.

Prior to the election, the Prime Minister promised $55 million Australia-wide for blood testing, which is voluntary, and an epidemiology study. The Defence Minister confirmed that commitment in an answer to a question I asked in the Senate recently. Unfortunately, the minister also confirmed in that answer that any compensation package or buyback will not be forthcoming until the results of that study are known. This could take several years. I have firmly suggested to the minister that this time frame is far too long and that, if the government does not act sooner, it may have another asbestos-type crisis on its hands in 20 years.

More recently, enHealth has released new safety guidelines for PFOS and PFOA levels. The new tolerable daily intake levels for PFOS are 0.15 micrograms per kilogram per day, and 1.5 micrograms per kilogram per day for PFOA. These are 78 times higher than the levels deemed safe by the US EPA. EnHealth’s drinking water guidelines are 0.5 micrograms per litre for PFOS and five micrograms per litre for PFOA—excessively above the 0.07 micrograms per litre adopted by the US EPA. EnHealth’s recommendations of these acceptable levels were endorsed by the Australian Health Protection Principal Committee, made up of chief health officers and a Department of Defence representative on 15 June this year. This commission is made up of members that held defence contracts worth many millions of dollars, and obviously there is a perceived conflict of interest. I am not suggesting in this chamber that there are any illegalities in the process. This decision reversed Australia's
practice of adopting standards in line with those set by the US EPA. The US EPA drastically toughened its PFOS and PFOA guidelines, with stronger health warnings just three weeks before the Australian decision. This has raised suspicions in the community that the weaker safety standards are designed to reduce the number of people who will be eligible to be compensated and the quantum of payout.

Senator BACK (Western Australia) (16:43): I rise in response to the general business notice of motion moved by Senator Burston. Can I congratulate Senator Burston on raising this matter and also for the terms of reference as he has presented them before the chamber. I come to this discussion on two bases. I come to it as a member of the committee which has been investigating this issue and, of course, as a participant in the three inquiries we have had—one in Canberra; one at Williamtown or in Newcastle, New South Wales; and in Oakey, Queensland. I also come to it from a background of having been, as you know, Mr Acting Deputy President Sterle, chief executive officer of the Bushfires Board of Western Australia—an agency that used firefighting foams.

It might be of some interest to anybody listening to this discussion to know what the purpose of adding firefighting foam to water is for extinguishing fires. It is simply to create, at the microscopic level, a film around the material or the fuel that is to be burnt, and, in so doing, starve that fuel of oxygen.

As we all know, the fire triangle is one of fuel, oxygen and a source of ignition. We can assume, therefore, that, by the time firefighting foam and water are being used, we have already had the oxygen and we have already had the source of ignition—and we have fuel. So the purpose of firefighting foam is to add to the effectiveness of water by creating, at the microscopic level, a capacity to be able to starve the fuel of air—oxygen—in which case, of course, it does not burn.

I just want to make some comments with regard to the process and those who appeared before us in the hearings we have had and to also speak of the actions being coordinated by the Minister for Health and Aged Care and the Minister for Defence.

With my veterinary hat from earlier days on, I put a question to doctors in Newcastle. What we would normally expect to have happen is that a doctor might find a number of cases for which they have no clinical explanation, and that would usually cause them to talk to other doctors in their clinic and their practice and say to them: 'Look, I think I am seeing an unusual set of circumstances. Are you also seeing it?' Those other clinicians might say, 'Yes, as a matter of fact, we are', and generally they would consult with others in their district.

In the event that they think there is a 'cluster', as the term is used, it would be normal for doctors to get in touch with the state health department and say, 'Look, in this geographic area, a number of us believe we are seeing a range of clinical conditions for which we have no explanation.' It would then be the case that the state health department would be asked to come and inspect and do what is called an epidemiological study to establish if there is an epidemic of a certain circumstance or set of clinical signs and, therefore, what might be causing it. In Newcastle, I asked that very question of witnesses—are you aware of any such cluster in the Newcastle area as a result of the PFOA and PFOS presence in the water courses that have emanated from RAAF Base Williamtown?—and nobody was able to tell me that there had been such a circumstance.
I want to place on record immediately the recognition of the deep concern that residents in these communities have—and it is your state and mine. We now have it appearing around RAAF Base Pearce at Bullsbrook, north of Perth. Probably every military base and every large commercial airport in Australia has used PFOA and PFOS at some time in their firefighting foams. We know, of course—and Senator Burston may have mentioned it—that from 2004 they ceased to be used in the Defence Estate.

It needs to be understood that pretty well everybody in the western world, including all of us in this chamber, have levels of PFOA and/or PFOS in our bloodstreams. Why have we? Because, as has been said by my colleague, it is the substance used in Scotchgard, non-stick frypans and other products in common use. In fact, it has been recorded from the research that I have done that the person with the highest ever recorded blood levels of PFOA and PFOS was a lady working as a domestic cleaner in commercial buildings in a city in the United States.

Again, we do not have any record of adverse health effects. So, I wish to direct the chamber to the comments of Dr Eric Donaldson in Oakey in Queensland. Dr Donaldson was the base doctor at the base of Oakey, which for those who do not know, is directly to the west of Toowoomba on the way to Dalby, where I spent a good deal of my time as an undergraduate student whilst I was at vet school in Queensland. Donaldson also owns a very significant amount of farming land around the base at Oakey, and he runs beef cattle.

I asked Dr Donaldson—and, of course, it is in the evidence of the hearing on Wednesday, 9 March 2016, under the chairmanship my colleague Senator Alex Gallacher—'Did you, at any time during the time you were the base doctor, ever observe any clinical signs in personnel resident on the base, those working for the military or their families, or did you have reason to believe there were clinical conditions for which you had no explanation?' and he said, 'No, I have not.' I then said to him, 'Well, you continued on in Oakey as a clinician?' I asked him the same question as a civilian doctor, ‘Have you seen any evidence?’ He said, 'No.' I said, ‘Have other doctors?’ He said, 'No.' I said, 'What about the medical professionals in Toowoomba?' He said, 'No, we haven't.'

I said, 'Well, you have been a very active cattle breeder.' I, of course, am associated somewhat with the Pascoe family—Dr Reg Pascoe, a very eminent Darling Downs veterinarian, and his two sons, John and David, both of whom I worked with at UC Davis in California. David, now with a doctorate himself in equine reproduction, is working back in the Darling Downs. I know very well, from his interests, that Reg Pascoe would have also and did have long conversations with Donaldson about the condition of their cattle. I put that same question to him. I said, ‘Have you ever had any occasion—you or Reg Pascoe—to consider any pathology in cattle, be it abortions, be it early-term births, be it foetal abnormalities or anything at all?’ He said, 'No, Senator Back. I have never ever had occasion and neither, I believe, has Dr Pascoe.'

We then had evidence from a Professor Jochen Mueller, who is the professor of environmental toxicology at the University of Queensland and who cut his teeth on the toxic chemical dioxin at his university in Europe. He is of interest to this debate because he is the only person to have actually done any definitive work on a group of people who might have been at risk. I think it was in about 2005 or 2006 that Airservices Australia engaged his services to work with 155 firefighters to look at possible pathologic impacts of PFOA and
PFOS as a result of their exposure. He also looked at cholesterol levels and uric acid levels. He looked at issues such as obesity, whether they smoked et cetera.

For those interested, it would be important again to have a look at the Hansard of the conversations that Senator Gallacher and I had with Professor Mueller. Mueller has not been able to ascertain any pathology at all from those 155 firefighters associated with their exposure to PFOA and/or PFOS. I asked him that specific question. I asked him about someone who had 300 micrograms per litre. We—if we have it in our systems at all—probably have three, four or five. Dr Donaldson, as I recall, told us that he had levels of about 20 micrograms per litre, and his children—who have long been away from Oakey, working in other states of Australia—had levels higher than his, and I could not understand why. So I asked Mueller the question: what does a level of 300 micrograms per litre mean? He said:

I do not think there is any pathology that that person should expect, or can expect—as a result of the 300 micrograms. He said:

I think that person should live as healthy a life as somebody that has eight nanograms per millilitre. We do not have any evidence that says a person with 350 has a different life expectancy. I am not saying that there are no health effects, but we do not know that there are health effects. As long as we do not know... we should not concern anybody about health effects when we do not know them.

I led him through a number of questions, because I think Mueller is a person that we need to take a lot of notice of in this whole debate.

Why do I say these things? Because the point that he made was that he believed members of the community of Oakey have been unnecessarily caused to be concerned by these. We had one witness, a young gentleman whose wife had just delivered a child in either Oakey Hospital or Toowoomba Hospital, and he did not know whether to bring his wife and daughter home. So this is clearly an event of great emotional concern, and nobody should belittle that concern. But at the same time, from an epidemiological point of view, we must be very guarded about going out and accepting and then escalating something for which there is not medical evidence to a level where it unnecessarily causes concern to a community of people. I believe Mueller to be a credible witness.

Having said that, I note that there is obviously a responsibility on government, because of people's concern for their own mental and physical wellbeing, valuation of land, and whether they should consume water, milk or eggs from chooks that drink the water. And, of course, particularly among those associated with Williamtown, there are those whose businesses, particularly fishing businesses, have been severely and adversely affected.

Ministers Payne, in the Defence space, and Ley are now taking a leadership role, and I for one am willing to accept that I think they are late on the train—not those two ministers but governments generally. It is governments of both persuasions, so neither one of us can take any partisan sort of advantage in this space. But, nevertheless, Minister Ley has commissioned work to be undertaken here in Australia by Adjunct Professor Andrew Bartholomaeus, who is an expert in toxicology and chemical regulation here in Australia. He completed a report which I understand he either has presented to Minister Ley or will present in the next few days. There was the commissioning of the University of Newcastle's Family Action Centre, a mental health awareness and stress management initiative which I believe my colleague Senator Burston has previously referred to. There has been the appointment of
community liaison officers both in Williamtown and in Oakey. Of course, there has also been the commissioning of a study into what may be regarded as the health effects.

It brings me to the question of blood testing, because it is a very interesting question: do you encourage people to come forward and have blood tests or not? It all started, in fact, with Dr Donaldson, who of his own volition started to have blood samples taken from the community in Oakey and then provided that information, with the permission of those who had been sampled, to the Department of Defence. It was interesting that, when we had the hearing on Williamtown at Newcastle, the advice of the New South Wales Department of Health was that they did not understand where the value would be in having blood tests, simply because, again, as Mueller said, the question is: what information does it provide you? If you have five nanograms per millilitre, are you happy? If you have 300, are you unhappy, and what is the effect of that?

I thought to myself: what would I do in my circumstance? Would I have myself tested and encourage the members of my family to be blood-tested? Personally, my answer is: yes, I would. And I would not just have one set of blood tests, because those of us who know a bit about haematology actually know that one test only is of very, very doubtful significance or interest. You have to be tested over a period of time. Therefore, there has been some confusion and this has landed at the decision of voluntary blood testing by members of those communities who have the opportunity to do so.

I want to speak briefly about the conclusions drawn from a human health risk assessment associated with Williamtown and Oakey that was commissioned by the government. It was undertaken by an independent international environmental consulting group called AECOM, and their objective was to assess potential human health risks, including exposure through soil, groundwater, surface water, sediments, plants and animals within the investigation areas. It is my understanding that the work they did was as a result of the review and the endorsement of the toxicologist Professor Bartholomaeus. The words 'low' and 'acceptable' appear throughout their report regarding both Williamtown and Oakey in terms of human health risk assessment. This was completed in accordance with the National Environment Protection Measures.

I am not suggesting for one minute that we know the full answer to this question. But I think an incredibly ill-disciplined, ill-founded and regrettable comment was made by a person who was then in the defence service. As I understand it, that person addressed the first public meeting in Oakey and stood up and said, 'This is the new asbestos.' That person had absolutely and utterly no clinical history to use to make that statement. The person might be right. The weight of opinion—from my reading of the scientific literature over the last 12 months—is that they are not right. But it quite rightly has raised in the mind of the community very, very real concerns. Can they sell their land? Should they run livestock on their land? Should they move away?

As we have said, and as Senator Burston has drawn to our attention, there is the whole question about land valuation. If they want to move away, to whom can they sell their properties? Regarding the adjacent fishing fleets and the flow-down from RAAF Base Williamtown, to what extent can those people re-establish their lives? They have received some compensation—I would have thought it is not sufficient. We had one witness who had only just invested heavily in a new fishing enterprise, and he saw his life being ruined. But
this is not just a short-term issue. For every airport—Mascot, Brisbane, Adelaide, Perth, the RAAF bases and the Army bases—this is a very, very important, key, long-term study, and it must be looked upon with a high degree of maturity. Government must continue to support those involved. We must continue to try and get epidemiological understanding and clinical knowledge so that we can inform the wider community as PFOA and PFOS impacts emerge.

Senator Burston, thank you for raising this issue.

Senator CAMERON (New South Wales) (17:03): I rise to support the notice of motion from Senator Burston in relation to this issue of firefighting chemicals—PFOS and PFOA—and the situation that people find themselves in in Williamtown. Firstly, I acknowledge the member for Paterson, Meryl Swanson, who is here in the chamber. Williamtown is part of her electorate, and I am very pleased that Meryl is here to listen to this debate, because this is an issue that affects her community and an issue that she, along with the Labor Party, is extremely concerned about.

I have to say: I am absolutely gobsmacked by that last contribution from Senator Back. Senator Back, a man who tells you that wind farms can kill you from 10 kilometres away, is now saying that you need scientific knowledge on every issue about these chemicals before you can say there is a problem. I have never heard such a turnaround by any senator in this place in my career in the Senate. Apparently wind farms are a problem, but these chemicals are not.

The chemical pollution in Williamtown? Not a problem! If you listen to Senator Back, you would think you could spread it on your toast in the morning and you would be okay. I do not think it is as clear as that. I do not think it is as simple as that. I have had a look at some of the reports that have been done and the reports are not clear.

As a union official, for years and years I had to deal with members of the old metal workers union and the AMWU who were dying with mesothelioma after exposure to asbestos, after they were told that it was okay: 'White asbestos is okay; it won't hurt you. Don't worry about it.' I used to go up to Barraba mine and see people there—boilermakers, fitters, machinists, labourers—covered in asbestos, their skin as pale as anything, dying young because of mesothelioma, and the company was telling people that there was not a problem.

I do not want to say there is a problem up in Williamtown, but I think we should take every precaution and we should do everything we possibly can for the people of Williamtown to give them some idea of what the situation is. But for Senator Back to come here and run the nonsense that he did just beggars belief. If you are part of some right-wing conspiracy theory on wind turbines, you can come and say whatever you like. But if you are a resident in Williamtown who has a genuine concern about chemicals affecting you, about chemicals affecting your kids and about chemicals affecting your livelihood, then you are, basically, dismissed. Bring in all the expert opinion you like and dismiss the concerns of the good folk of Williamtown!

Well I don't dismiss those concerns so quickly, and neither does the Labor Party. We do not dismiss those concerns, on the basis that our leadership has gone up on a regular basis to Williamtown to talk to the community about the implications for them and the concerns they have. In fact, the Leader of the Opposition, Bill Shorten, went up there on 28 September 2016 to talk to the community about the issues affecting them. Richard Marles, then the shadow minister for defence personnel, went up on 15 August 2016 and spoke to the people in Williamtown. Former senator Stephen Conroy, the defence minister at the time, went up in
June 2016 to talk to the community. Shadow minister Gai Brodtmann and local member Meryl Swanson have been there many times and have continued to talk to the people about their issues. Sharon Claydon, the former member whose area covered Williamtown prior to the redistribution, always had a concern for the citizens of Williamtown. I welcome Senator Burston’s concern for the communities in that area. When we had the banking inquiry, Pat Conroy, the member for Charlton, forced the Commonwealth Bank to stop foreclosing on a family in Williamtown. Just think what we could do if we got a royal commission into the banks if we could do that sitting at that stupid forum that the Prime Minister established.

These are big problems and to simply dismiss the issue by trying to pretend that you are some expert because you are a vet beggars belief. I cannot understand that a doctor who runs a cattle ranch up in Queensland is suddenly an expert. He cannot see any clinical signs! I can tell you, you would not have seen any clinical signs in some of my mates, the boilermakers and fitters, that worked with me. There were no clinical signs for them for about 30 years before they started dying with asbestos disease and mesothelioma. We should not dismiss this matter just because so-called experts are saying these chemicals are okay. We should take every precaution we possibly can. That is why we made a range of recommendations to deal with this issue.

I know there is a view that some companies do not see this as a serious problem. I am told that Canada and countries in Europe have major corporations operating within them that are very good lobbyists, and they certainly do not want any claims being made on them. In this place you almost have to talk about the Defence Force in hushed tones, as if the Defence Force can do no wrong. Every time a coalition member stands up they wrap the Australian flag around themselves and they talk about the Defence Force in hushed tones. Well the Defence Force can get it wrong too. The Defence Force is pretty well known for its capacity to avoid any legal implications for the actions that they take. Thankfully the Defence Force has some pretty smart people, but they also have some pretty smart operators trying to make sure that no litigation comes their way. So you have to take it with a grain of salt when the Defence Force says there is not a problem.

I have had a brief look at what has been said about this issue. There has been a five-year analysis of these chemicals in the United States, from 2010 to 2015, called the PFOA Stewardship Program. Nobody can tell me that the US are backwards in their scientific capacity. Nobody would be arguing that. Their conclusion was that these substances should be banned. They said that they would work towards the elimination of these chemicals, and went on:

EPA launched the PFOA Stewardship Program in January 2006 because of concerns about the impact of PFOA and long-chain PFASs on human health and the environment, including concerns about their persistence, presence in the environment and in the blood of the general U.S. population, long half-life in people, and developmental and other adverse effects in laboratory animals.

So in the US they have concluded that it has affected laboratory animals. I do not know where Senator Back’s mate, the part-time farmer/part-time doctor, gets his ideas from but certainly I would be more inclined to look at the EPA in the US as a guide rather than that farmer. The companies that participated in this program included Asahi from Japan, BASF Corporation, Daikin, 3M/Dyneon and DuPont. These major corporations were involved in this program for five years, and they determined that they had to get rid of these chemicals. For the coalition to
come in here and just dismiss this view is absolutely obnoxious. If it is a wind turbine it is a
major health problem; if it is a chemical produced by a major multinational corporation, suck
it up. That is the tenor of Senator Back’s proposition.

The report from coalition senators questions the value of conducting blood testing. They
question every little thing. They say there have been no confirmed links, but after a five-year
study the US decided to ban these chemicals. So you cannot tell me there is not a problem,
and I would rather have the precautionary principle any day—the precautionary principle is
absolutely essential in this.

We have gone up there. Labor has been onto this from day one. I myself met with some of
the fishermen in a meeting in Parliament House last year, when they were concerned about
the effects on their livelihood. So I am glad that Senator Burston has joined the Labor Party
in dealing with this issue.

Honourable senators interjecting—

Senator CAMERON: I said ‘in dealing with this issue’. Senator Burston, I am very happy
to support this motion. I am sure there will be other motions that you put up that I will be
appalled with and will not support, but I think this one is a good start. If your career in the
Senate is about doing things like this, you will have a good career. If your career in the Senate
is to run some of the rhetoric and nonsense I have heard over the last few maiden speeches, I
do not think your career is going to be that—

The ACTING DEPUTY PRESIDENT (Senator O’Sullivan): Senator Cameron, address
your remarks through the chair.

Senator CAMERON: Anyway, well done for bringing this to the Senate. Labor has had
inquiries into this issue. This is a big issue for the people of Williamtown.

I want to finish on this. This is not about a Senate inquiry hearing from some farmer-come-
doctor in northern Queensland who cannot see any symptoms. This is about the precautionary
principle. This is about taking steps to ensure that people who may have been affected by this
are looked after and that, if they are affected, they are compensated. That is the issue here. It
is pretty simple. When some of the weirder members in the Liberal Party—and their numbers
are getting greater by the day in this place—simply say that wind turbines are a problem but
firefighting chemicals are all okay, I really just do not get it. I stand beside the community in
Williamtown, as does the local member, Meryl Swanson, and as does the Labor Party. We
want the government to do more. The minister, Marise Payne, has only been up there once
since this happened. I do not think that is good enough. I think the minister should be in here
telling us exactly what is happening and how this can be fast-tracked. In fact, the minister
should be in here now supporting this motion to get this resolved and not sending her minions
in here to give us the nonsense that we just heard from Senator Back.

So I support the motion, and I hope that we can provide some support and some comfort to
the residents of Williamtown and other areas that are affected by this. I am a New South
Wales senator, so I particularly know about the issues in Williamtown. I am not across the
issues elsewhere, but the principles will be the same. When multinational corporations are
producing chemicals that could be carcinogenic, are long-lasting in the soil and are polluting
the water system, something has to be done about it. I do not think the government is treating
it seriously enough, so I welcome the opportunity to continue our concern about this issue. Again, Senator Burston, thanks for bringing this to the Senate today.

Senator Williams (New South Wales—Nationals Whip in the Senate) (17:18): I rise to contribute to this debate and thank Senator Burston for bringing it to the attention of the Senate. As always, I will be very frank. Until a few days ago, I knew nothing about this issue at Salt Ash and Williamtown. I think the problem has been around for years; in 2003 or so it was first brought to light. I do not know if that is true or not. If it was, I question what Senator Cameron did about it in the six years they were in government, but we will not go into the politics of that. But it came to my attention because I had a call from a journalist, who said, 'There are some problems with the residents here at Williamtown because the banks are giving a couple of them a bit of a hard time.' What I mean by that is that this journalist—and I am not going to name people or institutions, banks or whatever—said that people's properties have been devalued because of this contamination. You would be aware of it, Senator Burston. The value of their properties has gone down, so their loan-to-value ratio has gone up and there are some concerns. So the first thing I did was phone Steven Munchenberg from the Australian Bankers Association just a few days ago and explain the situation to him.

Senator Cameron: 'Hey, Steven, it's Wacka here,' and Steven goes, 'Uh-oh!' Senator Williams: A terrible interjection from Senator Cameron over there, Mr Acting Deputy President—you should pull him into line! Anyway, Steven Munchenberg was very good, as always. I get on very well with Steven and the Australian Bankers Association. I called representatives of the big four banks to say, 'Look, there's a problem here. People's properties are being devalued through absolutely no fault of their own.' This foam was being used for many years to put out so-called fuel fires. It is a pollutant and it has spread. Has it gone into the water system? Has it gone into the ground? I do not know. There has to be a lot of research to find the facts out here. But the point I make is that it was no fault whatsoever of the residents there. Their properties have been devalued and perhaps are not even saleable, with the media et cetera going around. In my opinion, we have to have a good, close look at this. As I just said to Senator Nash, imagine if some government department or someone else came along to the edge of my little farm—my wife, Nancy, and I have a little property out at Inverell—and polluted the creek and our property or poisoned the soil or whatever. We would want to know why. It would certainly devalue our little farm. If we were totally not responsible for the damage, the pollution and the devaluation, I would certainly be asking questions, just like the residents of Williamtown. I am not familiar with the situation at Oakey; I only talk from experience and what has been brought to my attention. They have serious concerns.

I do thank the Australian Bankers Association and the representatives I have spoken to from the four big banks to say, 'Look, we're not going to be doing any panicking. We're going to work with these people.' It may be a different situation if you are in one of these houses, you have your house mortgaged to a business, your business is going bad, your cash flow is going bad and you cannot maintain your payments. Then you will have to talk to your bank and try to work it through. But the point I make is that, if these properties have been devalued through absolutely no fault of the owners of the properties, we have a problem to work through. And I do appreciate the Australian Bankers Association and the banks for being considerate and listening to my calls. I do not think there are going to be any problems for the
residents as far as their mortgages go, so long as it is about the valuation and not, as I said, if they are running a business and their business is in trouble or for some other reason their cash flow has been dramatically reduced.

It is a very testing time for these people at Williamtown. This PFAS—that I had never heard of before I found out about it this week—is a serious chemical. There is talk about its listing on the Stockholm listing of chemicals. I think it is a case of banning these chemicals. The case I want to put is: what can the government do? The first thing we are doing is supporting these people, with some money going in from Defence to help Hunter Water put water into these houses that are not on town water so that they can be supplied with clean water. That is a good plus in itself. Certainly, we are helping them in the health department with the situation of blood tests and so on. There is also some mental health support, which is most important. Imagine if you lived there, Mr Acting Deputy President O'Sullivan, and you found yourself under financial pressure. You had bought a property and house that might have been worth $500,000. All of a sudden, you think it is worth $300,000—or even less. You owed $200,000 or $300,000 on your property and you thought you were getting ahead. You had half your house paid for—its value—and, all of a sudden, you were back to owing the whole value of the property. It is not a good thing to have on your mind. Mental health issues may be a serious problem there as well. I certainly hope that the Department of Health are doing all they can to assist these people through these tough times.

As far as I am concerned—and, Senator Burston, you would know more about this than me—we need to go right through this testing to see where the pollution is. The first thing to do is to stop any further pollution. No doubt these chemicals are no longer being used by the Defence department. We need to see that the pollution does stop—that this PFAS is not being used. Then we need to do the testing of the soils and the water to see how far the pollution has spread. We need to see if it is from the source of the Defence department and prevent the spreading. Then we need to see what we can do to clean up the mess.

As far as I am concerned, if it is the cause of the Defence department and the property values are seriously devalued, then I think the Defence department should compensate those people for the devaluations. As I said, they may be just living in their house—they have bought a property; they may have bought a block of land there, Senator Burston, and built their house—and thinking that everything is hunky-dory and fine. Then, through no fault of their own, just because of where they bought—near the Air Force base at Williamtown and at Salt Ash—they have suffered an enormous financial blow because of someone else or some department. I should not say 'someone else'; many people would have made these decisions, and they would have been advised, no doubt, years ago that these PFAS foams for fighting the fuel fires were safe, effective and the new modern way to put these fires out, especially in the case of emergency. If you had an airline crash, or whatever, and fuel had spilt everywhere, you would need something very effective to put that fire out. It could be a case of saving lives at the time. It would have been a great invention at the time. But many chemicals were great inventions—arsenic for drenching ship and dipping sheep for lice. Everything was a great invention years ago on the farm until they were banned and until people realised the carcinogenic effect of such dangerous chemicals. This may be a case of the same situation with this PFAS, where they have designed something—invented a chemical that is very effective for fuel fires—only to find later in life that, 'Hang on; this is not a pure chemical. It's
actually a pollutant; it's dangerous. It can cause enormous damage to the environment and to people.' Who knows! I am not a doctor; I am not a specialist in this field.

I do sympathise with those people for what they are going through. I have done my best and I am very confident that the financial institutions will stick with them through this period of research, which I think must be carried out, to research the level of pollution, of contamination, so to see what can be done to clean it up, and how it can be cleaned up. If it cannot be cleaned up and if the people have to be moved out of there—I do not know the final situation; I have not visited there. But I hope that in the near future I can go down to Salt Ash to talk to the locals and see what we can do for them.

I thank the journalist for bringing it to my attention. I am sure that she appreciates very much the work I have done to contact the banks and institutions to see that those people are not under severe financial pressure and more stress. Only time will tell, but I know that the department is certainly working on it. I have discussed it with Minister Payne. She is very aware of the situation. When I phoned Minister Payne she was in America at the time. Thankfully, she rang me as soon as she could. She rang me straight back after I texted her to give me a call to assess the situation. She is certainly onto it, and so is the Department of Defence. I repeat that—

Senator Cameron: 'On to it'?

Senator WILLIAMS: Senator Cameron, when did this first occur? If you want a political argument, I will gladly take you on. Had this PFAS been distributed when you were in government? Should I ask the question: what did you do for Williamtown in your six years in government?

Senator Cameron: The minister has been there once.

Senator WILLIAMS: What did you do?

Senator Cameron: The minister has been there once.

The ACTING DEPUTY PRESIDENT (Senator O'Sullivan): Order on my left!

Senator WILLIAMS: So what did you do in those six years? You did nothing. You are just a great political hand grenade thrower in this place, where it is all about saying—

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

Senator WILLIAMS: My sincere apologies, Mr Acting Deputy President. I did not realise. I will certainly come back to you. Mr Acting Deputy President, when it comes to political hand grenades, Senator Cameron is probably the best chucker of those around the place. You may have even experienced some of that in your own personal life in the Senate here, Mr Acting Deputy President.

Instead of making a political issue out of this for those people of Salt Ash, let us try to work together to see if we can get a solution. I thank Senator Burston for bringing this to the chamber. Just out of what you have done here today, through you, Mr Acting Deputy President, of course, this will get more publicity and give more support to the people of Salt Ash. As I said, I cannot comment on Oakey. I am not familiar with the situation at Oakey, but clearly there is something similarly wrong up there. Let us hope that the contamination, as I said, is no longer being spread, that they can determine the borders of how far the
contamination has spread and that they can then, perhaps, clean it up through neutralising the chemicals through some way or another—some design of a balancing chemical. If they do not do that, then I believe those people deserve compensation. I will repeat it again: if you have your place devalued through no fault of your own, the people—the department that are responsible for that devaluation should compensate you.

That is my contribution. I thank Senator Burston once again for bringing this very important issue to the attention of the Senate.

Senator RHIANNON (New South Wales) (17:29): The Williamtown story of contamination has thrown the lives of so many people into uncertainty and disarray. It is actually a story that is repeated, we are learning, in many other areas around the country, and it really does underline why this government has to act urgently. People are living with possible health problems, the loss of property value and the inability to continue their lives. Some of them have lost their livelihood completely; fishing folk in and around Williamtown are an example of that. Each time I visit this area I find that the mental health of many of the local people is deteriorating, and it is understandable. When you have got your future ahead of you, and part of your future is where you live, your income, your property and home, and you are uncertain if you should even be living there but you cannot see any way out because your property now has no value, it clearly is incredibly alarming.

One of the saddest stories I heard was about a young couple who had decided to move from Sydney to this area to start their home. They liked the semirural lifestyle. She fell pregnant—after very much looking forward to starting a family—and then, while she was pregnant, the story of the contamination broke. She was then not sure if she should breastfeed the baby—if that was best, or if it was not best. Might she be poisoning her baby through her breast milk? These are the questions that people are asking themselves and that really underline that sense of insecurity that so many people are living with.

The banks are now becoming a big part of this story. The Commonwealth Bank has sent foreclosure letters to residents in Salt Ash, one of the areas affected by PFOS and PFOA contamination. We have heard from the Commonwealth Bank that it is not planning to foreclose—it has backed down on that, and it has said, 'Well, that was a bit of a mistake.' It is actually claiming that sending the letters was an administrative error. But anybody who has been involved in this crisis would have to be very sceptical of that claim.

The fact is that residents' homes have been devalued, residents have had difficulty getting bank loans, and resident have had difficulty selling. Many are begging the Department of Defence to buy them out. Again, that is something that has been repeated so often when I meet with locals at Williamtown, particularly because many of them went to the Senate inquiry that we had at the end of last year. That gave them some hope—because the Department of Defence have to turn up—that Defence would listen and then respond.

The government admits total responsibility. There is no wriggle room and no excuses. They admit that they have caused this contamination. So, understandably, people expect, 'Well, this is the government. They will do the right thing. They have admitted that they have made this very serious mistake and we are now living with contamination.' But there is nothing. The months keep rolling by. So this issue about the value of people's property and their future is becoming bigger and bigger.
ANZ, the Commonwealth Bank and NAB have all refused to offer new lending in the area known as the 'red zone'—the area that has been marked out as severely contaminated. There is a risk associated with these properties that the banks do not want to go near as they now have reduced value due to the high levels of contamination. So this is huge. Imagine how we would feel if we went home this weekend and we found that was the situation for where we live—I guess most of us own our places—and then all of a sudden we could not get a loan and we could not sell our property. This is extraordinary. Who has caused it? In this case it was the government.

Real estate agents in the area have confirmed that they are struggling to sell properties. If the Department of Defence is responsible for the devaluation of the properties—and they are; we know that—then they are also responsible for ensuring that the affected residents are compensated for those property devaluations as well as for the loss of income, the health difficulties and the disruption that they have endured through no fault of their own.

Again, I want to underline, and I know I have said it but we need to keep saying it: the government has admitted that they are responsible. The local people, through no fault of their own, are now in this incredible situation—a situation of constant uncertainty. This is causing stress, anguish and, in many cases, depression. I have been very concerned with what some people are saying to me about what they think that they might have to do with their future. It is extremely alarming, and it goes back to this failure of government to deal with what is happening.

It is the obligation of the Turnbull government to sort this out with the banks. This is precisely what a government should do. They should put the public good first. The public good has been damaged here. They should put the public good first, and, as the banks are part of the problem, they should be helping sort that out.

It is also the obligation of the government to compensate for the huge financial losses that the residents are coping with. Again, that should be obvious. There was a clear recommendation from our Senate inquiry that the government start working on this. But nearly a year later—nothing. It is also the obligation of the government to provide free health tests to residents.

The government should be working with state agencies to remediate the contaminated land and water. It is absolutely critical that the government sets out a clear timeline detailing its plans for remediation. That remediation is critical for residents and also for workers at the base. The level of problems in this area really are mounting as this goes on. I have had many shocks and surprises, both in listening to residents and in hearing how the government is handling it. One was when I learnt that the government initially had no plans for remediation. Now that is not nearly as extensive as it needs to be.

I feel that the coalition government is dodging this issue. I found out, when I first asked questions about this in estimates last year, that the government has actually known about this for many years—certainly for much longer than the one year that the local people have known about it. The Department of Defence have known about it for years. International studies have been done. So it was in the literature. It had been reported. But again the local people had been left in the dark.
I am pleased to be able to speak on this. Sadly, I think we will have to come back to this time and time again. But the ball really is with the government. We know the problems banks have in ever doing the right thing by people. That is why the government needs to address the issue of how the banks are operating, as well as to take up their own responsibility to do health tests properly and not run these scam ways of doing them by saying, 'If somebody goes and pays for the health tests then they can get the money back.' Many of these people do not have that sort of cash, to be able to manage it in that way. So there is much that the government needs to do, and they really need to get cracking.

Question agreed to.

Photography in the Senate

Senator HINCH (Victoria) (17:38): I ask leave to move a motion to vary the order relating to photography in the chamber agreed to earlier today.

(Quorum formed)

The ACTING DEPUTY PRESIDENT (Senator O'Sullivan): Is leave granted?

Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:41): I have not had an opportunity to discuss this with Senator Hinch. We are reluctant to grant leave when we have not been advised of this, as a matter of courtesy, ahead of this leave being sought. We would have considered it, but the Labor Party, as I understand it, has not been advised of this. We would usually request that, if a senator is seeking to obtain leave from the chamber to do so, we be given the courtesy of being advised of it so that we can have a position. So we are disinclined to agree to it.

What I do understand is there is an issue with whether or not arrangements could be made for photography for a particular vote which is coming up in that week. Some informal discussions have been held on that, and I have indicated we are quite willing to have that discussion. But in the absence of being advised and having some consultation internally, we are disinclined to give leave to amend a motion which has already been passed.

Senator HINCH (Victoria) (17:42): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator HINCH: My apologies to Senator Wong; it is my newcomer ignorance that I did not follow a formality. It was not meant as any manner of disrespect at all to the Leader of the Opposition in the Senate. What I was trying to do was have the motion accepted this morning amended. That date, 28 November, was picked to help the Clerk of the Senate, because they wanted to have a bit of time to do some drafting. I would like to now move that date forward. I thought I had some agreement that we would move it forward to 7 November, which is the first sitting day of the next session. I just want to stress that the only reason why the 28 November date was ever picked was that I was trying to make things easier for the Clerk of the Senate. That is why we picked Monday, 28 November. I would now like to try to change it, if I get permission to move it, to 7 November.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:43): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.
Senator SIEWERT: I wonder if perhaps the chamber could extend to Senator Hinch the opportunity to lodge a late notice of motion that would then go through the first Monday we are back that would let him change it to 8 November. Perhaps that would be a way forward. If there was a disinclination not to progress this matter now, I wonder whether we could do that in order to facilitate Senator Hinch's objective, which is to get the photography happening sooner than 28 November.

The PRESIDENT: I just indicate to the chamber that I had a conversation with Senator Hinch earlier in the day about the date and the proposed change. My understanding was that his office was going to contact all parties, and that obviously has not happened. So there is no appetite for the change. Senator Siewert made a useful suggestion of a permission for lodging, by leave, a notice of motion. He would need leave to lodge a notice of motion as it is beyond the time frame for lodgement. Is the chamber happy for Senator Hinch to seek leave to lodge a notice of motion that will be lodged on Monday, 7 November for photography in the chamber to then take effect post that lodgement? Do I hear agreement in the chamber for that course of action? He will lodge the motion today. The motion will then be debated or discovered in formal business on Monday, 7 November. I would assume that photography rules would then change post the passing of that motion, if indeed it passes.

Senator Hinch, I think we have reached a resolution. I am sure you will have some assistance in the drafting of the notice of motion. There will be leave granted probably at the end of this session for you to lodge that notice of motion. I think we have agreement.

Defence Facilities: Chemical Contamination

Senator XENOPHON (South Australia) (17:46): by leave—There was some confusion as to the order of speaking and I was caught unaware, so thank you very much to my colleagues for this opportunity to speak very briefly on this important issue. I commend Senator Burston for raising the groundwater contamination issue with his motion.

Many hundreds of people have felt abandoned by our defence forces because there has not been an adequate system or adequate processes to assess the issue of groundwater contamination arising out of firefighting foam contamination at RAAF Base Williamtown in New South Wales and the Oakey Army Aviation Centre in Queensland. Indeed, there are rising concerns over groundwater contamination in Adelaide's north at the RAAF Base Edinburgh.

Back in May of this year I visited Oakey in Queensland along with the candidate for the NXT for the seat of Groom, Josie Townsend, who put up a terrific fight for that seat, as well as the Senate candidates for NXT in Queensland, Dr Suzanne Grant and Daniel Crow. There were very serious concerns in Oakey. We were talking to residents—people whose property values had plummeted and people whose properties were virtually worthless and unsaleable because of the concerns about groundwater contamination.

Clearly, the work of the Senate committee in relation to this in the previous parliament was absolutely critical. I commend those who worked on that, including, I note, Senator Gallacher from my home state of South Australia. They did valuable work in relation to that committee.

All I think needs to be said at this stage is that there must be expedited environmental investigations into the impact of this firefighting foam, there must be an opportunity for people to be allowed to have blood tests without any cost to themselves in relation to this,
there must be soil testing—not just the surface soil but deeper than that—and there also must be testing in relation to the groundwater on a regular basis so that there can be some longitudinal tests with respect to this. I think it is important that we also look at the issue of land remediation and relocation, because the stress of the people that I spoke to in Oakey and the concerns we have in the north of Adelaide are very real.

I am not blaming Defence in this regard; the risks involved with this firefighting foam were obviously not known to Defence at the time. I presume they were not known, but we now know that this firefighting foam can be carcinogenic, can cause contamination of land and water, and above all poses a real and significant risk to human health. That is why there is an obligation on the part of Defence to ensure that there is ongoing monitoring of this; that, if there is evidence of contamination of land, either remediation is offered or, more importantly, compensation for the loss of the value of that land, or indeed if that land is no longer able to be sold because of that contamination; and, above all, ongoing monitoring of the risk to human health, particularly to young children. A number of residents of Oakey spoke to me and are concerned about the impact on the health of their children and their families because of the contamination by these toxins. I understand in the United States there have been significant class actions launched with respect to these contaminants.

This is an important motion moved by Senator Burston. I am very happy to work with Senator Burston on this issue because these people deserve certainty rather than the real concerns they have about this. There needs to be an approach by Defence that is comprehensive rather than piecemeal so that we can address these very significant issues. If we do not, the health of individuals will continue to be affected in an emotional and psychological sense. More importantly, there must be a proper assessment of their physical wellbeing. It is something that Defence will need to deal with for many years because the leaching of these toxins into groundwater a fair distance from the original source—from ground zero, if you like—needs to be monitored in a very responsible way. This is an issue that I presume Senator Burston will take up in Senate estimates next week, so I look forward to joining him at that time so that we can get answers, not just for the residents of Oakey and Williamstown but also for those near the Edinburgh Air Force base in South Australia. Thank you very much for your indulgence.

PETITIONS

Breastfeeding

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:51): by leave—I present to the Senate a nonconforming petition from SIDS and Kids. It has been to the whips meeting and agreed to. There are over 5,000 signatures in support of a Medicare rebate payable for services provided by an international board-certified lactation consultant.

NOTICES

Presentation

Senator HINCH (Victoria) (17:51): by leave—I give notice that, on the next day of sitting, I shall move:

That the order of the Senate agreed to on 13 October 2016, relating to photography in the chamber, be amended by omitting "28 November 2016" and substituting "8 November 2016".
Consideration resumed of the motion:
That the Senate take note of the document.

Senator POLLEY (Tasmania) (17:52): I want to speak on the Aged Care Complaints Commissioner's Report for the period 1 January to 30 June 2016, including the final report of the Aged Care Commissioner for the period 1 July to 31 December 2015.

The Aged Care Complaints Commissioner's annual report details work that Rae Lamb has been doing in her first six months as the new Aged Care Complaints Commissioner. It is a good report, full of valuable information and data-specific to the aged care sector. This is the first time that a report about aged care complaints has been made available.

In the six months since the new commissioner was appointed she has been inundated with complaints. In fact, the number of complaints has increased by 11 per cent. Over 5,000 people contacted the commissioner's office with concerns between 1 January this year and June. More than 2,000 of these were formal complaints, mostly from concerned family and friends of people living in residential care.

Some people have attributed the increase in complaints to the fact that there has never before been an avenue specifically for aged-care-related complaints. But I am sure that I would not be alone in suggesting that the increase in complaints really stems from the Turnbull government's disinterest and neglect of the ageing and the aged care portfolio.

We have sought from this government on numerous occasions to have released the modelling that they made their judgement on when they cut over $1.2 billion of ACFI funding out of the aged care sector. It has been demonstrated over the last three years that this government has not had the passion, the vision or the drive to ensure that they have oversight of this extremely important sector—the sector that is caring for older Australians and the sector that is responsible for caring for some of the most vulnerable people in our community.

So the fact that we now have a complaints commissioner is a good thing. We will continue to watch with great interest, to see whether or not the increase in complaints continues. But I do at least acknowledge the fact that this is a step in the right direction.

But it does concern me that the minister responsible, Minister Sussan Ley, has said that the overall increase in complaints remained low. I think that is a bit of a joke—maybe she was trying to make light of it. But it does not matter how you look at this and how much you want to try to deny it: there has been an increase in complaints.

I am not surprised, really, considering that last weekend, when the minister, Senator Siewert and I attended the LASA Congress 2016, which was held on the Gold Coast, we heard the minister speak and give her address, which said nothing—as usual. But when we participated in a panel discussion in relation to this sector the minister did say that she wanted to be honest with the sector about the cuts. Unfortunately, she did not call them 'cuts'; she sees the ACFI funding cuts as a 'saving'.

But the sector knows, as we know, that a cut is a cut is a cut. So if she really does want to be honest, transparent and open with the sector then she should release the modelling which
her government used. She has responsibility around the cabinet table as the minister to release that modelling. All other modelling that has been done by peak bodies has indicated that they believe the outcome will be far worse than the $1.2 billion. Those people who are going to be most affected are those who have multiple conditions and high and complex needs. These are the most vulnerable people in our community.

What I am asking the minister to do is what she said she was going to do—be open, be honest and release that modelling for us. We know that the interest shown by the minister in this sector has been very little. She much prefers to re-announce sporting events so that she can have her photo opportunities again and again. If she just paid 10 per cent more interest in aged care then we would be happy to acknowledge that. But we know that her interest lies in sport, photo opportunities and not doing the job that she has responsibility for.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**DOCUMENTS**

**Consideration**

The following orders of the day relating to documents were considered:

- Estimates hearings—Unanswered questions on notice—Additional estimates 2015-16—Statements pursuant to the order of the Senate of 25 June 2014—Foreign Affairs and Trade portfolio; Health portfolio; Tourism Australia. Motion of Senator Urquhart to take note of document called on. Debate adjourned till Thursday at general business, Senator Bilyk in continuation.

- Regional Forest Agreement between the Commonwealth and Tasmania—Joint Australian and Tasmanian government response to the Review of the implementation of the Tasmanian Regional Forest Agreement for the period 2007 to 2012. Motion of Senator McKim to take note of document agreed to.

- Institutional Responses to Child Sexual Abuse—Royal Commission—Report of case study no. 33—The response of The Salvation Army (Southern Territory) to allegations of child sexual abuse at children's homes that it operated. Motion of Senator Urquhart to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.


- Australian Institute of Health and Welfare—Australia's health 2016—Fifteenth biennial report. Motion of Senator Bilyk to take note of document agreed to.

- International Air Services Commission—Report for 2015-16. Motion of Senator Macdonald to take note of document agreed to.


- Migration Act 1958—Section 486O—Assessment of detention arrangements—1001665-O, 1001801-O, 1002223, 1002234-O, 1002237-O, 1002298-O, 1002350, 1002367-O, 1002379, 1002392, 1002450, 1002454, 1002471, 1002492, 1002600, 1002656, 1002675, 1002681, 1002811, 1002873, 1002976, 1002992, 1003021, 1003055, 1003204, 1003205, 1003227, 1003234, 1003235, 1003248, 1003253, 1003255, 1003302, 1003314, 1003322, 1003328, 1003339, 1003351, 1003353, 1003355,
1003359, 1003382, 1003401, 1003429 and 1003464—Government response to Ombudsman's reports. Motion of Senator Urquhart to take note of document agreed to.


Institutional Responses to Child Sexual Abuse—Royal Commission—Reports of case study no. 21—The response of the Satyananda Yoga Ashram at Mangrove Mountain to allegations of child sexual abuse by the ashram's former spiritual leader in the 1970s and 1980s. Motion of Senator Urquhart to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

Institutional Responses to Child Sexual Abuse—Royal Commission—Reports of case study no. 30—The response of Turama, Winlaton and Baltara, and the Victoria Police and the Department of Health and Human Services Victoria (and its relevant predecessors). Motion of Senator Urquhart to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 January to 31 March 2016. Motion of Senator Bilyk to take note of document agreed to.


Australian Organ and Tissue Donation and Transplantation Authority—Report for 2015-16. Motion of Senator Urquhart to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

Attorney-General's Department—Report for 2015-16. Motion of Senator McKim to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

Industry—Northern Australia annual statement—Ministerial statement by the Minister for Resources and Northern Australia (Senator Canavan). Motion of Senator Macdonald to take note of document agreed to.

*Stronger Futures in the Northern Territory Act 2012*—Independent review under section 117 of the Act—Report by KPMG. Motion of Senator Siewert to take note of document agreed to.

Administrative Appeals Tribunal—Report for 2015-16, including report of the Immigration Assessment Authority. Motion of Senator Macdonald to take note of document agreed to.

Department of the Prime Minister and Cabinet—Report for 2015-16, including reports of the Aboriginals Benefit Account, Aboriginal and Torres Strait Islander Land Account and the Office of the Registrar of Indigenous Corporations. Motion of Senator Macdonald to take note of document agreed to.

Australian Bureau of Statistics—Report for 2015-16. Motion of Senator Urquhart to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

Order of the day no. 13 relating to documents was called on but no motion was moved.

COMMITTEES

Health Select Committee

Report

Consideration resumed of the motion:
That the Senate take note of the report.

Senator O’NEILL (New South Wales) (18:02): I refer to this report because I think it is a very important piece of record-keeping about the impact of the cuts to health that were heralded in that tragic 2014 budget brought in by the then Prime Minister Abbott. I want to speak to it this week in particular in the context of what has happened in the House of Representatives. I remind those who might be listening, and anybody who catches up with this speech that I am giving here today, that this week in the House of Representatives a vote was taken that absolutely and clearly indicates that the cuts in health that were backed in by the Abbott government, the $56 billion worth of cuts that the Abbott-Turnbull government undertook, are very much a real and live thing for this country.

What happened this week was that Liberal MPs in the House—I assume in concert with those here in the Senate—voted against guaranteeing to keep Medicare in public hands as a universal health insurance scheme for Australia. They are bleating all over the place about a ‘Mediscare’ campaign. But here in the Senate, where they think people might not be watching the chaos that has ensued under this government, they voted against keeping Medicare in public hands. They voted against protecting bulk-billing so that every Australian can see their doctor when they need to, not just when they can afford to. The Liberal and National parties voted against that this week in the House of Representatives. They refused to reverse harmful cuts to Medicare by unfreezing the indexation of the Medical Benefits Schedule. They voted against reversing cuts to pathology that will mean Australians with cancer will pay more for blood tests. They voted against reversing cuts to breast screening, MRIs, X-rays and other diagnostic imaging.

They want the election to go away. They lost all but a one-seat majority and they are trying to pretend Australians were hoodwinked. But today I want to put on the record that this week in the parliament, once again, they showed their true colours: they are committed to a massive cut to the health care of Australians. They voted against abandoning their plans to make all Australians, even pensioners, pay more for vital medicines. Finally, in the House this week, in concert with their Senate colleagues, the Liberal and National parties voted against developing a long-term agreement to properly fund our public hospitals so that Australians do not languish in our emergency departments or on long waiting lists for important surgery. That final point really brings home the message that Mr Turnbull, the Prime Minister of Australia, still has not learned his lesson. He copped a shellacking in the election. One seat is that majority—and we know how fragile that is because we have already seen them fail on multiple occasions in the 10 days they have had here in Canberra.
But the government has not reversed a single cut from the election. Why is that so important in regard to the report I am speaking to this evening? The report that I am addressing is the final report of the select health committee from the last parliament entitled *Hospital Funding Cuts: The Perfect Storm*. And that subtitle tells what happened—the demolition of federal-state health relations from 2014 to 2016. If I was a member of the government I would be hoping that this was going away. But this is a story we need to retell and retell and retell.

Prior to the Abbott government coming into being, a series of national partnership agreements were established to end the blame game on who is responsible for health—whether it is the state government or the federal government. It was a proportional responsibility that was assumed—that both levels were responsible for health. Those agreements were simply torn up with the hubris and arrogance that we now see every day on display from this government—torn up and destroyed. Those vital partnerships, federal-state relations, were torn apart. We are seeing now, as a legacy of those agreements being torn up, the impact of cuts to health.

In New South Wales it is creating incredible financial pressure on the state, and it is starting to manifest in all sorts of bizarre decisions by the state government of New South Wales. They are linked intimately with the cuts at federal level. I want to make sure that people who are listening to the parliamentary broadcast, including people from the Central Coast, know that there will be a very important community gathering of people who are a wake-up to this Liberal-National government; who understand that the government are cutting our access to health and in the Central Coast region they want to privatise Wyong Hospital. This Sunday at 11 am, at the Morrie Breen Oval on Wallarah Road in Kanwal, there will be a community gathering of concerned residents from right across the coast who have seen Premier Baird decide he should privatise five hospitals, including Wyong. The impact of that is very, very concerning, particularly in light of evidence that we have received about the scale of the New South Wales cuts.

Mr Baird, it seems, has decided that instead of taking on his colleagues here at federal level he is going to cut services to the people of New South Wales. He is letting his federal colleagues get away with their massive cuts to New South Wales. Why is he in this situation? Let's talk about what the scale of this is. This is evidence we received from Dr Andrew McDonald, a paediatrician from Campbelltown Hospital who was formerly the health minister in a Labor government and who understands the budgetary implications of these cuts very well indeed:

The annual hospitals budget, from New South Wales, is about $20 billion. That is one year's salary, effectively ... You can close the system for a year or you can fund to meet demand ... $18.3 billion so it is, virtually, a year's New South Wales hospital budget worth of cuts.

That is what New South Wales is attempting to accommodate and, rather than take on his federal colleagues, Mr Baird is starting to cut the services for New South Wales.

We heard about what it means on the ground. In evidence that we received in March 2015 to the select committee hearing in Gosford, the Australian Paramedics Association told the committee of the serious impacts that increasing resource pressures are having on paramedics. These are vital people, who come to respond to emergencies on the ground in our community on the Central Coast. They said that due to at-capacity emergency departments, ambulances
are being forced to 'ramp' until an emergency bed becomes available. Mr Jeff Andrew, the Vice President of the Australian Paramedics Association, explained that a two-hour ramp at peak periods is not unusual. A ramp is when an ambulance crew cannot discharge the patient that they brought to the hospital. They have to stay there with them and cannot go to the next call. Mr Andrew said a recent experience of a six-hour ramp would become common.

That is what we are starting to hear more and more of in the community. I am sure that people who attend this community rally, this community gathering of concern about the cuts to their health access and health services, will hear, sadly, more stories of the impact of the cuts from this federal government.

Mr Andrew described the whole system as 'overwhelmed'. When he was asked what additional pressures would result from the government's decision to cut $56 billion over eight years from the hospital system, combined with the government's additional measures to cut primary care—which I have not even mentioned in my speech yet—Mr Andrew, a paramedic on the front line said this:

I think we will get more sick patients if the primary health care is not attended to. I mentioned some patients, like asthma patients and patients with a chronic disease like emphysema, who have been better managed because there are good strategies and care plans in place for them. Any budget cuts in that area will only reflect to us getting them at a sicker state. There will be a higher burden on the presentations in the health system.

So, we have a twin attack on the health and wellbeing of people across the nation and in the great state of New South Wales that I represent. In a climate where its funding has been cut to the bone, the New South Wales government is inflicting pain on communities, and the further away you are from Manly and Mr Baird, the harder he is cutting. This needs to stop.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Economics References Committee

Report

Senator LEYONHJELM (New South Wales) (18:12): I move:

That the Senate take note of the report.

In the previous parliament I chaired the 'nanny state inquiry'. A final report was not produced because of the election, but some excellent interim reports were issued. One of the issues that the committee examined was the Sydney lockout laws.

On 7 July 2012, at around 10 pm, 18-year-old Thomas Kelly was fatally assaulted in a one-punch attack in Kings Cross. In response, the New South Wales government introduced legislative and policy changes affecting the sale and service of alcohol at licensed venues in Kings Cross and other areas of central Sydney. Venues in the Kings Cross precinct were subject to special licence conditions. Every night of the week there was a ban on glasses, glass bottles and glass jugs after midnight. For Friday and Saturday late night trading there was a ban on shots and doubles after midnight; individuals could not buy more than four alcoholic drinks at a time after midnight; and no alcohol could be sold in the hour before closing.

In December 2012, the area affected was expanded to a total of 134 licensed venues. A licence freeze was implemented, preventing the establishment of any new higher risk venues.
or the expansion of existing venues. One year later, in December 2013, a second tranche of legislation changed licensing conditions for venues in Kings Cross. These included a centralised ID scanning system, which was not rolled out until June 2014, with a requirement for all high-risk venues to operate a linked identification scanner to prevent banned persons from entering licensed premises. It included temporary and long-term banning orders, linked to the ID scanner system, barring individuals from entering venues on the basis of antisocial and violent behaviour, plus a requirement for licensees to record daily alcohol sales and report these quarterly. These particular measures were constructive. They focused on the individuals who caused trouble and did not treat everyone as equally troublesome, but they never had a chance to work.

Less than a month later, on New Year's Eve 2013, before these changes were really in effect, 18-year-old Daniel Christie was killed from a one-punch assault. Even though the punch occurred at around 9 pm, the New South Wales government announced even more restrictions for after midnight. In addition to stricter sentencing, it introduced 1.30 am lockouts and 3 am cessation of alcohol service applying across an expanded entertainment precinct. These provisions came into effect on 24 February 2014. Clubs, hotels, general bars and on-premises licences within the CBD or Kings Cross are not allowed to let people into their venues after 1:30 am. People already in a venue before 1.30 am can stay until the close of business. They are able to leave at any time, but if they leave after 1.30 am they are not able to re-enter during the lockout period or gain entry to any other venue subject to the lockout. These venues are not allowed to sell or supply liquor after 3 am. If it trades after 3 am, the venue can remain open for dining or entertainment but is not allowed to serve liquor. Liquor sales cannot resume until the commencement of the next trading period.

Other measures included a ban on takeaway alcohol sales after 10 pm across New South Wales and a freeze on new liquor licences and approvals across the new Sydney CBD entertainment district. It did not escape anyone's attention that the casino was exempt from the lockout regime.

A review of the lockout laws was commissioned by the New South Wales government, undertaken by former High Court Justice Ian Callinan QC. His report was released two months ago. He recommended reducing the lockout period by half an hour and allowing home delivery of alcohol up to midnight. For those who believe in the individual rather than the collective, and who thought Mr Callinan did as well, the report was a serious disappointment. Easing last drinks restrictions by half an hour will not return Kings Cross to its former glory. Allowing late night entertainment at the Cross without alcohol will not help much either. In fact, inviting international visitors to view our budding artists while choosing between soft drinks will make us a laughing stock. And the hundreds of young people in the hospitality, entertainment and tourism industries who became unemployed will not get their old jobs back.

The ridiculous thing about all this is that the lockout laws would not have prevented the assaults that led to the formulation of the laws in the first place. The assaults occurred relatively early in the evening. In fact, absolutely none of this makes any sense. Why can't Sydneysiders be trusted to stay out past 2 am? Is there something in the water that means Melburnians can stay out late but not Sydney people? Why can Sydneysiders be trusted to visit Melbourne and stay out late but not vice versa? And does all of this have more to do with
that madness where governments have come to believe that they must act as our de facto parents? Perhaps this kind of result is to be expected if you allow people who have forgotten the last time they had a good time to set the rules for a party. Prominent amongst such people have been the doctors associations, populated by those who have grown bored of making people feel better and now just want to tell them how to live their lives.

There are the residents associations who are concerned about where things happen. Whether it is smoking, drinking, playing music or anything else they disapprove of, it is definitely not something they want in their neighbourhood. It is known as NIMBY, or Not In My Backyard. But it is also known as Now It's My Backyard, which refers to those who move into an area and start complaining—and there are plenty of those in the Kings Cross area. And, of course, there are the wowsers and moralists who live in constant fear that someone somewhere might be having a good time, including the hypocritical moralists who think it is okay to ban alcohol consumption but are relaxed when it comes to drugs such as ice.

Sydney should be Australia's most vibrant city. It has a glorious history of naughtiness that dates back at least to when the convicts were unloaded onto the shores of Port Jackson in 1788. As Sydney grew, Kings Cross became the place where sailors on shore let off steam. It has provided rites of passage for thousands of Australians and has been the one place in Sydney where bohemians and artists have felt at home. Somehow they have coexisted with us for decades without harming anyone and without needing to be told when to go to bed. There should be a place in Sydney for these people and, as long as they are not harming anyone else, we should leave them alone.

I welcome any moves to relax current restrictions. The reported changes will not revive the nightlife of Sydney, but it should be revived.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Economics References Committee—Personal choice and community impacts—Bicycle helmet laws (term of reference d)—Interim report. Motion to take note of report moved by Senator Leyonhjelm. Debate adjourned till the next day of sitting, Senator Leyonhjelm in continuation.

Economics References Committee—Personal choice and community impacts—Sale and use of marijuana and associated products (term of reference c)—Interim report. Motion to take note of report moved by Senator Leyonhjelm. Debate adjourned till the next day of sitting, Senator Leyonhjelm in continuation.

Economics References Committee—Personal choice and community impacts—Western Sydney Wanderers supporters (term of reference f)—Interim report. Motion to take note of report moved by Senator Leyonhjelm. Debate adjourned till the next day of sitting, Senator Leyonhjelm in continuation.

Environment and Communications Legislation Committee—Australian Broadcasting Corporation Amendment (Rural and Regional Advocacy) Bill 2015—Interim report. Motion of Senator McKenzie to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Conditions and treatment of asylum seekers and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea—Interim report. Motion of Senator Urquhart to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety—Report. Motion of Senator Urquhart to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Legal and Constitutional Affairs References Committee—Need for a nationally-consistent approach to alcohol-fuelled violence—Interim report. Motion of Senator Urquhart to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Economics References Committee—Personal choice and community impacts: the classification of publications, films and computer games (term of reference c)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. Debate adjourned till the next day of sitting, Senator Leyonhjelm in continuation.

Economics References Committee—Personal choice and community impacts: the sale and use of tobacco, tobacco products, nicotine products and e-cigarettes (term of reference a)—Interim report. Motion of Senator Leyonhjelm to take note of report called on. Debate adjourned till the next day of sitting, Senator Leyonhjelm in continuation.

Rural and Regional Affairs and Transport References Committee—Report—Industry structures and systems governing the imposition and disbursement of marketing and research and development (R&D) levies in the agriculture sector—Government response. Motion of Senator McKenzie to take note of report agreed to.

Community Affairs References Committee—Report—Palliative care in Australia—Government response. Motion of Senator Polley to take note of report called on. On the motion of Senator Urquhart the debate was adjourned till the next day of sitting.

Economics References Committee—Report—Interest rates and informed choice in the Australian credit card market—Government response. Motion of Senator Urquhart to take note of report. Debate adjourned till the next day of sitting, Senator Urquhart in continuation.

Australian Commission for Law Enforcement Integrity—Joint Statutory Committee—Jurisdiction of the Australian Commission for Law Enforcement Integrity—Report. Motion of Senator Smith to take note of report agreed to.

Foreign Affairs, Defence and Trade—Joint Standing Committee—A world without the death penalty: Australia’s advocacy for the abolition of the death penalty—Report. Motion of Senator Smith to take note of report agreed to.

Migration—Joint Standing Committee—Seasonal change: Inquiry into the Seasonal Worker Programme—Report. Motion of Senator Smith to take note of report agreed to.

National Disability Insurance Scheme—Joint Standing Committee—Accommodation for people with disabilities and the NDIS—Report. Motion of Senator Urquhart to take note of report called on. Debate adjourned till the next day of sitting, Senator Urquhart in continuation.
Order of the day no. 1 relating to committee reports and government responses was called on but no motion was moved.

AUDITOR-GENERAL’S REPORTS

Report No. 33 of 2015-16

Consideration

Senator GALLACHER (South Australia) (18:21): I seek leave to return to a previous Auditor-General report, tabled on 30 August 2016, to allow me to take note of Audit report No. 33 2015-16: Performance Audit: Defence’s management of credit and other transaction cards: Department of Defence.

Leave granted.

Senator GALLACHER: I move:

That the Senate take note of the document.

I will start my contribution by referring to a letter of transmittal that is addressed:

Senator the Hon Marise Payne
Minister for Defence
Parliament House
Canberra ACT 2600

It reads:

Dear Minister

We present the Defence Annual Report 2014–15 for the year ended 30 June 2015. The report has been prepared in accordance with section 63 of the Public Service Act 1999. Subsection 63(1) of the Act requires that our report to you be tabled in Parliament.

Here is the punchline:

Consistent with section 10 of the Public Governance, Performance and Accountability Rule 2014, we certify that we are satisfied that Defence has prepared fraud risk assessments and fraud control plans and has in place appropriate fraud prevention, detection, investigation, recording and reporting mechanisms that meet the specific needs of the department, and that Defence has taken all reasonable measures to appropriately deal with fraud relating to the department.

Yours sincerely

Dennis Richardson
Secretary

Mark Binskin, AC
Air Chief Marshal

The minister has been given an assurance that all of the probity requirements have been met, but that assurance is contradicted by Audit report No. 33. The audit report is scathing. I will refer to just one particular section:

Defence has not exercised adequate central control over the issuing or use of Fastcards or eTickets. Defence has no system in place and little capacity to routinely monitor and manage the risks it has identified in its use of Cabcharge eTickets. Defence could have used an available IT system to help it manage risks but did not do so.

... ... ...
Defence advised the ANAO that it proposes to begin using an appropriate system. Despite the fact that they have assured the minister that they were using a system, that clearly has not been the case. The report continues:

> 4.6 On 9 July 2015, in the course of the audit—

... having given assurances—

Defence cancelled 31 of the 34 Fastcards mentioned above but left active each of those it had provided to the then Minister for Defence, Assistant Minister for Defence and Parliamentary Secretary to the Minister for Defence. Defence had previously advised Parliament in February 2015 that it 'does not issue corporate credit cards to the Minister or ministerial office staff'. Defence informed the ANAO that it was in the process of correcting this statement.

... ... ...

The ANAO identified records of 261,158 taxi trips paid by eTicket at a total cost of over $16.28 million—

over the course of three years. It is a big department. We understand that it is a huge department. We are talking about $548 million of taxpayers expenditure, about which they assured the minister and assured the parliament they had appropriate governance and probity controls in place. The Audit Office has found the reverse. Section 4.27 of the audit report reads:

Some 17 905 different taxis (by recorded taxi number) were involved in making 261 158 trips over the period January 2012 to July 2015, a mean of just under 15 trips per taxi—

However—

Some taxis were much more fortunate than others in winning Defence eTicket business. Whereas 16 800 taxis each undertook 50 or fewer of these trips for Defence, some 12 taxis each took 500 or more such trips, with three of these taxis each taking more than 1000 trips. One particular taxi took 2160 trips using eTickets, an average of over 4.5 trips a day, at a total cost of $174 621. On its busiest day, it did 15 trips, costing $1162 in fares. The same taxi earned fares of over $1000 on each of seven separate days. Three taxis each earned over $100 000 in fares … in the period.

When you scrutinise this paperwork, it appears exceedingly strange that Defence, with its claim of proper control mechanisms in place, would accept items like 'City to Pinkenba'. One can only assume that it is the good city of Brisbane. I am not sure that it would be another city if it was going from the city to Pinkenba. So it is the city of Brisbane. The distance from the city to Pinkenba is 14.8 kilometres via Kingsford Smith Drive, State Route 25 and the M3. It would take 24 minutes to travel that 14.8 kilometres. The Defence bill for that trip was $585.20. That does not sound to me like they have appropriate mechanisms in place and used the appropriate technology to identify misuse—dare I say fraud—and the assurances given to the minister clearly have not been honoured.

The next section is entitled 'Small hours' travel by eTicket'. We know that Defence is a very vital, busy organisation, but the ANAO analysis also identified:

... taxi trips paid for by eTicket and timed between 1.00am and 4.00am. This is a period when little work-related travel might be expected to take place, with the possible exception of trips to or from an airport or shift work. After excluding airport-related trips, the analysis indicated there had been 1263 such taxi trips—

in the wee small hours. Clearly the assurances given to the minister have not been honoured.
Now, the other simple problem with all of the efforts of Defence is that they have fundamentally failed to have a second person tick off on the transactions. Some 37 per cent of all transactions have been validated by a person junior to the cardholder and, in a lot of cases, by the person who incurred the expenditure. Clearly, Defence is deficient and proven to be deficient by this analysis of, I think, some seven million transactions. The Audit Office has gone to the extent of analysing an extraordinary number of transactions and has come up with an extraordinary amount of evidence pointing to a failure of Defence to do precisely what the two gentlemen responsible have said they would do.

I suppose this issue—that there would be limitations in governance, due diligence and probity—is not uncommon. Now, Defence is a vital sector of the Australian economy; they move around a lot and they have to do it efficiently. No-one is arguing about that. But when you talk, in your financial governance statements, about low-value, low-risk transactions and you issue one credit card with a $2 million credit limit, three credit cards with a million-dollar credit limit, a hundred-odd credit cards with a $250,000 credit limit and some 900 credit cards with a $100,000 credit limit—when you have that expenditure signed off by a person junior to the person holding the credit card and you have a very high proportion of self-validation, the whole reputation of Defence is impugned. My view is that this needs to be diligently worked through and the respectable people in the Defence Force need to be protected by proper probity and governance. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

AUDITOR-GENERAL’S REPORTS
Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit reports no. 10 of 2016-7—Performance audit—Award of funding under the Mobile Black Spot Programme: Department of Communications and the Arts. Motion of Senator Bilyk to take note of document agreed to.

Auditor-General—Audit report no. 16 of 2016-17—Performance audit—Offshore Processing Centres in Nauru and Papua New Guinea: Procurement of garrison support and welfare services: Department of Immigration and Border Protection. Motion of Senator Gallacher to take note of document agreed to.

DOCUMENTS

Video Games Industry
Order for the Production of Documents

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (18:32): I table a document relating to the order for the production of documents concerning the government’s response to a report of the Senate Environment and Communications References Committee.

COMMITTEES

Membership

The President (18:32): I have received letters requesting changes in the membership of committees.
Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (18:32): by leave—I move:

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

Finance and Public Administration References Committee—
Appointed—
Substitute member: Senator Siewert to replace Senator Rhiannon for the committee's inquiry into Commonwealth funding of Indigenous Tasmanians
Participating member: Senator Rhiannon

Resilience of Electricity Infrastructure in a Warming World—Select Committee—
Appointed—
Senators Hanson-Young and Roberts
Participating members: Senators Di Natale, Ludlam, McKim, Rhiannon, Rice, Siewert, Waters and Whish-Wilson

Question agreed to.

ADJOURNMENT

The PRESIDENT (18:33): We have come to the time of the day in the week when I propose the question:

That the Senate do now adjourn.

Indigenous Affairs

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (18:33):

It seems that hardly a day goes by without seeing or hearing a report in the media about a tragic event occurring in an indigenous community somewhere across our nation. The epidemic of suicide in indigenous communities has been a particular focus of some reporting this week, following the tragic suicide of a 37-year-old mother of three children in Kalgoorlie, in my home state of Western Australia. The local indigenous community in this key regional WA centre has already witnessed tragedy this year with the death of 14-year-old, Elijah Doughty. The suicide that has been reported this week occurred at the site of the incident that claimed Elijah's life, further compounding the tragedy and sense of grief amongst the local community.

I am also aware that tomorrow the Minister for Health and Aged Care, Sussan Ley, the Minister for Indigenous Affairs, Senator Scullion, and the Assistant Minister for Health and Aged Care, Ken Wyatt, are going to be in Western Australia's Kimberley region to hold a roundtable to discuss indigenous suicide prevention strategies. Given the multiple tragedies that have been experienced in Western Australia in this regard over the last year, this will be a critical and timely discussion. I also hope it is going to be a frank discussion of the, because I think we all have to agree that things cannot continue as they have been.

But, of course, suicide prevention is just one area where indigenous communities in Western Australia and elsewhere across our country experience particular challenges and continue to experience poor outcomes. The health difficulties faced by those living in indigenous communities and the resultant lower life expectancy, the housing issues, poor educational results and difficulties in obtaining employment are all areas that have been well-ventilated in public policy discussions over many decades now.
Any stranger visiting these shores for the first time who was presented with a statistical snapshot of what is happening in some of our indigenous communities might conclude that this is an uncaring nation—might conclude an indifference to the plight of some of our most vulnerable fellow citizens. But, of course, we know that such a conclusion would be erroneous. The problem is not a lack of compassion or concern from our fellow Australians. It is not a lack of awareness. It is not even a lack of funding or lack of institutional support from government and non-government organisations.

There is an old saying that 'the road to hell is paved with good intentions', and when it comes to improving the lives of indigenous Australians we suffer no deficit of good intentions. However, it is clearly time to take a step back and measure the effectiveness of many of the things we are doing and many of the things that have been done, because it is clear that simply continuing to spend money in the same way we have been—without adequately evaluating the effectiveness of programs—is not delivering the right outcomes and is not reversing indigenous disadvantage.

This evening, I would like to draw the Senate's attention to a recently released research report from The Centre for Independent Studies, *Mapping the Indigenous program and funding maze*. It is a very accessible and compelling read, though not a happy one. What it shows, convincingly, is that for all the plethora of programs designed to address indigenous disadvantage and all the billions of dollars that have been invested in them, the return on that investment has been poor.

I should point out that criticisms along these lines are coming from Indigenous leaders themselves. Patrick Green, an Indigenous community leader from Fitzroy Crossing in WA, has noted:

If it’s $1 that leaves Canberra, what is it that hits Fitzroy Crossing—10c, 20c?

… … …

They probably need to have a look at how their policies are working and they need to have indicators on how those funds are rolled out …

Similar criticisms have been made by the Indigenous leaders who contributed to the Wunan Foundation's Empowered Communities report in 2015, which noted:

Vast swathes of funding are absorbed by the red tape of administration within the government bureaucracy, and on the ‘middlemen’ between government and Indigenous people.

The report that has now been produced by the Centre For Independent Studies contains multiple real-life examples of where money is not always going to areas of greatest need and where a heavily centralised approach is not adequately respecting input from Indigenous people themselves into program design and delivery.

One such example noted in the report also come to my own attention through a report from the Australian National Audit Office at the end of 2015 into the operation of the Indigenous Home Ownership Program. The program itself has a worthy objective: to facilitate home ownership among Indigenous Australians by addressing barriers such as lower incomes and savings pools, credit issues and limited experience with loan repayments. In essence, the program is designed to make basic home loans available to Indigenous Australians who, because of those factors I have just outlined, might otherwise struggle to obtain one.
However, the National Audit Office report found this objective was not being met. It found funding is not being directed where it is most needed and that loans are increasingly provided to medium- and high-income earners, people who would quite easily qualify for a home loan from a mainstream banking institution. Yet the program's administrator, Indigenous Business Australia, does not generally conform with other lenders that a customer cannot access mainstream finance, even though this is considered a key eligibility threshold for the Indigenous Home Ownership Program. In fact, the National Audit Office report recommended the government consider whether, after 40 years of operation, a government-run loan program is any longer necessary or the most efficient way to improve the rates of Indigenous home ownership. The response from Indigenous Business Australia to this suggestion was decidedly mute, as was its response to previous reports criticising its Indigenous business loan program. In 2013-14, it approved a grand total of 75 loans—around one loan for every bureaucrat employed to administer it. Surely, we can do better than this?

These are just two examples from the litany that were examined by the research of the Centre for Independent Studies. Time and again, there is evidence presented which suggests that many Indigenous programs are being established and evolving in response to perceived need. As a result, there are a plethora of programs coming on stream which duplicate existing programs. The lack of requirement for evidence based funding is leading to expenditure growth with no commensurate improvement in outcomes.

The CIS report identified a total of 1,082 Indigenous-specific programs. Of these, 49 are funded federally, 236 are delivered by state and territory governments, and 797 are delivered by non-government organisations, though often with funding that comes from governments. Of the 1,082 programs, just 88—eight per cent—have been audited or evaluated in any meaningful way to determine the effectiveness of their outcomes. Given the waste, mismanagement and ineffectiveness that has been found in those programs which have been evaluated, the fact that 92 percent have not been evaluated should be alarming to all of us. All up, these programs are estimated to cost taxpayers at least $5.9 billion every year—but Indigenous people are seeing precious little benefit from these large investments of taxpayers' dollars.

At the same time, even more taxpayer money is being spent by advocacy groups to pursue political outcomes that will deliver no tangible benefit to health and education outcomes across Indigenous communities. Take the Recognise campaign as a shining example. It was established to raise awareness of proposals to recognise Indigenous Australians in the Constitution. After four years and around $20 million in funding from taxpayers, research that was released by the Recognise campaign itself in May this year showed that awareness has actually fallen—down 10 per cent among Indigenous people and down 13 per cent among non-Indigenous people.

As someone who pays close attention to constitutional debates, I cannot recall seeing a single TV advertisement, receiving any leaflets in my mailbox or being doorknocked by this taxpayer funded campaign operation. So where has the $20 million gone? What is Recognise actually doing to meet its supposed objective of raising awareness? Why is awareness falling? Why is Recognise continuing to actively recruit paid field staff to campaign when there is no referendum question finalised and the referendum itself appears to have been delayed? It is a
textbook example of why providing taxpayers' money to third parties to fund their political campaigns is a bad idea. *(Time expired)*

**Domestic and Family Violence**

Senator DODSON (Western Australia) (18:43): I note the Senate Finance and Public Administration References Committee report into Aboriginal and Torres Strait Islander experiences of law enforcement and justice services. The current emphasis on family violence can appear to be focused on the Indigenous community. We know that family violence is a scourge across all sectors of Australian society. Physical violence perpetrated against women and children has to stop. Acts of violence by men on women and children in the Indigenous community have to stop. Such violence has no place in any society. Protecting the safety of women and children is paramount. Too many women have been subjected to brutal physical abuse which has led to death or serious injury at the hands of their partners or families. We know also that emotional abuse and sexual assaults are far too frequent.

Statistics from the National Family Violence Prevention Legal Services tell us that Aboriginal and Torres Strait Islander women are 34 times more likely to be hospitalised because of family violence than other women; Aboriginal and Torres Strait Islander women are 10 times more likely to die from violent assault than other women; approximately 90 per cent of violence against Aboriginal and Torres Strait Islander women is not reported; and the cost of violence against Aboriginal and Torres Strait Islander women has been projected to blow out to $2.2 billion by 2021-22. The violence is costing too much for our families, communities and our nation.

The outcomes from violence are compounded by not just the physical cruelty and devastation but also the wider ramifications harming the immediate circle of the victim and their families and communities. Programs need to address the factors that precipitate violence and also those factors that perpetuate the perpetrator and victim cycles. Giving consideration to men's roles in the cycle of violence does not diminish the real, urgent and profound needs of women and children affected by family violence.

The highest proportion of perpetrators is men in the 20-to-34 age group, and the second-highest proportion is men in the 35-to-54 age group. Including the roles of men puts a focus on the intersecting circles of violence that are destroying individuals, families and communities. Legal services set up to assist victims and perpetrators lack the capacity to address complex and layered legal problems—such as family violence, criminal injuries compensation, credit and debt, housing and tenancy matters—because they tend to operate in silos. This is not to criticise the sterling efforts or deny the demanding workloads of such legal services. They also have limited capacity to provide collaborative responses. This is but an observation of the burdens they carry in discharging their duties.

It is painfully difficult to access services in rural, regional and remote areas. It is also hard for service providers to deliver culturally appropriate services amid the huge demand for services and legal education. Whilst dealing with the consequences of violence in the legal arena, there is also a need to focus on and have resources provided for early intervention programs that go to causation and halting domestic violence.

Today the Senate report *Aboriginal and Torres Strait Islander experience of law enforcement and justice services* was presented, and it explicitly states:
Evidence to the committee reiterates what has been found in previous inquiries: the funding for legal assistance services is inadequate.

In some instances, those with the national access to influence the funding and policy imperatives seem to be removed from engaging with those at the actual coalface. If there is to be a breaking of the cycle of violence and the delivery of quality services to those affected, increased funding and early intervention and prevention have to be part of the discussion and action plans to begin to effectively address family violence. As stated by Senator McCarthy in this chamber earlier in the week:

This should not be about who cares the most in family violence. This should be about how we can harness the hearts of all Australians and, indeed, the leaders at the highest levels to acknowledge the scourge of something that impacts on many families across Australia, not just Indigenous families.

I note that a workshop is taking place in the Kimberley with the Minister for Health and Aged Care, the Minister for Indigenous Affairs and the Assistant Minister for Health and Aged Care, Mr Wyatt. It would have been nice to have some early notification about that, because Broome is my home town and the Kimberley is where I live. I feel a bit disadvantaged by the fact that we have a long way to travel to come to this place and Senate estimates are next week so it is a bit difficult for me to go home. But that should not detract from the fact that family violence is a scourge of this nation, suicide is a huge problem and has to be addressed and we need every person on both sides of this House and on the crossbenches to pull their weight to try to address it.

**Anti-Poverty Week**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (18:50): Next week, from 16 October to 22 October, is Anti-Poverty Week. The main aims of Anti-Poverty Week are to strengthen public understanding of the causes and consequences of poverty and hardship around the world and in Australia and to encourage research, discussion and action to address these problems, including action by individuals, communities, organisations and governments. In other words, it is a week when we should be focusing on poverty and its causes.

There are far too many people living in poverty in Australia: 2,548,496 Australians are living below the poverty line, including 602,000 children. Of those on income support, 40.1 per cent are living below the poverty line, including 55.1 per cent of people receiving Newstart allowance. This is an incredibly saddening figure, and it is incredibly saddening to know that the number of people falling into poverty is increasing, as is inequality, and that those most likely to find themselves living below the poverty line are already facing the most disadvantage. We are a wealthy country and have the resources available to us to significantly reduce the existing rate of poverty if only there were the will to do so.

Poverty is a daily challenge for many Australians, undermining their ability to have meaningful and productive lives. We need visionary policy to overcome the underlying drivers of poverty, such as access to housing, education and employment. We need to create a social security system that properly supports people and meets the challenges we face in the 21st century. Instead, we are stuck with a government and a Minister for Social Services who is now stuck on the new buzzword 'revolution', which he has used to describe the changes to Australia's income support system and services that are supposedly modelled on the New Zealand approach to delivering income support—the so-called social investment model.
Despite this so-called 'revolution' so keenly spruiked by the minister, the government is keeping programs like income management and the cashless welfare card. Both are harsh, top-down measures that control the income of people on income support, restricting their access to cash. The government pushes on with these measures, despite the fact that income management used in the Northern Territory intervention has failed.

To promise a revolutionary change you would think you would see significant change. To promise a revolution that will be based on evidence and then to pursue ideological measures like the cashless welfare card is, quite frankly, absurd. It is also the first sign that the government is not being sincere about changing how it delivers income support in this country for the better. Instead of a revolution, the government has taken parts of the New Zealand approach and added it to their existing punitive approach to those on income support. We have the same old, same old demonising and harsh measures. No sooner were the words of the government's so-called revolution out of the minister's mouth than we started hearing him demonising those on income support once again.

You cannot address entrenched disadvantage and inequality without addressing the underlying causes. This means changing social policies—for example, having a national poverty plan. In National Poverty Week, it would be great to hear the minister and the government announce a plan for addressing poverty. Increasing payments such as Newstart, as well as other social services, is essential. But the minister thinks calling for an increase in payments such as Newstart lacks imagination. I'm sorry. I have an imagination, and I do not find it too hard to imagine what people on Newstart could do with extra money. They will spend it on essentials. They will not be saving it, because they are so far behind the minimum wage and below the poverty line that they will spend it. Guess what? That will actually drive the economy.

New Zealand has taken an actuarial approach, which is what the government has done here. It is one part that the government has picked up. They drilled down on data to better understand the barriers faced by some groups who were on income support longer than most and then worked out who they wanted to target for a more targeted approach. This process in New Zealand has been developed over a number of years. Our government is taking a much more rushed approach and, most importantly, is missing key elements that occur in New Zealand. New Zealand has harsh sanctions which have dropped a lot of people off payments, pushing them further into poverty. Evidence provided by the Australian Council of Social Services showed that 40 per cent of people who were considered 'job ready' and who had come off income support ended up back on payments. There is no doubt that significant parts of the New Zealand approach must stay firmly in New Zealand.

There are some important parts in the New Zealand approach, and if our government were taking a revolutionary approach and implementing this model they would pick those parts up. For instance, New Zealand take a strong approach to evaluation. In fact, they have set up an almost independent group to evaluate the programs and make the data public. They also require government agencies to work together to deliver on key performance indicators. Our government have not done that; they do not have KPIs that require agencies to work together. In the New Zealand model, those KPIs have been carefully worked out. New Zealand have gone for a system-wide approach where the government is expected to reform and deliver. They are not just setting up a fund for NGOs to bid for in the 'try, test and learn' approach.
They are actually doing some genuine reform and encouraging communities to work together to deliver programs. They are consulting the community. Our government have not adequately consulted on these programs. They are going to consult now that they have a so-called fund in place. To deliver the sorts of changes that are needed, to address the big issues like social policy, we need the government to reform their policies too.

When Minister Porter announced these changes recently, he joked that our current social security net was like a 'snake eating its own tail'. The same can be said about a government which is implementing what looks like and is in fact a half-baked version of the New Zealand approach, without genuinely addressing key social policies such as poverty and a national poverty plan. It constantly astounds me that successive governments think that, despite a weight of evidence to the contrary, restricting people's decision-making and taking control over people's lives, such as controlling the way they spend money, will lead to change. In fact, the evidence shows that it does not. It will not change. It will not lead to that significant social change, and it will not lift people out of poverty. Paternalism has been the approach by a successive number of governments—and it does not work.

Add to this, there is the minister's flat refusal to increase the woefully low Newstart, despite successive calls from major social service organisations and business leaders. When asked about a potential increase, Minister Porter, who recently refused to live on Newstart for a week, argued that only a small percentage of people live on Newstart alone, and, when they do, it is only for a short time. He said that many others get a second payment. What the minister failed to mention was that you can be accessing more than one payment and still be living below the poverty line. For example, if you are a single parent, with a child under 12, and accessing Newstart and rent assistance, you will still be living below the poverty line. During this Anti-Poverty Week, I urge the government to use their imagination—in particular, the minister who is responsible for our social security system—and consider what it would be like to depend on these low payments. I urge them to try to understand the barriers and the multiple disadvantages that people are facing every day—consider their lived experience. I call on the government to end its constant attack on low-income families and people who depend on our income support system. They deserve better. They deserve the supports that they need to get out of poverty. So, this poverty week, let's consider those who are struggling to survive on payments that are below the poverty line and far below the minimum wage.

Sugar Industry

Senator O'SULLIVAN (Queensland) (19:00): Tonight, I rise to speak perhaps briefly on an issue that is emerging within the Queensland sugar industry. I remind the fact to colleagues in the chamber that most of the sugar industry in this country is located in my home state of Queensland. It is a significant industry. It has some 4,500 grower families. Most of the farmers in sugar are family operations—mum, dad and children—and many of them are multigenerational in this particular sector. Significantly, dozens of small vibrant communities in North Queensland rely almost exclusively on the sugar industry to underpin their local economies. If you have met these people, Mr President, you would know that these are very decent, basic, hardworking Australians who have devoted their lives to the production of this valuable commodity.
Sugar played a very significant part in the development of my home state and particularly in the development of North Queensland—most particularly on the eastern seaboard between the Great Dividing Range and the coast. We have had struggles in this space now for two or three years after the arrival and eventual execution of a business plan by a multinational company called Wilmar Sugar. As I speak, one should keep in mind the impact to an agricultural industry or indeed any other industry, where a company gets excessive control in the space—that is to say, what the company does or does not do impacts directly on not only these growers that I have mentioned but these coastal economies and communities of interest, and indeed, with an industry of this size, on our national interests.

When Wilmar came along, as most suitors do when they first sidle up beside you, they were the perfect corporate citizen who indicated during the foreign investment review process that they had no real intentions of creating disruption within the industry. Indeed this is a very stable industry. This industry has operated on the same terms now for 116 years and it involves a wonderful principle—one that I think should be introduced into other agricultural industries—where growers or producer have the ability to retain some economic interest in the product that they produce as it goes down through the supply chain, through the marketing line and reaches its destination with the customers.

In the sugar industry, we have seen Wilmar try and corner the market, reducing our farmer-to-farmgate prices by ignoring and, in fact, rejecting the principle of grower economic interest that has been in place for all these years that came about as a result of a royal commission that occurred here in Australia all those years ago. They have been unsuccessful with that with the Queensland government—and, might I say, it was not the Queensland Labor government. It was despite the Queensland Labor government. I acknowledge the support that our LNP had from the Katter Australian Party in Queensland to be able to introduce legislation into the Queensland parliament—in fact, it was the first time the Labor government in Queensland were beaten on the floor—when they introduced legislation to preserve the grower economic interests and to preserve arrangements where there was a choice in marketing.

That a grower should be able to reduce who markets their sugar is a fairly novel idea to Wilmar Sugar. So that was very successful. The growers are happy and, in many instances, that legislation is working well—except for Wilmar, who remain completely obstructionist to the intent of the changes in the legislation and are refusing to engage with industry there to be able to move forward under the new laws and legislation.

But dangerously, I say—and I am very conscious of using the word 'dangerously'—Wilmar have found another way that they think they can skin the cat. We have sugar terminal assets in my home state of Queensland. There are six bulk sugar terminals, located in Cairns, Mourilyan, Lucinda, Townsville, Mackay, and Bundaberg. These are very important assets to the local economies of those communities. The forefathers who set arrangements in place from the Queensland government handed those ports and assets over to STL, which is a Queensland company—Sugar Terminals Limited—and, importantly, they allowed two-thirds of the control of those terminals to be in the hands of growers and one-third to be in the hands of millers, recognising the importance of growers and that they must always have access to these terminals in a right, fair and equitable manner.

So the terminals are leased to Queensland Sugar Limited under a leasing arrangement, and the board there has five positions. It currently has one fiercely independent and well-respected
chairman of the board—who, interestingly, did not even come out of the sugar industry. This chairman, a very respected Queenslander, was brought on for their legal prowess and their knowledge and ability to bring good governance and independence to decisions that were in the interests of the sugar industry. Two of the other chairs belong to the growers, and two of the other chairs belong to millers. One of the miller chairs has now been held by Wilmar for some time, the other being held by a mill at Mackay which is a cooperative, a mill owned by growers. So, in effect, the 4,500 growers in the state had all their interests well preserved in the structure of this board.

Now we have a position where Wilmar are contesting the second miller position on the board. They have now gone ahead and acquired over 50 per cent of the milling power in Queensland, therefore giving them the power to successfully displace a cooperative miller from the board and replace it with themselves. There is a clear strategy involved here. It is a very simple strategy, and that is that Wilmar is moving—contrary to their undertakings here when the Foreign Investment Review Board considered their initial application—to take full control of these national assets, these sugar terminal assets that were given to the industry on a two-thirds/one-third basis by the state government of Queensland.

This is proof that we need to be very cautious about investment by foreign bodies whose interests are those of their shareholders, mostly non-Australian shareholders. Their interests are not our national interests. Their interests are not the interests of the 4,500 growers in Queensland. Their interests are across the world, and they are interested only in being a very profitable corporation. They are one of the biggest sugar millers in the world. They have processing capacity in Indonesia. There is great fear that, once they corner markets and control of the logistics at the ports, other millers will not be able to compete for berths, and we will have a travesty emerge in one of our very big, very important, very proud industries in my home state.

So I say to Wilmar if you are watching—and it will not matter if you are not, because I am going to flick you a copy of the transcript tomorrow—that I will be watching very, very closely and I will gather momentum to take any measure to stop you disrupting our sugar industry in this state, where it is not in the interests of the growers.

Peres, Mr Shimon

Battle of Beersheba

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (19:10): In the short period I have available, I just want to remark on the opportunity that many of us here had here in Parliament House this week to sign the condolence book for Shimon Peres, twice Prime Minister and ninth President of Israel and a statesman who had a political career spanning nearly 70 years in that nation.

It brought to my mind, in this year of the Centenary of Anzac, another centenary that we should be remembering. We tend to think frequently of Gallipoli and iconic places in Europe, but on 31 October next year we will be commemorating the 100th year since the charge of the 4th Light Horse at Beersheba, which is a significant event in Australia's military history. It brings back to us names like Allenby and Chauvel and some of the great achievements of our forefathers during that conflict.
I was a little surprised last weekend to see in the Sunday Mail an article by a South Australian ABC journalist, Peter Goers, talking about the Australian soldiers memorial in Beersheba, which he said was not well regarded or looked after. I would have to say my experience, having been there myself, is that in fact Australia's contribution is very well regarded in Israel, and the memorial was very well cared for. I was speaking just recently with the minister for heritage of Israel about the centenary coming up next year. It is clear that both at the individual level that I have witnessed when I have spoken to people in Israel, including at Beersheba, and from a government perspective they value Australia's relationship with Israel not only now but particularly in the historical context, and there is significant commitment to making that 100th anniversary a significant event to commemorate Australia's role in the region historically and Australia's ongoing role, seeking to be an agent for good and for peaceful outcomes for all people living in that region.

So I thank the Israeli people for their ongoing friendship with Israel and for their care and interest in the memory of our forefathers who served during that great charge. I would encourage Australians, as we continue through this period of celebrating the Centenary of Anzac, to look also at those events of the Light Horse in Beersheba.

The PRESIDENT: I remind honourable senators that legislation committees will meet to consider estimates commencing on Monday, 17 October 2016 at 9 am. Program details will be published on the Senate website.

Senate adjourned at 19:13

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Civil Aviation Act 1988—Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1998—Civil Aviation Order 48.1 Amendment Instrument 2016 (No. 3) [F2016L01598].

Currency Act 1965—Currency (Royal Australian Mint) Amendment Determination (No. 1) 2016 [F2016L01606].

Currency (Royal Australian Mint) Determination (No. 4) 2016 [F2016L01605].

Defence Act 1903—Section 58B—Christmas stand-down and post indexes – amendment—Defence Determination 2016/32 [F2016L01604].


National Health Act 1953—National Health Determination under paragraph 98C(1)(b) Amendment 2016 (No. 4)—PB 44 of 2016 [F2016L00855]—Replacement explanatory statement.


**Tabling**

The following documents were tabled by the Clerk pursuant to order:

- Departmental and agency appointments and vacancies—Budget (Supplementary) estimates 2016-17—Letters of advice pursuant to the order of the Senate of 24 June 2008—
  - Defence portfolio.
  - Department of Veterans' Affairs.
- Departmental and agency grants—Letters of advice pursuant to the order of the Senate of 24 June 2008—Budget (Supplementary) estimates 2016-17—
  - Defence portfolio.
  - Department of Health.
  - Department of Veterans' Affairs.
- Entity contracts for 2015-16—Letter of advice pursuant to the order of the Senate of 20 June 2001, as amended—Health portfolio.
- Indexed lists of departmental and agency files for the period 1 January to 30 June 2016—Statements of compliance pursuant to the order of the Senate of 30 May 1996, as amended—
  - Department of Defence.
  - Health portfolio.