INTERNET
The *Journals of the Senate* are available at

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

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

**SITTING DAYS—2015**

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>9, 10, 11, 12</td>
</tr>
<tr>
<td>March</td>
<td>2, 3, 4, 5, 16, 17, 18, 19, 23, 24, 25, 26</td>
</tr>
<tr>
<td>May</td>
<td>12, 13, 14</td>
</tr>
<tr>
<td>June</td>
<td>15, 16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>August</td>
<td>10, 11, 12, 13, 17, 18, 19, 20</td>
</tr>
<tr>
<td>September</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>October</td>
<td>12, 13, 14, 15</td>
</tr>
<tr>
<td>November</td>
<td>9, 10, 11, 12, 23, 24, 25, 26, 30</td>
</tr>
<tr>
<td>December</td>
<td>1, 2, 3</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>City</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADELAIDE</td>
<td>972AM</td>
</tr>
<tr>
<td>BRISBANE</td>
<td>936AM</td>
</tr>
<tr>
<td>CANBERRA</td>
<td>103.9FM</td>
</tr>
<tr>
<td>DARWIN</td>
<td>102.5FM</td>
</tr>
<tr>
<td>HOBART</td>
<td>747AM</td>
</tr>
<tr>
<td>MELBOURNE</td>
<td>1026AM</td>
</tr>
<tr>
<td>PERTH</td>
<td>585AM</td>
</tr>
<tr>
<td>SYDNEY</td>
<td>630AM</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

**Casual vacancy**

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

**Casual vacancy to be filled (vice J Faulkner, resigned 6.2.15), pursuant to section 15 of the Constitution.

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party
Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th><strong>ABBOTT MINISTRY</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title</strong></td>
</tr>
<tr>
<td><strong>Prime Minister</strong></td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Trade and Investment</strong></td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
</tr>
<tr>
<td><strong>Attorney-General</strong></td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
</tr>
<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
</tr>
<tr>
<td><strong>Treasurer</strong></td>
</tr>
<tr>
<td><strong>Minister for Small Business</strong></td>
</tr>
<tr>
<td><strong>Assistant Treasurer</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
</tr>
<tr>
<td><strong>Minister for Agriculture</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Agriculture</strong></td>
</tr>
<tr>
<td><strong>Minister for Education and Training</strong></td>
</tr>
<tr>
<td>(Leader of the House)</td>
</tr>
<tr>
<td><strong>Assistant Minister for Education and Training</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Education and Training</strong></td>
</tr>
<tr>
<td><strong>Minister for Social Services</strong></td>
</tr>
<tr>
<td><strong>Assistant Minister for Social Services</strong></td>
</tr>
<tr>
<td>(Manager of Government Business in the Senate)</td>
</tr>
<tr>
<td><strong>Minister for Human Services</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Social Services</strong></td>
</tr>
<tr>
<td><strong>Minister for Industry and Science</strong></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Industry and Science</strong></td>
</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
</tr>
<tr>
<td><strong>Minister for Veterans' Affairs</strong></td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Centenary of ANZAC</strong></td>
</tr>
<tr>
<td><strong>Assistant Minister for Defence</strong></td>
</tr>
<tr>
<td>Title</td>
</tr>
<tr>
<td>------------------------------------------------</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
</tr>
<tr>
<td>Minister for Communications</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Communications</td>
</tr>
<tr>
<td>Minister for Immigration and Border Protection</td>
</tr>
<tr>
<td>Assistant Minister for Immigration and Border Protection</td>
</tr>
<tr>
<td>Minister for the Environment</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
</tr>
<tr>
<td>Minister for Finance</td>
</tr>
<tr>
<td>Special Minister of State</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance</td>
</tr>
<tr>
<td>Minister for Health</td>
</tr>
<tr>
<td>Minister for Sport</td>
</tr>
<tr>
<td>Assistant Minister for Health</td>
</tr>
</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
<table>
<thead>
<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Hon Bill Shorten MP</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Cabinet Secretary</td>
<td>Senator the Hon Jacinta Collins</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition</td>
<td>Hon Tanya Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs and International Development</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Women</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Manager of Opposition Business (Senate)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for the Centenary of ANZAC</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Leader of the Opposition in the Senate</td>
<td>Senator the Hon Penny Wong</td>
</tr>
<tr>
<td>Shadow Minister for Trade and Investment</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Trade and Investment</td>
<td>Dr Jim Chalmers MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition in the Senate</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Senator the Hon Stephen Conroy</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Defence</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Veterans' Affairs</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence</td>
<td>Gai Brodtmann MP</td>
</tr>
<tr>
<td>Shadow Minister for Infrastructure and Transport</td>
<td>Hon Anthony Albanese MP</td>
</tr>
<tr>
<td>Shadow Minister for Cities</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Tourism</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Regional Development and Local Government</td>
<td>Hon Julie Collins MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Development and Infrastructure</td>
<td>Hon Alannah MacTiernan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Western Australia</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for External Territories</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Treasurer</td>
<td>Hon Chris Bowen MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer</td>
<td>Hon Dr Andrew Leigh MP</td>
</tr>
<tr>
<td>Shadow Minister for Competition</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Financial Services and Superannuation</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Treasurer</td>
<td>Hon Ed Husic MP</td>
</tr>
<tr>
<td>Shadow Minister for Finance</td>
<td>Tony Burke MP</td>
</tr>
<tr>
<td>Manager of Opposition Business (House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Environment, Climate Change and Water</td>
<td>Hon Mark Butler MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Environment, Climate Change and Water</td>
<td>Senator the Hon Lisa Singh</td>
</tr>
<tr>
<td>Shadow Minister for Higher Education, Research, Innovation and Industry</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister for Vocational Education</td>
<td>Hon Sharon Bird MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Higher Education</td>
<td>Hon Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Manufacturing</td>
<td>Tony Zappia MP</td>
</tr>
<tr>
<td>Shadow Minister for Communications</td>
<td>Hon Jason Clare MP</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Communications</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Attorney General</td>
<td>Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Shadow Minister for the Arts</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Deputy Manager of Opposition Business (House)</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Justice</td>
<td>Graham Perrett MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Attorney General</td>
<td>Hon Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Arts</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Education</td>
<td>Hon Kate Ellis MP</td>
</tr>
<tr>
<td>Shadow Minister for Early Childhood</td>
<td></td>
</tr>
<tr>
<td>Shadow Assistant Minister for Education</td>
<td>Hon Amanda Rishworth MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Education</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Minister for Agriculture</td>
<td>Hon Joel Fitzgibbon MP</td>
</tr>
<tr>
<td>Shadow Minister for Rural Affairs</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Northern Australia</td>
<td>Hon Gary Gray AO MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern Australia</td>
<td>Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Shadow Minister for Health</td>
<td>Hon Catherine King MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Health</td>
<td>Stephen Jones MP</td>
</tr>
<tr>
<td>Shadow Minister for Mental Health</td>
<td>Senator Hon Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Sport</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Health</td>
<td>Nick Champion MP</td>
</tr>
<tr>
<td>Shadow Minister for Families and Payments</td>
<td>Hon Jenny Macklin MP</td>
</tr>
<tr>
<td>Shadow Minister for Disability Reform</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Human Services</td>
<td>Senator the Hon Doug Cameron</td>
</tr>
<tr>
<td>Shadow Minister for Housing and Homelessness</td>
<td>Senator the Hon Jan McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Carers</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Shadow Minister for Communities</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Families and Payments</td>
<td>Senator Carol Brown</td>
</tr>
<tr>
<td>Shadow Minister for Immigration and Border Protection</td>
<td>Hon Richard Marles MP</td>
</tr>
<tr>
<td>Shadow Minister for Citizenship and Multiculturalism</td>
<td>Michelle Rowland MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Affairs</td>
<td>Hon Shayne Neumann MP</td>
</tr>
<tr>
<td>Shadow Minister for Ageing</td>
<td></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Indigenous Affairs</td>
<td>Senator Helen Polley</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Aged Care</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Hon Brendan O'Connor MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment Services</td>
<td>Hon Julie Collins MP</td>
</tr>
</tbody>
</table>
CONTENTS

MONDAY, 9 FEBRUARY 2015

Chamber
DOCUMENTS—
  Tabling.............................................................................................................. 1

COMMITTEES—
  Foreign Affairs, Defence and Trade Joint Committee—
  Rural and Regional Affairs and Transport Legislation Committee—
  Meeting ........................................................................................................... 1

PARLIAMENTARY REPRESENTATION—
  New South Wales ............................................................................................ 1

BILLS—
  Australian Citizenship Amendment (Intercountry Adoption) Bill 2014—
    Second Reading ............................................................................................... 1
    Third Reading .................................................................................................. 12

BUSINESS—
  Rearrangement ................................................................................................ 13

BILLS—
  Crimes Legislation Amendment (Unexplained Wealth and Other Measures)
    Bill 2014—
    Second Reading ............................................................................................. 13

STATEMENTS—
  Sydney: Martin Place Siege ............................................................................. 25

BILLS—
  Crimes Legislation Amendment (Unexplained Wealth and Other Measures)
    Bill 2014—
    In Committee .................................................................................................. 30
    Third Reading .................................................................................................. 41

  Crimes Legislation Amendment (Psychoactive Substances and Other Measures)
    Bill 2014—
    Second Reading ............................................................................................. 41

MINISTERIAL ARRANGEMENTS ........................................................................ 55

DISTINGUISHED VISITORS ........................................................................ 57

QUESTIONS WITHOUT NOTICE—
  Liberal Party Leadership .................................................................................. 57
  Economy ............................................................................................................. 58
  Abbott Government ............................................................................................ 60
  Royal Commission into Trade Union Governance and Corruption .................. 61
  Taxation ............................................................................................................. 63
  National Security ............................................................................................... 64
  Homelessness ..................................................................................................... 65
  Asylum Seekers ................................................................................................. 67
  Defence Procurement ......................................................................................... 68
  Higher Education ............................................................................................... 70
  Health Care ........................................................................................................ 71

  National Disability Insurance Scheme ............................................................. 73

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
  Answers to Questions ......................................................................................... 74
CONTENTS—continued

Homelessness.................................................................................................................80
CONDOLENCES—
Enderby, Hon. Keppel Earl, QC .............................................................. 82
Uren, Hon. Thomas, AC................................................................................. 85
Wright, Mr Keith Webb................................................................................... 95
Fitzgibbon, Mr Eric John ............................................................................... 95
NOTICES—
Presentation..............................................................................................................95
BUSINESS—
Rearrangement ........................................................................................................100
COMMITTEES—
Community Affairs References Committee—
Legal and Constitutional Affairs Legislation Committee—
Reporting Date ........................................................................................................101
BUSINESS—
Leave of Absence .................................................................................................101
COMMITTEES—
Community Affairs References Committee—
Reference ..............................................................................................................101
Public Accounts and Audit Committee—
Meeting .................................................................................................................101
MOTIONS—
Indigenous Employment .....................................................................................102
DOCUMENTS—
Mental Health—
Order for the Production of Documents ............................................................102
MOTIONS—
Israel.....................................................................................................................103
BILLS—
 Australian Centre for Social Cohesion Bill 2015—
First Reading ..........................................................................................................103
Second Reading......................................................................................................103
MOTIONS—
Defence Procurement .........................................................................................105
Palestine ..................................................................................................................105
Taxation...................................................................................................................105
DOCUMENTS—
Trans-Pacific Partnership Agreement—
Order for the Production of Documents ..............................................................106
MATTERS OF PUBLIC IMPORTANCE—
Abbott Government .............................................................................................106
DOCUMENTS—
Consideration .......................................................................................................121
COMMITTEES—
Government Response to Report........................................................................126
MINISTERIAL STATEMENTS—
Education .............................................................................................................143
CONTENTS—continued

BILLS—
Defence Legislation Amendment (Military Justice Enhancements—Inspector-General ADF) Bill 2014—
Explanatory Memorandum........................................................................................................... 143
Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014—
Returned from the House of Representatives............................................................................ 143
Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014—
Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014—
Aged Care and Other Legislation Amendment Bill 2014—
Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014—
Australian War Memorial Amendment Bill 2014—
Migration Amendment (Character and General Visa Cancellation) Bill 2014—
Tertiary Education Quality and Standards Agency Amendment Bill 2014—
Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014—
ACT Government Loan Bill 2014—
Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014—
Counter-Terrorism Legislation Amendment Bill (No. 1) 2014—
Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014—
Assent........................................................................................................................................ 143
Guardian for Unaccompanied Children Bill 2014—
Report of Legislation Committee............................................................................................... 144
COMMITTEES—
Environment and Communications Legislation Committee—
Report........................................................................................................................................ 144
BILLS—
Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014—
Second Reading......................................................................................................................... 144
In Committee............................................................................................................................... 147
Third Reading............................................................................................................................... 155
Intellectual Property Laws Amendment Bill 2014—
Second Reading......................................................................................................................... 155
Third Reading............................................................................................................................... 159
Tax Laws Amendment (Research and Development) Bill 2013—
Second Reading......................................................................................................................... 159
In Committee............................................................................................................................... 170
ADJOURNMENT—
Agriculture................................................................................................................................. 212
Greste, Mr Peter............................................................................................................................ 214
Paris: Terrorist Attacks................................................................................................................ 214

CHAMBER
CONTENTS—continued

Ebola Virus.................................................................................................................. 217
Bushfires ......................................................................................................................... 219

DOCUMENTS—
  Tabling.......................................................................................................................... 221
  Tabling.......................................................................................................................... 238
  Tabling.......................................................................................................................... 241
Monday, 9 February 2015

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10 am, read prayers and made an acknowledgement of country.

DOCUMENTS
Tabling

The Clerk: Documents are tabled pursuant to statute. Details of the documents appear at the end of today’s Hansard.

COMMITTEES

Foreign Affairs, Defence and Trade Joint Committee
Rural and Regional Affairs and Transport Legislation Committee

Meeting

The Clerk: Proposals to meet have been lodged as follows:
Joint Standing Committee on Foreign Affairs, Defence and Trade—public meetings during the sittings of the Senate as follows:
- today, from 5.30 pm, to take evidence for the committee's inquiry into the role of the private sector in promoting economic growth and reducing poverty in the Indo-Pacific region
- 10 February 2015, from 12.45 pm, to take evidence for the committee's inquiry into human rights issues confronting women and girls in the Indian Ocean-Asia Pacific region
- 10 February 2015, from 5.30 pm, to take evidence for the committee's inquiry into government support for Australian defence industry exports
- 11 February 2015, from 11 am, to take evidence for the committee's inquiry into Australia's trade and investment relationships with countries of the Middle East.

Rural and Regional Affairs and Transport Legislation Committee—public meeting during the sitting of the Senate on Wednesday, 11 February 2015, from 4 pm, to take evidence for the committee's inquiry into the provisions of the Biosecurity Bill 2014 and related bills.

The PRESIDENT (10:01): I remind senators that the question may be put on any proposal at the request of any senator.

PARLIAMENTARY REPRESENTATION

New South Wales

The PRESIDENT (10:02): I inform the Senate that I have received a letter from Senator Faulkner, resigning his place as a senator for the state of New South Wales. Pursuant to the provisions of section 21 of the Constitution, I have notified the Governor of New South Wales of the vacancy in the representation of that state caused by the resignation. I table the letter and a copy of my letter to the Governor of New South Wales.

BILLS

Australian Citizenship Amendment (Intercountry Adoption) Bill 2014
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.
to which the following amendment was moved:

At the end of the motion, add: "but the Senate notes that:

(a) the Hague intercountry adoption convention (Hague Convention) provides the best assurance of safeguards for children and a transparent adoptive process, and intercountry adoption should occur between Hague Convention signatories to ensure the safety and best interests of the child; and

(b) Australia should seek to encourage countries to sign the Hague Convention rather than sign ad hoc bilateral agreements.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:02): I am in continuation from last year but, given that that was some time ago, I will remind the chamber about where I was coming from at the time. I can see the smile on your face, Mr President, because you remember the occasion very well, I am sure.

As I was articulating in that short time last time, the Australian Greens are extremely concerned about the fast-tracking of intercountry adoption processes. We have seen the trauma that can be caused by flawed adoption practices to the child, the relinquishing family and the adoptive family. For some, there is an assumption that adoption automatically leads to a better outcome for the child. We obviously understand the very deep—

Honourable senators interjecting—

Senator SIEWERT: Excuse me, Mr President. I am sorry. It is slightly distracting.

The PRESIDENT: Yes. Could I ask senators to keep any noise down and maybe have meetings outside of the chamber.

Senator SIEWERT: As I was saying, there is an assumption that adoption automatically leads to a better outcome for the child that is being adopted, and obviously on many occasions that is true, but there are many that it is not true for.

We obviously understand the deep desire for people to become parents. For those of us who do have children, it really is impossible for us to imagine what it must be like to want to have children and to be unable to. However, having said that, we in this country know the consequences of some of the adoptive processes for all involved, including the relinquishing parents. I use the term very carefully when I talk about 'relinquishing', because we know from past experiences that parents in some cases were not relinquishing parents. Those children or those babies were taken from those parents.

We know, however, from past experiences that adoption processes can have bad outcomes for the child, obviously for the relinquishing parents but also for the adoptive parents. There is no guarantee that the practices we saw in this country not several decades ago are not in fact being carried out through overseas adoptions. We cannot pretend that we are not aware of the lifelong consequences of adoption for the child who becomes an adult, for the relinquishing parents and for the adoptive family.

We now have high-profile people promoting adoption. While I am sure they are coming from a desire to help children, we cannot allow this to override the need for proper consideration, protections and oversights. We need to ensure we are listening to the evidence based policy and appropriate expert stakeholders, not just on the goodwill of those high-profile people that are pursuing this cause. Sometimes I am deeply concerned adoption could
take place at the expense of the child's interests. I will come to the overwhelming need to make sure that we are doing this in the child's interests.

Australia must be vigilant to ensure the necessary safeguards are in place to protect parents from being coerced into 'relinquishing' their children, to ensure that intercountry adoption is a last resort and there is appropriate post-adoption care, support and services for children and families. The Australian Greens are deeply concerned that the so-called one stop shop, where children may be seen as commodities and the goal is a swift acquisition of them, is not the way to go in adoption. This country has been there. We know the consequences of that swift approach to adoption.

The presumption that adoption is good, that Australian parents are all loving and that children will have a better life here is not a fair assumption to make. What evidence is this based on? I would argue that there is overwhelming evidence to show that, if we are not extremely careful with adoption, it can lead to very poor life outcomes for everybody involved. All legal rights to extended families, heritage, homeland are extinguished. We are deeply concerned that this may occur and that the children have no say in this matter.

We need to be asking the government on what evidence the decision to facilitate easier and faster overseas adoptions is based. What evidence is relied on to show that this in fact will be in the best interests of the child and that they can guarantee, when they start allowing adoptions from non-Hague countries, that all the concerns that have been raised—and I will go into those in a minute—can be addressed?

I am deeply concerned that the government may be so quickly forgetting the history of child removals and the reports that we have seen in this country: the Bringing them Home report, the forced adoption reports and the three reports on forgotten Australians and former child migrants. These are lessons that we can never, ever forget in this country. This country has watched the intergenerational harm caused by the displacement of children and by dispossession. We have the legacy of the stolen generations, the forgotten Australians and the travesty of forced adoptions. Those directly affected continue to pay a very heavy price, and I have spoken at length in this place about those costs. Unless we get this right, Australians will unfortunately continue to pay a heavy price socially and a heavy price in terms of the cost to health, because we know it has poor health and life outcomes. Justice will also, we believe, be threatened for these people.

That takes me to this bill and why we are debating it in this place now. The Greens are concerned about a number of aspects of the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014. Allowing intercountry adoption through bilateral agreements outside of the safeguards, transparency and procedures of the Hague convention on intercountry adoption is of concern to us. The bill does not focus on the best interests of the child, and we know where that leads. The bill could facilitate an environment where forced or coerced adoption practices could take place—again, this country knows very well what occurs then. There is the lack of a requirement for adequate post-adoption support services. These concerns were clearly shared and articulated by many submissions and witnesses during the committee inquiry into this bill. There are many risks associated with adoption through bilateral agreements with non-Hague-convention countries. The Hague convention of 1993 set out guidelines which considered the child's interests to be of paramount importance. Bilateral agreement to not necessarily meet the same standards.
The stated reason for this bill is to cut waiting periods and allow for easier and more convenient adoptions. International Social Service Australia said in evidence to the committee that the benefits to adoptive parents ‘are grossly outweighed by the risks associated with adopting children in non-Hague countries’. We know that countries that have a very limited child protection process do not have the capacity to monitor individual cases. In these countries, individuals or criminal organisations can exploit the loopholes in intercountry adoption. As International Social Service Australia’s representative said to the committee: Whilst Australia has signed the convention, it is difficult for Australia to monitor the systems in countries that are adopting children that have not signed the convention. For this reason, I think promoting bilateral agreements with non-Hague countries and finalising adoptions in overseas countries have lots of risks associated. So I do not support this bill.

The Australian Greens are deeply concerned that this bill puts convenience to adoptive parents above the best interests of not only the child but also the birth parents. The Australian Greens argue that the risks outweigh the convenience of speeding up adoption with countries that have not signed the Hague convention. The interests of the child are better protected by the safeguards and standards of the Hague convention, and we would prefer that Australia encourage non-Hague countries to become signatories to the convention rather than simply caving in and doing bilateral agreements with them.

I come to the best interests of the child. The Australian Greens believe that all legislation that affects children must be in the best interests of the child. Evidence to the committee from Dr Gillespie of UNICEF emphasised the need to keep the interests of the child at the centre of the intercountry adoption process. He said:

… we emphasise the best interests of the child test. We note that the CRC, the Convention on the Rights of the Child, talks about ‘primary’ interests of children whereas the Hague convention talks about consideration of children being ‘paramount’ in intercountry adoption. UNICEF would not support any dilution of those standards …

In order to properly protect children and families, the first thing we need to do is work with countries to enhance and improve their child protection systems and supports for the parents of those children through that process. The best interests of the child must stay at the centre of our decision-making process. As UNICEF said:

In the very first instance, the Convention on the Rights of the Child says that a child should be with its own family.

That is what we should be focusing on: making sure that every possibility is explored for the child to be able to stay with its family. I am not Pollyanna; I know that in many circumstances that is not possible—but that does really need to be at the centre of our thinking. Dr Gillespie went on:

In all circumstances, that is what we should be striving for. If that is not possible—and that is also about why we do development, to try to bolster systems to ensure that children and families can be supported—then that child should stay in its own culture and with family members or extended family members in that country. Again, our job is to help build systems with those foreign governments to make sure those child protection systems are strengthened before we get into this.

… … …

If all of that is exhausted—in a way, the convention says that intercountry adoption should be a last resort after those have been exhausted—then we look at how best we can minimise and protect.
Therefore, the Greens think we need to be ensuring that the best interests of the child should be at the centre of this legislation; unfortunately, we do not think this legislation goes far enough to ensure that.

Now I want to look at forced and coerced adoption, something this country knows a lot about. I remind this chamber that in little over a month we will be acknowledging the second anniversary of the apology to those affected by forced adoption in our own country.

The past forced adoption processes in Australia have caused ongoing trauma. I do not think anybody in this place is unaware of that trauma, to all those involved. As Professor Nahum Mushin, the Chair of the Forced Adoptions Implementation Working Group, noted, the consultation for the submissions on this bill had a 're-traumatising effect' on affected people. In other words, this is an ongoing trauma for all involved.

We have a responsibility to ensure that we do not create situations for such practices to recur. The Australian Greens are very concerned that this bill could assist in making coerced and forced adoption practices more likely. As UNICEF said, it is important to remember that intercountry adoptions can take an extended time because of the complex nature of the process:

… it takes time and due diligence and also that children are genuinely available to be adopted. We do not want to see any more cases where parents adopt into the Australian context only to discover that the child should never have been considered genuinely available for adoption. That is a really complex thing for parents to have to live with. What does that mean then for your parenting, what is meant for your family, what does it mean for the child, what does it mean for the biological family?

Unfortunately, illegal and unethical adoptions are more likely in non-Hague countries. Without due process and systems around child protection, children and families are at risk of exploitation. International Social Service Australia said:

The more bilateral agreements we have with non-Hague countries, the more unethical and unlawful adoptions we are going to have.

As UNICEF said:

… it has been noted in other country contexts that sometimes there is not due process around free, prior and informed consent from parents and situations where parents are actually being pressured to surrender their children to adoption programs.

A deep concern is that by agreeing to non-Hague convention adoptions these practices will occur more.

I would like to talk briefly about post-adoption support, an issue that came up significantly during the inquiry as well. We are concerned that faster adoption processes provided by the bill may mean that important supports and services do not occur. One issue that is not included in the bill is post-adoption support, or adequate post-adoption support. As several of the witnesses stated, appropriate post-adoption support is very important. There is no provision in the bill to ensure that bilateral agreements will be required to have the same standards in post-adoption support and follow-up as the Hague convention. The Hague convention currently requires post-adoption assessments, which usually occur in the first 12 months after the adoption process. There is also follow-up with the relinquishing family from the country of origin.
It was pointed out to the inquiry that it is essential that there is contact and support for the relinquishing family, the child and the adoptive family. There are several issues with post-adoption support, including the need for long-term post-adoption support for both families and adoptees, and also the important support and assessment back in the country of origin in that first year. International Social Service Australia said that post-adoption support is very, very crucial. 'It is not just the formal reports that we are talking about; it is the informal support that the family needs and may require throughout that child's upbringing.' They continued:

Also, we are funded by the New South Wales government support service for adult adoptees to search for their birth parents overseas. It is important to understand how much of a profound impact that can have on adoptees in later life when they become an adult to find out that their adoption was unethical and unlawful.

I know from the work that I have done with forgotten Australians, former child migrants, those affected by forced adoptions and the stolen generation how important it is that services are available—in fact, lifelong services. We are currently putting in place support services, after all these years, for those who were affected by forced adoptions. That is critical and important evidence that shows the lifelong impacts that flawed adoption processes can have on people. Just adopting a child, unfortunately, does not necessarily have a 'happy ever after' conclusion. We are already having significant problems with this process in Australia, after all those decades of forced adoption processes. By loosening up the overseas adoption processes so much, we are in danger of repeating that, of putting another generation of people through that.

As I said, I deeply understand people's heartfelt desire to look after children who they think they can help by bringing from overseas. I am not saying for one minute that these processes are always flawed, but we know from the evidence that many have poor outcomes. We know the lifelong impact on so-called relinquishing parents or biological parents. Some people call them birth parents. We must guarantee that the adoption is not unethical, that every move has been made to ensure that there are other supports or other potential avenues to support that child in their culture and in their country of origin. We cannot speed it up at the cost of the child, of the parents and of the adoptive parents. (Time expired)

Senator IAN MACDONALD (Queensland) (10:20): The Senate Legal and Constitutional Affairs Legislation Committee looked at the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014 very closely. Indeed we had a number of witnesses give evidence to the committee. A lot of the issues that Senator Siewert has just spoken about were issues that the committee was also concerned about, but the committee deliberated, addressed those issues and asked questions. The committee was of the view that the bill should be passed and the committee made a couple of recommendations.

I take on Senator Siewert's theme, that children who come to Australia and are adopted by Australian citizens in many instances have a much better future ahead of them than they perhaps would where they were. That became clear from some of the evidence given to the committee.

The Senate referred the provisions of this bill to the committee in June 2014. The bill allows for acquisition of Australian citizenship by a person adopted outside Australia by an Australian citizen in accordance with bilateral arrangements between Australia and another
country. In particular, the bill amends the Australian Citizenship Act to create entitlement to citizenship in accordance with bilateral arrangements—that is the same as the entitlement currently provided to persons adopted in accordance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. The Hague convention process as implemented into Australian law provides for the immediate grant of citizenship following completion of the adoption in a foreign country. The statutory regime set out in subdivision AA of division 2 of part 2 of the act allows for the immediate grant of Australian citizenship following completion of the adoption. This allows the adopted child to travel to Australia as an Australian citizen and, thereby, removes the need for the child to obtain a passport from the home country and an adoption visa under the migration regulations.

The bilateral arrangements to which the amendments will apply are identified in the Family Law (Bilateral Arrangements-Intercountry Adoption) Regulations. The regulations currently apply to adoptions under bilateral arrangements with Ethiopia, Korea and Taiwan. These are the only three countries who are not signatories to the Hague convention that these arrangements will apply to. In all three cases, the bilateral arrangements are exactly the same as the provisions of the Hague convention. I heard what Senator Siewert said; I do not agree with her because these are issues that were raised by the committee with witnesses who understand the issues. It was made very clear that the provisions of the Hague convention would apply to these few bilateral agreements we have. One of those countries with which we have that bilateral agreement is in the throes of becoming accredited under the Hague convention in any case. Regarding another one of those three countries, where life is not perhaps as ordered as it used to be when these arrangements were first made, that country, as I recall the evidence given to the committee, no longer is dealt with under these bilateral arrangements because of the concerns that Senator Siewert mentioned. The Australian officials have thought that for the moment those bilateral arrangements with one of those countries would be suspended.

This bill will speed up a lengthy process and will allow Australian parents to be connected with their adopted children in a much simpler way. With no disrespect to Senator Siewert, I have to say that Senator Siewert takes the typical Greens line—the glass is always half-empty, never half-full. The number of people and the number of children who will be benefited by this amendment and reform is very significant, and that is something that we as Australians want to ensure does happen. Sure, we have to be very careful of those very few who fall through the cracks, but, by and large, this is a reform which will make the whole process much better.

The committee made three recommendations. Of these recommendations, in response to the concerns raised by the Parliamentary Joint Committee on Human Rights, the committee urged the government to positively state its position regarding the primacy of the child's interests in the operation of the revised scheme for intercountry adoption. The committee recommended that, subject to other recommendations, the bill be passed. The second recommendation was:

The committee recommends that the child protection principles set out in the Hague Convention, particularly the overarching requirement that the best interests of the child be the paramount consideration in intercountry adoption processes, be explicitly articulated in Australia's bilateral arrangements and, where relevant, in the related legislation and regulations.
The department has indicated that that is how it will proceed. The third recommendation was:

While not directly relevant to the committee's terms of reference, the committee strongly urges Commonwealth, state and territory governments to ensure that adequate resourcing and priority is provided for follow up monitoring and support to ensure that it fully addresses Australia's obligations to adoptees throughout the adoption cycle, regardless of whether adoptions take place under the Hague Convention or under bilateral arrangements.

So, regardless of which it was, we are very concerned and Australia is concerned to ensure that adopted children are properly cared for in Australia.

On the human rights issue, the Department of Immigration and Border Protection provided the committee with evidence that it had reviewed the amendments against the provisions of seven key international treaties. As the children to whom these amendments are relevant are located outside Australia's territory or jurisdiction, Australia's obligations under seven core human rights treaties are not effectively engaged. However, once these children come within the Australian territory or jurisdiction, these rights and freedoms articulated under the seven core international human rights treaties will be enlivened. The department added that, in its opinion, the bill enhanced the wellbeing of adopted children by creating a more streamlined and cost-effective process which allowed these children to commence their lives in Australia more quickly.

The Attorney-General's Department advised that the bill would not change post-adoption support arrangements which were provided by state and territory governments in accordance with their respective laws. Whilst the laws and processes may vary in some respects between states and territories, support services were provided to adopted children and their families on an identical basis whether the adoption took place under the Hague convention or the bilateral arrangements.

During the inquiry, the committee also noted advice from the relevant department that the bill would not in any way compromise the interests of the child nor the standards and safeguards applied to intercountry adoption programs under bilateral arrangements, which will continue to mirror the principles of the Hague convention. Additionally, we were told that COAG has given in principle support for the utilisation of an existing agency to provide services for intercountry adoptions. An agreement was reached at the COAG meeting in October 2014. As far as I am aware the details of that program have not yet been finalised or announced. The streamlined citizenship process created by the bill will make overseas adoptions faster, easier and more cost-effective for adopting families and will enable adopted children to settle more quickly and easily into their new lives and access key support services more immediately upon arrival in Australia.

The Legal and Constitutional Affairs Legislation Committee strongly endorses the passage of the bill through the parliament. I thank all those who gave evidence to the committee during its deliberations. I thank the deputy chair, Senator Collins, and other members of the committee for their attention to the evidence and the material given to the committee in researching and considering this bill. The bill is a reform and I urge the Senate to do as the Senate committee did—that is, agree with the adoption of this bill.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (10:31): I thank senators for their contribution to this second reading debate on the Australian Citizenship Amendment
(Intercountry Adoption) Bill 2014. The bill which was introduced into the House of Representatives by the Prime Minister emphasises his strong personal commitment and the commitment of the government to reform and improved intercountry adoption. Adoption should always be in the best interests of the child and we do not want to repeat the mistakes of the past. However, what we do want to do is remove the red tape, but not the safeguards, and reduce the delays that do not benefit anyone.

I remind the chamber that the Australian Citizenship Amendment (Intercountry Adoption) Bill 2014 only amends the Australian Citizenship Act 2007 insofar as to facilitate the grant of Australian citizenship to children after they have been adopted by Australian citizens under bilateral arrangements. While bilateral arrangements may be between Australia and countries that are not party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, I remind the chamber that all such adoptions are compliant and consistent with the principles of the Hague convention.

The Prime Minister noted when he introduced this bill that it is another step in delivering reform to intercountry adoption. The bill gives effect to one of the recommendations made in the Report of the interdepartmental committee on intercountry adoption released in April 2014, which recognised that where bilateral arrangement adoptions with nonconvention countries have standards and safeguards to protect children that are equivalent to those required under the Hague convention, the adoptions should be treated in the same way as Hague convention adoptions when assessing Australian citizenship.

The purpose of this bill is to ensure that children adopted by Australian citizens in accordance with a bilateral arrangement will be able to apply for Australian citizenship in the same way as children adopted from Australia's intercountry adoption partners which have acceded to the Hague convention. Since 2007, children adopted by Australian citizens under Hague convention arrangements have been able to apply for Australian citizenship in their home country. Countries with which Australia establishes a bilateral arrangement must have the same standards and safeguards as those required with adoptions made between countries that have ratified the Hague convention.

As the process for children adopted under bilateral arrangements, including automatic recognition under Australian law, is in substance identical to those processes under the Hague convention, it is reasonable and equitable for both the adoptees and their families that the children should be treated the same regarding access to Australian citizenship. This was recognised by the interdepartmental committee as an area suitable for immediate reform. The government has moved quickly to act on this recommendation. It will mean the child and the adopting family will be spared the process of applying for and meeting the cost of an Australian visa. It will mean that an application for Australian citizenship can be made immediately after the adoption is finalised, following an application for an Australian passport. The bill will not prevent the child from having access to dual citizenship. Whether a child can have dual citizenship will depend on the relevant laws in a child's country of birth, as is currently the case.

Where a non-convention country meets Hague convention standards of intercountry adoption, Australia may have a bilateral intercountry adoption program with them. South Korea and Taiwan are the only countries with which Australia has bilateral adoption programs. These arrangements with South Korea and Taiwan have existed since 1978 and
1984 respectively. South Korea is in the process of acceding to the Hague convention. No new bilateral arrangements are under consideration at this time. The countries with which new programs are being discussed are all parties to the Hague convention.

Passage of the bill does not sanction any changes to the adoption process. Parents who adopt from countries with which we have bilateral arrangements are assessed by states and territories through the same robust process as parents who adopt from countries that are parties to the Hague convention. This assessment process includes the requirement for prospective adoptive parents to provide an Australian national police check. The best interests of the child remain the paramount consideration in the adoption process, regardless of whether this occurs under the Hague convention or a bilateral arrangement. This bill makes no change to existing arrangements or safeguards to protect children from exploitation.

I thank the Senate Legal and Constitutional Affairs Legislation Committee for its report on this bill. The committee recommended that the bill be passed, subject to two issues: (1) that the child protection principles in the Hague convention, particularly that the best interest of the child is the paramount consideration in the adoption process, be explicitly articulated in the bilateral arrangements and, where relevant, in related legislation; and (2) that the Commonwealth, state and territory governments ensure adequate resourcing is provided for follow-up monitoring and support to adoptees and their families.

In relation to the first issue, the government considers that such an amendment is not required, as the principles of the Hague convention, including the best interests of the child as the paramount consideration, are adhered to in all of Australia's intercountry adoption programs.

In relation to the second issue, state and territory adoption authorities currently facilitate post-adoption support for adoptees and their families. The new Intercountry Adoption Support Service announced by the government will also explore this issue, and I advise the Senate that on 25 January 2015 the Prime Minister announced the Intercountry Adoption Support Service will be established as soon as April 2015. The Prime Minister confirmed the new service will include a website and a dedicated 1800 helpline, with trained staff to assist families in working with state, territory and overseas authorities, and to provide referrals to other support services. The new service will aim to reduce the waiting time for Australian families while maintaining the necessary safeguards for children, consistent with Australia's obligations under the Hague convention on intercountry adoption.

I note that the Greens provided a dissenting report to the Senate committee inquiry and I would like to briefly address the four issues that they raised in their report. First, the Greens are concerned that bilateral arrangements are, as they view them, 'outside of the safeguards, transparency and procedures of the Hague convention'. I respond to this concern by emphasising that the overarching requirement from Australia's perspective is that an intercountry adoption partner country meets the standards and safeguards equivalent to those required under the Hague convention. Australia assesses a country's intercountry adoption legislation and infrastructure for compliance with the Hague convention and also assesses its practical compliance with the standards and principles of the Hague convention. Australia only has intercountry adoption programs with countries that meet the standards of the Hague convention in practice. This is not dependent on whether they are parties to the Hague convention.
The key Hague convention standards and principles include: (1) the existence of safeguards to ensure that intercountry adoptions take place in the best interests of the child; (2) consideration of all options for permanent care for the child in the child's country of origin before considering intercountry adoption; and (3) measures to prevent the trafficking of children, including no facilitation payments.

The Attorney-General's Department assesses and monitors Australia's intercountry adoption programs using a number of measures, including: ongoing review of child protection and adoption legislation, guidelines and infrastructure in the overseas country for compliance with standards of the Hague convention; monitoring the practical operation of the adoption program in overseas countries; regular dialogue with authorities in the overseas country, including central authorities, government departments, adoption agencies, embassies and visits to the country; monitoring reports from various non-government organisations on child protection issues in the overseas country; exchanging information about adoption processes with other countries; and maintaining relationships with other relevant stakeholders.

The second issue raised by the Greens is:
That the bill does not focus on the best interests of the child …
As I have previously noted, the guiding principle for all intercountry adoptions undertaken by Australia, including through bilateral arrangements with countries that are not parties to the Hague convention, is that the best interests of the child are the paramount consideration in the intercountry adoption process. The bill does not affect this fundamental principle.

The third criticism or issue raised by the Greens is:
That the bill could facilitate an environment for forced or coerced adoption practices to take place …
This is not the case. The bill makes no change to existing intercountry adoption arrangements or to the safeguards that are in place to ensure that an adoption is in the best interests of the child. All Australia's active intercountry adoption programs have been assessed as complying with the standards and principles of the Hague convention, regardless of whether the country is a party to the Hague convention. Furthermore, the government is committed to ensuring that all parties involved in intercountry adoptions are protected and takes seriously all allegations of unethical or illegal practice in intercountry adoption. If there were allegations of unethical or illegal adoption practices in one of Australia's intercountry adoption programs, the government would consider a number of options to address the issue. These include formally reviewing the relevant program against the Hague convention principles and standards; advising the appropriate authorities in the relevant countries of Australia's concerns; communicating Australia's concerns to other countries and international organs, as appropriate and consistent with our obligations under the Hague convention; suspending or closing the program with the country in question; and investigating whether, under the program, any offences have been committed under Commonwealth, state or territory laws.

Together with state and territory central authorities, the Australian government has also developed a protocol for responding to allegations of trafficking children in intercountry adoptions. The protocol provides information to assist adoptees and adoptive families. It sets out measures that can be taken if allegations of unethical or illegal adoption practices are made, and the support and assistance available for adoptees and adoptive families.
The fourth criticism or issue raised by the Greens is that there is a lack of a requirement in the bill for post-adoption support services for adoptees and their families. I have previously addressed this issue and note that the state and territory adoption authorities currently provide these services and that the bill does not change this—and I confirm again that, on 25 January 2015, the Prime Minister announced that the Intercountry Adoption Support Service will be established as soon as April 2015.

Senator Siewert, in her contribution to the second reading debate, moved a second reading amendment. In relation to the second reading amendment moved by Senator Siewert on behalf of the Australian Greens I advise the Senate that the government opposes the amendment, as it considers it to be unnecessary. This is because the overarching requirement from Australia's perspective is that an intercountry partner country meets in practice the standards and safeguards required under the Hague convention for intercountry adoption. This is the case whether the country is a signatory to the Hague convention or not.

As I have said previously, all Australia's active intercountry adoption programs have been assessed as complying in practice with the standards and principles of the Hague convention, as new programs will not be established unless they are assessed as Hague convention compliant.

I would also like to respond to the conclusion of the Parliamentary Joint Committee on Human Rights that the bill is likely to be incompatible with Australia's international human rights obligations under the Convention on the Rights of the Child. I note that the Permanent Bureau of the Hague Conference on Private International Law has issued an outline of the Hague Convention on Intercountry Adoption. This outline explains that the Hague convention gives effect to article 21 of the Convention of the Rights of the Child by adding substantive safeguards and procedures to the broad principles and norms laid down in that convention. As the Minister for Immigration and Border Protection at the time said, in his response to the committee:

Given that all of the country programmes which the Australian Government has established must meet the standards of the Hague Convention, the government is of the view that Australia's intercountry adoption programme as a whole is consistent with Article 21 of the CRC.

As I have already explained, all of Australia's active intercountry adoption programs demonstrate practical compliance with the standards and principles of the Hague convention, and this includes holding the wellbeing and rights of the child as paramount.

The bill also acknowledges the hard work, dedication and perseverance of Australian citizens who embark on the challenging journey of intercountry adoption, and they have our admiration and respect. I commend the bill to the Senate.

Question negated.
Original question agreed to.
Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Sterle) (10:47): 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 NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (10:47): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

BUSINESS
Rearrangement

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (10:48): I move:
That government business order of the day no. 2, (Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014), be postponed till a later hour.
Question agreed to.

BILLS
Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (10:48): Organised crime in this country is something all levels of government need to tackle. And one way to do this is to target the unexplained wealth of individuals, especially those who are not directly involved in an act of criminality, to obtain benefits. Criminals who are profiting from other people's crimes will be targeted by authorities who have more ability, now, to seize assets where the size of their wealth cannot be explained.

Organised crime can affect many unsuspecting Australians through many means, which may include bank account data and credit card theft through skimming of cards via ATMs and point-of-sale hubs or online attacks and investment scams.

The previous, Labor government introduced the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill on 28 November in 2012. While it passed the House of Representatives it lapsed in the Senate before the last federal election. Now, the Minister for Justice Michael Keenan has re-introduced this bill, and it looks very similar to the one Labor introduced. In fact, it looks near identical, so I would like to acknowledge the government for supporting the previous, Labor government's bill.

Primarily, the legislation focuses on the various recommendations that the Parliament Joint Committee on Law enforcement brought down in 2012. They include recommendations such as preliminary unexplained wealth affidavits being streamlined; requiring the Australian Federal Police Commissioner to provide the Parliamentary Joint Committee on Law Enforcement with an annual report on unexplained wealth matters and litigation, along with empowering the committee to seek further information from federal agencies; restraining assets from being used to meet legal expenses, and making consistent legal aid provisions; securing payment from restrained property through an unexplained wealth order; including a
statement in the objects clause about undermining the profitability of criminal enterprises; removing a court's discretion to make unexplained wealth restraining orders, preliminary unexplained wealth orders and unexplained wealth orders, once relevant criteria are satisfied; extending the time limit for serving notice of applications for certain unexplained wealth orders by a court; and, finally, evidence relevant to unexplained wealth proceedings being seized under a search warrant.

Another measure not in the report but necessary to support the measures already stated includes someone not being able to frustrate an unexplained wealth proceeding by failing to appear, and clarifying orders being made. I am not sure whether many people are aware of the legal aid provisions of unexplained wealth cases but the current process is that suspect assets can be used to go towards a legal defence. This bill closes that gap.

The Parliamentary Joint Committee on Law Enforcement recommended the Commonwealth lead on the development of nationally consistent unexplained wealth regimes. The states and territories are still considering whether to go down that path, with former police commissioners Mick Palmer and Ken Moroney called in to negotiate with the states. To date discussions are still occurring, unless developments have occurred more recently.

Chris Hayes, the member for Fowler, who has contributed greatly to this bill through his involvement on the Parliamentary Joint Committee on Law Enforcement, made what I thought was a very good statement which summed up the whole reason for this bill. He said:

… for every crime, there is a victim of crime. Therefore, if you prevent a crime or deter the commissioning of a crime, there is one less victim.

I couldn't agree more. Labor has supported and will continue to support the laws which take the incentive out of organised crime. Thus, Labor will be supporting this legislation, as it basically mirrors the legislation we introduced in 2012. Before I complete my contribution, I want to compliment our federal, state and territory police forces around the country. They all work in a very difficult space and do a very good job in protecting us.

Senator WRIGHT (South Australia) (10:53): I rise to speak about the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014. In particular, today I want to speak about the aspects of this bill that entrench the inequality of arms, undermine the presumption of innocence and therefore offend the rule of law. Like every other senator in this place, I am repulsed by the idea of criminals benefiting from the proceeds of their crimes. Australia must and does already have an extensive proceeds of crime regime in place to ensure that those who break the law do not profit from their crimes. But let's be very clear about what the existing law already allows.

Under existing law, a person who may not even be suspected of engaging in a criminal offence can be required to front up to a court and prove that his or her home, car or other assets have been legally obtained. There is no requirement for the police to show that there is a link between the asset and the commission of any specific criminal offence. Even if the asset was legally obtained, the person will lose it unless they can provide sufficient proof that it was lawfully acquired.

But this bill seeks to extend this regime into a new frontier of unfairness, where those who are required to prove to a court that their assets were legally obtained would be denied access to the type of legal representation that they want and need. Currently, where a person's assets
are restrained in an action like this, a judge hearing the matter has the discretion to allow the 
person to use their assets to pay for their legal defence. But this bill will remove that 
discretion totally.

The feature of this bill that raises particular concerns for the Australian Greens, and for 
many legal experts who have made submissions in relation to these amendments over 
consecutive parliamentary inquiries, is the removal of this discretion. Many of these concerns 
are also shared by the Parliamentary Joint Committee on Human Rights. These concerns arise 
both from the practical implications of them but also principle.

As a starting point, the amendments proposed in the bill are completely unnecessary. There 
has been no case made for these amendments. The court can already refuse to allow a person 
to use their assets for the purpose of obtaining legal advice where they have been issued with 
an unexplained wealth order if the court is concerned, for instance, that the real purpose is to 
dissipate the assets so they cannot be seized by the state, by the government.

There is no evidence in the explanatory memorandum that the existence of this discretion 
as it currently stands has been misused or has jeopardised the outcome of unexplained wealth 
proceedings. There is no evidence in the explanatory memorandum—the memorandum which 
is designed to explain the rationale for the legislation we are being asked to agree to. The 
government has given no compelling reasons to justify taking this discretion away from the 
party which is best placed to make this call: the court. As is usually the case, it is the judge, 
the court, who is privy to the information and the evidence and can assess the merits of the 
person's application—in this case, to use their assets to obtain legal advice and representation.

Then there are the principle issues. In the situation where a person is being subjected to a 
very significant action by government to remove their assets, this bill will force parties to look 
to legal aid for assistance. This will compound existing pressure on legal aid services in an 
environment in which the legal assistance sector is already notoriously overloaded. Victoria 
Legal Aid's submission to the Senate inquiry into this bill, for instance, made it clear that 
diverting people who want to contest unexplained wealth proceedings into the legal aid 
scheme will see an increase in applications for funding for complex and protracted litigation, 
which would require sizeable payments to legal representatives and forensic experts, if indeed 
their defence is to be done properly.

In our society, under the rule of law, people are entitled to mount an appropriate defence to 
actions by government like this. This is a serious concern. There is clear evidence of already 
significant existing levels of unmet need in the legal assistance sector. They are in our 
newspapers. They are in our faces every day. This means that people are already prevented 
from getting the legal assistance they need. Increasingly, it is not just the poorest Australians 
but also middle Australians as well. It is having damaging consequences, both for individuals 
and also for the structure of our legal system, the basis on which our legal system has been 
established. For instance, there has been a huge increase in self-represented litigants in 
litigation generally but particularly in the Family Court, which means people are unable to get 
the legal advice and representation they need. They are being forced to try and run complex 
cases on their own. This is the existing situation, without the change that is mooted in this bill.

There is also doubt as to the capacity of any legal aid grant to meet the costs that would be 
sustained in an unexplained wealth matter. As discussed in the Law Council of Australia's 
submission to the Senate inquiry into this bill, there is generally a need for specialist
commercial expertise in responding to unexplained wealth orders. That does not come cheap, and there are often restrictions on using legal aid funding to obtain expert reports.

They are the practical implications. I said they were the matters of principle but in fact they are the practical implications of the provisions in this bill. But there are also really important matters of principle if we are going to be living in a country that is subject to the rule of law. Fairness and the rule of law require people to have adequate legal representation and the ability to defend themselves in legal proceedings, especially when they have not been charged with or convicted of a criminal offence. This is known as the equality-of-arms principle. It is colloquially expressed in a term we are all familiar with—the right to a fair go. The idea of a right to a fair go is an Australian principle and an Australian ethic.

In direct contrast to this principle, this bill forces those who face an unexplained wealth order to rely upon legal aid in order to be able to obtain legal representation. They might have means available to them but they will be forced to rely on legal aid. It will mean that a person who is required by law to explain to a court how his or her house or car was lawfully obtained has to join the end of a very long legal aid queue while the government instructs the best legal and financial experts that money can buy.

The government’s recent announcement of $11 million of extra funding for litigation specialists tasked with conducting confiscation proceedings and forensic accountants in cases such as this makes it abundantly clear that the inequality of arms is likely to be on a monumental scale. This gives rise to the real risk that innocent people who have failed to keep receipts or records may lose their lawfully acquired assets. It is totally unacceptable in Australia in 2015.

For these reasons, the Australian Greens recommend that items (3) and (24) of the bill be removed. This will preserve the existing judicial discretion about accessing restrained funds for legal costs and protect Australia’s legal resources such as in the legal assistance sector without impacting on legitimate aims of Australia’s proceeds-of-crime regime. It will mean that it is judges and courts that are best positioned to understand the risk of someone not being able to adequately represent and defend themselves in the face of these sorts of proceedings that make that call. The Australian Greens will be seeking to amend the bill in line with these recommendations in the committee stage.

Senator IAN MACDONALD (Queensland) (11:03): I support the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014 as presented and oppose the amendments. I will not go into the provisions of the bill as Senator Collins has already done so in her contribution to the debate. I acknowledge that this is a bill that was proposed by the previous government and referred to the Parliamentary Joint Committee on Law Enforcement, which handed down a final report on its inquiry. The government of the day accepted 15 of the committee's 18 recommendations, indicating that organised crime is motivated by the huge profits that can be made through illegal activity. The government said that it was:

… committed to ensuring that it has strong laws to target the criminal economy; not only removing the proceeds of crime, but also preventing its reinvestment into further criminal activity.

I note in passing that the Greens political party indicated their general support for that recommendation back in 2012, so I am somewhat surprised that they now have amendments.
I will not deal with the bill as such, as I said, because Senator Collins and also the minister in his second reading speech adequately dealt with it. I just want to briefly respond to the Greens' comments regarding their amendments. What the AFP and others are concerned about is that these proceeds of crime may, under the current law, be used to mount a legal case. As those of us who have any connection with the law know, you can run legal cases ad infinitum and use most of the wealth that was got from illegal activities in fighting cases.

The Greens said in their speech that it is difficult for people to prove that their house or car was legally obtained. I think when most Australians buy a house they go to the bank and get a mortgage. There is never much doubt about where the proceeds have come from. I accept that in a very high-profile allegation about a former Prime Minister there was some doubt about where the money came from to purchase a house in Melbourne but, that aside, most Australians can clearly indicate that they bought their house or their car through a loan from a bank. Those records are readily available. It is only criminals, who are often very well advised by top-flight accountants and lawyers, who can mix up the money so that it is sometimes difficult to follow the trail of where it has come from. Whilst I hear what the Greens are saying about their amendments, I can say that for 99.9 per cent of Australians there is not much trouble in showing where we all got our money from to buy our houses or cars.

The Senate Legal and Constitutional Affairs Legislation Committee looked at this bill with some intensity. To a degree we were persuaded by the work of the joint committee on the same bill a couple of years previously, but we did seek submissions and we did conduct an inquiry.

I note that the Legal Aid Commission of Victoria was concerned, as are the Greens in their speech, that if people could not use the value of the assets in question to mount their legal defence, they might have to go to legal aid. I can understand the Victorian Legal Aid Commission being concerned about extra access to their very limited funds for these types of issues. As the Australian Federal Police pointed out, if the Legal Aid Commission does provide funds and it is found that the assets were legally obtained, then the assets stay with the person accused and that person then—with the benefit of those assets—can repay the Legal Aid Commission. In those instances, I do not think it is going to have a big impact on legal aid. Furthermore, the AFP said in evidence that they were:

… not expecting a huge volume of unexplained wealth cases.

And, further:

… if a person does need to resort to legal aid there are ways for them to do that and for the legal aid commission to recoup those costs.

That is, in the way I have just mentioned.

I do acknowledge the concerns of the Law Council of Australia, who did give evidence and did assist the committee with their work. I would point out—and perhaps I will not read it in full—page 29, clause 2.29 of the Senate Legal and Constitutional Affairs Legislation Committee's report, where the AFP explain that the current safeguards, which the Greens are saying are sufficient, were unlikely to 'operate as a concrete safeguard'. They go on in the passage quoted in the committee report to explain that:

The AFP added that the existing provisions, which provide for a person to access restrained assets for the purpose of legal expenses, have been found to be the 'type of provision [that] undermined the entire
object of the act because ... people would rather spend their money on their lawyers than see the money going to be confiscated by law enforcement'.

In a lot of these issues, whilst they are matters for parliament to determine, clearly you have to take notice of the people at the cold face and the people who are there trying to protect Australians from crime—organised crime in particular—and the unexplained wealth that sometimes comes from organised criminal activities. The AFP and other law enforcement agencies obviously were the ones who approached the government of the day for the amendments to these bills to make it easier for them to fight crime and to protect all of us from the activities of organised crime.

I will not delay the Senate further. Suffice to say, for the reasons contained in the Senate committee's report and those enunciated by Senator Collins as well, I support the bill and oppose the amendments proposed by the Greens.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (11:10): As we all know, organised crime can be a very profitable business; because if it was not, obviously criminals would not bother being involved with it. As many of us know, when the notorious gangster Al Capone was finally convicted of a major crime, it was not for murder, kidnapping or extortion: it was for tax evasion. That is because, while it can be very profitable to earn money via criminal activities, it becomes extremely difficult to hide large sums of money obtained through illegal means. It has a habit of being splashed around, because what is the point of earning large amounts of money by criminal dealings if not to live the high life? By following the money trail, as it were, it becomes possible to find the more substantive crimes which created the wealth in the first place. It becomes possible to connect the kingpins of organised crime to their underlings that actually commit the crimes on their behalf and at their direction.

Labor supports this bill, because it builds on the actions of the Labor Party when in government. It was the Labor Party that enacted the Commonwealth unexplained wealth laws that have been in place since 2010 and this bill enhances these laws. It was Labor that first acted on this issue, and I am glad that this government has followed our lead. The bill amends the Proceeds of Crime Act to strengthen the Commonwealth's unexplained wealth regime and improve the investigation and litigation of unexplained wealth matters.

Organised crime is serious business in Australia. According to the Crime Commission's Organised crime in Australia 2013 report, they conservatively estimate organised crime to currently cost Australia $15 billion annually. That is an extraordinarily large amount of money and a substantial drain on our society. But organised crime in Australia is not an issue that just affects Australians; it is inextricably linked to international organised crime. Serious and organised criminals operating in Australia necessarily have international links to facilitate their activities—particularly the movement of illicit goods into Australia—and overseas-based organised criminals actively target Australia.

As a relatively wealthy nation, we make a good target for overseas based cybercrimes. We have also seen the rise of online trading sites, like the now defunct Silk Road, which have made it easier for organise criminals to sell illegal and harmful products to Australians without ever stepping onto Australian soil. This means that strong and trusted partnerships with overseas law enforcement agencies are now more fundamental to combating organised crime than they have ever been.
The history of international action was outlined in the Parliamentary Joint Committee on Law Enforcement's report on the inquiry into Commonwealth unexplained wealth legislation and arrangements. They said in that:

The importance of serious and organised crime had already been recognised internationally, with a 1997 Interpol resolution recommending that member countries consider adopting effective laws, that give law enforcement officials the powers they need to combat money laundering both domestically and internationally, including reversing the burden of proof (using the concept of reverse onus) in respect of the confiscation of alleged proceeds of crime.

The idea of confiscation of unexplained wealth in international agreements can be traced back as far as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).

We are debating this issue in this place today because the issue of organised crime is becoming more prevalent and is having a wider impact on Australians. As the Crime Commission said:

Once, encounters with organised crime were largely restricted to those who sought out illicit commodities or illegal activities. Today, any Australian on any day can be …

affected by organised crime.

It might not be entirely obvious how Australians can be affected by organised crime, so I will take a quick moment to outline some of the ways that everyday, ordinary Australians can be affected by organised crime. These ways include being defrauded in investment scams, the use of dangerous and volatile clandestine laboratories to produce drugs in suburban areas, the theft of credit card and bank account data through online attacks, or by means of skimming, and the violence between organised crime groups that takes place in public.

As the former Chair of the Joint Select Committee on Cyber-Safety I heard stories time and time again of people, particularly senior Australians, losing thousands of dollars, even hundreds of thousands of dollars, through online fraud perpetrated by organised criminals. Hundreds of thousands of dollars have been lost through fake emails phishing for information. I remember during a hearing of the Joint Select Committee on Cyber-Safety in Sydney the Australian Taxation Office showing me two emails purporting to be from the ATO. The first was a year old and was a relatively crude affair, but the second email, a year later, looked extremely professional, with the correct ATO logo, and was very difficult even for tax office officials to identify that it was a fake. The email claimed that the recipient was eligible for a small refund from the ATO. It was not a large figure; generally they are quite small. But when you add all these small amounts together you see that these people are making a substantial amount of money out of their crimes. When the victim clicked on the link they were sent to a website with an almost identical address to the ATO, which was a clone of the ATO site. These criminals are very smart and very clever. I do not think it is very smart or clever of anyone in this parliament to underestimate how much people are getting out of this sort of crime. Organised crime is getting larger and more sophisticated. It involves activities that can every single one of us. Organised criminals are using other sorts of crime, including human trafficking, but today we are talking about wealth.

We support this bill, so I will not take up too much more time. I will say that Labor started the process of this bill when we were in government. Despite assurances they would retain proceeds seized under their own laws the states and territories have consistently rejected this
proposal. In June 2013, former police commissioners Mick Palmer and Ken Moroney were appointed by then minister, Jason Clare, to negotiate with jurisdictions and 'break the deadlock'. Unfortunately, that is yet to be achieved. It was reported in October 2013 that Mr Palmer and Mr Moroney were due to report to government 'within weeks'. However, we are not sure if this occurred or, if it did, what their report contained. It would be nice of the government to inform this place and the other place about the outcome of these negotiations.

Labor's Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012 passed through the House of Representatives in February 2013 but lapsed in the Senate at the end of the last parliament. The bill we are debating today, the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014 is fundamentally the same as the lapsed legislation and implements Labor's commitments of February 2013 in the government's response to the Parliamentary Joint Committee on Law Enforcement inquiry into Commonwealth unexplained wealth legislation and arrangements. The bill implements eight out of 18 recommendations handed down in the Parliamentary Joint Committee on Law Enforcement inquiry into Commonwealth unexplained legislation and arrangements.

Minister Keenan, in opposition, made remarks about Labor not embracing the recommendations of the committee which involved the Australian Crime Commission pursuing unexplained wealth orders. In government, however, Minister Keenan has unfortunately failed to keep faith with his rhetoric in opposition. Once again, the coalition have said one thing in opposition and have done the opposite in government. The bill does not contain new provisions concerning the work of the ACC; it is just to continue on.

We support this bill. I am pleased that the government have finally come to the fore in supporting this bill that was begun when we were in government. I commend the bill to the Senate.

Senator LEYONHJELM (New South Wales) (11:19): I rise today to object to passage of the Crimes Legislation (Unexplained Wealth and Other Measures) Bill 2014. I am sure everyone in this place would be horrified if a neighbour simply took their car and sold it to pay a debt. They would likely be even more annoyed if it was later shown that the neighbour was in the wrong and there was no debt owing at all. But that is what this bill allows the government to do. I am always especially concerned whenever the government gets to do something obviously bad, simply because it is the government. Perhaps it is possible that people in this place do not appreciate what is being waved through the chamber today, so I will explain.

Unexplained wealth regimes—Australia has one in every state and territory, as well as the Commonwealth version I am discussing now—allow the state to confiscate an individual's assets without proof of guilt. They are not to be confused with proceeds of crime legislation, which only come into play once a conviction has been secured. What sort of assets? It is merely wealth that you can't explain, wealth that is inconsistent with your tax records or that appears to have been obtained in a year when you filed no tax return. Wealth that is not obvious on an examination of tax records is actually deemed to be unexplained. People must go to court and prove that on the balance of probabilities they acquired it legitimately. However, it is rather difficult to go to court when your property has been taken from you, and you are not allowed to use it to defray your legal costs. The legislation refers to it as 'restrained property'.
You therefore have no money and must apply for legal aid in order to defend yourself against the government. In fact, you must not only defend yourself, but you must also prove that the money now held by the state is legitimately your own. But legal aid mainly deals with criminal and family matters. A legal aid lawyer is paid roughly $150 an hour. Unexplained wealth situations are different and far more complex. For a start, there is no crime, which means a criminal lawyer is of little use. Much of the relevant law in cases like this concerns taxation and corporate matters. Commercial lawyers are much more expensive than criminal lawyers; they cost between $350 and $400 an hour and very few do legal aid work. And because it is not possible to pay for a lawyer out of 'restrained property', the action becomes almost impossible to defend. At this point, many people simply give up and let the government keep their money.

Of course, you may be a bad person. You may be a drug kingpin. You may—thanks to the offensively high excise on cigarettes—be growing a bit of illicit tobacco on the side. There used to be a rule that the state had to prove you were a bad person before it could send you to jail or take your property. That was a good rule. In fact, it used to be our rule, derived from clause 39 of Magna Carta:

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

Thanks to bills like this one, that rule has been abrogated. The explanatory memorandum could not be clearer:

Under Commonwealth unexplained wealth legislation, if a court is satisfied that there are reasonable grounds to suspect that a person's total wealth exceeds the value of the person's wealth that was lawfully acquired, the court can compel the person to attend court and prove, on the balance of probabilities, that their wealth was not derived from one or more relevant offences. If a person cannot demonstrate this, the court may order them to pay to the Commonwealth the difference between their total wealth and their legitimate wealth.

So then, what makes this bill even more obnoxious than the confiscatory legislation it seeks to amend? Once again, I turn to the explanatory memorandum:

Courts hearing unexplained wealth matters currently have a general discretion to decline to make a restraining order, preliminary unexplained wealth order or final unexplained wealth order, even if all relevant criteria for making the orders have been satisfied. The Bill will remove this discretion and will require courts to make [those orders] once satisfied that the criteria for making them have been met.

That bit of airy legalese means that the judge's role is reduced to a box-ticking exercise. The judge cannot act independently—as the third arm of government, the judicial arm—to defend one of our most basic common law rights: the presumption of innocence. His judicial discretion has been swept away.

Indeed, when the New South Wales equivalent of the law before us today was litigated last year, the High Court, more in sorrow than in anger, had to concede that 'the principle of legality'—a rule of statutory interpretation that requires parliament to use clear language if it intends to restrict fundamental rights or depart from general principles of law—had genuinely been invoked. The New South Wales parliament intended—with a degree of clarity that is difficult to credit—to abrogate a fundamental common law right. This bill seeks to do exactly the same thing.
The bill represents a gross expansion of police power, and, as I have often noticed, a policeman never seems to see a power he does not like. It allows the government to steal our money, overturns the presumption of innocence, reverses the onus of proof and prevents the courts from protecting our rights. It ought to be condemned and not passed.

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (11:26): On behalf of Senator Brandis, I would like to sum up the debate on this bill. Senator Brandis thanks honourable senators for their contribution to this debate. The Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014 reflects the government's continued efforts to provide new tools to courts and law enforcement agencies to confiscate the illicit proceeds associated with serious and organised crime. Senator Brandis would like to thank the Senate Standing Committee on Legal and Constitutional Affairs, which inquired into the bill and its recommendation that the Senate pass the bill. He also thanks the Parliamentary Joint Committee on Human Rights and the Senate Standing Committee for the Scrutiny of Bills for their examination of the bill.

I would like to go through some of the matters that were raised by honourable senators during the course of this debate. Senator Wright argued against items (3) and (24) of schedule 1 to the bill, which would preserve judicial discretion after accessing restrained funds for legal costs in unexplained wealth matters. The parliamentary joint committee, which is not the government, does not accept these arguments. The Parliamentary Joint Committee on Law Enforcement, the PJCLE, has recommended the unexplained wealth laws be changed to prevent people from using restrained property from meeting their legal expenses under recommendation 10. The PJCLE considered submissions and evidence from a range of community, law enforcement and other government bodies in making this recommendation. Unexplained wealth proceedings are the only type of proceeds of crime proceedings in which people are allowed to use restrained assets in this way. The Proceeds of Crime Act generally prohibits restrained assets being used in this way to prevent the practice of dissipating wealth on legal expenses to frustrate potential proceeds of crime orders.

To ensure that people are not deprived of legal representation, the Proceeds of Crime Act provides a scheme to reimburse Legal Aid Commissions for costs incurred in representing people who are subject to a restraining order. Under the bill people who are not subject to unexplained wealth proceedings may seek legal representation through Legal Aid if their unrestrained assets are not sufficient to meet legal costs to ensure that they are appropriately represented and are not disadvantaged. People are still able to use any of their unrestrained assets to pay for legal counsel of their choosing. The courts also have a wide discretion to revoke or refuse orders, such as where it is in the interests of justice to do so.

Senator Wright also made comments in relation to item 3 of schedule 1 of the bill. The government does not accept those arguments. The ability of a person to dispose of restrained property to meet their legal costs weakens the effectiveness of the unexplained wealth provisions, by allowing the wealth suspected to have been unlawfully acquired to be used to contest proceedings. This may lead to fewer assets being available for confiscation if an unexplained wealth order is successful, and is likely to cause more protracted litigation. This amendment will harmonise provisions relating to the payment of legal expenses for
unexplained wealth cases with similar provisions relating to other proceedings under the POC Act.

Senator Wright also said that she was opposed to item 24 of schedule 1. Item 24 repeals section 179SA, which relates to the payment of legal expenses, and substitutes new sections 179SA and 179SB, relating to the creation and registration of charges over property subject to a restraining order. Unexplained wealth orders create a civil debt payable to the Commonwealth. As such, an unexplained wealth order does not attach to particular property of a person or require a particular property be forfeited. Other provisions in the Proceeds of Crime Act which create a civil debt payable to the Commonwealth—such as pecuniary penalty orders and literary proceeds orders—allow for the creation and registration of charges over restrained property to secure payment of amounts owing to the Commonwealth. This ensures that property is available to satisfy a pecuniary penalty order or a literary proceeds order if a person does not pay the amount specified in the order. However, the same power does not exist for unexplained wealth orders. Proposed sections 179SA and 179SB will allow charges to be created and registered over restrained property to secure payment of unexplained wealth amounts. This amendment will improve the enforcement of unexplained wealth orders by ensuring that restrained property can be used to satisfy an unexplained wealth order, if a person does not pay an unexplained wealth amount. This amendment implements recommendation 11 of the final report of the Parliamentary Joint Committee on Law Enforcement.

Senator Collins claimed that the bill is identical to a previous bill introduced by Labor in 2012. That bill, which was not passed, would have implemented only six of the recommendations of the Parliamentary Joint Committee on Law Enforcement following its 2012 inquiry into Commonwealth unexplained wealth laws. The government's bill implements two additional recommendations when compared to Labor's 2012 bill. These measures would (1) streamline affidavit requirements in accordance with the committee's recommendation 8, and (2) include a statement on the Proceeds of Crime Act's objectives clause about undermining the profitability of criminal enterprise, in accordance with recommendation 1. This bill also makes technical amendments to improve the operation of the Proceeds of Crime Act.

Senator Wright asserted that the unexplained wealth regime does not require suspicion of an offence and, more broadly, that the bill was fundamentally inconsistent with human rights. In response, the government says this: the unexplained wealth regime provides that if a court is satisfied that there are reasonable grounds to suspect that a person's total wealth exceeds the value of the person's wealth which was lawfully acquired, the court can compel the person to attend court and to prove on the balance of probabilities that their wealth was not derived from one or more offences. The very point of unexplained wealth provisions is to turn the tables on criminals—to require them to demonstrate that their wealth was lawfully acquired. The bill amends the existing unexplained wealth regime, which was carefully crafted within constitutional limits, including ensuring that it did not breach the principles of the separation of powers or the acquisition of property on just terms.

Senator Bilyk noted the bill does not contain new provisions relating to the work of the Australian Crime Commission. The amendments proposed by the PJCLE that relate to the ACC have either been implemented or raise legal issues that require further consideration.
PJCLE recommendation 2 proposed the amendment of Commonwealth legislation to allow the ACC board to issue a determination on unexplained wealth, to enable the ACC to use its coercive powers to provide evidence in support of unexplained wealth proceedings. This recommendation was considered, but it was determined that the ACC can already use its coercive powers to investigate matters relating to federal or other relevant criminal activity. Evidence gathered by the ACC is generally available for use in unexplained wealth proceedings. PJCLE recommendations 3 and 4 relate to amendments to clarify the role of the ACC with respect to unexplained wealth proceedings. These recommendations raise legal issues which require further consideration and which the ACC and the Attorney's department are working on to progress. While these issues remain under consideration, the ACC will continue to use its existing powers to assist in POC proceedings.

Unexplained wealth laws are a highly effective weapon in the fight against serious and organised crime. They allow a court, in appropriate circumstances, to order a person to demonstrate that his or her wealth was lawfully acquired. If the person is unable to do so, they may be ordered to forfeit their illegitimate wealth. These laws are vital because they take the profit out of serious and organised crime, and prevent criminal proceeds from being reinvested to support further criminal activity. They also provide an avenue to target the kingpins of criminal groups, many of whom live off the benefits of illegal activities but distance themselves from the actual commission of offences. In March 2012, the Parliamentary Joint Committee on Law Enforcement made recommendations to improve the investigation and litigation of Commonwealth unexplained wealth matters under the Proceeds of Crime Act 2002.

The bill implements eight recommendations of the PJCLE to make the Commonwealth's unexplained wealth laws more effective, including: the streamlining of affidavit requirements; allowing a court to extend the time frame for serving notice; amending legal expense and legal aid provisions for unexplained wealth cases for other POC Act proceedings, so as to prevent restrained assets being used to meet legal expenses; and, finally, removing a court's discretion to make unexplained wealth restraining orders, preliminary unexplained wealth orders and unexplained wealth orders once relevant criteria are satisfied. The bill also makes technical amendments to clarify and streamline processes under the act. These measures are based on the advice of our law enforcement agencies about the best way to ensure that these laws meet their important aims. To balance the expansion of these powers, the bill requires the Commissioner of the Australian Federal Police to report annually to the PJCLE on the number of unexplained wealth investigations and applications. This will strengthen the PJCLE's oversight of the use of the provisions and ensure appropriate checks on the use of unexplained wealth investigative powers.

On behalf of the Attorney, I thank all colleagues across both sides of the chamber for recognising the need for these important reforms to the Commonwealth's proceeds of crime regime. The bill has a direct impact on the ability of our law enforcement agencies to confiscate illicit proceeds and to prevent serious and organised crime. The bill represents an important reform of Commonwealth unexplained wealth laws and a significant step in ensuring that serious and organised crime does not again gain a foothold in this country. I commend this bill to the Senate.

Question agreed to.
Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for a later hour.

**STATMENTS**

**Sydney: Martin Place Siege**

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (11:39): by leave—

On 15 December last year, as Australians were going about their normal activities in the busy period leading up to Christmas, truly horrendous events occurred in the heart of the commercial centre of our largest city. The actions of a lone gunman—taking hostages, 10 customers and eight employees, in the Lindt cafe in Martin Place, Sydney—and the aftermath horrified and shocked all Australians. After a tense, heart-wrenching 16-hour stand off and the heroic work of New South Wales and federal police and emergency service officers, the siege ended. As the siege ended, two of our fellow Australians—two innocent people, both of whom had left to go about a normal day's business and work that morning—did not return home later that day. One employee of the cafe and one customer lost their lives, three hostages and one police officer were wounded, and the lone gunman, who perpetrated this evil, was himself dead.

As our Prime Minister said when the siege was unfolding, Australia is a peaceful, open, and generous society. He urged Australians to respond in that way and not to allow the actions of this man to affect their daily lives. The Premier of New South Wales, Mr Mike Baird, similarly said that Sydney would be tested and that the test would be whether we are the strong, democratic and civil society that we all strive for Australia to be. The test of the nature of our society was met. Australians from all walks of life responded strongly, not to be deflected from their daily lives by this sort of unthinkable atrocity. The actions of the perpetrator were rightly condemned by the Grand Mufti of Australia. Fifty Muslim organisations signed a joint statement condemning the perpetrator's actions and repudiating them as having no legitimacy in their faith.

Today we reflect on the victims of this senseless act. Katrina Dawson, aged 38, a highly-respected barrister developing her career, had been having a morning coffee with a friend. She, of course, will never return to her loving husband and children. Tori Johnson, aged 34, the manager of the Lindt cafe, by all accounts worked to keep the spirits of the hostages up during those awful hours. To the devastation of his family and wider circle of friends, he too lost his life. The public reaction, first with a few floral tributes and suddenly growing into a massive field of flowers, was seen across the television screens and newspapers not only of Australia but right around the world. Prominent Australians, the Governor-General, the Prime Minister, the Premier and the opposition leader, all laid flowers. The families of Katrina Dawson and Tori Johnson bravely laid their own tributes as well. Most poignant was the outpouring of stoic grief and shock from Australians from all walks of life. Whatever their age, beliefs, ethnic background or any other characteristic, thousands and thousands went to Martin Place to silently place their flowers. By this simple action, each of them was silently saying: 'We do not bow to terrorism. We do not bow to actions like this. We are a strong and
cohesive society and we share values of tolerance and liberty, but hatred, revenge and religious extremes have no place in our Australia.

On behalf of government senators, I express deep sympathy to the families of Katrina Dawson and Tori Johnson, and our good wishes to all the other hostages involved, all of whom experienced a horrible ordeal. Our thoughts are also of course with those that were injured, both physically and emotionally. I express unqualified admiration to the professional police and emergency service officers, including ambulance officers and paramedics, for how they responded to the siege. It is unimaginable to think how any one of us would have responded and the pressure that these emergency service personnel were under; it is something that I personally salute and thank them for.

I congratulate the Dawson family on their exceptionally selfless action in the days after Katrina's death, announcing the establishment of the Katrina Dawson Foundation to support the education of women, and also the Baird government for their decision to establish a permanent memorial at Martin Place, using the flowers placed there as the basis of a garden of remembrance.

15 December 2014 was a day that turned into one that changed the lives of many, and today the Senate reflects on them and honours the memory of the two innocent lives taken at Martin Place and those lives that will continue to bear the scars. But we have no doubt that the Australian spirit of tolerance, civil society and democracy will prevail, because it must. I thank the Senate.
officer were injured in the siege, and for all of those this must have been a terrible ordeal and one that must continue to cause anxiety, grief and despair.

This siege gripped the nation as it unfolded, but for those who were directly involved it has had an enormous personal cost and it will continue to take its toll into the future. Words are never enough in a time of such grief and in the face of such loss. What we can say is we are thinking of you, and the compassion and empathy of millions of Australians are yours.

A coronial inquest into the Martin Place siege has commenced and a joint New South Wales-Commonwealth review has been conducted. When they are finalised, these inquiries will provide more information of what happened in the cafe, why it happened and suggest lessons to be learned. But what we can say is that this violent attack was completely at odds with the values of the Australian community. This violent attack was also completely at odds with the values of the peaceful religion of Islam.

With such a terrible event, it is important that we never lose sight of who we are and what we stand for. It was moving to see how Australians responded to the Martin Place siege. As the event was unfolding, the people of Sydney were patient, calm and supportive of the efforts of police and law enforcement agencies. In the days and weeks after the siege, Australians expressed sympathy and solidarity with the victims. They covered Martin Place with flowers, a field of flowers. They attended commemorative services and they paid their respects in many forums. Across our great and diverse nation, Australians rejected appeals to hatred and to hostility and displayed instead tolerance and good sense.

We can never respond to irrationalism with irrationalism, and we can never fight intolerance with intolerance. The siege at Martin Place was an assault on Australian values, but those values have held strong in the aftermath of the siege. The values that Tori Johnson and Katrina Dawson embodied as individuals, the values that led so many to express their sympathy by laying flowers at Martin Place, and the values that led so many to offer, 'I'll ride with you'—these are the values that continue to bind us together as an Australian community.

Senator MILNE (Tasmania—Leader of the Australian Greens) (11:51): by leave—I rise today to join the Leader of the Government in the Senate and the Leader of the Opposition in the Senate in extending the sympathy of the Australian Greens to the friends and families of Katrina Dawson and Tori Johnson, who were killed in a horrendous criminal act carried out by a violent man with a criminal record.

Katrina Dawson was an outstanding young barrister. She had a great deal more to give to the community as a barrister, as a mother, as a person who cared for the community. We especially thank her husband, Paul Smith, and her three children, Oliver, Chloe and Sasha, for the generosity they have shown as they have come to terms with the most horrendous thing that could have happened to them—losing Katrina. Tori Johnson's partner Thomas Zinn and Tori Johnson's family are also suffering, and we are thinking of them. We send our support to the 16 other people who were victims of the siege, and also to the police officers and emergency personnel who were involved.

This is not something that anyone can come to terms with lightly or quickly. Those who have been hurt physically and mentally—anyone who witnessed what happened or intervened to try to prevent it from happening or from becoming worse—have our support, because for them it is not over. Throughout the coronial inquiry and throughout all the inquiries that go on
they will be asked to relive those moments as they intervened or witnessed what happened, and they need to know that they have the support of the Australian parliament as well as the Australian community.

I was in Peru in South America when news of how the siege rolled out and then the aftermath was reported. I can tell you that it was extraordinary to watch something like this from afar and to see the reaction: Martin Place carpeted with flowers and expressions of peace, support and solidarity. That was such a great message for Australia to be sending to the rest of the world. We suffered a major jolt as a nation when something of that calibre of violence occurred in the heart of Sydney, but our response was to come together to reject violence. And that coming together to reject violence was the message we sent out to the rest of the world. It is a reminder that at heart we are a nation that values peace, community and social cohesion. We value and enjoy diversity and difference, and that was on show. And then, as certain people in the community felt fearful about what might occur, out came that wonderful outpouring of support with the ‘illridewithyou’ hashtag. It really demonstrates that what was a wake-up call for the nation was answered with the right response from the nation—not to marginalise, but to reach out; to redouble our efforts to reject messages of hate, fear, disrespect and violence, and instead to value those things which bring us all together as human beings, as a community and as Australian people.

Katrina Dawson and Tori Johnson were 38 years old and 34 years old respectively. They will not be forgotten by their families or their community, and I, too, join with everyone supporting the Katrina Dawson Foundation. How wonderful that this foundation will stand to raise money for women’s educational opportunities. I wish everyone involved in trying to come to terms with the aftermath our support, love and encouragement.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (11:56): by leave—I rise to join with other senators in making a contribution this morning. On behalf of the Nationals I would like to express our sincere condolences to the families of Tori Johnson and Katrina Dawson. Our thoughts are with all survivors. I want to commend police and law enforcement agencies on their actions to resolve this situation and I sincerely thank the outstanding emergency service personnel. Their professionalism and commitment was exceptional in what was an unprecedented and challenging time.

The overwhelming support and compassion that was shown by the whole nation was inspirational. The floral tribute in Martin Place—a wave of colourful flowers—represented the outpouring of support for the victims of this dreadful situation. The event is another example of the deep sense of solidarity that Australians have in their nature to openly support one another in a time of need.

Australia is a peaceful country; a country so very shocked at the events of that day. We are united in our sorrow that such a tragic event could have taken place and are united in our support for the families of Tori Johnson and Katrina Dawson and all of the survivors. On behalf of the Nationals I express our deepest sympathies.

Senator XENOPHON (South Australia) (11:57): by leave—I would like to take this opportunity to add my voice to the sentiments expressed in this chamber and in the other place today to support the fine words of Senators Abetz, Wong, Milne and Nash to the victims of the siege and to the families and friends of Katrina Dawson and Tori Johnson. We can only
begin to imagine your grief, but I hope that in some small way the knowledge that so many
people in Australia and around the world stand with you offers some support and comfort
through these dark times. The support for the survivors and for the police is also unambiguous
and unwavering.

The siege at Martin Place was an attempt to strike at the heart of our society and to sow
fear in the hope that it would reap hate. It failed abysmally. Instead, Australians of all
backgrounds and beliefs came together to turn against this act of hatred and terror. Where the
gunman's goal had been to create division, there came unity. And where he sought to create
fear and animosity, there grew a field of flowers. There will be an opportunity to examine the
events of that awful day—what led up to it and whether it was in any way avoidable—but
now is not the time to discuss those matters. Instead, we should reflect on the lives lost and
those lives that have been irrevocably changed, and on what this tragic event means for us as
Australians standing together.

For me this cannot be put better than in the words of the writer and broadcaster Waleed
Aly, who wrote these raw passages in the hours following the siege. He said:

… Islam has such permeable borders, such an absence of hierarchy, that anyone can become anything in
their own mind. Its symbols are available to anyone who wants to claim them and there is nothing
anyone can do to stop them. Australian Muslims had been disowning Monis for at least seven years.
They'd even expressed their concerns to the authorities. But how can you stop the 'fake sheikh' being
real to himself? There's no control order regime to account for this. There's no metadata inside an
apparently deranged mind. We're busy fretting about the terrorists' tools of the future—which is all fair
enough—while they wreak havoc with the tools of the past.

Waleed Aly concluded:

But there's another history to be written here. One that is very much in control. It's a history written
not just in the statements of leaders, but in the minutiae of our everyday interactions. It's the history we
glimpsed as the siege unfolded when a single, humble Australian decided to declare #ilridewithyou in
solidarity with Muslims too scared to ride public transport. And it's a history to be determined by what
we decide this tragedy symbolises: the sordid ideology of a man who deserves to be forgotten or the
greatest virtues of those of us left behind.

Senator LEYONHJELM (New South Wales) (12:00): by leave—I fully endorse the
comments of the Leader of the Government in the Senate, Senator Abetz. I offer my
condolences to the victims as well, but I also want to encourage changes to produce better
outcomes when—and I say 'when'—something similar happens in the future.

Australians have a legal right to self-defence. What they do not have is a practical ability to
exercise that right. That needs to change. Those trapped within the Lindt cafe were left
helpless, as the carrying of items for self-defence is not allowed under state law—and, what is
worse, the offender possibly knew it. These items include non-lethal options such as pepper
sprays, mace, clubs and personal tasers. For those who are unable to flee, who are
insufficiently strong or who have no improvised weapon to hand, there is no option but to rely
on the police and, as the saying goes: when seconds count, the police are minutes away.

Self-defence is not a realistic option for most people, and it is especially not an option for
the majority of women, the elderly and the disabled. This is not an argument for everyone to
have a gun, as some people simplistically suggest. But what if amongst the hostages there had
been a plain-clothes police officer or security guard carrying a pistol? If it is acknowledged
that a police officer or someone similar may have been able to save lives, how can it be argued that any good guy who is trained to use guns could not have done the same?

Australia's ban on practical self-defence sets it apart from most other countries. Almost no other country prohibits non-lethal means of self-defence, and many permit ownership of firearms when there is a serious prospect of harm. There are perennial claims that resistance to violence is futile and that items of self-defence are routinely used against those using them. Any woman who has fought off a would-be rapist—and there are many—knows this to be untrue. Mythologising about firearms is a feature of Australian public debate Many seriously believe the solution to any crime involving a gun is more gun laws, and yet the offender in the Lindt cafe did not have a gun licence and, in any case, the sawn-off shotgun he was using was illegal.

I believe Australians agree that a battered wife dealing with a murderous ex-husband, a jeweller transporting valuable cargo and competent people who are well trained in the use of firearms, whether sworn police officers or just good guys, should be able to protect themselves and others if the need arises. I am certain that an overwhelming majority would unequivocally demand the right to practical self-defence, at least by using non-lethal means. It is time to stop pretending that the government can always protect us from events such as the Lindt cafe siege. Lives can be saved by allowing citizens to protect themselves.

The PRESIDENT: I thank the Senate party leaders and senators for their contributions to this statement. It is very well that the Senate does this and recognises the same as the House of Representatives did earlier today.

BILLS

Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014

In Committee

Bill—by leave—taken as a whole.

Senator WRIGHT (South Australia) (12:05): The Greens oppose schedule 1 of the bill which would remove the judicial discretion as to whether a person who is subject to unexplained wealth proceedings can use their assets to defend themselves, to seek legal advice and to defend the application to seize those assets from them. We have heard some discussion from the minister about the problems that are posed in some cases where a person who is subject to unexplained wealth proceedings may wish to dissipate their assets by having protracted legal proceedings. These Greens amendments would not prevent a court apprised of all the information and evidence that is relevant to making a decision not to allow a person subject to the proceedings to use their assets; they merely seek to oppose the complete removal of any judicial discretion as to that. So it does not mean that the court could not order that a restrained person could not use their restrained assets for a legal defence; it merely means that it will remain a possibility for a judicial officer before the court to decide whether or not a person can use their assets.

The issue at the nub of the government's defence of these far-reaching amendments is clear from the statement that was made by the minister earlier today. He said to the effect that this legislation is designed to turn the tables on criminals to force them to prove that their wealth has been lawfully acquired. Therein lies the assumption. The assumption is that these
proceedings will only ever be brought against criminals who have unlawfully acquired wealth and it is therefore in everyone's interest for the government to be able to bring that proceeding. The difficulty starts when you actually allow yourself to consider the possibility that governments do not always get these matters right, that the person against whom the proceedings are being brought may not be a criminal and that, in fact, the wealth was legitimately acquired. And then you can see the justification for potentially allowing the person to use their assets—which, in the case I am posing, have been lawfully acquired—to defend themselves from this government action. Minister, what is the evidence—there is no evidence in the explanatory memorandum—that the existence of this judicial discretion has been misused or has jeopardised the outcome of unexplained wealth proceedings in the past?

Senator CORMANN (Western Australia—Minister for Finance) (12:08): The government does not support this amendment. The Parliamentary Joint Committee on Law Enforcement has recommended that the unexplained wealth laws be changed to prevent people from using restrained property to meet their legal expenses. That is recommendation 10. The Parliamentary Joint Committee on Law Enforcement considered submissions from a range of community, law enforcement and other government bodies in making this recommendation. Unexplained wealth proceedings are the only type of proceeds of crime proceedings in which people are allowed to use restrained assets in this way. The Proceeds of Crime Act generally prohibits restrained assets being used in this way to prevent the practice of dissipating wealth on legal expenses to frustrate potential proceeds of crime orders. To ensure that people are not deprived of legal representation, the Proceeds of Crime Act provides a scheme to reimburse legal aid commissions for costs incurred in representing people who are subject to a restraining order. Under the bill, people who are subject to unexplained wealth proceedings may seek legal representation through legal aid if their unrestrained assets are not sufficient to meet legal costs to ensure that they are appropriately represented and are not disadvantaged. People are still able to use any of their unrestrained assets to pay for legal counsel of their choosing. Courts also have a wide discretion to refuse or revoke orders such as where it is in the interest of justice to do so.

Senator WRIGHT (South Australia) (12:10): I am glad that the minister has referred to the legal aid implications of this—and I will come back to those questions. But that did not actually answer the question I had, which is: what evidence is there that the existence of the judicial discretion, which is what we are discussing here, has actually caused a jeopardisation of the outcome of unexplained wealth proceedings in the past? What I would like to do is be really clear and ask the government to get their story straight on the rationale behind this particular aspect of the legislation. We are told that one of the bases of unexplained wealth legislation is to take the profit gain out of organised crime. And certainly the Greens are supportive of the view that that is an effective thing to be doing. I was involved in the Parliamentary Joint Committee on Law Enforcement when it was first considering the first manifestation of this legislation—or the issue anyway—and one of the issues was that it is indeed quite effective to have criminals who have been used to having a lot of money to flash around, to drive flash cars and so on, to have that money not available to them. So I understand that rationale. But then we have the argument that we cannot allow judicial discretion in some cases to allow persons who are subject to these proceedings to use their restrained assets to get legal defence because they may dissipate the assets, which then would not be available to the government. But in that case, if the story is that it is in fact about
separating criminals from their money, why is it such a problem if they are effectively removed from the benefit of the assets because they have had to use them on legal defence proceedings? Is that the issue, or is it in fact that the government is concerned that, if the money is being used on legal defence, it will not be available as revenue for the government? I am not clear on that. It is one or the other. But you cannot argue that the use of restrained assets for legal defence proceedings does not remove the money availability from the persons who are allegedly the criminals. In the end, if that is where the money is gone, they are not going to have that money available to live the high life, which is what we are wanting to prevent.

**Senator CORMANN** (Western Australia—Minister for Finance) (12:12): The ability of a person to dispose of restrained property to meet their legal costs weakens the effectiveness of the unexplained wealth provisions by allowing the wealth suspected to have been unlawfully acquired to be used to contest proceedings. This may lead to fewer assets being available for confiscation if an unexplained wealth order is successful, and is likely to cause more protracted litigation. This amendment—the government's amendment, not the Greens amendment—will harmonise provisions relating to the payment of legal expenses for unexplained wealth cases with those for other proceedings under the Proceeds of Crime Act.

**Senator WRIGHT** (South Australia) (12:13): As I said, it would be interesting to have the story straight then. The issue is really to make sure that those restrained assets are available as revenue for the government so they are not dissipated? Is that the case, or is it to actually prevent criminals from benefiting from their restrained assets to have at their disposal and to be able to use to live the high life? I am not clear on what the rationale for the legislation is.

**Senator XENOPHON** (South Australia) (12:14): Can I indicate that I did not have an opportunity to make a second reading contribution, but I will just say in the briefest possible terms that I am broadly supportive of the legislation. I believe that this is the way to strike at the heart of organised crime. We have a very real issue with drug dealers in this country. We have a scourge, particularly in respect of crystal methamphetamine. There are reports that there could be a glut of heroin on the market, given what is happening in countries overseas.

However, in the context of being supportive of this legislation, I do want to ask the minister, in broad terms, how much money has been obtained through unexplained wealth legislation in the past? What does the government say will be the increase in funds being obtained as a result of the measures in this bill? Also, given the way that organised crime figures are always trying to find a way to circumvent legislation such as this, has the government anticipated that? It seems that organised criminals are always trying to find a way to get ahead of that.

In other words, does the legislation in its current form carry with it enough scope to look at associates of organised crime figures who are subject to these orders?

I do have some other questions, but perhaps I will now put those to the minister. Given that the Attorney has just entered the chamber, perhaps I could repeat them for his benefit. I can indicate my broad support for this legislation; this is the way to tackle organised crime. My questions are—and if some of these have to be taken on notice, to an extent, I would accept that, as long as I have an undertaking to get those details: through our current legislative regime, how much unexplained wealth has been seized over the past few years? What does
the government say this legislation will do in terms of an increased seizure of assets in respect of that? Given this approach, which, in broad principle, I am very supportive of in this bill, has the government anticipated that organised criminal groups and individuals will find ways to get around this by perhaps siphoning money to associates so it is harder to trace? Will there be enough resources to anticipate these new changes by which criminal gangs will try to get ahead? I have some other questions, but I thought I would put those to the minister.

**Senator JACINTA COLLINS** (Victoria) (12:17): I suggested that if I take this moment to indicate Labor's position, then that might give the government a moment to consider Senator Xenophon's questions. The opposition will not support the Australian Greens amendments. The bill harmonises legal expense and legal aid provisions for the unexplained wealth cases with those of the other Proceeds of Crime Act 2002 proceedings to prevent restrained assets being used to meet legal expenses. The Parliamentary Joint Committee on Law Enforcement into Commonwealth unexplained wealth legislation and arrangements recommended in its report, in recommendation 10, that this occur. In making this recommendation the committee noted that the Proceeds of Crime Act was amended in 2002 to prevent defendants from accessing restrained assets to fund their legal representation. This amendment was prompted by a recommendation of the Australian Law Reform Commission that allowed defendants to access restrained assets to pay their legal costs that was contrary to a key principle of the Proceeds of Crime Act that property liable to forfeiture should be preserved for that purpose.

The Australian Federal Police also gave evidence that the ability to access restrained assets for legal costs was open to abuse by criminals. As Commander Ian McCartney, of the AFP, said:

> When the proceeds of crime legislation was brought in in 1987 there was an ability for suspects to access assets that had been restrained, for legal costs. We believe that that system was abused. It was used by suspects to frustrate the system and, basically, siphon off the assets that had been restrained.

The opposition supports the objectives of the Proceeds of Crime Act and accepts the advice of the Australian Federal Police. We therefore support preventing defendants from accessing restrained assets for expenditure on legal costs. This principle should be reflected in other unexplained wealth legislation as it is in the Proceeds of Crime Act. It is not necessary to revisit the importance of this uniformity. Therefore, the opposition will not be supporting the Greens amendments.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:19): Can I perhaps deal with Senator Xenophon's questions. Senator Xenophon, in relation to the quantum of the assets seized under the legislation which this bill amends, I am advised that because of limitations in the existing act, which this legislation seeks to correct, there have been no assets seized. The legislation, as I am advised, as currently written, has been ineffective and that is why this bill is being brought forward by the government, to make it more effective through the various measures that the chamber has been discussing.

Secondly, Senator, you asked whether the government has given any consideration to whether or not organised criminal gangs or organised criminal syndicates will seek to, as it were, siphon or launder assets through associated entities. Of course, the government has considered that. That is always an issue in legislation of this kind and the legislation does, as I
understand it, contain associated entity provisions and the capacity to trace through associated 
etities, trusts, third-party structures so that the purpose of the legislation cannot be thwarted 
by channelling or funnelling money through devices of that character.

Senator XENOPHON (South Australia) (12:21): I thank the Attorney for his answer. I 
have one more quick comment to make, not to hold up this bill, and also a question or 
something for the government to consider. I think it is important to put it on the record. If the 
government could give an idea—and I am happy for this to be taken on notice—as to what is 
expected in terms of the additional amounts in unexplained wealth that could be seized.

I do not think anyone can say that I am a great fan of the South Australian government on a 
number of issues, but they did come up with some interesting legislation that has since lapsed, 
last year, that extended the seizure of assets of those convicted of trafficking commercial 
quantities of drugs and, if it was a prescribed drug offender, whether it also involved the 
seizure of assets not related to their drug trafficking. That is something the South Australian 
government was committed to.

My state colleague, the Hon. John Darley was supportive of that. It has since lapsed. But an 
issue was raised by the honourable Mr Darley in the context of that as to being able to provide 
some of the funds for appropriate, effective drug rehabilitation, because the feedback I get 
from constituents, from those who have been affected by a serious drug problem, is that there 
just simply are not the resources and the funding for that.

I simply say this to the Attorney to flag the issue, because I think this will be revisited. 
Firstly, will the Attorney on notice indicate whether any consideration has been given to the 
South Australian government's approach, since lapsed, of a broader application of the seizure 
of assets—in other words, the 'all bets are off' approach, which some would say is draconian 
and others would say would act as a real deterrent. Also, most importantly for me, whether 
any of the assets seized are being hypothecated to an extent for drug rehabilitation. I have to 
say to the Attorney, through you, Chair, that I have heard heartbreaking stories from people 
who have contacted me: those who have a serious substance abuse problem and who cannot 
get assistance; families with a son who has a raging heroin addiction; and others who have 
been gripped by crystal methamphetamine addiction, which has just ripped those families 
apart. There appears to be a lack of appropriate facilities, rehabilitation services and support 
for them. If we can seize more assets from the organised criminal syndicates that profit from 
this, the question I respectfully pose to the government, simply to flag it, is: why not use some 
of those funds to improve rehabilitation services in this country?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-
President of the Executive Council, Minister for Arts and Attorney-General) (12:24): As you 
are aware, because I know you take a close interest in this area of policy, there are various 
estimates as to the value of the criminal economy in Australia. Because of the nature of the 
covert and surreptitious and hidden nature of what we are dealing with, those estimates are 
necessarily very vague estimates. But, for example, the Australian Crime Commission has 
estimated that the annual value of the criminal economy in this country is up to $15 billion. 
So that is the order of magnitude of which we are speaking. The amount that could be 
recovered or is usually recovered under legislation of this kind would be but a very small 
fraction of a sum like that. But we are talking about a very substantial amount of money.
As I pointed out in answer to your previous question, the legislation as currently written has not proved to be effective, which is why we are strengthening it. So it is really impossible to give a reliable estimate as to how much we expect or hope the legislation in its amended form could recover. But if you think about the value of the criminal economy as $15 billion annually in transactions, then that is the order of magnitude with which we are dealing.

In relation to whether or not monies or assets seized under this legislation could be diverted to drug rehabilitation or drug prevention programs, the answer to your question is that, although the proceeds collected or recovered under the act are hypothecated to a proceeds of crime account, the proceeds of crime account is to be spent on crime prevention purposes. As you would be aware, most drug diversion strategies are health matters and not criminal matters. They are programs conducted through the Department of Health, so ordinarily one would not expect so. But that is not to say that there might not be some drug diversion strategies that bear a sufficiently close connection to criminal law enforcement that they might be considered as eligible programs for outlays from the proceeds of crime account. That is something that would have to be assessed on a case by case basis.

Senator WRIGHT (South Australia) (12:27): One of the rationales for restricting completely and totally the use of restrained assets for legal defence, which we heard about from Senator Collins as being a reason for the opposition not considering the Greens amendments, is the harmonisation of the approach with the Proceeds of Crimes Act. But I think it is really important to remind everyone that there is a fundamental difference between the Proceeds of Crimes Act and assets that are restrained or seized under that act and unexplained wealth legislation. That fundamental difference is that under the Proceeds of Crimes Act there is a link between a crime, which has been established, and the proceeds of that crime, and then, arguably, everyone would agree to a justifiable restraint or seizure of those assets, which are the proceeds of a crime. With unexplained wealth legislation, where there does not have to be any proof of any crime at all, there merely has to be assets for which a person who is brought to a court is unable to explain where the assets came from.

The Greens amendment is about allowing a court to determine in some circumstances that it is appropriate for the person who is subject to that action to be able to get legal assistance in proving where that unexplained wealth was generated, and then to prove that it was in fact legitimately acquired and not illegitimately acquired. So there is a fundamental difference. The assumption that concerns me is that we are always talking in this case about criminals. That is the fallacious position in a rule of law situation, where we are assuming we have the right person. So we just have to prove it. In fact, what we are talking about here is the ability of a person to be able to defend themselves adequately and fairly so that they have a chance, and, if the assets are indeed legitimately acquired, to be able to establish that.

It is clear, Attorney, that the amendments that the Greens amendments are designed to oppose are amendments that remove any possibility at all in any circumstances that a person could be found to have a legitimate reason to use their restrained assets to defend themselves in court. They are removing that judicial discretion so that there is never a circumstance in which a court can say, 'Weighing everything up, we think it is reasonable to allow this person to use their restrained assets.' What you said in response to the questions from Senator Xenophon is that there have been no assets seized under the current legislation. I am interested to know whether, drawing this back to the Greens amendments, that is because of
the exercise of judicial discretion that the government is seeking to remove. Or are there other reasons that the legislation has not been effectively used whereby assets have been restrained?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:30): Senator Wright, you correctly point out that there is a difference between proceeds of crime legislation and unexplained wealth legislation in the sense that we know that the assets that are the subject of proceeds of crime legislation are, as it were, the ill-gotten gains of the person whose assets are being seized. In relation to unexplained wealth legislation, there is not a direct relationship established between the assets and the crime. But the difference is not as great as you may think, Senator Wright, because the whole point of unexplained wealth legislation is that, where the statutory tests are satisfied, the unexplained wealth, because it is unexplained in circumstances sufficient to generate a reasonable belief that it was derived from illicit or illegal activity, is treated inferentially as if it were the proceeds of crime or ill-gotten wealth. So it does require an inference to be drawn. But the unexplained wealth is treated as if it were the proceeds of wrongdoing, and therefore the rationale for why the proceeds of crime should not be available for legal defence is the same as the rationale for unexplained wealth if one admits the inference.

Senator WRIGHT (South Australia) (12:32): I would like to follow up on that, Attorney-General. Thank you for that. I guess what I am saying essentially then is that the inference drawn from unexplained wealth, because it is not explained, is that it is illegitimately acquired. The problem that I see is that by removing any possibility that a person may be able to use the assets that they have to defend themselves you are nobbling their ability to explain the wealth. You are saying that it is unexplained wealth, and it is going to remain unexplained wealth if a person does not have the ability to use their available means in a court of law to explain from where the wealth has been derived. That is the central concern that the Australian Greens have. What we are saying is not that there should always be a capacity to use restrained assets but that we should allow the possibility for a judicial officer who is apprised of all the evidence and information to make a call as to when it may be appropriate.

Senator LEYONHJELM (New South Wales) (12:33): I have a question for the Attorney-General. It is along the same lines as Senator Wright's question. I would like the Attorney-General to explain this to me so that I understand it. Is there a history of judges exercising their discretion in cases where the criteria for restraining assets have been met and yet the court has decided not to restrain those assets? If there is not a history of that, why is the independence of the judiciary being impeded in this bill?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:34): With respect, Senator Leyonhjel, I do not think this goes to the independence of the judiciary at all. The whole concept of the independence of the judiciary depends upon members of the judicial branch of government—that is, judges—being able to conduct hearings and trials, in this case, according to law without interference. It does not go to the question of whether or not there are limitations placed by the legislature on the way in which the law operates. That the legislature has imposed a particular limitation on what may be done in a court of law is not an interference with the independence of the judiciary. If that were so then, to give a very prosaic example, every act which sets out the law of evidence would be considered to be a
limitation on the independence of the judiciary, because nothing is more integral to the processes of a court than the law governing the reception for admissibility of evidence. Yet legislatures, including this parliament, routinely codify the law of evidence, just as they codify various aspects of civil and criminal procedure. So this is not an issue of the independence of the judiciary at all merely because it says that the courts are required to conduct proceedings before them in a particular way according to particularly legislated principles. That is my answer to that observation, Senator.

But as to your first question as to whether there is a history, I am not in a position to inform you whether courts dealing with other legislation have exercised a discretion in one way or another. Every case depends on its own particular facts. But I would counsel against drawing inferences from the fact that certain courts may have resolved certain cases in a certain way if there is a particular, established or uniform judicial attitude to the question.

Senator WRIGHT (South Australia) (12:37): One of the major concerns behind the Greens amendments to remove any possibility that a person may be able to use their restrained assets to defend themselves is the implication on legal aid funding. That is because the only alternative then, if anyone is to be able to have any representation in court, is to be thrust onto the legal assistance sector. I would draw your attention to the submission from Victoria Legal Aid in relation to the Senate inquiry into this legislation, which looks at the potential implications for legal aid. The submission indicates that the National Partnership Agreement on Legal Assistance Services currently lists unexplained wealth proceedings like this as a Commonwealth priority for legal aid funding.

The submission suggests that the effect of this bill, whereby there is no possibility of a court determining that it is appropriate for a person subject to the proceedings be able to use their restrained assets to defend themselves, is that it will most likely mean that these persons will now be eligible on financial grounds—because they will potentially not have many assets to their name at all—and having been declared a Commonwealth priority matter, applications, if made, will generally be approved. We know that there is a significant degree of unmet need in the legal assistance sector and that legal aid commissions are struggling to meet the need in relation to minor criminal, major criminal and civil proceedings, and yet we potentially have this effect that these will be priority matters for Commonwealth funding.

The commission goes on to say that:

It is true that legal aid commissions can be reimbursed for the cost of these cases, but a case must be finalised and a bill of costs provided … before reimbursement occurs.

The submission points out that:

As cases can run for many years, significant sums of money can be spent along the way…

Therefore, reimbursement to legal aid commissions will be down the track significantly, in an environment we would all acknowledge is extremely pressing for the legal assistance sector. My question is this: what would be the effect on legal aid funding? Has there been any modelling by the government as to what that effect would be and its consequent effect of less money being available for other very pressing matters?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:39): The way in which legal aid services are provided through the state and territory legal aid...
commissions is ultimately a matter for the state and territory legal aid commissions. The Commonwealth, as you know, is a principal contributor to the funding of state and territory legal aid commissions. You will rightly point out that even though the assets of an accused person, under this legislation, may be frozen or be unavailable—that is, the assets they claim to be their own personal assets—nevertheless they have the capacity to apply for funding through legal aid commissions.

When you suggest that these cases may go for years, certainly there will be some of the most serious character that may go for a considerable period of time. That would be very much an exceptional case. The best way for me to answer your question is to tell you that the manner in which legal aid is distributed and the priorities of this. You and I have debated this issue in different contexts in many fora over the years; you know my view that legal aid ought to be prioritised so that it goes to the neediest cases. There is not enough money in the system, unfortunately, because the needs and demands on legal aid and for legal aid assistance will always outstrip the amount of money that is available for prioritisation and the award of legal aid, in particular instances, is a matter for the state and territory legal aid commissions.

**Senator WRIGHT** (South Australia) (12:41): That begs this question, then: are these the neediest cases? Because, indeed, as the submission from Victoria Legal Aid points out, these proceedings are a Commonwealth priority under the national partnership agreement on legal aid funding and, as a result, commissions would be required to actually give priority to those at the expense, potentially, of many other citizens in the country who are seeking to do something in the family court or in relation to other minor criminal matters. The question that I have is this: is this the best use of legal aid funding and to what extent has the government taken into account the fact that money is being required to be used for these sorts of proceedings, when in fact the money would potentially be available from the restrained assets that are there, which will mean that that money is not available for others?

In asking you to respond to that question, I would also say that the suggestion that some of these matters will be lengthy and that there will be a long lag time and potentially a cost-flow issue, if you like, for legal aid commissions to be able to recover any costs that they can recover comes from the submission from Victoria Legal Aid. Indeed, the government has recently announced $11 million of extra funding for litigation specialists tasked with conducting confiscation proceedings such as these and for forensic accountants, which indicates the complexity of these sorts of cases and how it is not hard to imagine that someone defending themselves to explain where their wealth came from may indeed need significant resources devoted to them from the legal assistance sector to be able to have recourse to that kind of forensic accounting and legal expertise as well. These are going to be expensive cases and it will be legal aid commissions that are required to fund them, because they are a priority matter for the Commonwealth under the partnership agreement. What are going to be the implications for those needier people that you would suggest should be prioritised?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:43): I think you make a good point. As you know, the partnership agreement is currently the subject of renegotiation. That is happening as we speak for the national partnership agreement. The point you make will be considered and is being considered in the course of the negotiation.
Senator WRIGHT (South Australia) (12:44): I am also interested in further implications for the legal assistance sector, again, by removing any possibility that a court could assess that it is appropriate in some cases to allow a person’s own restrained assets to be used to defend them in a court under our rule of law. The Victoria Legal Aid submission indicates that directing persons exposed to unexplained wealth proceedings into the taxpayer funded legal aid scheme would certainly expose legal aid commissions to greater administrative burden as they take up more of a role in claims and cost management of these matters. That is because they are potentially protracted and complex proceedings. These would also be for a class of client who Victoria Legal Aid would not typically consider to be a priority client. Again I ask: has the government considered the implications of this and has there been any modelling as to what the likely effect of removing any judicial discretion in this way will have?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:45): I am told there has not been modelling done.

Senator LEYONHJELM (New South Wales) (12:45): Can I ask the Attorney-General: does he think it is relevant to just outcomes in these cases when unexplained wealth issues are brought before a court and necessarily the defendant is subject to representation by legal aid lawyers? Legal aid lawyers, as I pointed out in my speech in the second reading debate, are typically criminal lawyers or family lawyers and would work on $150 an hour, whereas the expertise required in legal representation for these sorts of cases is more complex. Commercial lawyers would be demanding far more than that and would often not accept the legal aid cases in any event. Does that have implications for just outcomes?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:46): I think you take a rather pessimistic and, if I may say so, ungenerous view of the professional skill of a lot of the people who work in the legal aid system. We all know that almost all legal aid cases are either family law matters or criminal law matters—those are the two priority jurisdictions—but those criminal lawyers who represent clients in the legal aid system are by no means to be dismissed as being, as it were, the least good lawyers. I can tell you from my own experience of the profession, although I was not a criminal law practitioner, that there are many, many very fine lawyers who work in the legal aid system who could earn a lot more if they worked at the private bar or for one of the big law firms but choose not to do that for the kinds of social justice reasons that you and Senator Wright have in your different ways been adverting to. So I do not think you should be so rude, really, Senator Leyonhjelm, as to dismiss legal aid lawyers as second-rate lawyers, because they are not. It follows from that that one of the competencies of good criminal lawyers is a capacity to deal with commercial crime. Criminal lawyers are not merely people who deal with cases in which the physical dimensions of crime are the most important probative or evidentiary issues, like, for example, murders. It is also within the competencies of good criminal lawyers to deal with the commercial dimensions of criminal conduct, including tracing money through various accounts, trusts and other structures that may be artificially created to launder or conceal its movement. So the competency that you say that criminal lawyers working in the legal aid system lack is not a competency which is entirely missing from that system; it is a competency of an element of criminal practice.
Senator WRIGHT (South Australia) (12:49): The Greens oppose schedule 1 in the following terms:

(1) Schedule 1, item 3, page 3 (lines 9 and 10), **to be opposed**.

(2) Schedule 1, item 24, page 9 (line 3) to page 11 (line 10), **to be opposed**.

The TEMPORARY CHAIRMAN: The question is that schedule 1 item 3 and item 24 stand as printed.

The Committee divided. [12:54]

(Temporary Chairman—Senator Bernardi)

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

AYES

Back, CJ
Brandis, GH
Bushby, DC (teller)
Canavan, M.J.
Dastyari, S
Gallacher, AM
Lazarus, GP
Ludwig, JW
Macdonald, ID
Mason, B
McKenzie, B
Moore, CM
O’Neill, DM
Parry, S
Polley, H
Ruston, A
Singh, LM
Sterle, G
Wang, Z

Bernardi, C
Bullock, J.W.
Cameron, DN
Colbeck, R
Day, R.J.
Ketter, CR
Lines, S
Lundy, KA
Marshall, GM
McGrath, J
McCulcas, J
Muir, R
O’Sullivan, B
Peris, N
Reynolds, L
Ryan, SM
Smith, D
Urquhart, AE
Williams, JR

NOES

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

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

Question agreed to.
Bill agreed to.
Bill reported without amendments; report adopted.

Third Reading

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:57): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (12:57): Labor welcomes measures to improve Commonwealth criminal justice arrangements, and we are pleased that the government is bringing Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 before the Senate to build on the reforms undertaken in these areas by the former Labor government. While the opposition supports the intent of this bill, we share the concerns of people or agencies and state prosecutors about mandatory, minimum sentences for firearms trafficking offences. Labor will move amendments to remove the imposition of mandatory minimum sentencing, and I will explain our position on this in more detail soon.

The bill includes amendments to ban the importation of substances which have a psychoactive effect that are not otherwise regulated or banned. The bill seeks to ensure that the Australian Customs and Border Protection Service officers have appropriate powers to stop these substances at the border. It seeks to correct an error in the definition of the minimum, marketable quantity in respect of a drug analogue of one or more listed, controlled drugs. It seeks to introduce new international firearms trafficking offences, amend existing cross-border firearms offences and streamline the international transfer of prisoners regime within Australia and clarify the processes involved. It seeks to amend certain slavery offences to clarify that they have universal jurisdiction and validate access by the Australian Federal Police to certain investigatory powers in designated state airports.

I will summarise Labor's position on each of the six schedules to this bill. I will address our concerns regarding the mandatory sentencing provisions in schedule 2 last, to provide a more detailed rationale for our proposed amendments.

Schedule 1 of the bill will implement amendments that were announced in June 2013 by the former Labor government. It represents the Commonwealth legislative component of a broader national response to the new psychoactive substances (NPS) and was developed by the Intergovernmental Committee on Drugs (IGCD) and endorsed by the Commonwealth, state and territory ministers at the Law, Crime and Community Safety Council on 4 July 2014. As outlined in the IGCD document, there are at least two overseas schemes that incorporate a reverse-onus component, those in New Zealand and Ireland. The scheme proposed in the bill is similar to that used in Ireland. Schedule 1 will amend the Criminal Code Act 1995 (the Code), and the Customs Act 1991 to strengthen the Commonwealth's ability to respond to the new and emerging illicit drugs known as 'new psychoactive substances'.

New psychoactive substances are designed to mimic the psychoactive effects of illicit drugs, but their chemical compositions are not captured by existing controls on those drugs.
Evidence suggests that manufacturers design the chemical structures of psychoactive substances to avoid these controls and prohibitions. The amendments in schedule 1 will fill the regulatory gap between when psychoactive substances first appear and when they are controlled by other parts of the Criminal Code or the prohibited imports regulations. These measures will ensure that new psychoactive substances cannot be imported in the period during which the government assesses their harms and considers the appropriate controls to place on them. The measures take a precautionary approach to dealing with psychoactive substances. They are intended to work in parallel with and not to replace any of the existing schemes which regulate the importation of illicit drugs and of substances with a legitimate use in Australia. The rationale for restricting NPS is the same as that which applies to other drugs—that is, to reduce the harms associated with them. NPS are often marketed as 'legal highs' and professionally packaged, which can give the impression that they are safer to use than illicit drugs with similar effects. However, very little is known about their health impacts, especially their longer-term impacts.

Schedule 3 will amend the International Transfer of Prisoners Act 1997 (the ITP Act), which governs Australia's international transfer of prisoners (the ITP scheme). The ITP scheme aims to promote the successful rehabilitation and reintegration into society of a prisoner, while preserving as far as possible the sentence imposed by the sentencing country. This is a voluntary scheme which requires the consents of the prisoner, the Attorney-General, the relevant transfer country and, where applicable, the relevant Australian state or territory to or from which the prisoner wishes to transfer. It has become clear that improvements to the ITP Act are required to clarify and streamline the process—to make the scheme more straightforward, to make it operate more efficiently and to reduce unnecessary burdens and resources required to process ITP applications. The amendments in this schedule seek to address these issues with the effect being timelier processing of applications, a reduced resource burden and improved usability of the legislation by prisoners while still maintaining prisoners' rights and due process.

Schedule 4 amends the Code to clarify that slavery offences in section 270.3 have universal jurisdiction. This approach accords with the prohibition of slavery as a jus cogens, or peremptory norm, of customary international law; meaning that it is non-derogable and applies at all times and in all circumstances, and that it is one which is expressly prohibited by a number of treaties to which Australia is a party. It is consistent with Australia's recognition of universal jurisdiction as a well-established principle of international law, and as one which extends to a range of crimes including crimes against humanity.

The purpose of schedule 5 is to validate action undertaken by a member of the AFP, or a special member under the Commonwealth Places (Application of Laws) Act 1970, for an investigation of an applied state offence in relation to a Commonwealth place that would otherwise have been invalid because the Commonwealth place was not, for a time, a designated state airport. Its retrospective application is limited to the period starting 19 March 2014 and ending on 16 May 2014 and refers only to those investigatory powers specified in subsection 5(3A) of the Commonwealth Places (Application of Laws) Act 1970. Schedule 6 will make minor and technical amendments to the Code, to the Financial Transaction Reports Act 1988 (the FTR Act), and to the Surveillance Devices Act 2004. The purpose of the amendment to the FTR Act is to give permanent effect to an exemption granted by the
AUSTRAC CEO in relation to account-blocking obligations of cash dealers in certain circumstances. A consequential amendment will also be made to the Surveillance Devices Act 2004 to remove reference to an offence against a repealed section of the FTR Act. These amendments will give permanent effect to an exemption granted by the AUSTRAC CEO from an obligation for cash dealers to block accounts in certain circumstances. This exemption was granted by the AUSTRAC CEO due to the fact that the obligation was largely duplicative of safeguards in the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

In addition, schedule 6 will make minor amendments to section 301.11 of the Code to correct an error in the definition of a 'minimum marketable quantity' in respect of a drug analogue of one or more listed border-controlled drugs. This error occurred when section 301.11 was inserted into the Code in November 2012 by the Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Act 2012.

I would now like to address the provisions of schedule 2, which Labor supports, and to explain the rationale for amendments we are moving to remove the imposition of mandatory minimum sentencing. This schedule will implement amendments to expand existing Commonwealth firearms offences to cover firearm parts as well as whole firearms, which were previously included in the Crimes Legislation (Unexplained Wealth and Other Measures) Bill 2012 introduced by the former Labor government, but which lapsed ahead of the 2013 federal election. Schedule 2 will: create new international firearm offences of trafficking prohibited firearms and firearm parts into and out of Australia—a new division 361 of the code; extend the existing offences of cross-border disposal or acquisition of a firearm and taking or sending a firearm across borders within Australia in division 360 of the code to include firearm parts as well as firearms; and introduce a mandatory minimum five-year term of imprisonment for the new offences in division 361 and existing offences in division 360 of the code.

The Senate Legal and Constitutional Affairs Legislation Committee conducted an inquiry into the bill and tabled a report on 2 September last year. Labor senators agreed with the majority of the report, except for the recommendation made in respect of the proposed mandatory minimum sentences for firearm-trafficking offences. The only justification that I can recall from the evidence on that occasion was the suggestion that the only rationale for this was that it was a coalition election commitment. We raised our concerns regarding this provision in additional comments included in the committee report. I draw attention to the fact that the Senate inquiry received evidence from peak law organisations and state prosecutors to outline their strong opposition to this provision, and I thank those agencies for raising their concerns—particularly as it had been highlighted that this was an LNP coalition election commitment. Again, it seems that the coalition were not listening. I hope that they are listening now.

I would also like to highlight that the Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers produced by the Attorney-General’s Department—the minister’s own department—states that minimum penalties should be avoided. This is because, inter alia, they interfere with judicial discretion to impose a penalty appropriate in the circumstances of a particular case; they may create an incentive for a defendant to fight charges, even when there is little merit in doing so; they preclude the use of
alternative sanctions, such as community service orders, that would otherwise be available in part IB of the Crimes Act 1914; and they may encourage the judiciary to look for technical grounds to avoid a restriction on sentencing discretion, leading to anomalous decisions. Mandatory minimum sentences are uncommon in Australian law; therefore, the controversial element of this bill remains the introduction of mandatory minimum sentencing.

In November 2012 the then Labor government introduced the Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012 into the House of Representatives. This bill lapsed in the Senate at the end of the 43rd Parliament. As part of this bill, Labor introduced a maximum penalty of life imprisonment for these offences. This would have made the maximum penalty for trafficking in firearms the same as the maximum penalty for trafficking in drugs. This is not uncommon for such a serious offence. It was intended that the new basic offences would attract a penalty of 10 years imprisonment consistent with the existing firearms trafficking offences. However, it was proposed that the aggravated offences would attract a higher penalty of life imprisonment—the same as the maximum penalty applied to drug trafficking. This maximum penalty was designed to send a very strong message that trafficking large numbers of illegal firearms is just as dangerous and potentially deadly as trafficking large amounts of illegal drugs and that the same maximum penalty should apply.

In this particular instance, Labor is of the view that the imposition of mandatory minimum sentencing for firearms trafficking offences should be avoided. A better course of action would be to implement a regime of penalties for firearms trafficking offences reflecting that proposed by Labor when it was in government. Labor senators urge the government to adopt a similar sentencing regime in relation to the proposed firearms trafficking offences. This would send a strong message to serious criminals but avoid the issues associated with mandatory minimum sentences and better preserve judicial discretion.

There is no evidence that mandatory sentencing laws have a deterrent effect, but there is clear evidence that they can result in injustice because they remove the discretion of a judge to take into account particular circumstances, which may result in unintended consequences. In addition, mandatory sentencing removes any incentive for defendants to plead guilty, leading to a longer, more contested and more costly trial. Labor opposes mandatory sentencing and detention regimes because they are often discriminatory in practice and have not proved effective in reducing crime or criminality.

The opposition will move amendments to remove the imposition of mandatory minimum sentencing, and I look forward to crossbench support. Indeed, perhaps the government is now listening and we can attract government support as well.

Senator DI NATALE (Victoria) (13:12): I begin my statement on the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 by saying that the focus of my comments is on schedule 1—that is, the section of the bill that deals with the importation of psychoactive substances. It is important, I think, firstly to try and find some common ground and to start from that point—particularly at a moment when there is such division in our national parliament. It is important to understand that what we are trying to achieve, I am sure, is to minimise the harms associated with the use of these substances. Like the government, I am very keen to see the harms associated with new, emerging psychoactive substances—as with all illicit substances—reduced. That is the focus of my remarks.
No-one in this place understands this better than I do. During my time as a drug and alcohol clinician, I have seen people who have suffered considerable harms from drugs such as heroin, prescription drugs, cannabis, alcohol and, indeed, a wide variety of substances. So I, like the government, am very keen to see us do everything that we can to minimise the harms associated with these so-called synthetic or psychoactive substances. Where we depart is in our approach to the problem. The psychoactive substances bill is a very poorly thought through response to a very complex issue, and it is an issue that governments over successive parliaments have failed to deal with. We are still grappling with settling on the most appropriate response to minimising the harms associated with substance abuse.

If we are going to respond in a measured and sensible way, firstly we have to have a sense of the scale of the problem. The size of the problem when it comes to these substances—called variously social tonics, synthetic drugs, legal highs and so on—is enormous. There are 230,000 users of synthetic substances in Australia, according to the Australian household drug survey. I will say that again: almost a quarter of a million Australians are currently using these substances. The 12,800 units of social tonics sold in Australia had a sales value of over $692 million, with almost $70 million in GST collected from these substances alone. So it is an enormous problem.

The concern I have got is that the bill does not do anything to address the issue in a systematic, sensible and measured way. It is just another knee-jerk reaction, like reactions before it, that adds to the harms. That is the concern here. Rather than minimising the harms associated with these substances, we run the very real risk of increasing the dangers associated with these substances.

In referring to schedule 1 of the bill, I reiterate that the Greens support the other schedules in this legislation, with the exception of the introduction of mandatory minimum sentencing of five years for the offences listed in schedule 2, which are unrelated to psychoactive substances; otherwise we will not oppose any of the other measures in this bill. Schedule 1 says that for 'new psychoactive substances' there will be a system of restrictions on their importation. So it will introduce an offence into the code for importing a psychoactive substance that does not have a legitimate use, or even a substance that makes a representation that it has those effects. So it does not actually have to have a psychoactive effect; it just has to make a representation that it has a psychoactive effect. In order to implement this, the Australian Federal Police will be given increased powers to search, detain, seize and destroy these substances.

The flaws in the legislation are numerous. The first is that there is no definition of what a psychoactive substance is. There is no definition in law to determine whether a substance is psychoactive and has a psychoactive effect or does not. It makes no reference to specific ingredients in some of these substances, it does not address the question of who is using them or how they are being used and it makes no reference to whether they are of low risk or high risk. It is just a blanket prohibition on the importation of new psychoactive substances.

What is a psychoactive substance? I asked that question during the hearing into this bill, and we did not get an answer, because there is no answer. This is a lay term. There is no definition in medical practice and there is certainly no accurate definition or measurable definition in law. It seems to be that this is a case of: 'We don't know what we're looking for, but we'll know when we find it.' It is a crazy approach to what is a serious issue. The
definition used in the bill about what constitutes a psychoactive substance is far too broad, it is all-encompassing, and the problem is it can potentially place innocent people at risk—innocent people who import or possess harmless substances for therapeutic reasons—and they will now face criminal prosecutions.

We heard from ethnobotanists and those people who are trained in the use of plants. They point out some of the flaws in the bill. For example, one plant species from Chinese medicine might be permitted. Another species that is used in Indian medicine or South American medicine, which might have the identical active constituent, would be prohibited because it is not listed on the TGA, unlike a plant species that is used in Chinese medicine, which may be listed through the TGA. So we are going to capture important therapeutic drugs and drugs that people use in traditional medicines.

We also heard evidence about certain teas. For example, there is a special tea that South Americans drink that would be banned under this definition, even though many of these teas are drunk for cultural reasons. They have caffeine, like ordinary tea, which is a psychoactive substance. Caffeine is a drug that produces a therapeutic effect, that in some people produces anxiety, tremors and so on. It is, by definition, a drug that has psychoactive properties, and yet some of these substances that people are bringing in, some of these herbal teas that are drunk in particular cultures, will not be allowed to be imported under this definition. Again, the Attorney-General's Department could not give a clear definition about which products would be captured and which would not, because we have no idea what their definition of 'psychoactive' actually means.

There is no process for determining whether a seized product has a psychoactive effect. How do you measure that? What is the test? There is none. We heard that there was no test, no process, no framework for when the importation of a substance was restricted, that it would be tested to determine whether it had a psychoactive property. Despite asking for that definition, all we got was that, yes, the definition was 'enormously broad' and that they will need to consider whether certain harmless products, like herbs in teas, would be included in the bill. That is all we got from the Attorney-General's Department.

Perhaps more fundamentally, and one of the concerns I have, is that we do know from the long history of illicit drug use that one of the worst ways of addressing a problem like this is to drive it underground, to allow a market to flourish that is completely unregulated and to ignore what we know is the best evidence when responding to the problem. We heard evidence from people who are currently involved in the importation and sale of these illegal synthetic substances that highlighted the size of the market, the dimension of this problem and the importance for them to allow regulation that ensures that low-risk substances, substances that produce little harm, can be used ahead of those substances which produce significant harm, which are currently now available in various fora. At the moment we have no way of distinguishing between the two. We know, for example, that we have new synthetic substances, some of which attempt to produce the effects that cannabis produces. These substances are emerging all the time. We know that they are currently legal, but we have very little information about which of those substances cause harm to people and which do not. And it is partly because previous responses targeted individual substances, which has created an environment where new and potentially more harmful, less tested substances are emerging.
My objections to the bill are that it does not seek to understand what these new substances are and the level of associated risk—they are either high-risk or low-risk substances—and that, if they are high-risk substances, the Australian community is alerted to them. Most people who use these substances do not want to hurt themselves; they do it for all sorts of other reasons, and we should be ensuring that we create a framework where people get information that alerts them to the fact that particular high-risk substances are on the market and that they are to be avoided. This is where I think the New Zealand model is very instructive. If we were to move to the New Zealand approach we would be saying that a level of regulation is necessary here. It is regulation that says, 'Let us determine, through an appropriate body, what substances are low risk so that those people who will continue to use these substances no matter what legislation we put in place'—remember, a quarter of a million Australians are currently using them—'are using them safely, and that dangerous substances are not available on the market.'

In New Zealand they have a pre-market assessment scheme. It puts the onus on the importer, saying that if you have a synthetic psychoactive substance—a 'social tonic', as the industry likes to call them—which you believe should be available for sale here, then you have to prove that it is of low risk; that consumers will not be harmed by that substance. Until you can prove that, then they will not allow the sale of that substance through any regulated framework. It is a model that Australia should follow—a pre-market assessment scheme that better recognises the challenges posed by importing the range of substances that are currently imported, some of which are low risk and some of which are high risk.

We do know that there are serious harms for those high-risk substances—there were two men who tragically died in circumstances linked to some of these substances earlier this year—but we also heard the response from Dr David Caldicott, who is an emergency medicine doctor here in the ACT and who has also published widely on the harms associated with licit and illicit drug use. He is an expert in the field. He said very clearly that some of these synthetic cannabinoids have the potential to be significantly more dangerous than the natural cannabis plant that they are supposed to mimic. Because we do not have any standards or regulation or quality control, what you end up with is a variety of substances, some of which are of high toxicity. In that respect, he is saying that there is a relationship with the illicit drug market here, and, through our response to illicit drugs, we have created a whole new market for these synthetic legal substances that as yet are available without risk of prosecution.

It is impossible to have this debate without having a broader debate about how best to minimise the risks associated with currently illicit drugs. Dr Caldicott says we need 'wiser responses to the problem of harm from drugs if these deaths are not to become a more frequent occurrence'—nothing about cracking down on importation of all drugs. He, like many others, recognises the scale of the problem, the impossibility of restricting the importation of these substances and, worse still, the unintended consequence of driving the production of a market here in Australia. What this risks doing—one of the great unintended consequences of this bill—is that, where there is currently no market for the production of these substances here in Australia, we are going to create one. We are going to create the production of some of these substances in backyard labs right around the country because we are restricting importation from overseas.
Again, that leads to uncontrolled availability of substances of unknown toxicity—a great risk. I do not want to be standing up here in the months to come, when young people are dying because they are taking what are now illegal synthetic substances that have been made here in Australia—substances of unknown toxicity—and saying: 'We knew this would happen. We knew the consequences of a piece of legislation like this—that it would lead to the consumption of more untested products, some of which will be of extremely high toxicity.' My great concern is that, in trying to solve one issue, we are going to create another issue which is much more harmful than the original problem we are trying to address.

I have to say that in the bill we are debating today schedule 1 has been amended following the Legal and Constitutional Affairs Legislation Committee majority report on this bill, and I acknowledge the work of Senator Macdonald, who was chair of that inquiry. This bill recognises that the original legislation was even more deeply flawed than the current one; that it would capture a range of plants and fungi and their extracts, all of which potentially could have a psychoactive effect. To their credit, the government did change the bill so that a person who might import a plant, like an ornamental cactus that contains a substance that might have a psychoactive effect when consumed, would no longer be committing an offence. But we need go to much more broadly. There was overwhelming evidence that plants, fungi and their extracts would have been captured by this legislation. That is why this is such a bad piece of law.

While the government has listened and did respond to some of this expert evidence, unfortunately it remains blinkered about some of the other expert evidence. I would have liked us to look more deeply at the approach taken by our colleagues in New Zealand, who have decided to take this problem head on—to recognise that the market is so huge, that people will continue to take these substances and that if they are going to do it, then they must consume substances that are of low risk.

I do understand that governments want to prevent people from being harmed by dangerous substances. It is what we want, it is what the Greens want, I am sure it is what the Labor Party wants and I am sure it is what the coalition wants. We want to reduce the harms associated with the consumption of these substances. On that we can all agree.

I do not come at this issue from some libertarian perspective like some of my colleagues in this chamber do, who suggest that people should be allowed to use these substances, that the state has no role and that we should not interfere. I think the role of the state is to minimise the harms associated with their use. This is where we disagree with the government's approach. We do not believe that the government—or the opposition, it must be said—has taken the time to examine the implications of this bill or the evidence and the lessons learned from overseas.

In opposing this bill, I say that we need a new approach. Let us look to New Zealand. Let us look at what is working over there. We have a model in place for how to better minimise the harms associated with the use of some of these substances. Let us recognise that everything we have done in this space so far around the use of psychoactive substances has been a failure, that we are no closer to the objective of reducing the harms associated with illicit drugs than we were decades ago and that we risk repeating the same problems with the use of these new so-called legal synthetic drugs or social tonics. It is indeed time for a new
approach, and we look forward to the government reconsidering their position on this legislation.

**Senator IAN MACDONALD** (Queensland) (13:30): As Senator Di Natale has said and as others who have contributed to this debate have also said: any substance that can cause harm to our fellow Australians is something that all governments and all parliamentarians have to be very conscious of and concerned about. The government, as part of its attempt to try and address some of the problems that synthetic and other drugs cause to our fellow Australians, has introduced the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014—and I will say a few words about the bill shortly. Firstly, though, I want to say that for all the criticisms that parliaments and parliamentarians get sometimes, it is pleasing to see that occasionally the system works. I am delighted with this piece of legislation, which the government is going to amend following a report by the Senate Legal and Constitutional Affairs Legislation Committee that looked into the bill. It does show that when our system works it works well.

I know that this bill would have been prepared by well-meaning advisers in the department who were taking into account all they thought needed to be taken into account—governments work on the advice given to them by professional public servants and professional advisers—and this bill was the result. The Senate committee hearing gave other experts, people in daily contact with the subject of the bill, the opportunity to give evidence. I have to say in this instance that the evidence given was very clear and very persuasive, and the committee was left in no doubt that there was an unintended error in the legislation, and the committee was able to make a recommendation. As I say, I am very pleased that the government has followed that recommendation.

As others have said, the bill consists of six schedules which incorporate a range of measures intended to improve criminal justice arrangements and specifically to ban the importation of all substances that have a psychoactive effect that is not otherwise regulated or banned. The first recommendation that the Senate committee made as a result of the evidence given was that the bill be amended to exempt plants and their extracts from the application of schedule 1. Four written submissions, as well as very clear oral evidence, was provided to the committee. This evidence focused specifically on the impact of a proposed ban on the importation of plant material and urged that an exemption be created.

I particularly acknowledge the very clear evidence given by Mr Torsten Wiedemann and Mr Niall Fahy from a company with the lovely name of The Happy Herb Company. Mr Wiedemann submitted that many commonly imported medicinal and culinary herbs would not fall within the food exemption under the Therapeutic Goods Act or the Food Standards Australia New Zealand Act, because they do not have a long history of traditional consumption in Australia and New Zealand. I think it was Mr Fahy who pointed out that dangerous plants can be and already are easily prohibited through existing legislation, without importers being able to circumvent the legislation through making minor modifications to the molecular structure of the substance. He said that that was a crucial difference between naturally occurring plants and compounds created in a laboratory. The Happy Herb Company representative said to the committee:

If this law were passed we would have to immediately conduct a massive audit of every single herb that is sold throughout our retail outlets…. There are potentially an awful lot of herbs that could fall...
under the remit of the legislation. So we would have to immediately figure out which herbs were going to be affected and revamp a lot of our catalogues and our online shop and negotiate with our suppliers and manufacturers to create different products.

The banning of the importation of plants and herbs used by these two in particular and by others like them was not in itself dangerous, and it did show a real error in the legislation.

One of the other things I noted with some interest was that the New South Wales government had recently made some reform in this same area, with legislation particularly relating to state matters. The New South Wales government in its wisdom has exempted foods and plants that fit these categories. It seemed strange to me that the New South Wales government and the Commonwealth were both at the same time really doing the same thing. The New South Wales government came up with what I and the committee thought was the right approach, and the Commonwealth came up with a different approach. I suspect, as I say, that this was just an inadvertent overlooking of some of the issues that were raised with us. I again say I am delighted that the government has accepted that and has introduced an amendment, which I am told is on sheet GZ107 and is now incorporated in schedule 1 of the bill, which excludes plant and fungal matter from the scheme.

The whole inquiry, I thought, was very, very useful. There were a number of contributors. I thank Senator Di Natale who, with his medical background, sometimes has a more precise view of some of the evidence that is given. I thank the other members of the committee—Senator Collins, Senator Bilyk, Senator O’Sullivan, Senator Reynolds and Senator Wright—for their contribution as well. As always, I thank the committee secretariat for producing the Senate committee's report, which has been tabled.

The legislation, whilst dealing principally with psychoactive substances, did also include other measures, as the title of the bill suggests. One of the recommendations of the committee was that the government amend the explanatory memorandum to make it clear that sentencing discretion should be left unaffected in respect of nonparole periods—in appropriate cases there may be significant differences between nonparole periods and the headed sentence—and that the mandatory minimum is not intended to be used as a sentencing guidepost where the minimum penalty is appropriate for the least serious category of offending. I note that the issues on sentencing discretion for nonparole periods and, more generally, for minors are addressed at item 14 of the bill's revised explanatory memorandum, which clearly provides that mandatory minimum sentencing should not form, and be a guidepost for, the duration of nonparole periods.

The committee took evidence from a wide range of people across all aspects of the bill—and some of these have been gone into by other contributors to this debate, so I will not go into them in any detail. I did mention that the bill also creates new offences that criminalise trafficking in firearms and firearm parts into and out of Australia. Existing firearms trafficking offences in the Criminal Code are limited to trafficking between the states and territories and do not criminalise the trafficking of firearm parts. The bill seeks to introduce a mandatory minimum sentence of five years imprisonment for offenders charged with a firearms trafficking offence under the Criminal Code. I note that the bill does not prescribe a minimum nonparole period. I also note that the explanatory memorandum specifically says that the minimum sentence should not be used as a guidepost for any minimum nonparole period. The legislation also makes necessary amendments across a range of acts that will
enhance our criminal justice framework against the importation of psychoactive substances and save Australian citizens and communities from the harm that inevitably comes from the prevalence of these substances in our communities. The bill will provide a range of other law enforcement enhancements, including the strengthening of penalties for firearms trafficking and importation.

I congratulate the Attorney-General and the Minister for Justice on their dedication and their concentration on giving our law enforcement agencies the very best tools possible, whilst protecting our civil and human rights, in their fight against crime and, in particular, organised crime. Crime in the drugs area has such an awful impact on many in our community, including many of our younger people. Sometimes people say that some of the laws we introduce are a bit draconian. But you have to try and get the balance right on the protection of our society and, in very many cases, protection from ourselves almost. You have to balance that against our human and civil rights. I am always one who comes down more on the side of doing what needs to be done to give our law enforcement agencies the tools they need to fight organised crime.

Our police forces, the Crime Commission and ASIO—all of these enforcement agencies—if they set one foot out of line, get front-page headlines and accusations of improper conduct. So they have to be very, very, very careful that they do everything strictly according to the law. But I often lament the fact that the people they are fighting against, the criminals, do not follow any rules or regulations. They do not give a damn about people’s lives, their future, their health and their safety. Very often our law enforcement agencies fight this organised crime with one hand tied behind their back. But sensible legislation like this and other legislation that the Attorney-General and the Minister for Justice put forward do enable the law enforcement agencies to better deal with organised crime and the sorts of activities that do so badly impact on Australians.

I urge the Senate to support the bill.

**Senator LEYONHJELM** (New South Wales) (13:44): The Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 represents a bold stride towards a police state. I oppose it. It authorises police misconduct, attacks the independence of the courts and doubles down on the war on drugs. Campbell Newman may have lost the Queensland election, but his spirit lives on in the hearts of the coalition and Labor, both of which support this bill.

I mentioned police misconduct. Let me explain. A regulation authorised the AFP to conduct certain types of searches, seizures, arrests and detentions at various airports prior to 19 March 2014. Another regulation authorised such conduct after 17 May 2014. In the period between these dates, the AFP was not authorised to conduct these searches, seizures, arrests and detentions. If AFP officers engaged in unauthorised searches, seizures, arrests and detention over this period, they did a disservice to the people they were meant to serve. They committed a crime and those who were searched, arrested or detained should have known that those crimes would be prosecuted. But that is not the view of the coalition or Labor.

Instead, they want this bill to retrospectively authorise any illegal searches, seizures, arrests and detentions over this period. This sweeps under the carpet any violations of property and liberty that occurred, robbing the victims of justice. It also sets a precedent for future retrospective authorisations. So instead of the AFP ensuring that they act within the law, this
The bill will encourage the AFP to not worry so much about the boundary between what conduct is and is not legal. If they step over the line, the major parties are willing to redraw the line and do so retrospectively.

I mentioned an attack on the independence of the courts. This bill introduces an offence for international firearms trafficking, an offence that already exists in the Customs Act. What is new is the penalty of a minimum five years imprisonment. Judges will no longer be able to calibrate penalties according to the individual circumstances of which they have the greatest awareness. All discretion will rest with police and prosecutors, as they decide whether the case should get to court. There is no history of lenient sentences for international firearms trafficking, so there is no case for this trampling on judicial independence, a hallmark of a fair and just society.

This bill also introduces a minimum five years imprisonment for the trafficking of firearms and firearms parts across state borders, in contravention of state firearms law. The new Commonwealth offence applies regardless of penalties and defences in state firearms law. This is an even more extreme trampling of the independence of the courts and the rights of the citizen, with a side-serving of undermining states' rights thrown in for good measure.

Finally, I mentioned that this bill doubles down on the war on drugs. It does so with such extreme overreach that everyday individuals and businesses will be cast as criminals unless the law is enforced by sensible public servants in all places and at all times. It does this by introducing an offence of importing a substance whose presentation implies that it is a lawful alternative to serious drugs. So, if you promote your harmless product by suggesting that taking it is as cool as dropping an ecstasy tablet, you have got a problem.

Further, the bill introduces an offence of importing a substance that causes a state of dependence. Does this cover a new version of Diet Coke or chewing gum? The bill introduces an offence of importing a substance that significantly changes motor function. Does this cover a new version of Red Bull or Dencorub?

The bill also introduces an offence of importing a substance that significantly changes thinking, behaviour, perception, awareness or mood. Does this cover a new copper cream to relieve the pain of arthritis or a new pheromone perfume? Does it cover a new drink that is as refreshing as a snowball in the face from a sexy person?

The bill bans substances that you smell, put on your skin, eat or drink. There is an exemption for substances that are already explicitly banned or allowed but only if nothing else is added and a defendant provides that an exemption applies. Nowhere in these provisions is the law limited to substances that cause harm. The concept of harm is completely absent from this law.

So rather than ban new substances that are shown to be or are likely to be harmful, the government is attempting to ban everything unless a bureaucrat has got around to providing an exemption. This approach could impose great uncertainty and stifle business innovation. If unreasonable bureaucrats do not like your harmless product the law is on their side, not yours. This approach also discourages bureaucrats from promptly assessing new substances. Overall, it represents the government kowtowing to the demands of lazy bureaucrats so, in the end, citizens serve the public service.
The coalition and Labor support this bill. They want to authorise police misconduct, attack the independence of the courts and double down on the war on drugs. The Liberal Democrats stand against this march towards a police state. After the next election it is my aim to ensure there are more Liberal Democrats to stand against this folly.

Senator SESELJA (Australian Capital Territory) (13:51): I rise today to speak in support of the government's Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014. It is an important bill that strengthens and updates our criminal law so that those who do harm through violence and drugs are brought to justice and so there is adequate deterrence for those who may seek to commit such crimes in the future.

The bill comprises six schedules. Schedule 1 will amend the Criminal Code and Customs Act to strengthen the Commonwealth's ability to respond to new and emerging illicit drugs, known as psychoactive substances. Schedule 2 will amend the Criminal Code and the Customs Act to implement tougher penalties for gun related crime. Schedule 3 will amend the International Transfer of Prisoners Act 1997 to streamline the process and remove unnecessary administrative burdens. Schedule 4 amends the Criminal Code to clarify that slavery offences have universal jurisdiction. This aligns with principles under international law. Schedule 5 will ensure the Australian Federal Police have access to Commonwealth investigatory powers at certain airports between the repeal of old regulations and the passage of new regulations. Schedule 6 will make minor and technical amendments to clarify that information obtained under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 can be shared by the ATO, in particular with a taxpayer about whom the information relates. The amendments will also allow AUSTRAC to share financial intelligence information with IBAC.

I would like to focus particularly on the provision regarding psychoactive substances and on the amendments that deal with gun related crime. The new psychoactive substances are designed to mimic the psychoactive effect of illicit drugs. However, their chemical structures are not captured by existing controls on those drugs. Synthetic psychoactive substances can pose as serious a risk to the community as traditional illicit drugs, as we have seen through the tragic deaths of many young people across Australia. New psychoactive substances have been a growing problem for governments in Australia and overseas in recent years. Governments progressively ban these substances as evidence about their use and harm becomes available, yet manufacturers can alter the composition of these substances to avoid the law.

To address this serious community safety issue, the Commonwealth government has introduced this legislation to ban the importation of psychoactive substances, unless they have a legitimate use. These legislative changes will put us ahead of criminals. The ban will close the loophole that allows people to deliberately avoid prosecution by slightly changing the chemical structure of banned substances. The bill will introduce offences into the Criminal Code to ban the importation of substances, based on their psychoactive effect, and where they are presented as alternatives to illicit drugs. It will also amend the Customs Act to allow the officers of the Australian Customs and Border Protection Service and the Australian Federal Police to stop these drugs, seize them and destroy them before they can be put on the market. It will be up to a person whose goods have been seized on suspicion of being a new psychoactive substance to show why they should be returned to them—that is, by showing that they have a legitimate use, such as for foods or as medicinal, industrial, agricultural and...
veterinary chemicals. This approach will operate alongside existing serious drug offences. It will reduce the availability of potentially harmful new substances, giving authorities time to place appropriate control around them.

Might I say that I have listened to the arguments of those who would like to liberalise drugs in this country and I simply disagree with them. Those who argue that that is about personal freedoms I think ignore the serious social impacts, particularly on our young people—the serious health and other impacts of drug use, particularly on our young people. They ignore the fact that this does not just impact on those individuals who are drawn into these things. It often impacts on those around them. It impacts on their families and in some cases it impacts on other members of the community, where they are drugs that may cause violence or may lead people into crime. So, when we are talking about regulating drugs or psychoactive substances let’s not pretend that this is somehow all about personal freedoms. It is also about the protection of our community and it is particularly about the protection of our young people and our children. It is something I am very committed to, and I know the government is very committed to it.

On the firearms amendments, in the lead-up to the 2013 election the coalition undertook to implement tougher penalties for gun related crime. We are following through on that promise by creating a more comprehensive set of offences and penalties for the trafficking of firearms and firearm parts.

In 2012 firearms were identified as being the type of weapon used in 25 per cent of homicides in Australia. Currently, criminals could potentially evade firearms trafficking offences and penalties by breaking firearms down and trafficking their parts. This bill will close this gap by enabling convictions for trafficking those parts. To prevent this the bill creates a new offence for trafficking firearms and firearm parts into and out of Australia, and extends the existing offences of cross-border disposal or acquisition of a firearm, and the taking or sending of a firearm across borders within Australia, to include firearm parts. We know that under the legislation personal protection is not considered a reason to own any kind of firearm.

Data from the Australian Bureau of Statistics and the Australian Institute of Criminology supports the view that firearm reforms have helped to reduce firearm misuse. Since the firearm reforms in 1996 there has been a significant decrease in firearm homicides and suicides. Firearm homicides are down from 99 victims and 32 per cent of all murder victims in 1996 to 47 victims and 19 per cent of all murder victims in 2013. Surely that is something we should be very pleased about as a nation. The rate of firearm suicides decreased in Australia after the introduction of tighter ownership controls. It is therefore vital that we continue to ensure the trafficking of firearms is outlawed and serious penalties are applied.

The introduction of mandatory minimum sentences of five years imprisonment for firearms trafficking offences is an important aspect of the government’s strategy to stop illegal guns and drugs at the border. The introduction of the penalty was part of a suite of election commitments made in the government’s policy to tackle crime, in which we detailed a range of measures to support our approach to eliminating these types of crimes. The government regards firearms trafficking as being amongst the most serious of crimes, particularly given its ability to facilitate violent and potentially deadly criminal acts. One only needs to look at what we have seen in recent years in parts of Western Sydney, with some of the wars between
rival gangs, to see that in some areas of our country this has unfortunately become all too common. The government therefore believes that mandatory minimum sentences are necessary and will act as a strong deterrent to those who would otherwise engage in illicit firearms trafficking.

The bill introduces mandatory minimum sentences of five years imprisonment for offenders charged with trafficking firearms or firearm parts. The minimum mandatory sentence will not, however, apply to minors. The introduction of even a small number of firearms or firearms parts into the illicit market can have a significant impact on the community. This provision aims to ensure that offenders receive sentences proportionate to the seriousness of their offending. The government believes that mandatory minimum sentences will act as a strong deterrent for those who would otherwise engage in illicit firearms trafficking.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): by leave—For the information of honourable senators, I table the current list of ministers, which includes representation of House of Representatives ministers in the Senate. It is dated 23 December 2014.

The document read as follows—

<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
<th>Other Chamber</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon Tony Abbott MP</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Michaelia Cash</td>
<td></td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>The Hon Michaelia Cash</td>
<td></td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Christian Porter MP</td>
<td></td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Alan Tudge MP</td>
<td></td>
</tr>
<tr>
<td>Minister for Infrastructure and Regional Development</td>
<td>The Hon Warren Truss MP</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>The Hon Jamie Briggs MP</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon Julie Bishop MP</td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td>Minister for Trade and Investment</td>
<td>The Hon Andrew Robb AO MP</td>
<td>Senator the Hon Marise Payne</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>The Hon Steven Ciobo MP</td>
<td>Senator the Hon Marise Payne</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Trade and Investment Minister</td>
<td>The Hon Steven Ciobo MP</td>
<td></td>
</tr>
<tr>
<td>Minister for Employment</td>
<td>Senator the Hon Eric Abetz</td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>(Leader of the Government in the Senate)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assistant Minister for Employment</td>
<td>The Hon Luke Hartsuyker MP</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Title</td>
<td>Minister</td>
<td>Other Chamber</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------------------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney-General</td>
<td>Senator the Hon George Brandis QC</td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Senator the Hon George Brandis QC</td>
<td></td>
</tr>
<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Treasurer</td>
<td>The Hon Michael Keenan MP</td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td>Minister for Small Business</td>
<td>The Hon Joe Hockey MP</td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Assistant Treasurer</td>
<td>The Hon Bruce Billson MP</td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Josh Frydenberg MP</td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Minister for Agriculture</td>
<td>The Hon Barnaby Joyce MP</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Agriculture</td>
<td>Senator the Hon Richard Colbeck</td>
<td></td>
</tr>
<tr>
<td>Minister for Education and Training</td>
<td>The Hon Christopher Pyne MP</td>
<td>Senator the Hon Simon Birmingham</td>
</tr>
<tr>
<td>(Leader of the House)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assistant Minister for Education and Training</td>
<td>Senator the Hon Simon Birmingham</td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Education</td>
<td>Senator the Hon Scott Ryan</td>
<td></td>
</tr>
<tr>
<td>Minister for Social Services</td>
<td>The Hon Scott Morrison MP</td>
<td>Senator the Hon Mitch Fifield</td>
</tr>
<tr>
<td>Assistant Minister for Social Services (Manager of Government Business in the Senate)</td>
<td>Senator the Hon Mitch Fifield</td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Minister for Human Services</td>
<td>Senator the Hon Marise Payne</td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Social Services</td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
<td></td>
</tr>
<tr>
<td>Minister for Industry and Science</td>
<td>The Hon Ian Macfarlane MP</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Industry</td>
<td>The Hon Karen Andrews MP</td>
<td></td>
</tr>
<tr>
<td>Minister for Defence</td>
<td>The Hon Kevin Andrews MP</td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td>Minister for Veterans' Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
<td>The Hon Kevin Andrews MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
<td></td>
</tr>
<tr>
<td>Assistant Minister for Defence</td>
<td>The Hon Stuart Robert MP</td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon Darren Chester MP</td>
<td></td>
</tr>
<tr>
<td>Minister for Communications</td>
<td>The Hon Malcolm Turnbull MP</td>
<td>Senator the Hon Mitch Fifield</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Communications</td>
<td>The Hon Paul Fletcher MP</td>
<td></td>
</tr>
<tr>
<td>Minister for Immigration and Border Protection</td>
<td>The Hon Peter Dutton MP</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Assistant Minister for Immigration and Border Protection</td>
<td>Senator the Hon Michaelia Cash</td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td>Minister for the Environment</td>
<td>The Hon Greg Hunt MP</td>
<td>Senator the Hon Simon Birmingham</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
<td>The Hon Bob Baldwin MP</td>
<td></td>
</tr>
<tr>
<td>Minister for Finance</td>
<td>Senator the Hon Mathias Cormann</td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon Michael Ronaldson</td>
<td>The Hon Kevin Andrews MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance</td>
<td>The Hon Michael McCormack MP</td>
<td></td>
</tr>
</tbody>
</table>
Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.

### DISTINGUISHED VISITORS

**The President** (14:00): I acknowledge the presence on the floor of the Senate chamber today of a delegation of distinguished members of the Canadian parliament. It is good to have you with us.

**Honourable senators:** Hear, hear!

### QUESTIONS WITHOUT NOTICE

#### Liberal Party Leadership

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:00): My question is to the Minister representing the Prime Minister, Senator Abetz. Can the minister confirm today 39 Liberal senators and MPs, some 40 per cent of the party room and the overwhelming majority of the backbench, voted to remove the Prime Minister? Why should the Australian people have confidence in the Prime Minister when his colleagues clearly do not?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:01): One thing that the Prime Minister of Australia knows is that he enjoys the support of his Leader of the Government in the Senate, something that a former Labor Prime Minister was not able to enjoy from Senator Wong. Let’s just understand that. You ought to look behind you, Senator Wong, and see all the smiling faces. I will also say that, when Mr Shorten sought the leadership of the Australian Labor Party, the vote was 55 to 31. Why is it that 31 members of the ALP caucus were of the view that Mr Shorten was not a fit and proper person to lead the Australian Labor Party in the parliament? We could ask that question.

The reality is that the Liberal Party today had a ballot in relation to the leadership. Sixty-one to 39 was the result of the ballot. Everybody knows that that was a result. That is a very firm endorsement of the Prime Minister, whilst also—and I say this especially to the Australian people—that those 39 votes were a wake-up call for the government to ensure that it brings the Australian people with it on the very difficult task that faces it.

The difficult task that faces us is not served by the Australian Labor Party playing politics as they do. We are dedicated to the service of the nation, making the tough decisions for the future—such as getting rid of the carbon tax, getting rid of the mining tax, protecting our borders and getting free trade agreements. These were all things that we were told we could not do, yet we achieved them within the first part of this term of government. I look forward to serving the Australian people. *(Time expired)*

**Honourable senators interjecting—**
The PRESIDENT: Order! I know this is the first day back for 2015, but senators on both sides need to be a little more quiet. Senators on my left, your leader is waiting for the call. Order on my left!

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:03): Mr President, I ask a supplementary question. Can the Minister representing the Prime Minister confirm that the Prime Minister bound his entire executive and his whips for this morning’s vote, meaning that the overwhelming majority of Liberal backbenchers who actually had a free vote voted in favour of no confidence in the Prime Minister?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:04): As everybody in the Liberal Party and also in the National Party party rooms know, secret ballots are conducted. There is no show and tell with factional warlords dictating how people vote. That is the big difference between the Australian Labor Party representatives in this place and those of us who have the honour of representing the coalition parties in this place. It is a secret ballot in our party room. That is the way it remains and should remain, unlike the sort of behaviour that operates within the Australian Labor Party where there has to be show and tell. Do you know why that is? It is because they cannot trust each other. Well, we do trust each other with a secret ballot because we are dedicated, unlike all those ex trade union officials opposite—(Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:05): Mr President, I ask a further supplementary question. I refer to the Leader of the Government in the Senate’s assertion that those on the other side trust each other. Can he advise whether or not the Prime Minister trusts Mr Turnbull? Can he advise whether the Prime Minister endorses Senator Bernardi’s call for Mr Turnbull to resign from cabinet and go to the backbench?

Honourable senators interjecting—

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:06): After all the shouting and interjections, I have forgotten what the second question was. But the answer to the first question is yes.

The PRESIDENT: Minister, have you completed your answer?

Senator Abetz: I have.

Economy

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:06): My question is to the Minister for Finance and Minister representing the Treasurer, Senator Cormann. Can the minister provide an update to the Senate on recent economic indicators?

Senator CORMANN (Western Australia—Minister for Finance) (14:07): I thank Senator Bushby for that question. When we came into government in September 2013, we inherited a weakening economy, rising unemployment, a budget in very bad shape and a budget position that was rapidly deteriorating. Since then, we have been working very hard to turn that situation around. We have been working to strengthen the economy, to create more jobs and to repair the budget.
Senator Conroy: You are a laughing stock!

Senator CORMANN: Senator Conroy is asking whether it is going well. It is actually going well. The economy is strengthening. In 2014, the economy grew at 2.7 per cent compared to the 1.9 per cent the year before. Jobs growth is strengthening. In 2014, more than 210,000 new jobs were created across Australia. That is 20 times as many as the year before. We are on track to deliver on our commitment of one million new jobs over five years. The good news does not end there. Australia's retail trade numbers have now risen for seven consecutive months to be a pleasing 4.1 per cent higher through the year.

We are also slowly but surely working to get the budget back under control. In fact, the budget position is at least $4 billion better off over the forward estimates than what it would have been under Labor. None of this has happened by accident. We have worked to strengthen the economy by getting rid of Labor's carbon tax, which was destroying jobs and which was pushing up the cost of electricity for families and business. We are creating a stronger economy. We are strengthening the economy by scrapping the mining tax; by reducing red tape costs for business; by signing free-trade agreements with South Korea, Japan and China; and by boosting investment, trade and jobs. We are strengthening the economy by rolling out environmental approvals for projects worth about $1 trillion. We are boosting economic growth by rolling out infrastructure investment.

(Time expired)

Senator Cameron: Nobody believes you! Your backbenchers do not believe you!

The President: Order on my left, Senator Cameron!

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:09): Mr President, I ask a supplementary question. Will the minister advise the Senate of the economic and budget outlook for 2015?

Senator CORMANN (Western Australia—Minister for Finance) (14:09): I thank Senator Bushby for that supplementary question. The government is very optimistic about 2015 and what it will bring for Australia. We are very optimistic. Yes, we will continue to fight global economic headwinds and we will continue having to work to put Australia in the strongest possible position for the future by improving international competitiveness, bringing down the cost of doing business and making sure that businesses across Australia can employ more Australians. That is what we are focused on.

But if you look at the indicators for 2015, job advertisement levels—as measured by the ANZ—are at their highest levels in over two years, with job ads growing a healthy 13.6 per cent through the year. The Dun and Bradstreet business expectation survey that was released on 3 February found that the outlook on employment is the most positive it has been for 10 years. All we needed in Australia is for the Labor Party to stop playing politics and to start putting the national interest ahead of their perceived political self-interest.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:10): Mr President, I ask a further supplementary question. Is the minister aware of any alternative suggestions to strengthen the economy or repair the budget? If so, what is the government's response?

Opposition senators interjecting—

The President: Order on my left!
Senator CORMANN (Western Australia—Minister for Finance) (14:11): It is my melancholy duty to inform the Senate that the Labor opposition, led by Mr Shorten, does not have an alternative plan for Australia. The Labor opposition, led by Mr Shorten, does not have a plan for stronger growth or to repair the budget mess that they have created. The other day, Mr Shorten came out and he said that the way to fix the budget is by reducing the advertising and by fixing the multinational tax loopholes that we supposedly reopened. The way the media commented on that was: 'Shorten, short on answers.' I could not have put it better myself, because there were actually no multinational tax loopholes that were closed by Labor that we reopened. That is because Labor put out some thought bubbles but they never actually legislated on their thought bubbles. When we came into government, Treasury advised that Labor's thought bubbles were not implementable. Right now, Labor is opposing $1.1 billion in savings for big business. *(Time expired)*

**Abbott Government**

Senator MOORE (Queensland) (14:12): My question is to the Minister representing the Prime Minister, Senator Abetz. I refer to comments by the member for Brisbane, Ms Gambaro, who said yesterday:

… we cannot govern the country through belligerence and hubris.

Is Ms Gambaro referring to the minister, the Prime Minister or the Treasurer?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:12): I do not represent the member for Brisbane in this place.

*Opposition senators interjecting—*

Senator Conroy: You are turning tail and running out the door!

The PRESIDENT: Senator Conroy, your colleague is about to ask a supplementary question.

Senator MOORE (Queensland) (14:12): Mr President, I ask a supplementary question. Whilst not representing Ms Gambaro, I wish to ask further questions of you about her comments. She said this yesterday as well:

We cannot govern ourselves in an internal climate of fear and intimidation. And that is the unacceptable situation we have endured for the past five years.

To the minister representing the Prime Minister, I ask: will the Prime Minister continue to bully his own backbench?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:13): I am sure that Senator Moore could have done a lot better on her own, but undoubtedly she got a question from the questions committee that she was forced and required to ask. We know how it works on the Labor Party side. Let me say that on our side, if you were to assert that there is fear and intimidation, the fear and intimidation goes to such an extent that backbenchers feel comfortable making statements! I think that answers itself, does it not? That answers itself. I say that there is no fear and intimidation in any way, shape or form. However, I say that the government can do better in the service of the people of Australia. Of course, it can. It will, because it must for the sake of the Australian people. *(Time expired)*
Senator Kim Carr interjecting—

Senator Conroy interjecting—

The PRESIDENT: Order! Senator Carr and Senator Conroy, the level of your voices is just as disturbing as your interruptions. Please desist.

Senator MOORE (Queensland) (14:14): Mr President, I ask a further supplementary question. I refer again to three comments made by Ms Gambaro yesterday of bullying by the Prime Minister and his office. In light of today’s vote, which indicated some no-confidence, will the Prime Minister’s chief of staff continue to attend cabinet, veto ministerial staff appointments and decide when the Minister for Foreign Affairs can travel abroad?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:15): I have often said that one of the fringe benefits of being in public life is that you get free character assessments. It would be fair to say that the free character assessments are not only shared from this side with each other but of course with the other side with themselves as well, such as—

Senator Wong: Mr President, I raise a point of order on relevance. The question was: Will the Prime Minister’s chief of staff continue to attend cabinet, veto ministerial staff appointments and decide whether the Minister for Foreign Affairs can travel abroad? It is directly relevant to the Prime Minister’s office and he represents the Prime Minister. He should answer the question.

The PRESIDENT: The minister had just commenced addressing the question. The minister has 38 seconds left.

Senator ABETZ: Once again, what the Leader of the Opposition in the Senate just did was provide the Senate with a truncated version of Senator Moore’s question, seriously and studiously avoiding the preamble, because that was the area in which the Australian Labor Party left itself exceptionally vulnerable. Can I simply say to those opposite and to remind them that some people say:

Again, what I’m going to do in terms of the leadership debate, is be consistent. And consistently, I say that I support the Prime Minister, and I support our Prime Minister because of what she’s got done in this period of the minority government.

(Time expired)

Senator Wong: Mr President—

The PRESIDENT: I have called him to order.

Senator Wong: The clock had finished some time ago.

The PRESIDENT: The minister has concluded his answer.

Royal Commission into Trade Union Governance and Corruption

Senator O’SULLIVAN (Queensland—Nationals Whip in the Senate) (14:17): My very important question is to the Minister for Employment, Senator Abetz. Will the minister inform the Senate of the findings of the interim report of the Royal Commission into Trade Union Governance and Corruption?
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:17): The trade union royal commission interim report raises serious concerns about the activities of certain trade union officials. The report recommends that authorities consider laying criminal charges against officials or former officials of the CFMEU, AWU and HSU. These potential charges relate to acts of intimidation and coercion, breaches of the Corporations Act, blackmail and fraud and to making false statements. Significantly, the report, like others before it, found a 'culture of wilful defiance of the law which appears to lie at the core of the CFMEU,' the union that the Leader of the Opposition so faithfully served.

The concerns raised by the report do not stop there. The report also refers to a confidential third volume, a volume that has not been made available to the public because of concerns of the royal commission for the safety and security of potential witnesses. The royal commissioners stated that the contents of this volume 'reveal grave threats to the power and authority of the Australian state.' The report also makes adverse comments and criticisms about the internal operations and financial dealings of officials of the TWU, AWU, HSU, CFMEU and ETU. These findings are very serious. In the government's view, the report's findings confirm the urgent need for legislation to eliminate union corruption and contempt for the rule of law and to ensure that there is a tough cop on the beat in the construction sector.

The vast bulk of union officials faithfully represent their membership. That is why I am delighted that many in the trade union movement support the government's legislation. (Time expired)

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:20): Mr President, I ask a supplementary question. Will the minister inform the Senate of the steps that the government is taking to stamp out elements of trade union corruption like those identified in the royal commission's interim report?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:20): The coalition has reforms that are designed to stamp out the kinds of trade union corruption identified in the royal commission interim report. The coalition's Fair Work (Registered Organisations) Amendment Bill establishes a registered organisations commission to ensure that unions are held to the same standards of behaviour as companies and their directors, with the same penalties. It also raises the standards of financial disclosure for unions. The Building and Construction (Improving Productivity) Bill re-establishes the Australian Building and Construction Commission, which was ravaged whilst Mr Shorten was minister, and provides for the creation of a new building code to ensure that construction projects that use taxpayer funding are completed on time, on budget and in accordance with modern industrial law. Now more than ever, Australians deserve these assurances, and that is what we as a government seek to provide. (Time expired)

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:21): Mr President, I ask a further supplementary question. Can the minister advise the Senate of any impediments to its efforts to improve the governance of trade unions?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:21):
Regrettably, there is currently only one major party that supports a clean and honest union movement, and that is not the party of the unions. The handful of people who do not understand the need to clean up the trade union movement are Mr Shorten, the Labor Party and the Greens, who continue to oppose coalition reforms that would ensure that renegade union officials are held to account for their actions. Labor cannot be allowed to hold honest working Australians’ interest to ransom for the protection of their union mates. If Mr Shorten and Labor continue to oppose the re-establishment of the Australian Building and Construction Commission and the Registered Organisations Commission, it will be clear that they care more about their dodgy union mates than the needs of hard-working Australians. Those who are serious about ending the culture of union intimidation, blackmail and coercion identified by the royal commission need to act—(Time expired)

**Taxation**

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:22): My question is to the Minister representing the Treasurer, Senator Cormann. Does the government agree with Treasury that when some taxpayers avoid or minimise their tax in a sustained way the tax burden eventually falls on other taxpayers?

Senator CORMANN (Western Australia—Minister for Finance) (14:23): Yes, and that is why the government is working very hard to ensure that does not happen.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:23): Mr President, I ask a supplementary question. I thank the minister that that is the case. Could he explain then why the government took the advice of the big banks and the big end of town and refused to join the early adopters in signing information-sharing agreements at the G20 on tax? And why did he say in MYEFO said that it would not proceed with a targeted anti-avoidance provision to address certain conduit arrangements involving multinational corporations?

Senator CORMANN (Western Australia—Minister for Finance) (14:23): Australia has led the charge through the G20 in really driving the agenda when it comes to making sure that multinational companies pay their fair share of tax in those jurisdictions where they generate their profits. The Australian government is totally committed to making sure that every business that generates profits here in Australia pays their fair share of tax in accordance with our laws in relation to those profits.

There have been some further improvements agreed at the G20 and those improvements are being implemented in an orderly and responsible fashion to ensure that there is not a disproportionate impact on banking clients across Australia when it comes to passing through any additional costs that come with that. I would ask the Greens: why are you not supporting our efforts to ensure that tax subsidies on research and development are not going to the most profitable companies around Australia, including multinational companies? Why are you opposing a labour-saving— (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:24): Mr President, I ask a further supplementary question. I ask the minister why the community should not see the Treasurer as engaging in huff and puff when he talks about cracking down on tax avoiders when he did not agree to sign up early to information sharing by announcing in MYEFO that he would not proceed with getting rid of those tax avoidance provisions? Why should the
community believe the government is doing anything other than protecting the tax avoiders in keeping their tax havens?

 Senator CORMANN (Western Australia—Minister for Finance) (14:25): I find it very hard to take that question seriously, because Senator Milne as the leader of the Greens is right now fighting for a windfall gain for big oil. Right now Senator Milne as the leader of the Greens is fighting to ensure that taxes collected by the government in relation to fuel excise indexation are reimbursed to fuel importers and to fuel manufacturers in Australia. We have here the leader of the Greens—unprecedented in the history of Australia—who is fighting for regular reduction in the real value on the tax on fuel, who is fighting to give a windfall gain to big oil, who is fighting for less investment in public transport. When we have the leader of the Greens coming in here with crocodile tears trying to tell the government what we are and are not doing, I find it very hard to take her seriously. I am waiting for the Greens to wake up and to prosecute regime change in the Greens. I cannot wait for a secret ballot in the Australian Greens Party.

 National Security

 Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:26): My question is to the Attorney-General, Senator Brandis. Will the Attorney-General update the Senate on the recent meeting in London of ministers responsible for national security?

 Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:26): Last week I visited the United Kingdom where I co-chaired a meeting of the national security ministers of Australia’s closest partner nations, known as the ‘five eyes ministerial’.

 Senator Conroy interjecting—

 Senator BRANDIS: I thought you might be taking national security issues a little more seriously than that, Senator Conroy.

 Senators Conroy and Carr interjecting—

 The PRESIDENT: Senators Carr and Conroy. And Senator Cameron.

 Senator BRANDIS: The other participants were my co-chair, the UK Home Secretary, Theresa May, together with the US Secretary of Homeland Security, Jeh Johnson, the New Zealand Attorney-General, Chris Finlayson, and the Canadian Minister for Public Safety, Steven Blaney. We discussed a range of national security issues including cyber threats to critical infrastructure and information sharing among jurisdictions. But the meeting was dominated by the most important item, the increasing global terrorist threat and in particular the challenges posed by citizens seeking to participate in the Syria and Iraq conflicts on behalf of terrorist organisations and the threats posed by returning foreign fighters with increased terrorist capability and home-grown extremists planning domestic attacks.

 The national security ministers of the five jurisdictions agreed to increase collaboration on counterradicalisation, including by sharing approaches on prevention and intervention efforts aimed at exchanging best practice on the identification and management of radicalised and radicalising individuals and developing proactive strategies to address terrorist use of the internet and social media platforms. The efficacy of our approach requires strong laws and partnership with companies providing online services and the communities most vulnerable to terrorist propaganda. One important decision was to establish the Council of National
Security Ministers on a permanent basis with a view to it being held annually. Next year's meeting will be co-hosted by New Zealand and Canada and is planned to be held in Quebec.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:29): Mr President, I ask a supplementary question. Will the Attorney-General advise of other outcomes from the London meeting?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:29): Following the meeting a communique was issued, recognising the continuing challenges to the mutual security of our countries. We agreed that there must be a sustained and aggressive approach to address the global terrorist threat, in particular the increasing use of the internet by terrorist recruiters. We welcomed the opportunity to work with companies providing online services as a necessary way to achieve success. The ministers agreed to identify ways to enhance information-sharing, where appropriate, on travellers who propose a threat to the five countries' national security or national security interests. We also agreed to maintain and strengthen the collective efforts of the five countries to address the cyberthreat to critical infrastructure, including a focus on improving information-sharing with industry.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:30): Mr President, I ask a further supplementary question. Will the Attorney-General advise the Senate how the Australian government is contributing to the global effort to fight terrorism and to counter radicalisation?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:30): The Australian government is contributing on many fronts. Australia co-sponsored UN Security Council resolution 2178 on foreign terrorist fighters, adopted on 24 September last year, requiring all nations to prevent the financing of terrorists, their travel and activities, and to take all necessary steps to prevent the passage across their borders of foreign fighters. We are working with our foreign partners to detect, disrupt and degrade threats posed by terrorist groups.

We are working to counter the spread of radicalisation within our communities through a $545-million investment in social inclusion initiatives, our targeted Countering Violent Extremism Intervention Programme, and many other like initiatives. I will represent the government at the Summit on Countering Violent Extremism in Washington on 19 February, where the important conversations held in London—and particularly in regard to the need for a coordinated global response to address the issue of terrorism—will be an item of business.

(Time expired)

Homelessness

Senator LUDLAM (Western Australia) (14:31): My question is to the Assistant Minister for Social Services, Senator Fifield. I refer to the extraordinary open letter signed by more than 60 homeless service providers today, pointing out that, while the government budget is on a four yearly cycle, every front-line homeless support service in the country faces layoffs and closures because the government is refusing to commit to their continued funding. Will the government commit to a four-year National Partnership Agreement on Homelessness? And if not, why not?
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:32): I think it is important to point out that the previous Labor government not only terminated the NPAH funding beyond 30 June 2014, but it also failed to provide for homelessness funding in the forward estimates.

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

Senator Ludlam: Mr President, on relevance: if I had wanted to ask about Labor policy, I would have asked a Labor senator; you are the government, Senator Fifield. Mr President, I ask you to draw his attention to the question.

Opposition senators interjecting—

The PRESIDENT: Order! Thank you, Senator Ludlam; Senator Fifield had just commenced his answer and he is putting the context around the question you asked.

Senator FIFIELD: Thank you, Mr President. As I was saying, there was no provision for NPAH funding in the Pre-Election Economic and Fiscal Outlook in August 2013 issued by the former Treasurer. In contrast, the coalition government has provided $115 million for the 2014-15 National Partnership Agreement on Homelessness, which was matched by the states and territories. It is also important to point out that the states and territories are responsible for determining priorities, and retain the flexibility to decide which services should be funded. Mr President, in the short term, future arrangements for the National Partnership Agreement on Homelessness will be considered in the context of the 2015-16 budget, while longer-term arrangements for housing assistance and homelessness services will be considered in the context of the white paper.

Senator LUDLAM (Western Australia) (14:33): I thank the senator for his answer and I rise on a supplementary question. Senator Fifield, in the context of the $115 million you identified, I presume you are aware—through you, Mr President—that that amounted to a cut of $44 million. Will the government be restoring that cut, made as part of the extraordinary cuts to the housing and homelessness portfolio? And will the government immediately reinstate the $21 million it cut from peak bodies like Homelessness Australia just three days before Christmas?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:34): As I stated before, but I will restate it for Senator Ludlam: in the short term, future arrangements for the National Partnership Agreement on Homelessness will be considered in the context of the 2015-16 budget.

Senator LUDLAM (Western Australia) (14:34): Mr President, I rise on a further supplementary question: due to the failure of the minister to commit to funding, and the government's evident indifference to the plight of homeless Australians, can we take it that Minister Scott Morrison intends to bring the same spirit of compassion and humanity to the social services portfolio that he brought to the immigration portfolio?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:34): Mr President, I can answer that question in one word: absolutely! But I will expand upon it for you, Senator Ludlam. Minister Morrison, as Minister for Immigration, showed the ultimate compassion and the ultimate decency—because his ceaseless and absolute objective was to stop people dying at sea. And I am so pleased to be able to advise all of my colleagues in this place that Minister Morrison was
successful. Because of Minister Morrison's efforts, there are hundreds if not thousands of people who would otherwise have lost their lives at sea. It is a matter of great pride in this government that the people smugglers have effectively been put out of business. Minister Morrison is a man of great compassion and great decency. He wants to see Australians in work. He wants to see people who are facing extra challenges for reasons beyond their control getting the help they deserve.

**Asylum Seekers**

Senator REYNOLDS (Western Australia) (14:36): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. I refer to the fact that it has now been six months since the last successful people-smuggling venture reached Australia. Can the minister inform the Senate how the government accomplished this?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:36): Yes, I can inform the Senate as to how we did it—quite easily actually. We restored the proven border protection policies that were followed by the former Liberal government, the Howard government, which those on the other side quite unsuccessfully wound back in August 2008. And, in restoring those policies, we did it with commitment, with resolve and with perseverance. These, of course, are the policies which those on the other side—even on the last sitting day of the Senate last year—said would never work. They continued to say that in the face of all of the evidence. On that point, let me just look at the evidence.

Senator Cormann: They said it couldn't be done.

Senator CASH: They did, Senator Cormann; they did say it would never be done. But let us look at whether or not Operation Sovereign Borders is actually achieving the results that the government said that it would. Look at the facts: in the 12 months before Operation Sovereign Borders commenced we witnessed an astonishing 401 boat arrivals carrying over 26,000 illegal maritime arrivals. That is just in the 12 months prior to OSB commencing.

The PRESIDENT: Pause the clock.

Senator Wright: Mr President, I raise a point of order. The minister is seeking to mislead the parliament and the Australian people. It is not illegal to seek asylum in Australia.

The PRESIDENT: That is not a point of order; that is a debating point.

Senator CASH: They did, Senator Cormann; they did say it would never be done. But let us look at whether or not Operation Sovereign Borders is actually achieving the results that the government said that it would. Look at the facts: in the 12 months before Operation Sovereign Borders commenced we witnessed an astonishing 401 boat arrivals carrying over 26,000 illegal maritime arrivals. That is just in the 12 months prior to OSB commencing.

The PRESIDENT: Pause the clock.

Senator Wright: Mr President, I raise a point of order. The minister is seeking to mislead the parliament and the Australian people. It is not illegal to seek asylum in Australia.

The PRESIDENT: That is not a point of order; that is a debating point.

Senator CASH: I have to say: 12 months and 26,000 versus, under Operation Sovereign Borders, just one people-smuggling venture of 157 people—and all of those persons were transferred to offshore processing. That is success in policy, and it is a policy that those on the other side continue to oppose to their peril. They have basically stated to the Australian people that if they are re-elected we will see a return to the chaos and the cost of the Rudd-Gillard-Rudd Labor governments when it comes to losing control of our borders.

Senator REYNOLDS (Western Australia) (14:38): Mr President, I ask a supplementary question. Is the minister able to reaffirm to the Senate the government's commitment to offshore processing and is the minister aware of any alternative views?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:39): To quote Senator Fifield: in one word, absolutely. This government has made it very clear to the Australian
people that offshore processing is part of the suite of successful policy measures that this government has implemented to stop the insidious people-smuggling trade. When in government, if you remember what happened to those opposite, they were dragged kicking and screaming to this side of the chamber to vote for the reintroduction of offshore processing.

In terms of alternative policy approaches, I can enlighten the Senate, because on 22 January 2015 we heard some comments from the member for Fremantle, Ms Parke, who is quoted in The Australian as saying:

I do think that offshore processing is clearly not working and those centres need to close down.

So even in the face of the facts, the figures and the evidence those on the other side still do not believe— (Time expired)

Senator REYNOLDS (Western Australia) (14:40): Mr President, I ask a further supplementary question. Will the minister explain to the Senate why it is important to maintain strength and consistency when it comes to protecting Australia's borders?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:40): If as a government you are committed, unlike those opposite and in particular unlike the Australian Greens, to stopping the deaths at sea—and under the former government we know that in excess of 1,200 people died at sea attempting to make the perilous journey to Australia—we must stand by our strong policies. If we are committed to ensuring that the Australian government, and not the people smugglers, sets the law in relation to our borders then we must stand by our strong policies. If we are committed to ensuring a level of fairness for those asylum seekers or refugees who have been languishing in camps overseas for not five, not 10, not 15 but in excess of 20 years, then we must keep our resolve in relation to our policies, and that is what those on this side of the chamber will do. (Time expired)

Defence Procurement

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:41): My question is to the Minister for Finance. I refer to the claim by Senator Edwards that the submarine builder ASC will now be allowed to bid for Australia's new submarine contract, telling The Advertiser:

I'm very pleased with the decision of the Prime Minister … it now commits the Government to a full and open tender …

Was the finance minister consulted about this decision or was it another captain's pick? Can the finance minister confirm whether the Treasurer was consulted given that he said last year:

… we have run out of time … and we need to make decisions now.

Senator Abetz: Nothing inconsistent.

Senator Wong: 'Nothing inconsistent,' says Abetz.

Senator CORMANN (Western Australia—Minister for Finance) (14:42): Minister Abetz is exactly right. The position of the government has not changed and we remain committed—

Senator Wong interjecting—

The PRESIDENT: Order, Senator Wong!
Senator CORMANN: The government, as we always have been, are committed to purchasing the best possible submarines at the best possible price to maximise the national security benefit for Australia. In doing so, we have always said that we would pursue defence policy outcomes in the first instance and that we would be seeking to achieve value for money. What the Prime Minister has explained to colleagues, and what has been made public in recent days, is that we are committed in that context to go through a proper process which includes a competitive evaluation process. That is all that has been said. Now, this is—

Honourable senators interjecting—

The PRESIDENT: Order on my left!

Senator CORMANN: So, to the question by Senator Conroy on whether I am aware of government policy, of course I am aware of government policy. I have been involved in government processes every step of the way, and right now no decision has been made in relation to the procurement of submarines. We are committed to ensuring that we get the possible defence outcomes, the best possible national security outcomes, in the national interest. We are going through a proper process, and, as the Prime Minister indicated in an interview yesterday with Chris Uhlmann, we are committed to a competitive evaluation of the various options on the table.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:44): Mr President, I ask a supplementary question. I again refer to Senator Edwards, who boasted to the ABC this morning:

I've been able to extract a commitment from government.

Minister, is it an open tender, as Senator Edwards has claimed, or not?

Senator CORMANN (Western Australia—Minister for Finance) (14:44): Let me say right up-front that Senator Edwards is a fine senator for the great state of South Australia. Let me say that Senator Edwards, Senator Fawcett, Senator Bernardi, Senator Birmingham and Senator Ruston—all of the Liberal senators representing the great state of South Australia—are doing an outstanding job standing up for the best interests of the people of South Australia and the economic interests of the great state of South Australia.

In relation to the procurement of submarines, I do not really believe that there is anything else I can add to my previous answer, which was very comprehensive. The answer is that we are committed to purchasing the best possible submarines at the best possible price. We are going through a proper process and that process will include a competitive evaluation of all of the options on the table. That is the position of the government. (Time expired)

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:45): Mr President, I ask a further supplementary question. Given that expert after expert has confirmed that Australia's shipyards are capable of building submarines that meet our strategic requirements in a time frame that ensures no capability gap while providing value for money for taxpayers, why has it taken until the Prime Minister's job is threatened before he puts the national interest first? Given the Prime Minister's broken promises and desperation to have these subs built in Japan, why should he be believed now? (Time expired)

Senator CORMANN (Western Australia—Minister for Finance) (14:46): I do believe that that question goes somewhat beyond my area of portfolio responsibility. However, let me assist Senator Conroy. As I have indicated, the government has not yet made a decision in
relation to the procurement of submarines. The government is committed to getting the best possible submarines at the best possible price in order to get the best possible defence outcome, the best possible national security outcome. Of course, in doing so, we are following proper process, and that proper process will involve a competitive evaluation of the various options available to the government.

This is not a procurement of some paper, this is not a procurement of some food or drinks; this is a procurement of some significant defence infrastructure, and we will be going through the proper process and it will be done in a competitive evaluation way.

Higher Education

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:47): It is with great pleasure that I rise to ask the first question of the Assistant Minister for Education and Training, Senator Birmingham, representing the Minister for Education and Training. Congratulations on his elevation to the ministry. Can the minister please update the Senate on the progress of the government's higher education reforms?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:47): I thank Senator Ruston for her question—and for her congratulations—and her particular interest in higher education, and especially for regional universities and regional students and their roles in the higher education sector.

Our government is committed to delivering reforms that position Australia well for the future, reforms that ensure Australia is in a position to compete on the world stage, reforms that ensure all parts of the Australian economy are able to succeed, and that includes, importantly, our higher education sector. That is why, as senators will know, the government has introduced a new higher education reform bill which includes a number of important reforms that we have adopted and included from the members of the crossbench following our consultations last year. Of course, the core essentials of our reform bill remain intact, because it is so important to position our university sector as being as competitive as possible into the future. But the new reform bill does adopt a number of important aspects.

The new reform bill accepts Senator Day's proposal to keep the indexation of HECS at the CPI. It accepts Senator Madigan's proposal, which I understand Senator Dio Wang also supported, commending for HECS indexation to be paused for the primary caregiver of newborns. As advocated by Senator Muir, the government will fund more scholarships for students from disadvantaged backgrounds, on top of the Commonwealth scholarships which the reforms will create. The new reform bill guarantees that domestic fees, combined with the Commonwealth contribution, must always be lower than any applied to international student fees. The government, under the new bill, will also direct the ACCC to monitor higher education fees—(Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:50): Mr President, I ask a supplementary question. Can the minister advise the Senate of recent support for the government's higher education reforms?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:50): I can apprise the Senate, and it is a range of very important developments in this regard.

Senator Wong interjecting—
 Senator BIRMINGHAM: Senators, particularly Senator Wong, might like to know that the Regional Universities Network, TAFE Directors Australia and Universities Australia have all reiterated their support for higher education reform. They have all reiterated their support for the core components of our government’s reform package, such is the breadth of that appeal. As Universities Australia recently said:

Our appeal to Senators—

that includes all of you opposite—

as they return to Canberra is not to ignore the opportunity they have to negotiate with the Government in amending and passing a legislative package that … delivers the quality of education that students and parents expect.

We have been willing to listen; we have been willing to negotiate. We would welcome those opposite to come to the party and engage in the reform agenda too. *(Time expired)*

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:51): Mr President, I ask a further supplementary question. Can the minister further inform the Senate of other developments in relation to the government’s higher education reforms?

Opposition senators interjecting—

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:51): Senator Wong and others might like to know that it is not just the Regional Universities Network, not just Universities Australia, not just the TAFE Directors Network; indeed, various Labor figures have urged the opposition to engage in this reform debate. Former Treasurer and former higher education minister John Dawkins has urged the Labor Party to engage in this debate; the architect in many ways of the modern university system has urged Labor to engage. Maxine McKew has urged them to engage. Let me quote from The *Australian*, under the heading ‘Dawkins backs uni reforms’:

The father of the modern university system, former Labor minister John Dawkins, has backed fee deregulation and urged the party not to lock itself out of sensible reforms. But if John Dawkins does not do it for those opposite, what about Gareth Evans? He, too, has backed the reforms. So we would say to those on board, 'Listen to Mr Dawkins! Listen to Mr Evans! Come on board!' *(Time expired)*

Health Care

Senator O’NEILL (New South Wales) (14:53): My question is to the Minister for Finance, Senator Cormann. Does the GP tax remain a government policy or not?

Senator CORMANN (Western Australia—Minister for Finance) (14:53): What remains the government’s policy is that we want to protect Medicare for the long term. We want to ensure that vulnerable patients—in particular pensioners, concession card holders, children and the like—have access to bulk-billing arrangements, but that those of us who can afford to make a small contribution when accessing medical services will do so. The specifics in relation to how all of that will work moving forward are the subject of consultations by the Minister for Health, my valued friend and colleague, Ms Sussan Ley. I am sure she is working closely with the medical profession and other stakeholders on the detail in relation to all of this.
But let me make this point. As a nation we have a challenge to ensure that all Australians can have timely and affordable access to high-quality health care in a way that is also affordable for taxpayers over the medium to long term. That is our challenge, and we are taking that challenge on in the context of an ageing population, increasing demand for medical services and improvement in medical technology and the like. The cost of medical services across Australia has been increasing quite rapidly. About 10 years ago it was about $8 billion; it is about $20 billion now and it is on track to be about $34 billion in about 2024.

As a nation we cannot put our heads in the sand. As a nation we have to grapple with the situation where government expenditure on health is growing more rapidly than our income; it is growing more rapidly than the size of our economy; it is growing more rapidly than inflation, and it is projected to continue to do so for some time to come. In terms of the specific way forward, the Minister for Health will continue to conduct consultations with all relevant stakeholders, and there will be more to say about these things in the future.

**Senator O'NEILL** (New South Wales) (14:55): Mr President, I ask a supplementary question. I was listening to that with both ears, and I think it was, 'GP tax remains the government policy.' On that basis, on what basis did Mr Simpkins announce on Sky News this morning that the Prime Minister had dumped the GP tax?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:56): I have got to admit I have not seen every interview from every colleague over the last week, so I have not seen that particular interview. There have been a few interviews going, so I am still working my way through the transcripts. What the Prime Minister has indicated publicly—because I will not talk about what was raised in the party room—is that we will not be proceeding with changes to Medicare that are opposed by the medical profession. What we have learned is that when a politician, with the best of intentions, tries to do things in this space to make things better but does not have the medical profession on board, that is not a sensible way forward. We have learned that lesson. That is why the minister, Ms Ley, will be consulting with the AMA and other stakeholders to come up with the best possible way forward.

**Senator O'NEILL** (New South Wales) (14:56): Mr President, I ask a further supplementary question. Isn't the Abbott government's refusal to dump the GP tax just another example of a prime minister who will not listen to his backbench, will not listen to the experts and will not listen to the Australian public?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:57): I completely reject the premise of this question. This government is focused on putting Australia on a stronger foundation for the future. That includes making sure that Medicare remains strong for the medium to long term, that we protect Medicare and that the benefits of Medicare are available to patients across Australia for many, many years to come. We are facing some challenges as a nation. We are facing some challenges in the context of an ageing population, in the context of increasing costs of health care and in the context of improvements in medical technology and the like. We are working to come up with the best possible way forward that protects vulnerable patients but also seeks to ensure that funding for timely and affordable access to quality health care for patients remains affordable for taxpayers over the medium to long term. That is our responsibility as a government, and we will continue to work in the best interests of Australians. (Time expired)
National Disability Insurance Scheme

Senator SESELJA (Australian Capital Territory) (14:58): My question is to the Assistant Minister for Social Services, Senator Fifield. Will the minister update the Senate on the latest milestone achieved by the National Disability Insurance Scheme.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:58): I thank Senator Seselja for his question, as always. I know that you and all colleagues will be very pleased to know that last week an important milestone was passed with the inclusion of the 10,000th participant in the NDIS. I was in the area of Geelong in the Barwon trial site with Sarah Henderson, the member for Corangamite, NDIS staff and NDIS participants when we marked this important occasion. On an occasion such as that, I did acknowledge the cross-party support there is for the NDIS, as I think is appropriate.

We heard some great stories about the experiences of NDIS participants. There was a board, as you walked into the Barwon trial site office, that had cut-out figures, and on those cut-out figures were written down some of the experiences of participants. One of them was of a 57-year-old woman who was able to move out of home for the first time and live alone so that her mother could be more of a mother and less of a care-giver and a supporter; a 7-year-old child who was able to tie his shoelaces; and a pair of twins who, because of the supports that they had received, were now able to ride bikes together. These are the sorts of changes, the sorts of positive improvements, in the quality of life that we are seeing as a result of the NDIS. As impressive as the facilities of the NDIS are, the great work of the staff and what we do collectively as a parliament, none of it has meaning; it only has meaning insofar as it improves the quality of life of individual Australians.

Senator SESELJA (Australian Capital Territory) (15:00): Mr President, I ask a supplementary question. Can the minister advise the Senate how the Commonwealth intends to progress the National Disability Insurance Scheme during this year.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:00): As colleagues will know, there are currently seven NDIS trial sites around the nation and, as I said before, 10,000 participants. By full scheme, there will be 460,000 participants. The next stage is to negotiate the bilateral agreements between the Commonwealth and each jurisdiction for how rollout will progress beyond the trial sites, throughout each individual state and territory. Those negotiations have started. They will be concluded by the middle of this year. It is fair to say that, although the end goal will be the same in each jurisdiction, how each state and territory reaches that point may differ. Each jurisdiction will have its own ideas and does have its own ideas as to the best way to phase rollout in those jurisdictions. It will be an important six months as we plan and prepare for the full nationwide NDIS.

Senator SESELJA (Australian Capital Territory) (15:01): Mr President, I ask a further supplementary question. Will the minister inform the Senate why budget repair is so important for the NDIS.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:02): I have said it before in this place and I think it bears repeating that good economic policy and good social policy are not alternatives. They
are not in competition; they are in fact two sides of the one coin. You cannot fund and sustain a good social policy unless you have a good economic policy, and at the heart of a good economic policy is having a good budget policy. All my colleagues on this side, in their respective areas, are making a contribution to good budget policy. That is important because the NDIS needs to be—we all agree—something that stands the test of time, something that is sustainable. While we make difficult decisions in some other portfolio areas, one of the reasons we do so is to make sure that we will have the financial resources to fund the NDIS into the future, and this is all part of the government focusing on what is its core business.

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

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Answers to Questions**

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (15:03): I move:

That the Senate take note of the answers given by ministers to questions without notice asked by Opposition senators today.

Mr Deputy President, if you ever wanted an example of the chaos, dysfunction and dishonesty at the heart of the Abbott government, it would be the way in which the submarines promise and project has been handled. If you ever wanted an example of how this Prime Minister Abbott cannot be trusted by the Australian people or by his backbench, it would be in relation to the Future Submarine Project. Let us recall this sorry saga.

Before the election, the Abbott opposition, as the Abbott government were then, promised that 12 submarines would be built at the Australian Submarine Corporation in Adelaide. They promised that. It was a clear open and shut case that the submarines would be built in Adelaide. All of sudden, after the election, that undertaking was dumped and this Prime Minister decided that he would have the submarines built in Japan. He broke his promise. It was a decision that not only sold out South Australia but also went against Australia’s economic and strategic interests.

We could not imagine that it could actually get any worse than the complete debacle, chaos, dysfunction and dishonesty that is the submarines project under this government—and that was, of course, we know, after Senator Johnston, as the former defence minister, talked about canoes. But even that appalling standard was breached again over the weekend. Things actually got worse. The jobs of South Australians and a multibillion dollar project became pawns in the leadership battle inside the Liberal Party, because the Prime Minister indicated to Senator Edwards that magically, instead of the deal with Japan, there would now be a competitive, open tender. Senator Edwards—who is not here, and I invite him to come in and clarify this, because it is quite clear that he has been sold a pup—got on Adelaide television, beat his chest and said to everyone: 'We've had a win. I've had a win.' He said that there would be an open, competitive tender. The only problem was that the Prime Minister did not say that when he was asked that in his interview with Chris Uhlmann. He did not say that he would have an open tender. We saw again today the finance minister running away from committing to an open tender—the open tender that Senator Edwards said was his big win. And then what did we have? We had Mr Briggs really putting the boot into Senator Edwards on 891 today, where he said:
… the position today is the same as the position was last week, and I’m pleased that Sean’s happy about that.

As Matt Abraham, the ABC journo, tweeted—‘Slam dunk’, because Senator Edwards went out and told all the South Australians that he had got a deal with the PM to have a competitive, open tender. But the reality is: what we know about this is that there was a Prime Minister who was prepared to play politics with the largest procurement this country will ever see in order to get a vote in a leadership ballot. It is extraordinary—a multibillion dollar project is played to get a vote in a no-confidence motion, a spill motion, against a sitting Prime Minister.

**Senator O’Neill:** Shameful!

**Senator WONG:** It is utterly shameful. The reality is that, when it comes to Future Submarines, this Prime Minister did not care about South Australian jobs, and did not care about Australian jobs, until his own job was on the line. What he did was send smoke signals out to a member of his backbench, who then stood up in front of the cameras at Adelaide Airport last night telling everybody that he had had a win—only to be told the next day by various ministers, in their public statements, that nothing had changed. Well, someone is telling lies, someone is telling porkies. Either the Prime Minister did tell Senator Edwards that there would be an open, competitive tender and is now backtracking on it—hoping that no-one will notice the weasel words when he talks about evaluation processes, as opposed to a competitive tender process—or Senator Edwards was lying when he stood up in front of the voters of South Australia last night and said, ’I’ve had a win.’ Someone is telling lies. Senator Edwards should come into this chamber and tell South Australians precisely what was committed by the nation’s Prime Minister in relation to the Future Submarines project. He should do that, and the Prime Minister should declare what his position is. (Time expired)

**Senator BACK (Western Australia) (15:08):** I congratulate the Australian soccer team on winning the Asian cup, and I can only reflect on what a wonderful thing it is that Senator Wong was not a member of the team. Senator Wong scored an own goal today in asking that question of Senator Abetz. Senator Abetz’s rejoinder was that, when this issue was resolved today, he did not turn on the leader as Senator Wong had done to Mr Rudd and Ms Gillard in her time as Leader of the Senate. What we saw playing out in this place today was the contrast between the Liberal Party and the Labor Party. What we saw historically with Mr Rudd and Ms Gillard was the greatest act of bastardry and lack of loyalty—and, of course, it played out in the sense that the Australian people did not even have the opportunity to have their say.

What we saw today was a mature process enacted by a backbench. I again go to Senator Wong’s supplementary question in which she demanded of Senator Abetz that he confirm that the cabinet had a free vote. The Labor Party just do not understand. A secret ballot, as I remember it, is a ballot that allows each person to state their position without fear or favour or influence. And that is what we had today in our party room. We had a secret ballot indicating a free vote—no opportunity for the Prime Minister of the day to put pressure on cabinet members, ministers or anybody else. When Labor went into opposition we had the spectacle of the rank and file having an opportunity to have a vote—and they supported Mr Albanese. But when the parliamentarians in the Labor Party had their vote, they selected Mr Shorten. So
we have a Leader of the Opposition who does not enjoy the full support of those who had the opportunity to vote.

We have had questions asked today by Senator Moore. All this went to was the fact that on our side of politics—as evidenced by Ms Gambaro's comments, statements and questions—we are free to speak in public without any fear of retribution. We have a mature process. We have a process that is fully democratic. We have a process, as played out today, where people have the opportunity to decide whether they want to have a spill. That is in contrast to the circumstances in which Mr Rudd lost the prime ministership.

I would now like to address the issue raised now by Senator Wong with regard to submarines and the program for the replacement. What a lamentable situation it is for the senior South Australian senator in this place—a senior minister when Labor was in government and now the Leader of the Opposition in the Senate—to raise her nose above the spectre of the failure of the last government when it came to submarines for this nation and indeed for South Australia. Absolutely nothing was left for the incoming government in terms of a program to replace the submarine fleet. When the Labor Party was in government we heard nothing from Senator Wong, Senator Farrell or anyone else about what the future might hold. And we now have this sanctimonious bleating from Senator Wong and others. What the Prime Minister has said—echoed by the Minister for Finance—is that, in the interests of the Australian community, we will have a competitive process to determine who will build the future submarines of this country. We would not be in this position if Labor, in government, had acted. (Time expired)

Senator O'NEILL (New South Wales) (15:14): I rise to take note of answers given by Senator Abetz and Senator Cormann today in particular. Senators must have forgotten over the Christmas break what the purpose of question time is, because the answers given today bear little resemblance to the questions asked. It also seems that the entire Parliamentary Liberal Party has forgotten the purpose of government. They are now completely consumed not with matters that are important to the people of Australia but, rather, matters of personality in their own party and who could win a high-school popularity contest—the cool kid in his leather jacket, the member for Wentworth, or the athlete, the Prime Minister.

Today, the Australian people have been done a great disservice by the Liberal Party, who are unrepentant. In his answers today, Senator Abetz seemed unfazed by the fact that his Prime Minister bound his cabinet to support him at today's Libspill, taking away from the party room their usually robust free vote that we hear about so often. But even forcing his cabinet colleagues' support was not enough to make Tony Abbott's leadership secure.

Senator Abetz: That's Mr Abbott to you.

Senator O'NEILL: Forty per cent of his party room have deserted his chaotic leadership. The obeisance from that comment that we just had from Senator Abetz demanding that I call the Prime Minister Mr Abbott and not dare to speak his name reminds me of those—

The DEPUTY PRESIDENT: It is the correct form of address. I ask you to do so please.

Senator O'NEILL: The Prime Minister. Two-thirds of his backbench know that they do not keep their seats with Tony Abbott at the helm, making his captain's picks and guiding them from disaster to disaster. Bullying and intimidation were not enough to keep the backbench members in line. There has been a breakout of people who are sick to the teeth of
the Prime Minister's constant promises of improving his behaviour and being more consultative. They have learned their lesson: they simply have to ignore what he says, because his actions have spoken very loudly. He ignores his own backbench in the way he ignores the Australian people.

Senator Abetz refused to comment when questioned about the cruel and unfair tactics that were being used to get members of parliament to back the faltering horse. But who can blame the Liberal backbenchers? They hear one story from their colleagues and they hear a different story from the media. Now they even have the Prime Minister on the phone at the eleventh hour, making conflicting promises to different members and senators to secure his leadership. Is the GP tax gone? The Member for Cowan thinks it is. I wonder where he got that impression. Senator Cormann says it is here to stay. Will our submarines be built in Australia? Senator Edwards thinks so, and he thought so so powerfully that he went out in public yesterday and again this morning, claiming that he had a deal with the Prime Minister to deliver those submarines for South Australia, to have an open tender. But today we have heard all the weasel words again. Tony Abbott obviously still wants them to be built in Japan.

Will the Prime Minister listen to Australians on higher education? Tony Abbott says he will be more consultative. Australians just do not trust him to listen to his backbench, do not trust him to listen to the experts and do not trust him to listen to the community. The Liberal Party promised to be a grown up, adult government that ‘thinks before it acts’, but the only thing they are thinking of is themselves. The Liberal Party promised to be a no-surprises, no-excuses government, but all we have seen is excuse after excuse from this dysfunctional, untrustworthy Prime Minister and his government.

But after all this the Prime Minister has promised that good government would begin today.

Senator Conroy: What were you doing for the past 16 months?

Senator O'Neill: How could good government begin today? Was this the day that he foreshadowed and heralded to himself as the day that he would begin good government? It is more than 520 days since the Prime Minister took the leadership of this country—520 days of what I would say is clearly bad government. I absolutely agree with Senator Conroy there. If you are going to start good government today, that is all we can assume has been the case. That is why the fortunes of this Liberal Party-Nationals coalition are at such a low point: they lied to the Australian people to get into government. They came through and revealed their colours in all their darkness, despair and misery in the budget, and Australians are awake to you. They are on to you, and it only a short time before the Prime Minister loses his position. (Time expired)

Senator Sebelja (Australian Capital Territory) (15:19): I am going to respond particularly to Senator O'Neill's contribution.

Senator Conroy: Deny you were the informal vote.

Senator Sebelja: I do deny it 100 per cent.

Senator Bilyk: Did you vote yes?

Senator Sebelja: No, I voted no and I made it clear before and after.
One of the reasons I do so is because, whilst there is no doubt that we as a government and the Prime Minister have acknowledged that we could have done better, I would like to outline for the Senate in the time I have available the significant achievements that this government has already made in its first 17 months in office. These are undeniable achievements. These are significant achievements. These are achievements that we now need to build on. We should not forget what we have done, the mess we have inherited and the efforts we have made to fix that mess over the last 17 months.

If there had not been a change of government, we would still have the carbon tax. Australians would still be forced to pay an extra $550 a year because the Labor Party decided that was a reasonable imposition. It is interesting in the context of debates about a co-payment that the Labor Party, who are opposed to any form of price signal, say they are happy for households, no matter how much money they might have, to have to pay an extra $550 a year as a result of their carbon tax. So we got rid of that, not just taking pressure of households but helpfully creating jobs, taking pressure off business, lowering the cost of doing business in this country so that we can grow jobs. That is the sort of thing we have seen.

We got rid of the mining tax for one of our key industries. Again it is about economic growth, it is about investor certainty and it is about jobs. It is, importantly, about jobs. The mining tax was another attack upon a key industry in this nation. The Labor Party and the Greens came up with this scheme, and we have managed to get rid of it.

What else have we seen? We have stopped the drownings at sea—a significant achievement—

Senator Ludlam: You’ve stopped the solar industry. Well done!

Senator SESELJA: Senator Ludlam says, 'Well done,' and we do not ever hear that when we look at stopping the drownings at sea. When it came to Greens and Labor policy, there did not seem to be any angst about the fact that their policies were leading to people getting on leaky boats and drowning on the way here. That was the result of their policies. So that is another change we have seen, and this is one that we were told could simply not be done. We were told by those opposite—by the Labor Party—by the Greens and by other commentators that you could not stop them, because Labor had not managed to for the past few years, and we had seen the tragic consequences. Well, as outlined by Senator Cash today, with resolve and with the right policy mix, you actually can. If we are going to have the usual critics of the government then we should look at those significant achievements. We have seen the abolition of the carbon tax, reducing the cost of living; getting rid of the mining tax, protecting our key industries; stopping the drownings at sea and securing our borders; and free trade agreements across the board with China, with Japan and with Korea. This is all about growing the economy and all about opening up economic opportunities for Australians and Australian businesses so they can create the jobs of the future, so that our service industries can go into these markets in Asia. What did the Labor Party do on free trade agreements? Well, they procrastinated. They could not get them done. They were not actually committed to them.

Opposition senators interjecting—

Senator SESELJA: I hear the interjections about Tasmania. The free trade agreements will be wonderful for Tasmania. Tasmania has suffered under the weight of a Labor-Greens
government in Canberra and a Labor-Greens government in Tasmania. We have Will Hodgman and his team turning things around; we have things like a free trade agreement and getting rid of the carbon tax, which will also help turns things around, not just in Tasmania but also around the country; we are building roads of the 21st century and have hundreds of millions of dollars in environmental approvals, which, again, is all about growing jobs for the future and growing our economy. So whilst there is much more that can be done and we can do things better, they are significant achievements that should not be forgotten. (Time expired)

Senator CAROL BROWN (Tasmania) (15:24): What we have heard here today, not only in the responses to questions by the opposition but also in the responses by the coalition senators, is that nothing has really changed. After the chaos that we have seen in the government in the last few days, nothing has really changed. We have a Prime Minister who has admitted today that good government starts today—some 16 months after they came into office, 520 days since they came into office—good government starts today. And yet we have heard here today from coalition senators and their ministers that nothing has changed. Their responses are all the same. Nothing has changed. They need to understand what their back bench has been telling them. The Australian people have been telling them that their problem is that they delivered a manifestly unfair budget. They know it and the Australian people know it. The only difference is, they do not care. They did not care. The Australian people will not let you get away with this. No amount of restarts or reboots are going to change what this government is all about. They just do not care. They will continue their attack on low- and middle-income Australians. They will somehow continue with their GP tax, they will continue to inflict $100,000 university degrees on our children, they will continue with the cuts to pensions and family supports, and they have cut $80 billion from schools, education and hospitals. All of these things they said they would not do, and the Prime Minister said they would not do. He lied. He lied to the electorate. What we have now is—

Senator Abetz: Mr Deputy President, a point of order: accusations of that nature against a specific member of parliament are disorderly and need to be withdrawn.

Senator CAROL BROWN: Mr Deputy President, on the point of order: I did withdraw and then I continued my contribution.

Senator Abetz: By saying the Prime Minister lied.

Senator CAROL BROWN: I said the Prime Minister's government lied. The coalition lied to the electorate. It does not matter how—

Senator Abetz: Mr Deputy President, a point of order: the withdrawal has to be unequivocal, and the allegation cannot be made against a specifically identified member of parliament. The senator knows that, and she should abide by the standing orders.

Senator CAROL BROWN: Mr Deputy President, on the point of order: I did withdraw and then I continued my contribution.

Senator Abetz: By saying the Prime Minister lied.

Senator CAROL BROWN: I said the Prime Minister's government.

Senator Bushby: And then you said that he lied.

Senator Abetz: And then you said he lied.

The DEPUTY PRESIDENT: Senator Brown, I have taken some advice on this and the words you are using really get us close to the point of being unparliamentary. I think it would be useful if you would withdraw those remarks and continue with your contribution.
Senator CAROL BROWN: I withdraw. I thought that was what I was doing before.

The DEPUTY PRESIDENT: Thank you, Senator.

Senator CAROL BROWN: What we have seen here is a coalition that is now fighting amongst itself. We have a third of the coalition caucus room not supporting the Prime Minister. We have a Prime Minister who has no respect for his back bench. We saw recently in his Press Club speech that he would have no more captain's calls and more consultation—I am not sure what Mr Abbott thinks 'more consultation' means—yet he changed the meeting time for this spill motion with very little consultation.

Senator Conroy: Have you seen the video?

Senator CAROL BROWN: I have not seen the video but I cannot wait to—

The DEPUTY PRESIDENT: Order!

Senator CAROL BROWN: And just days after he said he would consult more he changed the party room time to wrong-foot the backbench, and others, to deny proper discussion and consultation for his own caucus room. That is what he did. That is what he did, because he knew that the backbench were unhappy, he knows that he has been leading a government that has broken many promises to the electorate and he knows that the outspoken complaints about the way he operates and the way this government has been operating were only going to gather momentum. After this cruel and unfair budget, I do not think anybody would really trust this government again to keep any of its commitments.

We have heard over the last few days some of the comments that the backbench have been making as to what is really occurring inside the Liberal Party caucus. We have heard from Ms Gambaro, who said: 'We cannot govern ourselves in an internal climate of fear and intimidation. And that is the unacceptable situation we have endured for the past five years.'

(Time expired)

Question agreed to.

Homelessness

Senator LUDLAM (Western Australia) (15:30): I move:

That the Senate take note of the answer given by the Assistant Minister for Social Services (Senator Fifield) to a question without notice asked by Senator Ludlam today relating to homelessness initiatives.

Mr Morrison has taken over responsibility for some of the most vulnerable people in our community: people at risk of homelessness or who are actually suffering homelessness. Perhaps Senator Fifield recognised that I was being somewhat tongue in cheek in the final question that I put to him, about whether Mr Morrison was going to bring the same spirit of compassion and humanity that he brought to the treatment of people seeking sanctuary and refuge in Australia to people who are suffering homelessness.

Homelessness kills people. Presumably none of us, on any side of politics, have ever been homeless or potentially at risk of homelessness, but I bet we all know somebody who has, because it is so widespread in a housing market as warped and overheated as that of Australia. It is a Commonwealth government responsibility to do something about it, whether it simply be through guaranteed funding through four-year budget cycles or whether it be more hands-on forms of assistance to homeless people. There is nothing in the Constitution that says it is solely a state responsibility or that we should simply throw some of the most vulnerable
people in our community into the teeth of the market. The market has failed, and it continues to fail people who are falling through the cracks.

Senator Fifield, understanding that you are in a representative capacity when you come in here and that you are not responsible for the portfolio, it is kind of dismal to simply hear back a recitation of what the Labor Party had done. Under the former government, we had a Minister for Homelessness that we could take these questions to. Under the former government, we had direct assistance like the National Rental Affordability Scheme. The Rental Affordability Scheme was not perfect, but it was something that was brought in by former Prime Minister Kevin Rudd after being developed extensively over a period of years by housing peak bodies and people with experience in financial markets to try and work out how to get something happening on the supply side, and you have trashed it. You pulled it apart. It is hard to believe that you could simply come in here and blame the former government. You have been here for 16 months.

Maybe this is a part of the commitment that good government starts today. Maybe good government on behalf of homeless people could start today, because sweet stuff— all has happened up until this point, apart from abolishing things that had previously existed. You have cut $235 million from the National Rental Affordability Scheme. I imagine that senators from the crossbench and from the opposition would have worked with this government to improve that scheme, which was flawed and which we had been critiquing for months and years. I would imagine that those on the crossbenches and the opposition benches would have worked with the government to improve that scheme, and instead you have just thrown it out the door. The First Home Saver Accounts scheme has been abolished—$130 million. Homelessness research strategy funding—

Senator O'Sullivan: No money. You didn't leave enough money behind.

Senator LUDLAM: There seems to be enough money to build $40 billion worth of submarines and Joint Strike Fighters. There seems to be enough money for these random defence procurement decisions that seem to be getting made. There was enough money to send hundreds of millions of dollars back to Rupert Murdoch. There was enough money to give the mining industry a massive tax cut. So do not start complaining about money, because it is falling on deaf ears for people who are suffering homelessness.

The homelessness research strategy has been axed. The Housing Help for Seniors pilot program, $170 million, has been axed.

Senator O'Sullivan: The structural deficit, up to $60 billion, left behind by you and Labor.

Senator LUDLAM: Most of them Howard era tax cuts, as you well know, for people in the middle class who could have done without it. There is money in the budget for your pet projects but nothing for people suffering from homelessness.

The thing that I brought in here to Senator Fifield for question time is that you are keeping every homeless support service, crisis centre and shelter in the country on starvation budgets that roll forward a year at a time. So you have told them, effectively, that there will be no guaranteed funding commitment till after the budget, which occurs in May, and their funding falls off a cliff at the end of this financial year, at the end of June, which means they are looking at redundancies, cannot sign rental and lease agreements for properties and cannot put
people into long-term care or long-term programs if the funding is not guaranteed. Imagine if the rest of government tried to work this way. Imagine if you made the defence department work this way. You go to the defence department and you say: ‘We don't know what your budget's going to be on 1 July. In fact, we don't know if there's going to be any funding for defence at all. We may have to make savage cuts, and we won't tell you until May.’ That is gargantuan incompetence and indifference to the plight of people who need better from us. They need better from the government and they need better from this parliament.

So, as these groups whose funding you so casually cut on Christmas Eve last year come into parliament over the next couple of days, we will be seeking answers from this government as to what it intends to do, and we will be seeking funding certainty.

Question agreed to.
member, Mr Jim Fraser. He held the seat in 1972 and in 1974. He became the first member for Canberra when the ACT was divided into two seats. He lost his seat at the general election in December 1975.

With the election of the Whitlam government in December 1972, Kep Enderby was first appointed Minister for the Capital Territory and was the inaugural Minister for the Northern Territory. It was not easy for the local MP to also be the ACT minister and in 1973, in a reshuffle, he was appointed Minister for Secondary Industry and Minister for Supply. As an aside, I noted in one of the articles in the newspapers when he was minister: ‘General Motors Holden will sack up to 5,000 workers next month.’ It seems, no matter how far back we go, the same sort of vicious issues keep confronting this parliament.

In 1975, when Lionel Murphy was appointed to the High Court, Mr Enderby became Attorney General of the Commonwealth and Minister for Customs and Excise—later to be changed to Minister for Police and Customs, following the Whitlam government's announcement of a new Australia Police force. Following his defeat in the coalition landslide at the end of 1975, Kep Enderby moved to Sydney and returned to the bar. In 1982 he was appointed a judge of the Supreme Court of New South Wales, serving on the bench of that court for 10 years. In 1997 he was appointed head of the New South Wales Serious Offenders Review Council. He continued a wide involvement in community life, especially with the New South Wales Council for Civil Liberties and as President of the Australian Esperanto Association.

Kep Enderby had a good-natured and engaging personality and generally avoided the rancour of political debate, preferring the barrister's approach of reasoned argument. To his wife, Dot, and his two children—his son, Keir, and daughter, Jo—I offer deepest sympathies on behalf of the government, and I also extend those to his grandchildren and great-grandchildren. I express the deepest sympathy at the passing of Kip Enderby after a full and productive life in the service of Australia; I also thank the extended family for lending him to the nation throughout his distinguished career.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:42): I also rise to speak on this motion of condolence on the death of the Hon. Kep Enderby QC. Kep Enderby, as he was known, died on 7 January this year at the age of 88, the closing chapter in a life devoted to the service of his profession, his party, his community and his country. He was a man of principles and ideals—a social reformer committed to human rights, civil liberties and the protection of the weak. He rose to the office of Attorney-General and he held the position for just nine months—the turbulent period at the end of the Whitlam government's time in office. But in that time, Kep Enderby made sweeping social reforms which have stood the test of time. He modernised Australian family law with legislation which included no-fault divorce. He legislated to tackle racial discrimination, to decriminalise homosexuality and to remove the death penalty from the federal statute books.

Kep Enderby was born in 1926 in the town of Dubbo. His parents owned the local milk bar and he attended the local state primary and high schools. He joined the RAAF in 1944 and trained as a pilot during the Second World War. As Senator Abetz has said, he was a top amateur golfer after the war and for a while considered turning professional; but in the end he decided to pursue a career in the law and trained as a barrister in London and Sydney. In the early 1960s he moved to Canberra to take up a position as a law lecturer at the then newly
established Australian National University. He said that in those days he was drunk on the words of Karl Marx and the Russian anarcho-communist Pyotr Kropotkin. Well, it was the 1960s, I suppose!

He joined the Australian Labor Party and by 1970 had won preselection for the electorate representing the ACT. In those days there was just one seat for the ACT in the House of Representatives—the seat which he won at a by-election in May 1970. This was an exciting time for Kep Enderby himself but also for the Labor Party. Gough Whitlam was capturing the public imagination and the mood for social and political change was growing. In 1972 Kep became part of the Whitlam government, the first federal Labor government in 23 years. He served as Minister for the Capital Territory, Minister for the Northern Territory, Minister for Supply, Minister for Manufacturing Industry and Minister for Customs and Excise. Then, in February 1975, he became the Attorney-General.

As I mentioned previously, in the nine months from February to November 1975 he secured parliamentary passage of some ground-breaking legal reforms. They included the Family Law Act and the Racial Discrimination Act. He drew on his own experiences as a lawyer to make the case for no-fault divorce, a major social reform in Australia. As he told the House, all of us who have done this work in the courts know of cases where the inheritance of the children is dissipated because the parties have been encouraged to hate each other to such an extent that they fight on.

In his second reading speech on the Racial Discrimination Act, he cited the International Convention on the Elimination of All Forms of Racial Discrimination and its assertion that all human beings are born free and equal in dignity and rights. He argued that the bill was designed not only to give legal remedies to the victims of discrimination but also to perform a critical educational role in the community. He said, and those words are apposite today:

The proscribing of racial discrimination in legislative form will require legal sanctions. These will also make people more aware of the evils, the undesirable and unsociable consequences of discrimination—the hurtful consequences of discrimination—and make them more obvious and conspicuous.

In addition to these two historic reforms, Kep Enderby was also responsible for decriminalising homosexuality and abortion in the territories. He was always a passionate advocate for Canberra and the ACT. He used his first speech in the House to advocate greater representation in the federal parliament for the people of the ACT and to advocate for self-government.

He lost his seat in the double dissolution election of 1975, which swept Labor from office, yet his reforms have endured—they have not just endured, they have engendered real tangible and progressive social change, and they have made Australia a more just and tolerant country. For that, we owe Kep Enderby a great deal.

In 1982 he was appointed as a Justice of the New South Wales Supreme Court, a position he held for 10 years. In retirement he was involved in the Esperanto movement, believing that a common international language would promote international peace and understanding. His commitment to human rights, civil liberties and social reform remain undented.

People who knew him have described him as a whirlwind of ideas. One of his successors representing the people of Canberra, Mr Leigh, said recently that he was someone who never fluctuated in his principles, who held fast to his views as a social democrat. I extend our deepest sympathies to his family members in their loss.
Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:48): I rise to make a contribution to the condolence motion on Keppel—or Kep—Enderby QC. Mr Enderby entered parliament at a by-election as the Labor member for the Australian Capital Territory in 1970. He was re-elected in 1972 and then, following a redistribution, was elected as the first member for the newly created seat of Canberra in 1974. He lost his seat in the double dissolution of 1975.

During the Whitlam government Mr Enderby held various portfolios, including Minister for the Northern Territory. However, he is most well known for his role as Attorney-General from February 1975 until the dissolution of parliament on 11 November 1975. Mr Enderby went on to become a judge of the New South Wales Supreme Court and chairman of the Serious Offenders Review Council.

Retirement allowed him to pursue his interest in Esperanto, becoming President of the Universal Esperanto Association. This involvement was borne out of a belief that if the world spoke a single language it would lessen conflict. He was also an advocate for voluntary euthanasia. From 1986 to 1998 he was the national president of the Australia-USSR society.

Kep Enderby lived a full life for a boy from Dubbo, whose first claim to fame was as an amateur golf champion before enlisting in the Royal Australian Air Force and after the war training as a barrister. He flew helicopters into his 60s. His contribution to the other place included introducing the Family Law Act, which included no-fault divorce, and the establishment of the Family Court as well as the abolition of the federal death penalty.

In his speech on the Territory's Senate bill, Mr Enderby said, 'It is true that a long-term policy of the Australian Labor Party is not to encourage the long future of the Senate, but here one has to grasp the facts of political life.' He concluded his contribution by saying, 'Let the government do the right thing by the people of the Australian Capital Territory and the Northern Territory and let them have Senate representation.' He made news by backing working mums, the establishment of childcare services and sick-leave entitlements for either parent. This was big news in 1970.

In 1971 he was the vice president of the Kanangra Society, the Aboriginal society, which sponsored the observance of National Aborigines Day in Canberra and Queanbeyan. He stated that Australians were becoming increasingly aware of all forms of social injustice but particularly in relation to the Aborigine. He really was ahead of his time. He stated that Aborigines suffered because they were discriminated against by their situation and lack of education and employment opportunities. Those are the very things we are trying to remedy by this government's commitments to get Indigenous children to school, adults to work and safer communities.

Interestingly, what also made the news back then was Mr Enderby's call for Australia to be republic and his opposition to the Black Mountain telecommunications tower. On behalf of the Nationals in the Senate, I extend to Mr Enderby's family our sincere condolences.

Question agreed to, honourable senators standing in their places.

Uren, Hon. Thomas, AC

The PRESIDENT (15:52): It is also with deep regret that I inform the Senate of the death on 26 January this year of the honourable Thomas Uren AC, a former minister and member of the House of Representatives for the division of Reid, New South Wales, from 1958 to 1990.
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:52): by leave—I move:

That the Senate records its deep regret at the death, on 26 January 2015, of the Honourable Thomas (Tom) Uren AC, former minister and member for Reid, places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

The honourable Thomas, or Tom, Uren, AC, was a minister in the Whitlam and Hawke governments and a member of the House of Representatives from 1958 to 1990—some 32 years. Mr Uren was born on 28 May 1921 in Balmain and was educated at Harbord Primary School and at Manly Intermediate High School. He left school, like so many others during the time of the depression, to help support his family. Interestingly, he later in life became a lifesaver, played rugby league and trained to be a boxer. The good news is that somebody else who has those talents, Mr President, is still with us! Mr Uren had all those qualities and he contested the heavyweight boxing championship of Australia in 1941.

Tom Uren enlisted in the Royal Australian Artillery in September 1939, days after the war broke out, and transferred to the 2nd AIF in 1941. He served as a bombardier in Timor but he was captured by Japanese forces in early 1942. Like many others, he was put to work on the infamous Burma-Thai railway and was held at the Konyu river camp, where the Australian commanding officer was that great Australian Weary Dunlop. Later he was transported to Japan and worked at two smelting plants. From his prisoner of war camp he witnessed the sky on 9 August 1945 after the atomic bomb was dropped over Nagasaki. After discharge Mr Uren worked first in the building industry and then in 1949 joined Woolworths as a trainee executive. He was manager at Merrylands and Lithgow before opening his own store at Guildford.

Mr Uren's first ministry was in the newly elected Whitlam government. He was appointed Minister for Urban and Regional Development, and he established new national parks and founded the Australian Heritage Commission and the Register of the National Estate. He oversaw the regeneration and restoration of the inner-Sydney suburbs of Glebe and Woolloomooloo, the decentralisation to Albury-Wodonga, the reclamation of Duck Creek and the creation of the Chipping Norton Lakes Scheme. Mr Uren also opened Australia's first bike path, right here in Canberra, and enjoyed riding to parliament by bicycle, or sometimes by bus. He was a strong champion of public transport.

Mr Uren was one of the few who survived the voter backlash of the 1975 election and he was elected Deputy Leader of the Opposition, holding office from 1976 to 1977. He returned to the ministry in the 1983 Hawke government, serving as Minister for Territories and Local Government from March 1983 until December 1984. He was then appointed as Minister for Local Government and Administrative Services from December 1984 to July 1987. After he left politics in 1990 he was appointed an Officer of the Order of Australia in 1993, was awarded a Centenary Medal in 2001 and, in 2013, was advanced to a Companion of the Order of Australian for his work helping veterans and preserving sites of historic and environmental significance.

There are only a handful of members of parliament who served in World War II who are still living—six members and three senators. The last two to serve both retired on the same day in 1990—Clarrie Miller and Tom Uren. I noted that another distinguished parliamentarian
who also endured time as a prisoner of war, Sir John Carrick, though well into his 90s, attended Mr Uren's state funeral last week. They disagreed on almost every area of public policy but they shared an experience that perhaps none of us who did not can fully understand.

I recall being at Hellfire Pass a few years ago—a great privilege and also a very sombre occasion—and being provided with the earpieces and all of the equipment, which I do not know how to describe, but you walk to particular points and you press a button to hear somebody talking you through the various aspects, the historical record et cetera. Then, all of a sudden, along came that rasping voice that I thought sounded familiar. What a great thing it is that in that war memorial the Australians who helped put that together have been able to get a voice recording of the honourable Tom Uren and, a little bit later on, a voice recording of Sir John Carrick—people who served their nation superbly in this place on opposite sides but united in relation to their experience of great depravity as prisoners of war of the Japanese.

The strength of that bond and feeling between these two gentlemen I recall being exemplified by a particular senator making a jibe at a Liberal senator about certain things at the prisoner of war camp. I will not identify but simply say it was a bit of an untidy interjection. When the honourable Tom Uren got to hear about it he marched himself to the offending senator's office. I do not know whether it was his verbal prowess or whether it was his prowess at something else and a potential threat that made that senator come into this place very compliantly and apologise unequivocally. The fact that those two members of parliament from different sides had such a strong bond and that Mr Uren was willing to acknowledge the deprivations that were experienced by both, who were serving on different sides of politics in this nation, I thought was an indication of his great humanity, despite the political conflicts that were engaged in.

Mr Uren was a true warrior in wartime and for his party, the Australian Labor Party. In 1994 Random House published his memoir about his war experience and political activism. It was entitled *Straight Left*, a suitable pun on his pugilistic days but also an accurate description of his politics and his values. He ended his service in parliament as Father of the House. The length of his term and indeed the length of his long and productive life were remarkable, given the privations of those years as a prisoner of war. On behalf of government senators, I offer sincere condolences to his wife and children.

**Senator MOORE** (Queensland) (16:01): Mr President, as you know, I am making this speech on behalf of Senator Wong, who is wounded in action at the moment. I rise to speak on her behalf on the death of the Hon. Tom Uren AC. Tom Uren died on Australia Day, at the age of 93. He was a true giant of a man, physically, politically and morally. He was a true lion of the Labor Left, courageous, strong, tough and noble. He lived an extraordinary life: growing up in the Great Depression, leaving school early to help his parents make ends meet; fighting in the boxing ring, contesting as we have heard the heavyweight championship of Australia; fighting in the Second World War and being taken prisoner by the Japanese; surviving the hell on earth that was the Burma-Thailand railway; witnessing the atomic glow over the skies of Nagasaki; and joining the Australian Labor Party, and fighting again for the things he believed in, for a better, fairer, more just society, for the environment and for peace.

He rose to become the deputy leader of the federal parliamentary Labor Party under Gough Whitlam, a minister in the Hawke Labor government and one of the most senior and respected
figures in the New South Wales Labor Party. He mentored countless young Labor activists, especially those from the party's Left, which has not always had the easiest of runs in our party's New South Wales branch.

After leaving parliament he kept up his political involvement, campaigning for East Timorese independence, Aboriginal rights and war veterans' entitlements. He was even declared by the National Trust to be one of the 100 Australian National Living Treasures.

Tom Uren was born a Balmain boy, in 1921. His family moved to Harbord when he was just five years old. He left school during the Great Depression, at the age of 13, because his father was out of work. He took what work he could find, classing rabbit and kangaroo skins, selling newspapers and caddying on golf courses.

He was devoted to his mother and says that her sense of social justice was one of the main influences in his life.

He remembered her discomfort at being called before a local committee to explain why her family was deserving of charity during the hard years of the Depression.

As a big boy, who excelled at sports, Tom learnt to box at Jack Dunleavy's gymnasium in the Sydney CBD. He joined the Army soon after the outbreak of World War II but was granted special leave to fight for the Australian heavyweight title in 1940. The fight went for seven rounds. Tom was defeated, not by the other boxer, he would later say, but by the flu he was suffering.

He was deployed to Timor in December 1941. In early 1942 he took part in the last stand of the Australian infantry forces, who were defending the island against the invading Japanese forces. Captured by the Japanese then, the Australian prisoners of war were taken to Singapore. At the age of 21, Tom Uren was amongst the POWs sent to work on the notorious Burma-Thai Railway. At Hellfire Pass he witnessed the worst and the best of humanity. It was an experience that shaped everything for Tom Uren, that influenced him for the rest of his life.

He was struck by the contrast between the way the Australian and the British POWs organised themselves. The British maintained the regimented distinctions between officers and enlisted men. By contrast, the Australians, under the leadership of Lieutenant-Colonel Edward 'Weary' Dunlop, adopted an egalitarian approach. Officers and enlisted men treated each other as equals. They looked to help one another and to give one another strength. Tom believed this difference was why the survival rates amongst Australian POWs at Hellfire Pass were higher than those among their British counterparts.

Tom was a strong man and he often interposed himself between prisoners and guards to protect those weaker than himself. But no-one could preserve their strength in the terrible conditions. Tom contracted malaria and amoebic dysentery, losing four stone in four weeks. He was sent to a prison camp in Japan.

In 1945, while working at a lead-smelting plant at Omuta, he saw the sky turn red when the atomic bomb was detonated over Nagasaki, 80 kilometres away. He later said:

We didn't hear any noise, just witnessed that vivid crimson sky.

And further:
And we didn't see the mushroom cloud, but we saw the discolouration of the sky and it was that crimson colour, that beautiful sunset magnified about a hundred times over. And you could never really forget that graphic description, colour, of the sky that day.

That experience turned him into a campaigner against nuclear weapons.

After the war, Tom worked at the Port Kembla steelworks as a labourer, then as a manager at Woolworths, in Lithgow. He joined the Labor Party in 1951, inspired to do so by the death of Ben Chifley. He moved to Guildford, won preselection for the seat of Reid, and was returned to the House of Representatives in 1958. Tom held that seat for 31 years before retiring from parliament in 1990, after eight years as Father of the House.

He served as Minister for Urban and Regional Development in the Whitlam Labor government. It was a time of an expansionist vision of the role of the federal government in revitalising the nation's cities and regions. As minister, he used federal resources to rehabilitate large areas of Glebe and Woollomooloo in Sydney, as well as parts of Fremantle and Hobart. He also opened Australia's first urban bicycle path in Canberra, declared the Namadgi National Park in the Australian Alps, and established the Australian Heritage Commission.

After the fall of the Whitlam government, Tom was elected as federal Labor's deputy leader. After the election of the Hawke government he served again as a minister, from 1983 to 1987, with responsibility for territories and local government and for administrative services. He retired to the backbench in 1987 and from Parliament in 1990. But he continued in public roles, serving as a member of the Parramatta Park Trust, and in political activism, lending his support to causes like Aboriginal welfare and environmental campaigns.

Tom Uren was made an Officer of the Order of Australia in 1993 and a Companion of the Order of Australia in 2013. His last big political win came in 2011, as he was nearing the age of 90. On Anzac Day that year he returned to Hellfire Pass with three other survivors and the then Governor-General, Quentin Bryce. Prime Minister Gillard announced that the government had agreed to Tom's long-running campaign for a supplementary payment to surviving Australian POWs from the Second World War and the Korean War. This was a final victory in a long life characterised by fierce passion for the betterment of his fellow human beings, unwavering commitment to his political causes, and a strong record of practical achievement and outcomes.

Tom Uren's most important characteristic, I believe, was his profoundly moral approach to public life. He nominated as his principal influences figures such as Franklin Delano Roosevelt, Weary Dunlop, Mahatma Gandhi, Pope John XXIII, Martin Luther King, and Nelson Mandela.

Before the counter-culture of the 1960s or the identity politics of the 1970s, Tom Uren exemplified the credo that the personal is political. It was in the brutal circumstances of the Burma-Thai railway where he embraced what he called the 'spirit of collectivism'. As he put it in his first speech to the House of Representatives:

We were living by the principle of the fit looking after the sick, the young looking after the old, the rich looking after the poor.

It was in the war-time factories of Saganoseki and Omuta where he encountered the humanity of individual Japanese workers. He learnt that it was not the Japanese he hated, but militarism.
His personal qualities and moral authority meant that anyone who spent time with Tom Uren was changed by the experience. Here is how the journalist Martin Flanagan described it.

When Tom poured his belief into you, it was like standing beneath a waterfall from which you emerged a larger version of yourself.

Tom Uren's life may have come to an end, yet the waterfall of inspiration his life represents still pours forth.

Tom Uren is survived by his wife Christine, his step-daughter, Ruby, and adopted children Michael and Heather. On behalf of the Labor Party, I extend my sympathies to them.

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:10): I rise this afternoon to express the enormous gratitude the Australian Greens feel for the life and contribution of Tom Uren, and we express our sympathy to his family, his extended family and his friends throughout Australia. When asked where he got his inspiration, Tom Uren said that 'life was his teacher'. I think you can see that from his life experience.

As has been said, he was born in Balmain, in 1921. As a nine-year-old, during the depression he witnessed his mother having to explain to a local committee why the family needed charity. That his mother would be put in that position really burnt on the memory of that young boy.

He went on serve in Timor during the Second World War and experienced the horrors of being a prisoner of war, between 1942 and 1945, alongside Weary Dunlop, involved in the Burma-Thailand railway. In 1944 he was transported to work in a copper smelting plant in Japan. There he witnessed the bombing of Nagasaki and became an anti-nuclear activist from that point. During the time in Japan he found his Japanese fellow workers comradely. He said that it was not the Japanese he hated; it was militarism. That is something he stuck to for the rest of his life. When asked what kept him alive on the Burma railway, he said it was the 'spirit of collectivism', of people working together to look after one another in the face of the atrocities they had to endure.

To his great credit he was a campaigner for East Timorese independence. It was as a result of his efforts that at the 1977 ALP national conference the party put the resolution for East Timorese self-determination. As a result of his experiences—his depression experience as a social justice advocate, as an advocate for a fair go for everyone, and his war experiences—he became a strong advocate for collective action, for the anti-nuclear cause and for East Timor. His anti-war activism led him to oppose both the Vietnam War and conscription. His was the first parliamentary voice to question US military intervention in Vietnam.

As his friend Sister Josephine Mitchell, of the Sisters of St Joseph, said of him, 'The thing that seemed to impress Tom was that when he went to Japan later in the war he got to know the Japanese people more and he realised it was not the people who were involved in this sort of action and cruelty, but it was the regime.' Tom had no bitterness and no feeling of hatred. In fact he said, 'Hate distorts the personality and scars the soul.' It is more injurious to the hater than the hated.

On his return he joined the Labor Party in 1951 and in 1957 won preselection for Reid, which, as we know, he held for 32 years, retiring in 1990. In 1959 he became the ALP spokesperson for the environment. Martin Flanagan asked him when he became an
environmentalist. He said it was when he went back to Thailand and he found that the jungle had been cut down.

He built the first Department of Urban and Regional Development and helped establish the heritage conservation movement in Australia, protecting large areas of suburban Sydney from developers. The department's national estate program funded the preservation of historic buildings and the acquisition of open space. It provided the first significant funding for public transport from a federal government.

In 1972 Justice Hope was appointed chair of a committee of inquiry into the national estate. It reported in 1974, saying that:

… uncontrolled development, economic growth and 'progress' to that time had had a very detrimental effect on Australia's national estate … and called for … prompt action and public education to prevent further neglect and destruction.

As a result, in 1975 Tom Uren set up the Australian Heritage Commission. He set it up as an independent statutory authority. It then established the Register of the National Estate on which 13,000 places around Australia were listed.

He helped to preserve and rehabilitate parts of the Sydney landscape in his time as Minister for Urban and Regional Development in the Whitlam government and he is credited with rejuvenating certain Sydney precincts, including Glebe, Woolloomooloo, Parramatta and the Sydney Harbour foreshore. He worked tirelessly to secure heritage listings for many sites for the public to enjoy into the future.

In setting up the Heritage Commission, he recognised there needed to be an inventory of those places defined as being:

… components of the natural environment of Australia or the cultural environment of Australia, that have aesthetic, historic, scientific or social significance or other special value for future generations as well as for the present community.

I really want to pay tribute to that because there are many, many places around Australia of cultural and environmental national significance that would have been destroyed had it not been for the foresight then in setting up the inquiry into the national estate and then the Australian Heritage Commission.

At the weekend I had the good fortune to meet David Yencken, who was the first chair of the Heritage Commission. He was talking about those years and what a challenge it was but also the enormous pleasure that he takes from the fact that many, many places are now saved because of the efforts of people like Tom Uren and others in the Whitlam government of the day.

When Tom Uren became deputy leader of the opposition in 1975, he used his influence to campaign for land rights for the First Australians and he also campaigned against uranium mining. After leaving parliamentary life in Canberra, he still continued campaigning for the environmental protection of Sydney Harbour and wilderness areas. He said after his retirement in 1994:

I want to help build an environmentally sensitive, beautiful and more tolerant world.

He spent much of his retirement fighting for the protection of those precious places. When asked in 1996 how he would like to be remembered, he said: 'As a person of goodwill, a
giver, a fighter for peace.' I think he well and truly deserves those accolades as we remember him.

He was appointed an Officer of the Order of Australia in 1993 and was awarded the Centenary Medal in 2001. In 2013 he was made a Companion of the Order of Australia in the Australia Day Honours List. That was co-sponsored by Julia Gillard, Tony Abbott and Bob Brown. I think that commendation shows the level of respect that he had from right across the political system. It was for his work helping veterans and preserving sites of historic and environmental significance. I note also that he was awarded the Order of Timor-Leste medal, which is the highest accolade from the government of East Timor. Vale, Tom Uren. You made a great contribution to Australia.

Senator Nash (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (16:19): I rise to make a contribution on the condolence motion for the honourable Thomas Uren AC. A Balmain boy, Tom Uren served his country in war and in peace. His young life was divided among the sports of lifesaving, rugby league and boxing. Following enlistment in the Australian Army, he served as a bombardier with the 2/1st Heavy Battery in Timor where he was captured by the Japanese and sent to work on the infamous Burma-Thai railway. Then he was a prisoner in Japan and a witness from afar, as we have heard, to the atomic bomb dropped on Nagasaki. These were, as you would expect, formative events in the life he went on to live. The Prime Minister stated that he taught a generation of Australians to forgive and to forge new friendships with our former enemy.

When Tom Uren returned from the war he was a rubber worker in the building industry, then he joined Woolworths as a trainee executive, before eventually opening his own store at Guildford. He became the Labor member for the New South Wales seat of Reid in the 1958 general election and held the seat until his retirement in 1990, when he was the Father of the House. A leading member of the left faction, he served as a minister in the Whitlam and Hawke governments as well as Deputy Leader of the Labor Party from 1976 to 1977.

An inveterate campaigner, Tom Uren threw his energies into issues such as uranium mining, the Vietnam war, Indigenous issues, environmental issues and urban renewal issues as well as compensation for former prisoners of war. He pioneered the protection of Australia's historic and natural heritage. Tom Uren was the first Labor MP to question support for US intervention in Vietnam in August 1962. He was in fact jailed for refusing to pay a fine over a Vietnam march protest in 1971. The opposition leader has described Mr Uren as the keeper of Labor's conscience in trying times. He was their moral centre.

Tony Stephens wrote an obituary on Tom Uren in The Sydney Morning Herald on 27 January. He wrote:

Like most Labor leaders of his time, Uren paid scant attention to the economy. He lost more economic arguments than he won in the last 25 years of the 20th century …

Uren was made an officer of the Order of Australia in 1993 and then a commander in 2013. Following a visit to Hellfire Pass on Anzac Day in 2011, then Prime Minister Julia Gillard announced that the government would meet Uren's long campaign for a supplementary payment to Australia's 900 surviving prisoners from World War II and the Korean War. In an op-ed that he wrote in November 1988, Tom Uren said:

During my years under Whitlam as Minister for Urban and Regional Development and later as Minister for local government under Bob Hawke, I have been involved in most regions of the country. I am most
proud of our achievements in saving old parts of Sydney such as Woolloomooloo and Glebe, of our sewerage works, the redirection of freeways away from living areas, the creation of the Australian Heritage Commission and the development of the regional centre of Albury-Wodonga, as well as many parks in the west of Sydney and along the Georges River. … I have had a very exciting life and many great opportunities.

I would like to conclude my comments about Tom Uren by quoting from his maiden speech:

We have a wonderful country with a magnificent future as long as we do not put it in pawn to foreign capital.

On behalf of the Nationals in the Senate, I extend to Mr Uren’s family our sincere condolences.

Senator CAMERON (New South Wales) (16:23): Australia is a better place as a result of the life of the Hon. Tom Uren AC. There have been many tributes paid to Tom. He has been described as a ‘true believer’ and ‘a proud man of the left’. Tom has been a constant in Labor politics for longer than I can remember. Tom was still attending Labor Party conferences when he was in his late 80s. He was a figure who you could see and everyone knew him in the Sydney Town Hall during Labor conferences. Everyone knew Tom: his bush hat, his massive frame and his commitment to progressive politics, which made him such a significant physical and intellectual presence.

The breadth of Tom’s contribution to Australia was demonstrated by the attendance of three former Prime Ministers, the Governor-General and the Governor of New South Wales at his funeral. I want to particularly acknowledge the presence at the service of former Prime Minister John Howard, along with the former Liberal minister Sir John Carrick, a fellow prisoner of war with Tom on the notorious Thai-Burma Railway. This demonstrates that Tom Uren commanded respect despite his tough and unequivocal views on many issues.

Tom’s son, Michael, said his father carried into later life the lessons he learned in prisoner of war camps:

… the strong should look after the weak, the young look after the not-so-young, the fit look after the sick.

Michael said Tom spent his life in the service of the working people. He remembered his father as:

… one of the most determined, arrogant, egotistical, opinionated, loving, humble and genuine men I have ever met.

Tom was also tough. He took on Frank Packer and Fairfax in a defamation case. It was a big call to take on Fairfax and the Packer organisation at the height of their powers. Tom won those defamation cases and he called his first house that was built after that—the ‘Fairfax Retreat’—and his second house was called the ‘Packer Lodge’. I think that was quite appropriate.

Tom championed many issues: peace and the anti-war movement, antinuclear engagement, opposition to the Vietnam War, support for East Timorese independence and environmental issues. The establishment of public parks in Western Sydney was a key issue that Tom Uren pushed. One we can all be thankful for if we live in Western Sydney is the connection of sewage. The connection of sewage in Western Sydney was due to Tom Uren. He increased public housing. The decentralisation and the development of Albury-Wodonga was Tom
Uren’s doing. Tom was a key player in the Whitlam and Hawke governments. Tom continued his political activism following his career as a politician: he campaigned for improvements to the Sydney Harbour foreshore and he succeeded in achieving compensation for the surviving prisoners of war, an achievement that he was extremely proud of.

The complexity of Tom's character and politics was epitomised by the fact that, as a former boxer and soldier, he became a pacifist. As a former practising Christian, he became an atheist. In recognition of the bravery and sacrifice of the armed forces, Tom had the Last Post played at his funeral—this is a pacifist. In recognition of the commitment and work that Tom has done, Sister Josephine Mitchell, a catholic nun, said that:

Tom Uren may not have believed in God, but God sure believed in him.

In recognition of the struggles of the trade union movement, Tom had the Sydney Trade Union Choir sing The Ballad of 1891. I am sure I saw former Prime Minister John Howard clap along!

Tom was held in high regard and rightfully so: a man of principle and a man of courage. Vale Tom Uren, it was an honour to work with you and to know you. My condolences go to Tom's family and friends and to Albo and Tanya, who were so close to this great politician, this great Australian.

Senator SINGH (Tasmania) (16:28): I also rise to pay tribute and respect to the late Tom Uren and, in doing so, give my sympathy to his family and his friends. Tom was to me and to so many in the Labor Party a leader, a mentor, an inspiration and a friend. Indeed, I agree with Senator Cameron that Australia is a better place thanks to Tom Uren. The contributions by Senator Cameron, Senator Moore and so many here certainly outline exactly why Australia is a better place.

Yet through all the hardship that he endured throughout his life, he was a man of compassion, a man of peace and a man of love. Tom Uren served Australia, served the Australian Labor Party, served the left and served the good people of Reid with all that he had. He made Australia’s environment and heritage important—concepts to be preserved, conserved and celebrated. He was not satisfied with utilitarian cities where Australians merely existed; instead, he made real the concept of beautiful, breathing urban spaces where Australians could live.

I first met Tom in my home city of Hobart, a place he had a connection with through his friend, and artist, Lloyd Rees. It was at the Hobart bookshop where he and his friend Martin Flanagan were sharing their journey of writing the book The Fight. I had a few moments with Tom after he signed my copy to talk about his prisoner of war experience, his experience on the Thai-Burma railway, about his time as a Labor minister and about the things that he loved in life. I felt such a warm feeling, so privileged to have just met this great giant of a human being, a true Australian legend, I thought, who had witnessed some of the worst of life yet was full of peace and love and kindness and who still held such a strong fighting instinct for fairness and justice under the Labor cause. He certainly made an impact that day on my life that would continue for many years thereafter, just like he did on so many in the Labor Party. I remember one day when I was talking to him on the phone, here in Parliament House. I was seeking his wisdom and advice on a particular matter. Tom, like always, simplified the solution down to values and what we, as Labor people, believe in. He said to me, 'Like a
strong tree, I sometimes have to sway in the breeze, but I always keep my roots healthy among people.’

Tom was indeed a strong tree. He was an authentic Australian. He knew what it took to survive the worst of life—the fit must tend to the seek; the young must look after the elderly; the rich must look after the poor—and carried that philosophy throughout his life. Yet he knew how tough we must be to make the most of life: tough enough to abjure hate, yet still compassionate, still with a sense of beauty. Tom’s achievements of preserving things and places of great beauty live on around us today.

Last week, at Tom’s state funeral at Sydney Town Hall so many people came to pay tribute to this great man. Anthony Albanese, who emceed the service, gave a beautiful service and summed up Tom when he said:

You can’t walk down the street alongside him without feeling the warmth that people had for him. People truly loved him.

Tom was a generous man and a genuine man, a people's man of people's principles. Tom was a man of passion for life, for people, for beauty in our environment and for love, a fighter for peace and for social justice, a man who lived out his beliefs every day of his life. I join so many in the Labor Party and in Australia in saying, 'We will miss you, Tom.'

Question agreed to, honourable senators standing in their places.

Wright, Mr Keith Webb

Fitzgibbon, Mr Eric John

The PRESIDENT (16:33): It is also with deep regret that I inform the Senate of the death of two members of the House of Representatives:

(a) on 13 January 2015, of Keith Webb Wright, a member for the division of Capricornia, from 1984 to 1993; and

(b) on 24 January 2015, of Eric John Fitzgibbon, a member for the division of Hunter from 1984 to 1996.

NOTICES

Presentation

Senator Fifield to move:

(1) That estimates hearings by legislation committees for 2015 be scheduled as follows:

**2014-15 additional estimates:**
- Monday, 23 February and Tuesday, 24 February (*Group A*).
- Wednesday, 25 February and Thursday, 26 February (*Group B*).

**2015-16 Budget estimates:**
- Monday, 25 May to Thursday, 28 May, and, if required, Friday, 29 May (*Group A*).
- Monday, 1 June to Thursday, 4 June, and, if required, Friday, 5 June (*Group B*).
- Monday, 19 October and Tuesday, 20 October (*supplementary hearings—Group A*).
- Wednesday, 21 October and Thursday, 22 October (*supplementary hearings—Group B*).

(2) That pursuant to the order of the Senate of 26 August 2008, cross portfolio estimates hearings on Indigenous matters be scheduled for Friday, 27 February, Friday, 29 May and Friday, 23 October.
(3) That the committees consider the proposed expenditure in accordance with the allocation of departments and agencies to committees agreed to by the Senate.

(4) That committees meet in the following groups:

**Group A:**
- Environment and Communications
- Finance and Public Administration
- Legal and Constitutional Affairs
- Rural and Regional Affairs and Transport

**Group B:**
- Community Affairs
- Economics
- Education and Employment
- Foreign Affairs, Defence and Trade.

(5) That the committees report to the Senate on the following dates:

- (a) Tuesday, 17 March 2015 in respect of the 2014-15 additional estimates; and
- (b) Tuesday, 23 June 2015 in respect of the 2015-16 Budget estimates.

Senator Xenophon to move:


Fifteen sitting days remain, including today, to resolve the motion or the instrument will be deemed to have been disallowed.

Senator Siewert to move:

That the Senate—

(a) notes that:

(i) the Western Australian Government has implemented a new catch and kill policy which applies to the International Union for Conservation of Nature red-listed and federally-protected white sharks, and

(ii) the new ‘Serious Threat Guidelines' (the guidelines) enable a shark to be caught and killed simply for being detected in a location over a number of days, without requiring other preventative actions to be implemented first, such as closing beaches, and allow the continued use of indiscriminate capture measures such as baited drum lines;

(b) condemns the guidelines of the Western Australian Government; and

(c) calls on the Minister for the Environment (Mr Hunt) not to grant any further exemptions to the Western Australian Government under section 158 of the Environment Protection and Biodiversity Conservation Act 1999 that would allow Western Australia to instigate the guidelines.

Senator Siewert to move:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by 26 March 2015:

The impact on service quality, efficiency and sustainability of recent Commonwealth community service tendering processes by the Department of Social Security, with particular regard to:

(a) the extent of consultation with service providers concerning the size, scope and nature of services tendered, determination of outcomes and other elements of service and contract design;
(b) the effect of the tendering timeframe and lack of notice on service collaboration, consortia and the opportunity for innovative service design and delivery;

(c) the evidence base and analysis underlying program design;

(d) the clarity of information provided to prospective tenderers concerning service scope and outcomes;

(e) the opportunities created for innovative service design and delivery, including greater service integration or improved service wrap-around, and the extent to which this was reflected in the outcomes of the tender process;

(f) the extent to which tenders were restricted to not-for-profit services, the clarity of these terms, and whether they changed during the notification and tender process;

(g) the implementation and extent of compliance with Commonwealth Grant Guidelines;

(h) the potential and likely impacts on service users concerning service delivery, continuity, quality and reliability;

(i) the framework and measures in place (if any) to assess the impacts of these reforms on service user outcomes and service sustainability and effectiveness;

(j) the information provided to tenderers about how decisions are made, feedback mechanisms for unsuccessful tender applicants, and the participation of independent experts in tender review processes to ensure fairness and transparency;

(k) the impact on advocacy services across the sector;

(l) factors relating to the efficient and effective collection and sharing of data on outcomes within and across program streams to allow actuarial analysis of program, cohort and population outcomes to be measured and evaluated;

(m) the extent of contracts offered, and the associated conditions, to successful applicants; and

(n) any other related matters.

Senator Cameron to move:

That the Senate—

(a) notes that the Director of Fair Work Building and Construction has failed to provide information in his responses to Supplementary Budget Estimates 2014-15 questions on notice and has not made a claim of public interest immunity; and

(b) orders that there be laid on the table by the end of question time on Thursday, 12 February 2015, a copy of complete answers to Supplementary Budget Estimates 2014-15 question on notice EM1529 15, EM1521 15 and EM1555 1.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) the Gardens of Stone in New South Wales and adjacent Ben Bullen, Newnes and Wolgan State Forests are spectacular landscapes that are habitats for many plants and wildlife, including national and state-listed threatened species,

(ii) in October 2014 the New South Wales Planning Assessment Commission found that the pagoda landforms in that area should be afforded special significance status and the highest possible level of protection, and

(iii) the Gardens of Stone and adjacent areas continue to be threatened by open cut and longwall mining proposals and will continue to be vulnerable to mining impacts until permanent protection is granted; and
(b) calls on the Federal Government to support the call for the New South Wales State Government to extend national parks protection for the Gardens of Stone stage two reserve proposal.

Senator Wright to move:
That the Senate—
(a) thanks those who fought to protect homes, properties and wildlife during the devastating Sampson Flat bushfires in South Australia during January 2015;
(b) recognises the outstanding contribution of South Australia's Country Fire Service personnel in keeping residents safe and bringing the fire under control in challenging conditions;
(c) commiserates with those who lost their homes, properties and pets as a result of the fire;
(d) celebrates the depth of the South Australian community's response to the Sampson Flat bushfires, as demonstrated by the outpouring of support for those affected by the fires; and
(e) calls on the Federal and South Australian Governments to ensure South Australia's Country Fire Service has adequate funding for volunteer training, equipment and operations.

Senator Back to move:

Senator O'Sullivan to move:
That the Senate—
(a) acknowledges the commencement of export activity of Queensland's coal seam gas to liquefied natural gas (LNG) industry in January 2015; and
(b) recognises that, with two other LNG projects set to commence exporting from Curtis Island Port in the coming months, Australia is on the verge of being propelled to the top of the global LNG export ladder.

Senators Xenophon and McKenzie to move:
That the following matters be referred to the Economics References Committee for inquiry and report by 14 May 2015:
(a) the role, importance, and overall performance of cooperative, mutual and member-owned firms in the Australian economy;
(b) the operations of cooperatives and mutuals in the Australian economy, with particular reference to:
   (i) economic contribution,
   (ii) current barriers to innovation, growth, and free competition,
   (iii) the impact of current regulations, and
   (iv) comparisons between mutual ownership and private sale of publicly held assets and services; and
(c) any related matters.

Senator Carol Brown to move:
That the Joint Standing Committee on the National Capital and External Territories be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, as follows:
(a) Thursday, 12 February 2015;
(b) Thursday, 5 March 2015;
(c) Wednesday, 18 March 2015; and
(d) Thursday, 26 March 2015.

Senator Milne to move:

That the Senate—

(a) notes that the latest Intergenerational Report was due to be publicly released on 1 February 2015 as required by section 20 of the Charter of Budget Honesty Act 1998; and
(b) orders that there be laid on the table by the Minister representing the Treasurer, Senator Cormann, no later than 2 pm on 11 February 2015, a copy of that Intergenerational Report.

Senator Waters to move:

That the Senate—

(a) notes recent media reporting which shows that Adani's ownership and taxation arrangements in relation to the Abbot Point coal terminal and proposed Carmichael coal mine lack transparency; and
(b) calls on the Federal Government to urgently establish which individuals or corporate entities control the Abbot Point coal terminal and the Carmichael mine and whether all relevant disclosures have been made to Australian regulators.

Senator Hanson-Young to move:

That there be laid on the table by the Minister assisting the Minister for Immigration and Border Protection, no later than 3 pm on Wednesday, 11 February 2015, a copy of the completed 'review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru', conducted by Mr Phillip Moss.

Senator Ludlam to move:

That the Senate—

(a) notes:

(i) that the Abbott Government's 2014-15 budget included cuts of $589.6 million from housing and homelessness initiatives, including axing the $44 million capital budget in the National Partnership for Homelessness (NPAH) used for shelters and housing for the homeless,

(ii) continued uncertainty over the future of the Government's responsibility for housing places at least 3,400 highly specialised jobs across 180 initiatives providing services to 80,000 clients every year under the NPAH at risk, and

(iii) even at current levels of funding there are 100,000 people experiencing homelessness on any given night in Australia and another 225,000 Australian families on waiting lists for social housing; and
(b) orders that there be laid on the table by the Minister representing the Minister for Social Services, no later than noon on Tuesday, 10 February 2015, a statement to the Senate clarifying the Government's commitment to:

(i) homelessness beyond June 2015, including progress on review and negotiations of the NPAH, and

(ii) affordable housing, including the future of the NPAH.

Senator Conroy to move:

Senator Whish-Wilson to move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2016:

The future role and contribution of regional capitals to Australia, including:
(a) current demographic trends and the role of regional capitals in this change;
(b) current Government funding provided to regional capitals;
(c) an analysis of the appropriate level of funding regional capitals should be receiving based on their population, demand for services and strategic importance;
(d) investment challenges and opportunities to maintain or grow regional capitals, including in areas such as telecommunication technology, transportation links, human services, energy and other infrastructure;
(e) incentives and policy measures required to sustainably grow regional capitals;
(f) the impact the changing environment and demand for water will have on regional capitals; and
(g) any other related matters.

Senator Singh to move:

That the Senate—

(a) notes:
   (i) that two Australians, Mr Myuran Sukumaran and Mr Andrew Chan, are presently imprisoned in Kerobokan prison in Indonesia and are facing execution for the crime of drug trafficking,
   (ii) the serious nature of Mr Sukumaran and Mr Chan’s crimes, befitting lengthy prison terms as just punishments for them,
   (iii) Australia’s abolition of capital punishment, the international trend away from capital punishment, and the success of Indonesia’s efforts to save the lives of its own citizens sentenced to death in foreign jurisdictions,
   (iv) the genuine remorse demonstrated by Mr Chan and Mr Sukumaran and their efforts at rehabilitation and reform in Kerobokan prison, not only for themselves but also for other prisoners, and
   (v) the widespread support of the Australian people for the commutation of the death sentences of Mr Chan and Mr Sukumaran to lengthy prison sentences, as shown in the recent campaigns across the country calling for mercy to be shown to them; and
(b) calls on Indonesia to give consideration to the circumstances of Mr Chan and Mr Sukumaran and their rehabilitation in prison, their suffering and that of their families, and commute their sentences to an appropriate term of imprisonment.

BUSINESS
Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (16:34): I move:

That the following general business orders of the day be considered on Thursday, 12 February 2015 under the temporary order relating to the consideration of private senators’ bills:

No. 23 Trade and Foreign Investment (Protecting the Public Interest) Bill 2014.
No. 41 Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014.

Question agreed to.
COMMITTEES
Community Affairs References Committee
Legal and Constitutional Affairs Legislation Committee

Reporting Date
The Clerk: Extension notifications have been lodged in respect of the following:
Community Affairs References Committee—availability of cancer drugs in Australia—extended to 22 May 2015

The DEPUTY PRESIDENT (16:35): I remind senators that the question may be put on any proposal at the request of any senator. There being none, we will move on.

BUSINESS
Leave of Absence
Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (16:35): by leave—I move:
That leave of absence be granted to Senator McEwen from 9 to 12 of February 2015, for personal reasons.
Question agreed to.

COMMITTEES
Community Affairs References Committee
Reference
Senator DI NATALE (Victoria) (16:36): I move:
That the following matter be referred to the Community Affairs References Committee for inquiry and report by 28 April 2015:
The details of Australia's bid to host the 2022 FIFA World Cup, and in particular:
(a) the use of public funds;
(b) the tactics adopted;
(c) the individuals involved;
(d) the allegations of corruption contained in Mr Michael Garcia's report to the Fédération Internationale de Football Association (FIFA); and
(e) other matters pertaining to potentially inappropriate behaviour in relation to the bid.
Question negatived.

Public Accounts and Audit Committee
Meeting
Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:36): At the request of Senator Smith, I move:
That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1), during the sittings of the Senate, as follows:
(a) Thursday, 12 February 2015, from 10.30 am;
(b) Thursday, 5 March 2015, from 10.30 am, followed by a public meeting;
(c) Thursday, 19 March 2015, from 10.30 am, followed by a public meeting; and
(d) Thursday, 26 March 2015, from 10.30 am, followed by a public meeting.
Question agreed to.

MOTIONS

Indigenous Employment

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (16:37): I move:

That the Senate acknowledges and encourages the efforts of Indigenous groups across the nation working in partnership with resource companies to provide employment, training and educational opportunities to local Aboriginal populations, where mining activity is occurring on their traditional land.

Question agreed to.

DOCUMENTS

Mental Health

Order for the Production of Documents

Senator McLUCAS (Queensland) (16:37): I seek leave to amend general business notice of motion No. 587 standing in my name for today.

Leave granted.

Senator McLUCAS: I move the motion as amended:

That—

(a) there be laid on the table by the Minister representing the Minister for Health, no later than 3.30 pm on Wednesday, 11 February 2015, copies of the following National Mental Health Commission documents in relation to its Mental Health review, as referred to during the estimates hearing of the Community Affairs Legislation Committee on Wednesday, 22 October 2014:

(i) the preliminary report completed during February 2014, and
(ii) the interim report completed in June 2014; and

(b) the Senate not accept a public interest immunity claim by the Minister that tabling these documents would impact the Government's ability to properly respond to the Mental Health Review because:

(i) the production of these documents is necessary to allow people living with mental illness, their representative organisations and service providers to have an open and honest conversation about the future of the mental health system in Australia,

(ii) the Mental Health Review must be transparent for the community to have faith in the review outcomes,

(iii) there has been significant demand from the mental health sector, including consumers, for the reports to be made available, and

(iv) the more than 1 800 organisations and individuals that made submissions to the review have the right to see these reports.

Question agreed to.
MOTIONS

Israel

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:38): On behalf of Senator McKenzie, I ask that general business notice of motion No. 579 be taken as a formal motion.

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

Senator Moore: Yes.

The DEPUTY PRESIDENT: There is an objection.

BILLS

Australian Centre for Social Cohesion Bill 2015

First Reading

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:39): At the request of Senator Milne, I move:

That the following bill be introduced: A bill for an Act to establish the Australian Centre for Social Cohesion, and for related purposes.

Question agreed to.

Senator SIEWERT: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Senator SIEWERT: I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Second Reading

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:40): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

AUSTRALIAN CENTRE FOR SOCIAL COHESION BILL 2015

In Australia, we currently lack a comprehensive national plan to address extremism in our communities. If we are to address these issues at their root, if we are to work to prevent attitudes that accept terrorism and violence as acceptable, then we need to invest in programs that build social cohesion and work to prevent young Australians from becoming radicalised.

As United Nations Secretary-General Ban Ki-Moon has said, "the best response to a corrosive, malevolent ideology is a strong assertion of collective resistance". It is this collective, comprehensive and unified response that the Australian Centre for Social Cohesion Bill 2014 pursues. The Bill establishes a centralised body to develop and implement key preventative programs that help stop young Australians from becoming radicalised. The Centre and its Director will focus on building social cohesion, working with communities to prevent violent extremism. Through bringing together government bodies, law enforcement agencies, academics, researchers and former extremists to consult
and work together to build resilient and cohesive communities, the Centre will be well equipped to
develop high quality, effective programs for social cohesion.

Currently in Australia, we are under-investing in prevention programs for young Australians at risk
of involvement with extremist groups and ideology. To put it in perspective, of the $630 million
Counter-Terrorism package currently being implemented by the Australian Government, just $13.4m is
allocated in Australia to for prevention programs targeting young Australians involved with extremist
groups. That's a mere, 0.5% of the total budget. Of this total funding, just $1 million is currently being
utilised, leaving an enormous funding and capacity gap that fails our community.

The lack of a central body dedicated to building social cohesion in our communities or preventing
extremism compounds the impacts of this under-investment. Though we currently have in place
individual programs such as Countering Violent Extremism, a four-year grant program that works to
deter young people from extremism, this has been subject to cuts in funding at a time when we should
be investing even more in such schemes.

Furthermore, as Australian violent extremism expert Dr Anne Aly has noted, "Other countries
including the UK, Sweden and the US have non-government and not-for-profits working specifically to
combat violent extremism, but in Australia much of the work is taken on by government or the research
community. There are of course NGOs [Non-Government Organisations] who have developed projects
that aim to address the root causes of violent extremism but there was no entity that could take on a
coordinating role bringing together government, research and community. This is where we see
ourselves having the most impact."

The establishment of the Australian Centre for Social Cohesion would act to break down this siloed
approach, bringing together groups from various sectors to develop effective and comprehensive
policies to address radicalisation. Research and experience has proven that violent extremism is best
dealt with by civil society groups, in coordination and consultation with government and law
enforcement agencies. In Australia, this is illustrated in groups such as People against Violent
Extremism (PAVE), which grew out of recognition that civil society is a vital player in conflict
resolution and developing community resilience against extremism. We also know that countering
violent extremism through early intervention and individual and community engagement represents a
smarter approach that recognises social as well as political and ideological factors that can make people
vulnerable to extremism. This Bill, and the functions and powers of the Australian Centre for Social
Cohesion that it outlines, puts into practice these findings.

Community engagement and consultation is necessary, but they do not hold all of the answers alone.
Diversionary and educational programs, along with strong online campaigns, are all part of a necessary
strategy to help stop young Australians becoming radicalised. It is not about targeting one particular
community, but rather a collective approach across multiple communities, government and academia, to
implement programs and strategies that that are more targeted at identified points in radicalisation
where intervention is likely to succeed. We cannot continue to rely on decisions from the bureaucratic
level alone. We need recognise that our failings, both at a government and community level, in
preventing radicalisation, is largely due to a policy response that was based on assumptions rather than
on a framework that has had proven success. Research from Curtin University has found that
deradicalisation programs delivered by government "lack viability and credibility within the target
group and are most likely to be viewed manipulative and agenda serving." By enabling relevant NGOs,
community leaders, government departments and academic experts to come together we will be able to
develop a best practice model for combating violent extremism.

There is precedent around the world for success using this model. The Australian Centre for Social
Cohesion framework, focusing on community, government, research and dialogue, is largely based on
Hedayah, the premier international institution for training and research to counter violent extremism.
The Bill takes this successful international model, and replicates it at a domestic level, focused on the
Australian circumstance, and tailoring their research and training to our domestic needs. Hedayah works closely with communities and stakeholders (e.g. youth, women, educators and community leaders) who have traditionally been on the outer when it comes to developing policies to combat violent extremism.

If we are serious about dealing with extremism and terrorism, we must not isolate our focus to reacting to acts of terror and extremism, but also be serious about prevention. Identifying those at risk, finding pathways to deradicalisation, and bringing together the community to find collective solutions, must be a focus of our proactive response to extremism as a nation. The establishment of the Australian Centre for Social Cohesion will provide the foundation that Australia needs to effectively implement such a response.

I commend this bill to the Senate.

Senator SIEWERT: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MOTIONS

Defence Procurement

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (16:40): At the request of Senator Wong, I move:
That the Senate—

(a) notes the motion passed in the South Australian House of Assembly on Wednesday, 3 December 2014, with the support of Labor, Liberal and crossbench members, that:

(i) condemned the remarks of the Commonwealth Minister for Defence that he would not trust the Australian Submarine Corporation (ASC) to ‘build a canoe’,

(ii) reaffirmed its support for ASC workers and all other South Australians employed in the Defence industry,

(iii) demanded That the Abbott Liberal Government upholds its election commitment to build the 12 future submarines in Adelaide, and

(iv) noted that Australians should have the right to trust the word of its leaders when it comes to decisions that affect the national security of this country; and

(b) concurs with the sentiments expressed by the South Australian House of Assembly.

Question agreed to.

Palestine

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:41): At the request of Senator Milne, I ask that general business notice of motion No. 581 be taken as formal.

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

Senator Fifield: Yes.

The DEPUTY PRESIDENT: There is an objection.

Taxation

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:41): At the request of Senator Milne, I move:
That the Senate—

(a) notes:
(i) the Abbott Government's failure to propose and deliver revenue measures that target the big end of town, instead of the sick, the young and the poor, and

(ii) the billions in foregone revenue from corporate tax avoidance in Australia that could be recouped simply by enforcing current laws; and

(b) calls on the Treasurer (Mr Hockey) to do more to crack down on corporate tax avoidance in Australia instead of persisting with cruel budget measures that have been rejected by the Australian people.

Question agreed to.

DOCUMENTS

Trans-Pacific Partnership Agreement
Order for the Production of Documents

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:42): I feel a bit like a jack in the box. At the request of Senator Whish-Wilson, I move:

That there be laid on the table by the Minister representing the Minister for Trade and Investment, no later than 3.30 pm on Tuesday, 10 February 2015, a copy of:

(a) the draft investment chapter of the Trans-Pacific Partnership Agreement that refers to state owned enterprises (SOEs); and

(b) the list of Australian SOEs that the Australian Government has requested be exempted from investment clauses in the Trans-Pacific Partnership Agreement.

Question negatived.

(Quorum formed)

MATTERS OF PUBLIC IMPORTANCE

Abbott Government

The DEPUTY PRESIDENT (16:46): The President has received the following letter from Senator Moore:

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

The chaos, division, dysfunction and mistrust at the heart of the Coalition Government.

Is the proposal supported?

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

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

Senator CAMERON (New South Wales) (16:46): Thank you, Mr Deputy President. I am very pleased to be able to speak on this matter of public importance. And what could be more important now than the chaos, the division, the dysfunction and the mistrust that is at the heart of the coalition government? I have to say, Mr Deputy President, when you talk about the coalition government and you talk about heart, you really cannot focus too well—because there is no heart in this government. They are heartless. They are a heartless, divided,
dysfunctional and chaotic government. When we talk about the Abbott government and heart, we are talking metaphorically, because this government has no heart.

Two-thirds of the backbench—at least—are so concerned about the heartless policies, the incompetent policies, and the economic incompetence of this government that they actually want to change their leader—two-thirds of the backbench of this government who was going to be a grown-up government! Well, grown-up government they are! They are so grown-up that they are at each other's throats continually, and the bubbling mass of discontent is bubbling away still. This is a government and this is a leader, Mr Tony Abbott, who is on his last legs. And why is this government in such disarray after such a short time? Why is this government in such chaos? Because their economic policies are wrong, their economic policies are bad, and their budget was totally unfair. That is what underpins the problems this government has.

The other issue is that this government came to power based on lies—based on commitments given to the Australian public that were never going to be kept—and the lies continue. We have the Prime Minister ringing up Senator Edwards and telling Senator Edwards that the submarines would be openly competitive—that there would be open competition for the submarines to be built in South Australia. He gets Senator Edwards to vote for the Prime Minister, and as soon as the vote is in, what do the Prime Minister and his cronies do? They turn around and leave Senator Edwards up a dry gully—with no commitment for the submarines to have an open tender; absolutely none. And we had Senator Edwards embarrassed, going out there telling the press that he has had a great victory, and that South Australian senators have had a great victory, with this commitment from the Prime Minister. Mr Acting Deputy President, the commitment from the Prime Minister was the same as the commitment he gave to the Australian people—not worth anything. That is the kind of commitment you get from this Prime Minister.

The dysfunction will continue. The square-ups will continue. Mr Turnbull's minions—Malcolm's minions—will continue to try and make sure that he becomes the Prime Minister. We have seen it, and we see it now: all that stuff that is going on behind the scenes to try and get Mr Turnbull to be the next prime minister of this country. But the question here is if you change the prime minister, do you change policy? And what we found out last week from Senator Cormann is that not one frontbencher in this parliament—not one frontbencher!—complained either to Senator Cormann or the Treasurer or the Prime Minister about the unfairness of the budget. So we had them all there supporting it—all the ministerial team supporting an unfair budget; a budget that will mean pensioners will be $80 a week worse off down the track, where the young unemployed will be $50 a week worse off—the unemployed can hardly survive now, but they will be a further $50 a week worse off under this dysfunctional and chaotic government. The unemployed will have to wait six months before they can even get access to any support—the poorest and the weakest people in this community cannot get access to government support—public support—because of the ideology of this government, and because of their dysfunction, and because their whole budget is dysfunctional.

A single-income family on $65,000 a year will be $6,500 worse off, and yet politicians and the well-off will not even know that they have had to make a so-called contribution to the so-called budget repair. They will not even know about it—will not feel it. Pensioners, young
couples trying to survive and some of the poorest people in this country are the ones who are going to get hammered—people in New South Wales, in my area, in the western suburbs, in Penrith, in Blacktown, in Mount Druitt and in St Clair. These are battling families—doing it tough, many of them—and they will be the victims of this dysfunctional and chaotic government.

Under this budget, 1.2 million families will be $3,000 a year worse off. Those opposite are cutting the pensioner education supplement, cutting the seniors supplement, ripping $36 billion out from education, bringing in a GP tax, freezing indexation and making a further $5 cut, which they are putting in place because they could not get their $7 co-payment through the parliament. The doctors from Tamworth who appeared at the hearing last week of the Senate Select Committee on Health said that they will have to abandon bulk-billing and that, to keep their practices viable, they will have to charge concession card holders $65 and charge $100 for those who do not have a concession card. We heard in this place former Senator Joyce—now on the front bench of the coalition—talking, and trying to scare people, about a $100 leg of lamb under the carbon tax. What we have now is doctors in Tamworth, in Senator Joyce's own backyard, saying, 'If you're going to come and see a doctor, you'd better have $100'—$100 to see the doctor! That is because we have a dysfunctional government, a chaotic government, an erratic government and a government that is too busy fighting amongst itself.

I have said it before in here: we know that the Liberals hate the Nationals, we know that the Nationals hate the Liberals and we know that the Liberals hate each other. It has all been played out before us over the last few weeks. We have a Prime Minister who is not up to the game. We have a Prime Minister who is hopeless. We have a frontbench who are economically irresponsible. We have a frontbench who just do not know what it is to have fairness and equity. I could not believe it when Senator Cormann said that no-one in the coalition had raised the issue of unfairness in the budget—no-one! Everybody knows that this is the most unfair budget that has ever been delivered in this parliament. The big end of town and the high-income earners get off almost scot free, and yet, if you are a family battling away on an income of $65,000, 6½ grand is what it is going to cost you. It is not fairness when you take away support for health, when you take away support for education, when you take away welfare support, and when you take away from the weakest and poorest in this country. That is the reason that this government is on the nose. That is the reason this is a chaotic, dysfunctional government. The policies are rotten to the core.

**Senator BERNARDI (South Australia) (16:56):** Mr Acting Deputy President Edwards, before I address some of the other issues that Senator Cameron raised, may I take a point that Senator Cameron raised with regard to your own contribution to fighting for South Australia's industrial base and submarines. Senator Cameron—in true Scottish, pessimistic style—has decided to attack one of the individuals that have been fighting for a fair go for South Australia. From my point of view, I was satisfied that it was important to get good value for taxpayers' money in building the submarines, and I was satisfied that there was going to be a guarantee that South Australia would have more jobs as a result of the decision that the government was taking. I have absolutely no problem whatsoever with an open tender, because I want to see the best value for Australian taxpayers. I have no problem whatsoever
with the government making a decision that they think is in the best interests of taxpayers, as long as South Australia is better off.

The problem that we have is people over the other side, who were economic vandals in their own governance of this country, who hate to see taxpayers' money being spent fairly and wisely and not thrust about in a cavalier manner for all sorts of ridiculous projects that have put us on a debt—

*Opposition senators interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator Edwards):** Order! Senator Cameron! Senator Lines!

**Senator BERNARDI:** trajectory up to $667 billion. That is what Senator Cameron and his government, which he was unfortunately not a part of, did. Senator Cameron was the one who referred to his government as 'lobotomised zombies', if I recall correctly. The lobotomised zombies, as Senator Cameron described them, were on a debt trajectory of $667 billion.

Unlike Senator Cameron, I feel that I can approach this MPI with a degree of integrity because I have been a critic of some decisions that the government has undertaken over the last 16 months or so. Senator Cameron, you cannot deny that I have been a critic of some of those decisions, because I have stood up in this place and said, 'I can't support them.' The government has indeed made mistakes, but no government is perfect. It is about the framework in which it has evolved. Let me just tell you that a lot of the difficulties the government—

*Honourable senators interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator Edwards):** Order! I remind everybody on the left and the right that it is disorderly to interject.

**Senator BERNARDI:** I remind the people of Australia that a lot of the difficulties this government has had have been because of the intransigence of those on the opposite benches. I understand that they are playing politics with this. I understand that they are not interested in rescuing Australia and our children and our grandchildren from the $667 billion debt legacy they built up. I realise they are more intent on clinging to power and getting back onto the government benches than doing the right thing by the country. But, in doing so, I truly think they discredit themselves and their cause. To be fair, as critical as I have been of this government on occasions for some decisions, I have to recognise the government has delivered on much of what it promised to do.

Let us recall the government's promise to stop the tens of thousands of people travelling to this country without valid visas. It promised to put an end to the deaths and drownings at sea. It promised to enact a robust border protection policy to protect not only Australia but those people who are seeking a better life. The government delivered on that. It delivered where those on the opposite benches said it could not be done. As a result, our humanitarian refugee program is greater than it was before. As a result, we have stopped boats from entering Australian territorial waters illegally. We have saved—who knows?—perhaps hundreds, maybe thousands, of lives at sea. I say to Senator Cameron and his successors in this speaking debate: perhaps it would be ideal if just one of them could get up and congratulate and acknowledge the government for that achievement, because it was something they said could not be done.
Let me also make the point that we promised we would reduce electricity bills for
Australian families. We said we would remove the carbon tax. I understand, once again, it is a
bone of contention about whether a tax is somehow going to save the climate. Those on the
other side say that it is. Let me tell you: it is not. No amount of tax is going to save us or stop
climate change from taking place in this country. Climate change is something that has been
occurring for aeons. If you want any understanding of that, I think you simply have to go back
through history and realise that there were times when it was warmer than it has been now;
there were times when it was cooler than it has been now. And let me assure you: none of
those changes were due to any form of tax. We have delivered a savings for Australian
families of some $550 or thereabouts per year because of that.

We also recognised that having a tax that actually costs more to implement than you are
collecting is a demonstration of economic illiteracy. Some would call it the height of
stupidity. But it was the tax that Mr Swan and Ms Gillard introduced. It was called the mining
tax. What they saw was the goose that was laying the golden eggs in the mining industry, and
they said: 'If it's successful, let's tax it. And, if it's hopelessly unsuccessful, let's subsidise it.'
That was the original plan for the mining tax. It was ridiculous. They were going to socialise
the losses and allow the profits to be corporatised. It was just a joke of a policy. We got rid of
that, thanks to the support of some intelligent people who understand that higher taxes are bad
for business. We have removed billions of dollars worth of red tape and we have got billions
and billions more to do, let me tell you, because we need to reduce the permits and the
licences and the bureaucracy and all the requirements that were necessary under previous
administrations to establish a business or to build up an enterprise in this country.

So there are some significant achievements that this government has delivered on. Of
course, it has made mistakes. There is no question it has made mistakes. The Prime Minister
has acknowledged that. He has said that the Paid Parental Leave scheme is not appropriate at
this point in time, and he has heard that message from the backbench; he has heard it from the
people of Australia. Rather than congratulate a Prime Minister for heeding the message that
he has received, those on the other side use it as an opportunity to somehow attack and exploit
him. Let me suggest that, when the Labor Party were in office, if their prime ministers had
decided to listen to the Australian people more than to their own factional henchmen, if they
decided they were going to act in the national interest rather than in the selfish, self-
centred self-interest of their union buddies and their bosses, the country would be in better shape
today. But they did not, and the Australian people realise that.

Senator Polley interjecting—

Senator BERNARDI: I note that Senator Polley is interjecting, but the Australian people
rendered their judgement. In rendering their judgement, they said: 'We don't like how they
behaved. We want a new government. We don't like how they conducted themselves and dealt
with their leadership and how they divided up the spoils of power,' because it was all about
power, whatever it takes. They did not like that, so they voted for a person who they thought
had some integrity, who they thought had some credentials, who was going to act in the best
interests of the country.

Let me tell you: I believe the Prime Minister and the government have overall, on any real
assessment of it, delivered on much of what they promised. They have faced difficulties—
there is no question—because we have a runaway debt situation. And I do not believe in
putting up taxes. I think we should be lowering taxes, because that will stimulate economic activity. But we have been unable to get through savings measures which are about sustainability—I know it is a buzzword, but it is about sustainability—and ensuring that our country can function appropriately in an economic way for decades and decades to come.

Those opposite make fun of the level of Australia's debt, saying, 'It doesn't compare with Greece or America or anywhere else.' You know what, it always starts somewhere. It has got to start somewhere, and you have got to start saving and arresting the growth in debt at another point.

This is about responsibility. It is about being responsible to the Australian people. It is not about self-interest, it is not about making it hard for people who are finding it difficult; it is about getting the balance right. That is what we are trying to do as a government. I am making my modest contribution to it by saying where I think they go wrong, and I tell them when I think they have gone right. It is about time you did too.

**Senator LAMBIE** (Tasmania) (17:06): I am grateful that Senator Moore, from Queensland, has submitted for discussion today's matter of public importance, which has told of the chaos, division, dysfunction and mistrust at the heart of the coalition government.

Today has been a historic day. A Prime Minister survived, by the skin of his teeth, a serious attempt by members of his own party to get rid of him. The only person to blame for this attempted political hit is the Prime Minister himself. Of course, he and his apologists will attempt to blame others for the Abbott ministry's near-death political experience. They will attack the backbenchers and lay the blame for government chaos, dysfunction and mistrust at our feet. However, any Australian with common sense, eyes that can see and ears that can hear will know that the deep dissatisfaction and lack of trust felt by members of the Liberal Party—indeed, by the great majority of Tasmanians and other Australians—has been caused by the Prime Minister's tin ear, heart of stone and inability to admit he got it wrong and to apologise for his actions.

Up until today the chaos, division, dysfunction and mistrust at the heart of the coalition government has been caused by one man and one man only, and that is Tony Abbott. But from today onwards the chaos, division, dysfunction and mistrust at the heart of the coalition government is shared by every member of the Liberal Party room. This morning they had an opportunity to use the knowledge and the common sense that God gave them and elect a new leader who would govern in the best interests of all Australians, not just a select few—the rich at the top end of town. When the time came for that this morning, the Liberal Party room choked and failed to show courage. This morning the Liberal Party room was once again controlled by cowards who are more concerned about their damned titles and the perks of office than about the suffering of normal Australians.

Tonight, if you are a homeless person in Tasmania you have an official wait of 21 weeks, or over five months, on the public housing list. According to the Tasmanian Council of Social Service report, the latest waiting list figures for public housing show there are 2,465 applicants on the wait list—and that is growing by the day. The average wait time for people who are housed is 36 weeks. How do you think the 2,465-plus Tasmanians who are struggling to feed and house their families would view this Abbott government's record of government and their behaviour today? I think they would be entitled to view the behaviour of this government with a sense of mistrust. No-one would be surprised if a homeless Tasmanian
described the federal Liberal government's performance as one of chaos, division and dysfunction. And if the homeless knew that one of the main reasons they were denied the chance of state public housing was because the Abbott federal government insisted that over half—or $17 million—of the federal housing budget of $32 million a year invested in Tasmania's public housing be paid back to the Commonwealth government to service a federal debt of $200 million, then I have a feeling that words a little stronger than 'chaos', 'division', and 'dysfunction' would be expressed.

Parliamentary Library research I commissioned, which studied the funding crisis surrounding the Commonwealth-State Housing Agreement, states:

Leading Australian housing researcher, Professor Patrick Troy describes the funding situation under the CSHA:

Most of the Commonwealth funds advanced to the States since the 1945 CSHA were actually repayable interest bearing grants (the average citizen held the mistaken belief that a 'grant' was just that when in the arcane language of the Commonwealth it was actually a 'loan').

One consequence of this was that each year the States were forced deeper into debt and was one reason they could not fund the needed infrastructure. It was a neat pea and thimble trick.

So here we have the federal government caught out big-noting themselves about giving, in Tasmania's case, $32 million while slyly taking straight back off them—that is right!—a cheque for $17 million within 24 hours. Is it any wonder this Abbott government is mistrusted and viewed as dysfunctional?

In order to help this government recover the trust they have shattered with ordinary Australians and to help them repair their damaged reputation, I call on the Prime Minister, Mr Abbott, to waive the $200 million of Tasmania's public historic housing debt. A debt of $320 million for South Australia was scrapped a few years ago, and while I do not begrudge the people of South Australia that money, I make the point that both South Australia and Tasmania are suffering from similar social and economic crises and challenges—unemployment, economic stagnation and homelessness.

If the Commonwealth government can scrap the public housing debt of $320 million for South Australia, they can also scrap the public housing debt of $200 million for Tasmania. They can just scrap that $200 million debt for Tasmania, because Tasmania needs it. This would mean that the backlog of $90 million in housing maintenance could be addressed. I agree with retiring TasCOS CEO Mr Reidy, when he says that Tasmania needs more affordable housing, and that waiving the public housing debt would be a great start to fixing our public housing crisis in Tasmania. Waiving Tasmania's public housing debt would also have an immediate effect of fixing the crisis of public confidence in this government's ability to prioritise the proper investment of public funds.

It would not be right of me to stand up today and not mention Defence pay. Put aside Mr Abbott's lies and broken promises to every Australian in higher education, health funding, Medicare co-payments, funding of the ABC and SBS, aged pensions, workers' superannuation, veterans' superannuation and entitlements, and God only knows what is coming up over the next few weeks. Put aside the fact that Mr Abbott's leader in the Senate—our very own Tasmanian Senator Abetz—has twiddled his thumbs and enjoyed the prestige of political office for 21 years and has done absolutely nothing to save the jobs of 10,000 Tasmanian workers that are at risk because of the outrageous Renewable Energy Target and
our Bass Strait crisis. Put aside the fact that Senator Abetz has allowed his Liberal Party to put its foot on the throat of the Tasmanian economy by creating a crisis with the Bass Strait shipping and transport costs. Put aside the fact that Senator Abetz and his prime minister are happy for Tasmanian business to be placed at a huge disadvantage compared with the mainland states and to pay unfair and excessive freight charges. Put aside all those facts and outrageous injustices and there remains one injustice that the people of Tasmania and other states of Australia will not easily forgive the PM for, and which contributes to the deep level of mistrust for this Abbott government.

How can the Prime Minister and his cabinet, even after today, steal money from the men and women of our Defence Force—especially at a time when we rely on their protection so much? It would only take $121 million to deliver a fair pay rise for our Australian Defence Force personnel. If Mr Abbott wants to make a fair dinkum attempt to repair the damage he has caused to the office of prime minister and to the morale of our diggers, then all he has to do is announce—like his backbench member, Mal Brough—that he will support a fair pay rise for members of our Australian Defence Force. In the centenary of Anzac—and I say it again; this is the centenary of Anzac—how can he, in all good conscience, stand with our diggers and have photos taken with them with a smirk on his face as he takes food from their children?

Mr Brough had me cheering in front of the TV when he told a reporter on 3 February 2015:

Our defence force is one of the best in the world because of its people and the very least we can do is to ensure that their wages are not diminished.

Being a Liberal, Mr Brough is not without his faults but I am glad he has supported my stance on ADF pay. He is a former officer in the Army, but unlike the lazy Tasmanian Liberal backbencher, former Army officer and ex-brigadier, Mr Nikolic, Mr Brough has on this matter shown courage, honour and a sense of loyalty to his former colleagues by challenging the PM and speaking out for our diggers and their families.

Department of Defence figures indicate that nearly 800 Tasmanians are employed: 90 on a permanent basis and 700 in the ADF Reserves. There are almost 8,000 veterans living in Tasmania. We should never forget the thousands of Tasmanians who have left our state and served in mainland or overseas locations. Every one of those people would be prepared to reassess their opinion this government—that it is cruel, unfair and cannot be trusted—if it would only do the smart and conscious thing and give a fair pay rise to our ADF.

It is now time for action. The PM has a perfect opportunity to step up to the plate. He can do that with the flick of a pen today. The men and women in the ADF put their lives on the line for us every day. I want to see some action out of this PM, and this is the first action I want to see. I want the PM to replace the money that he has stolen from them—and I want it done today! (Time expired)

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:16): I rise to speak on the matter of public importance today, which is the chaos, division, dysfunction and mistrust at the heart of the coalition government. We all know that the good ship, the Liberal Party, is sinking. It is floundering in a sea of gross unpopularity. The captain, Prime Minister Abbott, has driven the ship into the iceberg and survivors are battering each other to get to too few lifeboats. They have not just tried to rearrange the deck chairs; they are actually battering each other to get to those lifeboats. The government's competence and judgement have been
tested and found sorely wanting. They are chaotic, divided, dysfunctional and certainly unable to be trusted. This is what they meant when they said, 'The adults are back in charge'!

The Liberal Party had a leadership contest this morning, and it has shown that a large proportion of the Liberal Party backbench want to roll Prime Minister Abbott. They did not even have an identified alternative putting their hand up; they wanted anyone but Abbott. It is the 'ABA' group, and we have heard about it quite a lot of late. The Liberal Party room is divided, dysfunctional, chaotic and full of animosity. I can give you a precise figure on just how divided: it is 39 per cent divided. However, I am sure this figure has become out of date since this morning and that it will be rising fairly quickly, I should expect, after Mr Abbott's statement that 'Today is the day good government starts.' I think the Australian people should really stop and listen to that comment, because after 520 days in government, what have the government been doing? What has been happening for the last 520 days if today is the day that good government starts? They should have started good government 520 days ago. They should have been thinking about what they were doing 520 days ago. I am really concerned that one member of the government is so dysfunctional or so concerned about the whole Liberal Party that he or she was unable to write 'yes or no' correctly on a ballot paper that only provided those options. Obviously, one person in that room has absolutely no faith in the Liberal Party. They wrote 'pass'. What a joke! Although Mr Abbott survived this morning's attempt to remove him, his government is still in chaos; it is still dysfunctional. This government is still divided and it is still racked with mistrust. I am sure that we will see another leadership challenge against Mr Abbott in the future, as his government keeps on focusing on itself rather than on the issues that matter.

In last Monday's speech at the National Press Club—a speech designed purely and solely to shore up his own leadership—Mr Abbott promised a more collegiate and consultative government. His backbenchers and ministers must take such a promise with a grain of salt since, as reported in the media, he has made that comment, that same promise, 12 to 15 times since 2009. When I worked in child care, if I had a child that kept promising to change their behaviour 12 or 15 times in a few years, I would be taking very severe action against that child when their behaviour was so unacceptable. I think the Australian people will show what they believe at the next election, whenever that might be. They will not put up with untruths and broken promises from the government of the day. Maybe Mr Abbott will change, but I doubt it—I very strongly doubt it. That is unfortunate, because this government needs to change. Many of the obviously sensible senators and members that were in their caucus room this morning knew that; they knew that it had to change.

Some in the government blame the sales pitch—'We haven't sold our policies very well'—but Australians know that it is not so much the salesmen but the policies that are so bad. So you have got a bad salesman or two or three or four or five and you have got disgusting, absolutely unacceptable policies coming out. The Australian people are not fools. It does not matter what those opposite decide to do in their caucus room with regard to leadership. It will be shown at the next election that they will have done the wrong thing. The thought-bubbles, the captain's picks—and very dodgy captain's s picks at that—the directives of Rupert Murdoch and the hard-core ideology of the Institute of Public Affairs are not the policies that Australians need.
The Australian people want their government to act on their behalf, not on behalf of foreign media magnates, Sydney based lobbyists or the rich miners. Whilst Mr Abbott might be Prime Minister today, when they do decide to replace him—with Mr Turnbull, Ms Bishop, Mr Pyne or whoever—their policies will still be the same; they will be thoughtless, they will be heartless and they will be targeting the most vulnerable in our society. The government do not need a change of face; they actually need to have major heart surgery—because they are not looking after the people in Australia who need to be looked after. And the people in Australia who really do need to be looked after are feeling betrayed and angry that this Liberal-National government wants to transform Australia so drastically and so cruelly. And, should the policies change, it will say, 'Actually, we didn't need to be that hard.' That will be an interesting dilemma for those on that side as well.

We all know that Australians believe in a fair go, in helping the underdog—and that is why they are so opposed to what this government is doing. The Australian people do not want a GP tax. The Medicare system, which allows access to health care for all Australians no matter what their financial circumstances, has been a key right of Australians—except for a shortcut under the Fraser Liberal government—for 40 years. How can the Australian people trust this government when they did not even announce that they wanted to destroy Medicare? And what is even more ridiculous is the continued back-flipping on this issue. Chaos? Chaos rules! First, there was going to be a $7 co-payment, which was then taken off the table. Then they wanted to cut the Medicare rebate for short consultations by $20, which they then pulled out just days before it was to come into effect. Now there are comments that, after this morning's spill attempt, any form of co-payment will be taken off the table. What does that say? It says, in actual fact we did not have to have that co-payment, we did not have to be so harsh and unrealistic and treat so harshly those in Australia who cannot look after themselves. It is just a joke as far as I am concerned, and the people of Australia think you are a joke. This position will probably change a few more times—as long as they are in government, who knows.

Another thing the Australian people really do not like is this government's attempt to introduce $100,000 university fees. They are proud that they have got a university sector that allows their children and grandchildren to gain access to world-class higher education in an affordable manner. Australians know that a higher education benefits not only the individual but the nation as a whole. If you want to have a smart Australia, you need to let people have access to higher education. But by making a degree cost $100,000 you remove the aspirations of young Australians from low-income backgrounds, who are quite seriously afraid of being saddled with such a debt for their entire lives. It is a figure that will leave higher education to the children of the wealthy. It is ideology again, coming through loud and strong. And that is not how our egalitarian society should be working.

Senior Australians are concerned about a cut to pensions despite the government's promise it would not do so. As a result of changes to indexation arrangements, in 10 years time pensioners will be $80 worse off than they would otherwise have been. So there is a cut.

Australians hate the attacks on the ABC and the SBS. Those TV stations show how diverse we are, how clever we are, how hardworking we are as a nation. But no, 'There will be no cuts to the ABC.' Well, bless my cotton socks, there have been. (Time expired)

Senator BACK (Western Australia) (17:26): At 8.30 this morning Senator Moore presented this ridiculous MPI on 'chaos, division and dysfunction'. Of course, by 9.30 it was
shown to be the lie that she always knew it was going to be. It is a shame she did not have the common courtesy to withdraw it. The simple fact of the matter is that, yes, there is chaos, division and dysfunction—and I am going to explain over the next few minutes why it has been caused in the Senate by the Labor Party and some of their hangers-on and why the Australian people are so badly disadvantaged.

Mr Abbott did make one mistake when he came to government. He made the mistake of—

*Opposition senators interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator Edwards):** Order! You were heard in silence, please afford the same.

**Senator Back:** Mr Abbott made the mistake of believing that the then Labor government's deficit for that year was $18 billion. The reality is that it was not $18 billion, it was not $20 billion, it was $40 billion.

*Opposition senators interjecting—*

**The ACTING DEPUTY PRESIDENT:** Order! I would ask those on my left to remain silent. Interjections are disorderly, and I remind you that you were heard in silence.

**Senator Back:** Senator Fifield made the opposition today—and he is quite right—that economic policy must lie in parallel to social policy.

*Opposition senators interjecting—*

**The ACTING DEPUTY PRESIDENT:** Order!

**Senator Back:** What the other side, in their bleating, conveniently overlook is that, what they inherited as a surplus in this country they managed to turn into an accumulated deficit of $200 billion, running towards $600 billion of debt. What that means is that we pay $1 billion a month in interest on our overseas debt. That is a new teaching hospital that we forgo every month as a result of the interest on the debt incurred by this crowd over there. That is $33 million a day. That is two new primary schools, seven days a week, that we are giving up because we are paying interest on money borrowed overseas. I will not listen to the nonsense being put forward by the other side when it comes to responsibility.

Let me come to the higher education sector. The Labor Party are opposing the changes. The fact that every vice-chancellor in Australia is now in favour, and the fact that the Labor Party in government lifted the caps on numbers but did not lift the cap on the capacity to deliver quality education, seems to have escaped them.

Senator Bilyk goes on about $100,000 degrees. It is time she went to school and learnt the cost of a four-year agriculture degree—at a cost of $16,000 a year—at one of Australia's top universities, UWA. As far as I know, four 16s are 64, not 100. Senator Carr, the shadow minister, continues to go on with this ridiculous statement.

But, of course, that is also affecting our international higher education sector. I remind you that international higher education is the fourth largest export income earner and indeed the highest non-commodity export income earner in this country, of some $16 billion. Why is it being put at risk? Because, internationally, the universities in our region and elsewhere are now perfectly capable of exceeding us in terms of quality. Why is it that the vice-chancellors are asking and begging the Labor Party and indeed the crossbenchers to pass the legislation?
Ask yourselves that question. My good friend and colleague Senator Xenophon says, 'All we need is another inquiry.'

We have had the Bradley inquiry, commissioned by Labor. We had the department's inquiry, in 2009. We had the Behrendt inquiry, in 2011, commissioned by the Hon. Chris Evans. We had the Lomax-Smith inquiry, the Phillips inquiry, the Kwong Lee Dow and Braithwaite inquiry—how many more inquiries do we need before we actually move and pass this legislation?

I do remind you, Deputy President, and those who might be listening that this is the same Labor opposition, claiming chaos, division and dysfunction on our side, which actually brought into this place $5 billion of budget savings when it was in government, which were accepted by the coalition. What has this crowd done in opposition? It has simply opposed what were its own policies when it was in government and we are invited to come in here today and talk about chaos, division and dysfunction. We are a government about improving employment and the economic circumstances of this country.

Senator Lines interjecting—

Senator BACK: I can explain exactly, through you, Deputy President, the three free trade agreements. Let me give you one illustration. The services sector in this country accounts for 70 per cent of our economy and yet only accounts for 17 per cent of export income. With respect to the Australia-China Free Trade Agreement, yes, the Chinese want our commodities. What the Chinese want more than anything else is our services. If we could increase the services sector's export-earning income, from 17 per cent up to 25 per cent, 30 per cent or more, you bet your life, through you, Deputy President, to Senator Lines, we would be in a position then where this country would be returning to the sort of stability and economic position we need to be in to achieve these goals.

I speak of international competitiveness. I speak about the offshore gas industry in my home state of Western Australia. There has been $200 billion of recent investment, a tremendous story. Gas prices are going down, as are oil prices and iron ore prices. They are going to adversely affect state and Commonwealth royalties. But we must remain internationally competitive. It is now costing $4,000 a tonne—and these are McKinsey's figures, not mine—to develop an offshore facility off WA. The cost of production in an equivalent field, the most recent one being the Sabine field, on the American side of the Gulf of Mexico, is not $4,000 a tonne but $1,500 a tonne. This is what we have to compete with internationally.

I am an optimist and I say that this is one of the greatest countries in the world, but we must get out there and understand that we do not exist in an international vacuum. We exist in the overall international economy. Greece is currently defaulting on its debt. We have Europe watching what will happen to Greece as it defaults. We have the powerhouse Germany, saying, 'We are not prepared to forgive you that $400 billion or $500 billion euros of debt.'

The United States of America, which, because it found cheap energy through shale gas, has now brought manufacturing back into its country. We see employment levels going up. But remember that we have $1 billion a month interest on our debt; the Americans are borrowing $1 billion per working day. Each year they are borrowing $250 billion each year.
We have phenomenal opportunities in this country. We must not as a Senate, as a country
and as an economy be held back by an irresponsible opposition, which itself caused the
economic malaise and demise. I finish with the words of Senator Fifield, ‘You must have
economic policy aligned to social policy if you wish to succeed.’

Senator LINES (Western Australia) (17:35): I rise to speak today on this matter of public
importance. What we heard from the Abbott government was more spin than you would get
from a whirling dervish. They cannot tell the truth, even on a day when their poll results have
hit absolute rock bottom. Never before in this country have we had a Prime Minister as
unpopular as Mr Abbott. Since Australia Day, after the Prime Minister's 'knighthood' backlash
from the Australian public in knightng Prince Philip, the chaos, the division, the dysfunction
and the mistrust eating at the heart of the coalition government have been well and truly on
display. It culminated this morning in a spill motion where 39 MPs and senators, a majority of
backbenchers, voted for a spill motion to have a new leader—all leader—anybody other than
the Prime Minister, Mr Abbott. Surely, the Prime Minister himself admitted to this chaos,
division, dysfunction and mistrust today in his own government when he said after the spill
motion, 'Good government starts today.' What an insult to Australian voters! Australian voters
had a right to good government from September 2013. But no, 18 months later, Mr Abbott
finally says, 'I'll have a go at good government from now on.' What a disgrace!

Almost 40 people in the Liberal Party—because I believe even a Liberal member is capable
of filling out a ballot paper without getting it wrong—deliberately wanted anybody other than
the Prime Minister. What confusion we saw.

What we see from the Abbott government and the ministers in this place is that they are
living in a parallel universe. They are claiming everything is fine. Clearly things are not fine
when the Prime Minister of the country commits to good government from today. Clearly
things are not fine when at least 39 backbenchers say they want anyone except the current
Prime Minister.

It is one thing, perhaps even expected, that a conservative tea party government like the
Abbott government would let down low-income earners and Australian workers and would
put trade unions offside. However, this government has managed to get everyone offside with
its bucketful of broken promises, back flips and captain's picks.

Doctors are out campaigning against the mistrust they have in the government. Perhaps the
PM has not been into a doctor's surgery lately, but let me assure him that in my doctor's
surgery I recently saw not just one notice opposing the Abbott government's cuts but three
notices and a petition. I can assure those opposite that the Abbott government's cuts to
Medicare were the talk of that waiting room.

Are the Prime Minister and his team listening? Of course they are not, because they are
committed still to cutting Medicare. The AMA is not convinced, because their campaign
continues. Turning to business groups, the Abbott government has even managed to put off its
mates at the big end of town. They are asking: you have done the big backflip on PPL, but
what about the levy? What are they being met with? Absolute silence. So, now, business
groups, which are the Abbott government's traditional mates, are offside. What about
farmers? What is the National Party doing? We have been suffering drought in this country.
The PM went out on a farm but again there were just empty promises. We have seen nothing
but poor policy delivered in that area.
The chaos, the division, the dysfunction and the mistrust will continue, because that genie is out of the bottle, and once the genie is out of the bottle it cannot be put back. Those low polls and the backflips and broken promises of the Abbott government will continue, and they will continue to live in their parallel universe trying to pretend that everything is somehow fine in the country, when all of us know better, until the next election. A change in government is what this country needs, and it needs it sooner rather than later.

Senator SESELJA (Australian Capital Territory) (17:40): I had the opportunity during the earlier take note of answers session to talk through some of the significant achievements of the coalition government over the last 17 months, so I will not go over them again, except to say that they are significant and we now need to build on those. Given the tenor of the MPI and some of the ridiculous statements we have heard from those opposite, you get a sense of a notion of projecting, because we have seen how they were in government. They are looking to project that chaos and dysfunction onto us.

In UK newspaper The Telegraph I found a nice summary and timeline of the Rudd-Gillard-Rudd years. They give an excellent summary of the real chaos and dysfunction, which is in stark contrast to what this government is about. I wanted to highlight it, because I think there is a lot of projecting here from the Labor party:

2010
June 23—Then deputy prime minister, Gillard challenges Rudd to a leadership ballot as his popularity plummets following a series of policy mis-steps including shelving an emissions trading scheme and skirmishes with the powerful mining industry over tax hikes.
June 24—Gillard goes on to win unopposed, with Rudd declining to contest the ballot. She quickly calls national elections.
August 21—The Labor party fails to win a majority, prompting Australia's first electoral deadlock in 70 years.
September 7—Minority lawmakers throw their support behind Gillard after lengthy negotiations, ensuring Labor's return to power with a fragile coalition. Gillard appoints Rudd as foreign minister.

2011
March 8—Gillard's popularity drops to a record low amid plans for a pollution levy, despite pledging there would be no such tax under her government. Furious protests break out around the country.
August 31—High Court strikes down Gillard's refugee swap deal with Malaysia, seen as a solution to the inflammatory issue of boat people, forcing Labor to scrap offshore processing and release refugees.
November 8—Labor passes its controversial emissions reduction scheme, but fails to make any headway in the polls. Rudd consistently places ahead of Gillard as preferred leader.

2012
February 22—Rudd resigns as foreign minister in Washington and says he is returning home to consider his future.
February 23—Gillard calls a leadership ballot and says both contenders must accept the outcome as final.
February 27—Gillard wins the ballot with a commanding 71 votes to 31 and vows to lead a unified front to the 2013 election. Rudd promises full support and says he holds no grudges.
January 30—Amid renewed talk about Gillard's leadership, she announces national elections for September 14.

February 15—Rudd dismisses mounting speculation he will again challenge Gillard, telling everyone to take 'a long, cold shower'.

March 12—An opinion poll shows Gillard would be crushed in a national election, but Labor would easily win if Rudd was leader.

March 21—Senior cabinet minister Simon Crean demands Gillard call a leadership vote and urges Rudd to stand. Gillard immediately calls a ballot but Rudd declines to challenge and she retains the leadership unopposed. Rudd vows not to challenge again.

June 26—After weeks of rising speculation Gillard announces a party leadership ballot cutting short party-room moves to depose her. Both Rudd and the prime minister commit to quit politics if they lose.

Rudd wins the ballot by 57 votes to 45.

Labor lost the election. That is a nice summary of the last few years of Labor government. What Labor is trying to do is to somehow contend that it is the coalition that has the issue and the problem.

I think there is another contrast they will want to draw. It is the vicious way in which the Labor Party publicly treated each other.

Senator Polley: Unlike those saints on the other side.

Senator SESELJA: In comparison to you lot we bring civility to a new level. We all remember what Wayne Swan said about Kevin Rudd. This, of course, is a leader who you put back into the prime ministership after you had gotten rid of him. You all knew how dysfunctional he was. Wayne Swan said:

… for too long, Kevin Rudd has been putting his own self-interest ahead of the interests of the broader labour movement and the country as a whole, and that needs to stop.

The Party has given Kevin Rudd all the opportunities in the world and he wasted them with his dysfunctional decision making and his deeply demeaning attitude towards other people including our caucus colleagues.

He sought to tear down the 2010 campaign, deliberately risking an Abbott Prime Ministership, and now he undermines the Government at every turn.

He was the Party's biggest beneficiary then its biggest critic; but never a loyal or selfless example of its values and objectives.

For the interests of the labour movement and of working people, there is too much at stake in our economy and in the political debate for the interests of the labour movement and working people to be damaged by somebody who does not hold any Labor values.

This is what Wayne Swan thought of Kevin Rudd. This is the guy that those opposite put back into leadership after all of those years of dysfunction.

We know that all the players have admitted what they thought of him. We saw on 29 June 2014 the headline "Julia Gillard admits political war with Kevin Rudd was 'all about ego'". Then there was the article with the great line from the Leader of the Opposition in the Senate which said:

Senior Minister Penny Wong came to her in tears. She, too, was abandoning Gillard. Why? “It's the South Australian seats,” Wong replies.
“I knew then that I'd lost it,” Gillard said.

Then there was 'Bill Shorten: The man who knifed two prime ministers'. That article said:

Mr Shorten did not believe he had been dishonest in telling the media over the past two weeks he was still supporting Ms Gillard.

"As I was going through the process of thinking what to do, do you think it is my job to be a public worrywart? That just destabilises the situation," he said.

"Up until the spill ... I was going to support the prime minister."

Of course, that was until he did not.

Then we had the Gillard article titled "She says: 'Why I had to knife Kevin Rudd'". Then we had Nicola Roxon's classic line in another article. It said:

She acknowledged that removing Mr Rudd from The Lodge in 2010 was "an act of political bastardry" but she said it was only possible "because Kevin had been such a bastard himself".

That is what we have left behind.

Let's be clear: all governments face their challenges. You can react to it in that way, as the Labor Party did, or you can react to it in a far more sensible way. That is what we in the coalition are going to do. We are going to get on with building on our achievements. Getting rid of the carbon tax, stopping the boats and the deaths at sea, securing our borders, conducting free trade agreements, hundreds of millions of dollars of environmental approvals, removing red tape all over the place—these are the achievements that we need to continue to build on. We are not going to be lectured to by the Labor Party.

The DEPUTY PRESIDENT: Order! Time for this discussion has now expired.

The following orders of the day relating to government documents were considered:

RESPONSES TO SENATE RESOLUTIONS

1. Minister for Health (Mr Dutton) to a resolution of the Senate of 28 August 2014 concerning Hearing Awareness Week
2. Minister for the Environment (Mr Hunt) to a resolution of the Senate of 2 September 2014 concerning the Carnaby's cockatoo
3. Assistant Minister for Social Services (Senator Fifield) to a resolution of the Senate of 23 September 2014 concerning dementia
4. Minister for Health (Mr Dutton) to a resolution of the Senate of 25 September 2014 concerning the Western Desert Nganampa Walytja Palyantjaku Tjutaku Aboriginal Corporation
5. Director-General, Department of the Premier and Cabinet, Queensland Government (Mr Grayson) to a resolution of the Senate of 17 November 2014 concerning deaths in custody
6. Minister for Aboriginal Affairs (Victoria) (Ms Hutchins) to a resolution of the Senate of 17 November 2014 concerning deaths in custody
7. Minister for Health (Mr Dutton) to a resolution of the Senate of 18 November 2014 concerning mental health
8. Minister for Education (Mr Pyne) to a resolution of the Senate of 1 December 2014 concerning the Youth Connections program
9. Minister for the Environment (Mr Hunt) to a resolution of the Senate of 3 December 2014 concerning climate change

SENATE BUSINESS DOCUMENTS
10. Business of the Senate—1 January to 31 December 2014

GOVERNMENT DOCUMENTS


*19. Department of the Prime Minister and Cabinet—Wangkangurru Land Claim No. 156—Report of the former Aboriginal Land Commissioner, Peter R A Gray, to the Minister for Indigenous Affairs and to the Administrator of the Northern Territory—no legislative requirement to table the report. (3 October 2014/3 October 2014)


List prepared by the Department of the Prime Minister and Cabinet.

# Documents tabled in the House of Representatives on Thursday, 4 December 2014

* Not available prior to tabling

Note: As recommended by the Senate Standing Committee on Finance and Public Administration, any dates listed in brackets at the end of certain reports indicate the date on which the report was submitted to the minister and the date the report was received by the minister, respectively.
GOVERNMENT DOCUMENTS (pursuant to Senate standing order 166)

   Report for 2011-12. [Received 5 December 2014]
   Report for 2012-13. [Received 5 December 2014]
   Report for 2013-14. [Received 5 December 2014]

   Section 54(1)—
   1 January 2012 to 31 March 2012. [Received 5 December 2014]
   1 April 2012 to 30 June 2012. [Received 5 December 2014]
   1 July 2012 to 30 September 2012. [Received 5 December 2014]
   1 October 2012 to 31 December 2012. [Received 5 December 2014]
   1 January 2013 to 31 March 2013. [Received 5 December 2014]
   1 April 2013 to 30 June 2013. [Received 5 December 2014]
   1 July 2013 to 30 September 2013. [Received 5 December 2014]
   1 October 2013 to 31 December 2013. [Received 5 December 2014]
   1 January 2014 to 31 March 2014. [Received 5 December 2014]
   1 April 2014 to 30 June 2014. [Received 5 December 2014]
   Section 12G(1)—
   1 October 2013 to 31 December 2013. [Received 5 December 2014]
   1 July 2013 to 30 September 2013. [Received 5 December 2014]
   1 January 2014 to 31 March 2014. [Received 5 December 2014]

23. Department of Finance—Consolidated financial statements for the year ended 30 June 2014. [Received 12 December 2014]

24. Department of Defence—Special purpose flights—Schedule for the period 1 January to 30 June 2014. [Received 12 December 2014]


27. National Health and Medical Research Council (NHMRC)—NHMRC Licensing Committee—Report on the operation of the Research Involving Human Embryos Act 2002 for the period 1 March to 31 August 2014. [Received 16 December 2014]

28. Cotton Research and Development Corporation (CRDC)—Report for 2013-14. [Received 17 December 2014]


30. Workplace Gender Equality Agency—Report for 2013-14. [Received 18 December 2014]


32. Institutional Responses to Child Sexual Abuse—Royal Commission—
   Report of Case Study No. 11—Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's
Agricultural School Tardun and Bindoon Farm School, dated December 2014. [Received 19 December 2014]

Report of Case Study No. 14—The response of the Catholic Diocese of Wollongong to allegations of child sexual abuse, and related criminal proceedings, against John Gerard Nestor, a priest of the Diocese, dated December 2014. [Received 19 December 2014]


34. Social Security Appeals Tribunal—Report for 2013-14. [Received 7 January 2015]

35. Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2014. [Received 15 January 2015]

36. Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2013-14. [Received 15 January 2015]

37. Gene Technology Regulator—Quarterly report for the period 1 July to 30 September 2014. [Received 15 January 2015]


39. Tax expenditures statement 2014, dated January 2015. [Received 30 January 2015]

REPORTS OF THE AUDITOR-GENERAL (pursuant to Senate standing order 166)

40. Audit report no. 10 of 2014-15—Performance audit—Administration of the Biodiversity Fund Program: Department of the Environment. [Received 9 December 2014]

41. Audit report no. 11 of 2014-15—Performance audit—The award of grants under the Clean Technology Program: Department of Industry. [Received 10 December 2014]

42. Audit report no. 12 of 2014-15—Performance audit—Diagnostic imaging reforms: Department of Health. [Received 11 December 2014]

43. Audit report no. 13 of 2014-15—Performance audit—Management of the Cape Class Patrol Boat Program: Australian Customs and Border Protection Service. [Received 16 December 2014]


46. Audit report no. 16 of 2014-15—Financial statement audit—Audits of the financial statements of Australian Government entities for the period ended 30 June 2014. [Received 18 December 2014]

47. Audit report no. 17 of 2014-15—Performance audit—Recruitment and retention of specialist skills for Navy: Department of Defence. [Received 18 December 2014]

48. Audit report no. 18 of 2014-15—Performance audit—The Ethanol Production Grants Program: Department of Industry and Science. [Received 28 January 2015]

49. Audit report no. 19 of 2014-15—Performance audit—Management of the disposal of specialist military equipment: Department of Defence. [Received 5 February 2015]

50. Audit report no. 20 of 2014-15—Performance audit—Administration of the Tariff Concession System: Australian Customs and Border Protection Service. [Received 5 February 2015]

RETURNS TO ORDER (pursuant to Senate standing order 166)

51. Defence—Air Warfare Destroyer Program—Letter to the President of the Senate from the Minister for Defence (Senator Johnston) and the Minister for Finance (Senator Cormann) responding to the order of the Senate of 2 December 2014. [Received 5 December 2014]
52. Family and community services—Child care and early childhood learning—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 4 December 2014, responding to the order of the Senate of 3 December 2014. [Received 5 December 2014]

53. Law and justice—Data retention—Cost estimates—Letter to the President of the Senate from the Attorney-General (Senator Brandis), dated 4 December 2014, responding to the order of the Senate of 3 December 2014 and raising a public interest immunity claim. [Received 5 December 2014]

STATEMENTS OF COMPLIANCE WITH SENATE ORDERS (pursuant to Senate standing order 166)

54. Statements of departmental and agency unanswered estimates questions on notice (continuing order of the Senate of 25 June 2014)
   Australian Centre for International Agricultural Research. [Received 28 January 2015]
   Australian Public Service Commission. [Received 28 January 2015]
   Commonwealth Ombudsman. [Received 7 January 2015]
   Finance portfolio. [Received 5 February 2015]

COMMITTEE REPORTS AND GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS PRESENTED OUT OF SITTING SINCE 4 DECEMBER 2014, [reports and responses will be recorded in the Journals of the Senate and available for consideration on Tuesday under standing order 62(4)]

COMMITTEE REPORTS (pursuant to Senate standing order 38 (7))

55. Legal and Constitutional Affairs References Committee—Manus Island Detention Centre—Interim report, dated 5 December 2014. [Received 5 December 2014]
   Report, dated December 2014, Hansard record of proceedings, additional information and submissions. [Received 11 December 2014]

56. Rural and Regional Affairs and Transport References Committee—Role of public transport in delivering productivity outcomes—Report, dated December 2014, Hansard record of proceedings, documents presented to the committee, additional information and submissions. [Received 5 December 2014]


58. Intelligence and Security—Joint Statutory Committee—Review of the listing of Al-Murabitun, dated December 2014. [Received 16 December 2014]

59. Intelligence and Security—Joint Statutory Committee—Annual report of committee activities 2012-13—Report, dated December 2014. [Received 16 December 2014]

60. Intelligence and Security—Joint Statutory Committee—Annual report of committee activities 2013-14—Report, dated December 2014. [Received 16 December 2014]

61. Senators' Interests—Standing Committee—Register of senators' interests incorporating statements of registrable interests and notifications of alterations lodged between 1 September and 2 December 2014, dated December 2014. [Received 17 December 2014]

62. Rural and Regional Affairs and Transport References Committee—Current requirements for labelling of seafood and seafood products—Report, dated December 2014, Hansard record of proceedings, additional information and submissions. [Received 18 December 2014]

63. Corporations and Financial Services—Joint Statutory Committee—Proposals to lift the professional, ethical and education standards in the financial services industry—Report, dated December 2014, Hansard record of proceedings, document presented to the committee, additional information and submissions. [Received 19 December 2014]
64. Select Committee into the Abbott Government's Budget Cuts—First interim report, dated February 2015. [Received 4 February 2015]

65. Legal and Constitutional Affairs Legislation Committee—Guardian for Unaccompanied Children Bill 2014—Interim report, dated 5 February 2015. [Received 5 February 2015]

COMMITTEES

Government Response to Report

The following documents were tabled pursuant to standing order 61(1)(b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated.]

Corporations and Financial Services—Joint Statutory Committee—Report—Family businesses in Australia—different and significant: why they shouldn't be overlooked—Government response, dated October 2014. [Received 7 October 2014]

The document read as follows—

Australian Government response to the Senate Environment and References Committee report:
The Koala—saving our national icon

NOVEMBER 2014

Government Response to 'The Koala—Saving Our National Icon'

Introduction

On 17 November 2010 the Senate referred the following matter to the Environment and Communications References Committee for inquiry and report by 1 June 2011, with effect from the first day of sitting of 2011. 'The status, health and sustainability of Australia's koala population, with particular reference to:

a. the iconic status of the koala and the history of its management;
b. estimates of koala populations and the adequacy of current counting methods;
c. knowledge of koala habitat;
d. threats to koala habitat such as logging, land clearing, poor management, attacks from feral and domestic animals, disease, roads and urban development;
e. the listing of the koala under the Environment Protection and Biodiversity Conservation Act 1999;
f. the adequacy of the National Koala Conservation and Management Strategy;
g. appropriate future regulation for the protection of koala habitat;
h. interaction of state and federal laws and regulations; and
i. any other related matters.'

On 22 September 2011 the Committee presented the report 'The Koala—Saving our National Icon'. Many of the recommendations in the report relate to actions in the National Koala Conservation and Management Strategy (the Strategy). The linkages between the recommendations in the report and the actions in the strategy are tabulated for ease of reference at Attachment A. The Australian Government acknowledges that it has a lead role in the strategy, and will continue to work with State partners to the strategy on its implementation and annual reporting to Ministers on progress.

Additionally, on 30 April 2012 the Australian Government announced that the koala population of Queensland, New South Wales and the Australian Capital Territory would be listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999. This is a significant step in the protection of the listed koala species, and will ensure that any development likely to have a significant impact on the listed koala species must be referred for assessment under national environmental law. A
Recovery Plan will be developed for these koala populations to commence following the expiration of the National Koala Conservation and Management Strategy in 2014. The Australian Government is working with state and territory governments to reduce duplication in environmental approvals while maintaining high environmental standards, through its 'One-Stop Shop' for environmental approvals.

The Australian Government welcomes the opportunity to respond to this report. The response to each recommendation contains a statement as to whether the Australian Government agrees, agrees in part, agrees in principle, or notes the Committee's recommendations. The meanings of each statement are included for reference below. These statement meanings have been developed by the Department of the Environment for the purposes of this response.

**Agreed**—The Australian Government agrees with the recommendation and has already, or will in the future, take the recommended (or similar) action. This is not a commitment to providing additional funding.

**Agreed in part**—The Australian Government agrees with part of the recommendation and has already, or will in the future, take the recommended (or similar) action in relation to that part only.

**Agreed in principle**—The Australian Government agrees with, but is unable to implement the recommendation due to the costs involved and a lack of identified funding.

**Noted**—The Australian Government notes the recommendation. In some cases, the recommendation relates to State/Territory government responsibilities, not Australian Government responsibilities.

**Not agreed**—The Australian Government does not agree with the recommendation.

**Responses**

**Recommendation 1**

2.144 The committee recommends that the Australian Government fund research into the genetic diversity of the koala including a population viability assessment of the southern koala and determining priority areas for conservation nationally.

**Government response: Agreed in part**

The Australian Government recognises that research into the genetic diversity of the koala would be beneficial and notes that work aimed at determining priority areas for koala conservation is underway. National Koala Conservation and Management Strategy 2009-2014 action 6.02 recognises and allows for the identification and prioritisation of knowledge gaps in koala research. The Australian Government is a partner in the Strategy. Potential research into the genetic diversity of the koala will be considered and prioritised amongst other competing research priorities. Input will be sought from the Koala Research Network (KRN) on determining priority research topics within the discipline of koala population genetics. If it is determined to be a research priority, funding may be available through funding avenues such as the Australian Research Council.

The Australian Government is already undertaking work that supports this recommendation, including:

- The Australian Centre for Ecological Analysis and Synthesis (ACEAS) is a facility of the Terrestrial Ecosystems Research Network, supported by the Australian Government through the National Collaborative Research Infrastructure Strategy (NCRIS) and the Super Science Initiative. ACEAS is providing funding sourced from NCRIS and the Queensland state government to the recently-formed Koala Research Network for two workshops under the project titled Conserving Koalas in the 21st Century: Synthesising the dynamics of Australia's Koala populations. The Koala Research Network is a collaboration of over 60 highly-qualified koala researchers who aim to provide robust science to inform sustainable koala conservation and management.

The first workshop was held on 20-23 February 2012, bringing together key researchers from around Australia to share data and knowledge on current and emerging trends in regional koala populations. The second workshop held on 18-21 June 2012 focussed on areas where no data were available and
where there is uncertainty regarding population trends. The outcomes of both workshops are publicly available (http://www.aceas.org.au) and provide guidance to determine priority areas for conservation, or further research.

- Since 2002, the Australian Research Council has awarded approximately $3.3 million in funding under the National Competitive Grants Programme to eleven projects involving research directly and indirectly related to koala genetic diversity and koala disease. Projects relating to genetic diversity of koalas are noted below.

<table>
<thead>
<tr>
<th>Project Id</th>
<th>Start year</th>
<th>Administering organisation</th>
<th>All Investigators</th>
<th>Project title</th>
<th>Funding over project life</th>
</tr>
</thead>
<tbody>
<tr>
<td>LP120200630</td>
<td>2012</td>
<td>The University of Sydney</td>
<td>Prof HW Raadsma, Dr KR Zenger, Dr KA Leigh, Ms J Tobey</td>
<td>Addressing koala conservation management needs: applying novel genomic methods and assessing ecological exchangeability across the species range</td>
<td>$115,218</td>
</tr>
<tr>
<td>LP0882090</td>
<td>2008</td>
<td>The University of Queensland</td>
<td>Dr CA McAlpine, Dr JR Rhodes, Dr GS Baxter; Dr B Price, Dr AJ Bradley, Dr DH Lunney, Dr LM Seabrook</td>
<td>The conservation of widely distributed species: implications of differences between western and eastern koala populations</td>
<td>$459,804</td>
</tr>
<tr>
<td>LP0455785</td>
<td>2004</td>
<td>The University of Queensland</td>
<td>Dr SD Johnston, Dr FN Carrick Dr GW Lundie-Jenkins, Prof WV Holt</td>
<td>The preservation and management of Koala genetic diversity using reproductive biotechnology and molecular genetics: A model for endangered Australian marsupials</td>
<td>$318,424</td>
</tr>
</tbody>
</table>

Recommendation 2

2.147 The committee recommends that the Australian Government fund a properly designed, funded and implemented national koala monitoring and evaluation program across the full range of the koala.

Government response: Agreed in principle

There is value in monitoring the condition and integrity (for example, degree of connectedness) of known koala habitat in order to inform management and protection approaches. However, a species-specific approach to monitoring across the distribution of an entire widespread species is difficult, including in relation to unintended biases in data collection.
National Koala Conservation and Management Strategy 2009-2014 actions 1.06-1.08, 6.02 and 6.05 are consistent with this recommendation. The Australian Government is a partner in the Strategy. Jurisdictions involved in the Strategy are undertaking programmes and projects to support these Strategy actions. For example, Queensland has developed a koala population survey protocol, and a habitat assessment protocol. New South Wales is undertaking work to develop consistent protocols that enable population numbers or density to be compared between the same place at different times and between different habitats. Meetings of the Strategy's implementation team allow for knowledge sharing amongst Strategy partners.

**Recommendation 3**

2.153 The committee recommends that the Australian Government establish a nationally coordinated and integrated program for population monitoring of threatened species and other culturally, evolutionary and/or economically significant species.

**Government response: Agreed in part**

See also Recommendation 2.

The Australian Government is establishing a national coordinated system for monitoring of the state of the environment including biodiversity. The Department is developing a set of environmental indicators as part of the National Plan for Environmental Information initiative. This will build capacity to monitor, detect and predict change in the environment and maintain this capacity over the long-term. Monitoring of the status of biodiversity, including threatened species, will be considered as one of the environmental indicators that could be used for monitoring of the state of the environment.

The Australian Government appointed a Threatened Species Commissioner on 1 July 2014 to promote the recovery of threatened species. The Commissioner provides advice on priority actions needed to recover threatened species including identifying areas where additional research, such as population monitoring, may be needed.

Several programmes and initiatives that contribute to the overall information base for threatened species that support this recommendation are already being undertaken by the Australian Government. These include:

- The Commonwealth and state and territory governments through the former Natural Resource Management Ministerial Council agreed to establish a national long-term biodiversity monitoring and reporting system as part of Australia's Biodiversity Conservation Strategy 2010–2030. The Commonwealth and state and territory governments are collaborating to develop a monitoring system for a number of national conservation related strategies.

- A number of environmental monitoring projects within the former National Environmental Research Programme are providing a better understanding of a range of aspects relevant to threatened and other indicator species management. These projects will therefore help to establish an enhanced environmental information base, which will help address this recommendation.

- Monitoring of populations are key actions identified in national recovery plans for threatened species prepared under the Environment Protection and Biodiversity Conservation Act 1999.

- Work under the National Plan for Environmental Information (NPEI) initiative commenced in July 2010. It is a whole-of-government initiative designed to coordinate and prioritise the way the Australian Government collects, manages and uses environmental information. As such it represents a long-term approach to building and improving Australia's environmental information base.
Recommendation 4

2.155 The committee recommends that the Australian Government assist the koala research community and interested organisations to work towards a standardised set of methodologies for estimating koala populations.

Government response: Agreed

The Australian Government agrees to facilitate the development of national guidelines through the National Koala Conservation and Management Strategy Implementation Team. Additionally, the Australian Government will approach the Koala Research Network to seek their input in informing the national guidelines.

The Australian government notes the Committee's statement that 'this is not an endorsement of a single methodology to be used across the entire country, but instead a proposal on an agreed set of methodologies, with each to be used in an agreed set of circumstances'.

National Koala Conservation and Management Strategy 2009-2014 actions 1.06 and 6.05 are consistent with this recommendation. The Australian Government is a partner in the Strategy. The jurisdictions involved in the Strategy are undertaking significant programmes and projects in line with the strategy to support these actions, and this recommendation. For example, Queensland has developed a koala population survey protocol, and a habitat assessment protocol. New South Wales is undertaking work to develop consistent protocols that enable population numbers or density to be compared between the same place at different times and between different habitats.

The Koala Research Network is a collaboration of over 60 highly-qualified koala researchers who aim to provide robust science to inform sustainable koala conservation and management. The Network has hosted two workshops in 2012 to share data and knowledge on current and emerging trends in regional koala populations.

These workshops have been funded through the Australian Centre for Ecological Analysis and Synthesis (ACEAS), which is a facility of the Terrestrial Ecosystems Research Network, supported by the Australian Government through the National Collaborative Research Infrastructure Strategy (NCRIS) and the Super Science Initiative. ACEAS funding for the workshops is sourced from NCRIS and the Queensland state government.

There are already a range of well established methods published in the scientific literature on koalas. However, the applicability of the method used is dependent on the type of habitat, the objective of the study and the resources available. There has also been disagreement between researchers even where these prior requirements are known and thus there is a need for coordinating expert input to standardise the methodology to be applied in particular circumstances. It should also be noted that in the case of longer term longitudinal studies, the value of existing data can be reduced if methodological consistency is not maintained.

Recommendation 5

2.160 The committee recommends that the Threatened Species Scientific Committee provide clearer information to the Environment Minister in all future threatened species listing advices, including species population information, and that the Threatened Species Scientific Committee review its advice to the Minister on the listing of the koala in light of the findings of this inquiry.

Government response: Agreed

The Department notes that this recommendation is broader than koalas, and the complete species population data are not always available. When assessing a species for possible listing, the Threatened Species Scientific Committee considers available information relevant to the criteria for listing. Given the regulatory implications of listing a species, and the importance of being soundly based, the Committee seeks sufficient evidence to justify advice that a species should be listed.
The koala's range spans four states and the Australian Capital Territory and includes habitat from semi-arid range lands to tall, mountainous forest. Its status has been affected by a multitude of threats that vary across its range and habitats. Consequently, the initial 30 September 2010 listing advice prepared by the Committee was detailed and complex.

The then Minister for Sustainability, Environment, Water, Population and Communities wrote to the Committee requesting that it provide further advice on the listing of the koala in light of the findings of this inquiry.

In the Committee's revised advice this recommendation was taken into account and additional information on the population status of the koala was provided. The then Minister for Sustainability, Environment, Water, Population and Communities announced on 30 April 2012 that he had decided to list koala populations in Queensland, New South Wales and the Australian Capital Territory as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999.

Recommendation 6
3.127 The committee recommends that the Australian Government undertake habitat mapping across the koala's national range, including the identification of priority areas of koala conservation, with a view to listing important habitat under the provisions of the Environment Protection and Biodiversity Conservation Act 1999.

Government response: Agreed in part

The Australian Government agrees in part with Recommendations 6. The National Environmental Research Programme project noted below addressed these recommendations in part, by providing a basis for effectively prioritising further on-ground survey work. Additional funding would be required to enable habitat mapping and identification of priority areas for koala conservation to be undertaken across the koala's national range.

The National Environmental Research Programme's Environmental Decisions Hub was given a grant of $300,000 from the Department (with additional contributions from the University of Queensland, and CSIRO) to undertake remote sensing work to provide rapid information on the distribution of koalas across eastern Australia, as a basis for effectively prioritising any further on-ground surveys.

Listing of a species under the Environment Protection and Biodiversity Conservation Act 1999 affords a higher level of protection for important habitat of the species. Any action likely to have a significant impact on the koala and important habitat for the species is likely to require assessment and approval under the Environment Protection and Biodiversity Conservation Act 1999.

Habitat considered critical for the survival of the species can be registered under the Environment Protection and Biodiversity Conservation Act 1999 at the time of making and adopting a recovery plan. The decision takes into account the potential conservation benefit of listing the habitat. The National Koala Recovery Plan is currently being developed and will consider the whether there is a need to register critical habitat for the koala to meet the objectives of the recovery plan.

National Koala Conservation and Management Strategy 2009-2014 actions 1.01-1.09, and 6.01 are consistent with these recommendations. The Australian Government is a partner in the Strategy. Jurisdictions involved in the Strategy are undertaking programmes and projects to support these actions. An example of a significant planned project that will support both the Strategy actions and this recommendation was the National Environmental Research Programme's research as described above.
Recommendation 7

3.129 The committee recommends that the habitat maps be used to identify and protect important habitat in known koala ranges.

Government response: Agreed in part

See also Recommendation 6.

The Australian Government agrees with the intent of Recommendation 7, noting that the recommendation is linked to Recommendation 6. If habitat maps are produced in accordance with Recommendation 6, the Australian Government agrees that they should be used to help protect the koala across its known range.

Recommendation 8

3.131 The committee recommends that the Australian Government review its land holdings which contain koala habitat and consider biodiversity, and specifically koala populations, in the management and sale of Commonwealth land.

Government response: Agreed in part

The Australian Government agrees in part with Recommendation 8, as koala habitat is already actively considered as part of the management of Commonwealth land where it has the status of a matter of national environmental significance. As such koalas on Commonwealth land are indirectly afforded protection.

The recent listing of the koala has increased the certainty and transparency of this protection. The Australian Government does not agree to review all of its land holdings.

The Department of Defence (Defence) has custodianship of large areas of natural land, often with high biodiversity value. Potential koala habitat occurs on many areas of land under Defence management. The species has been recorded on or immediately adjacent to at least 16 larger Defence establishments and at least five smaller urban depots or bases with essentially urban habitat. Transient individuals or low density populations are likely to occur at a number of other sites.

Defence is bound by the Environment Protection and Biodiversity Conservation Act 1999, and has a stated goal in its Environmental Strategic Plan (2010-2014) of best practice environmental management. The management of biodiversity values on Defence land is taken very seriously, and is embodied in the Defence Environmental Management System. This system implements the recommendations of numerous internal and regional management documents, including koala-specific habitat management plans where relevant. In addition, areas of Defence land with significant biodiversity values are listed on the Commonwealth, National and World Heritage Lists for their natural heritage values to ensure that the legacy of high quality natural habitats is preserved for future generations. Thus the Committee's recommendation to "consider biodiversity, and specifically koala populations" is already inherent in management of Defence land.

The recent listing of the koala under the Environment Protection and Biodiversity Conservation Act 1999 has increased the importance of the koala and its habitats within existing Defence planning and land management frameworks.

Where Defence land possessing natural or heritage values is surplus to requirements and is planned for sale, environmental and heritage management plans are prepared to inform and support on-going protection of these values by the new owners. These plans form part of the due diligence material provided to purchasers and where appropriate are also included in the contract of sale documentation. The Commonwealth Department of the Environment is notified, and where required to preserve specific values, binding environmental covenants also form part of the contract of sale. For listed areas of natural heritage this is a requirement under sections 324ZA Protecting National Heritage values of...
places sold or leased and 341ZE Protecting Commonwealth Heritage values of places sold or leased of the Environment Protection and Biodiversity Conservation Act 1999.

In respect of airport land, any koala populations or habitat already present at the leased federal airports are most likely already identified and managed appropriately. Under the current regulatory framework, airport Master Plans need to include identification of any areas that are environmentally significant (ss71(h)(ii) of the Airports Act 1996). Furthermore, regulation 5.02B(2)(d) of the Airports Regulations 1997, require that an Airport Lessee Company must address its policies and targets regarding the identification and conservation of objects or matters that have natural value.

Recommendation 9

3.134 The committee recommends that the Australian Government actively consider options for recognition and funding for private land holders for the conservation of koala habitat.

Government response: Agreed

The Australian Government agrees with Recommendation 9, and notes that the Committee's recommendation generally aligns with the aims of existing programmes.

National Koala Conservation and Management Strategy 2009-2014 actions 1.03 and 4.03 are consistent with this recommendation. The jurisdictions involved in the Strategy are undertaking significant programmes and projects in line with the Strategy to support these actions, and this recommendation. For example, Queensland's Koala Nature Refuges Programme assists landholders to restore koala habitat on private land and protect it for future generations. New South Wales has incentive based mechanisms including voluntary conservation agreements, property vegetation plans, and biobanking.

The Australian Government recognises the importance of conserving our unique biodiversity. Environmental programmes for biodiversity conservation include the 20 million Trees programme and the Green Army initiative. The Threatened Species Commissioner consults on, and raises awareness and support for, threatened species in the community The Commissioner works with all levels of government, scientists, the non-profit sector, industry and the community to ensure that efforts and investment to protect our native species are better coordinated, better targeted and more effective.

Recommendation 10

4.44 The committee recommends that the Australian Government fund research into koala disease, including the viability of vaccination programs and the effect of changes in leaf chemistry.

Government response: Agreed in part

The Australian Government recognises the value in funding research into koala disease. Existing programmes already provide funding that support research into koala disease. In addition, future funding may also be available through the Australian Research Council should other disease projects be successful through the usual competitive grants process.

National Koala Conservation and Management Strategy 2009-2014 actions 3.03 and 6.03 are consistent with this recommendation. The jurisdictions involved in the Strategy are undertaking programmes and projects to support these actions, and this recommendation. For example, Queensland has established the Koala Disease Research fund to support high quality research into mitigating the effects of disease on wild populations of koalas. New South Wales is undertaking an assessment of the prevalence and cause of Chlamydia in koalas on the Liverpool Plains and Victoria is undertaking disease monitoring.

Since 2002, the Australian Research Council has awarded approximately $3.3 million in funding under the National Competitive Grants Programme to eleven projects involving research directly and indirectly related to koala genetic diversity and koala disease. Projects relating to koala disease are noted below.
<table>
<thead>
<tr>
<th>Project Id</th>
<th>Start year</th>
<th>Administering organisation</th>
<th>All Investigators</th>
<th>Project title</th>
<th>Funding over project life</th>
</tr>
</thead>
<tbody>
<tr>
<td>DP130102066</td>
<td>2013</td>
<td>Queensland University of Technology</td>
<td>Prof Peter Timms; Dr Adam Polkinghorne; Asst Prof Garry Myers</td>
<td>Understanding the origin, epidemiology and transmission threat of chlamydial infections between Australian native animals and livestock</td>
<td>$360,000</td>
</tr>
<tr>
<td>DP120104611</td>
<td>2012</td>
<td>Queensland University of Technology</td>
<td>Prof Dietmar W Hutmacher, Prof Kenneth W Beagley, Prof Peter Timms, Dr Timothy R Dargaville, Dr Siamak Saifzadeh, Dr Ferry Melchels, Prof Dr Juergen Groll</td>
<td>Convergence of biomaterials and immunology—a technology platform for delayed burst release of vaccines</td>
<td>$270,000</td>
</tr>
<tr>
<td>LP120200051</td>
<td>2012</td>
<td>Queensland University of Technology</td>
<td>Prof P Timms, Prof KW Beagley, Dr AM Polkinghorne</td>
<td>Development of a safe and immunogenic anti-chlamydia vaccine for the koala</td>
<td>$465,000</td>
</tr>
<tr>
<td>LP0990147</td>
<td>2009</td>
<td>Queensland University of Technology</td>
<td>Prof P Timms, Prof KW Beagley</td>
<td>Development of an anti-Chlamydia vaccine for the koala</td>
<td>$290,000</td>
</tr>
<tr>
<td>LP0989701</td>
<td>2009</td>
<td>The University of Queensland</td>
<td>A/Prof J Meers, A/Prof PR Young, Dr DP Higgins</td>
<td>Retroviral invasion of the koala genome: prevalence, transmission and role in immunosuppressive disease</td>
<td>$240,000</td>
</tr>
<tr>
<td>DP0879906</td>
<td>2008</td>
<td>The University of Queensland</td>
<td>A/Prof PR Young, Dr J Meers</td>
<td>Retroviral invasion of the koala genome: Where did it come from and what is it doing now that it's there?</td>
<td>$255,000</td>
</tr>
<tr>
<td>LP0560572</td>
<td>2005</td>
<td>The University of Sydney</td>
<td>Dr MB Krockenberger, Mr DP Higgins, Prof PJ Canfield, Dr M</td>
<td>Prevention and treatment of chlamydiosis and cryptococcosis in</td>
<td>$392,262</td>
</tr>
</tbody>
</table>
Recommendation 11

4.46 The committee recommends that the Australian Government fund the Koala Research Network’s request for a Research Liaison Officer.

Government response: Not agreed

The priority for funding is for on-ground koala conservation research rather than administrative positions of this nature.

Action 6.04 of the National Koala Conservation and Management Strategy 2009-2014 requires the development of a network to support koala research. The establishment of the Koala Research Network supports this action.

Recommendation 12

4.77 The committee recommends that the Australia Government consider further wild dog control options in priority koala areas.

Government Response: Noted

The Australian Government recognises that wild dogs can have a detrimental impact on Australian wildlife and notes that action 3.02 of the National Koala Conservation and Management Strategy 2009-2014 is consistent with this recommendation.

The on-ground management of wild dogs is the responsibility of the relevant land manager, which will usually be the relevant state or territory government or private landholders. On Commonwealth owned or managed land, management of wild dogs is an Australian Government responsibility. The Australian Government supports control of wild dogs where the impact is having a negative effect on threatened species, such as the koala.

The research programmes of the Invasive Animals Cooperative Research Centre (CRC) includes work on the control and management of wild dogs and the CRC has provided input into the Senate Inquiry. The Invasive Animals CRC received $29.6 million in Commonwealth funding from 2005 to 2012 to counteract the environmental, social and economic impacts of invasive pests and animals, including wild dogs, through the development and application of new technologies and integration of strategic management approaches. The CRC was awarded additional funding of $19.7 million in the 14th CRC selection round to extend the work of the CRC to address the broad impacts of a range of invasive and pest animal species from 2012 through to 2017. The research of the CRC over this period includes work on the control and management of wild dogs.
As noted, National Koala Conservation and Management Strategy 2009-2014 action 3.02 is consistent with this recommendation. The Australian Government is a partner in the Strategy. Jurisdictions involved in the Strategy are undertaking programmes and projects to support these Strategy actions. For example, New South Wales is undertaking a fox and dog baiting programme throughout areas sustaining koalas in Morton National Park and Bungonia State Recreation Area, Biamanga National Park, Bermagui Nature Reserve, Murrah and Mumbulla State Forests and in Nature Reserves sustaining koalas in North East Monaro.

**Recommendation 13**

**4.90 The committee recommends that local and state governments:**

- introduce appropriate speed limits in priority koala areas; and
- that where appropriate, build or retrofit underpasses or overpasses for major roads in priority koala areas as well as installing koala fencing adjacent to major roads.

**Government Response: Noted**

The Australian Government agrees that appropriate speed limits and underpasses, overpasses and fencing around roads in priority koala areas would be beneficial, however this recommendation relates to state and local government responsibilities.

As the koala is now a listed threatened species, the actions noted in the recommendation are potential actions that may be included as threat mitigation actions, and may become conditions of some *Environment Protection and Biodiversity Conservation Act 1999* approved proposals. As part of the 'One-Stop Shop' commitment the Australian Government is working with state and territory governments on a range of administrative streamlining measures, including the development of standard outcome-focussed conditions.

National Koala Conservation and Management Strategy 2009-2014 action 3.01 is consistent with this recommendation and State governments are undertaking a range of measures in line with action 3.01. For example, Queensland is trialling retrofitting of wildlife crossings and underpasses, and South Australia has developed a 'Koalas, Vehicles and Roads' factsheet.

**Recommendation 14**

**4.92 The committee recommends where the Australian Government provides funding for roads or other infrastructure in or adjacent to koala habitat, it be contingent on the provision of adequate koala protections.**

**Government Response: Noted**

See also Recommendation 15.

While the Australian Government provides funding for roads and other infrastructure, the responsibility for planning and delivery of road and infrastructure projects is with the relevant state, territory or local governments.

While still primarily the responsibility of state, territory and local governments, as a matter of National Environmental Significance under the *Environment Protection and Biodiversity Conservation Act 1999*, any action that is likely to have a significant impact on the listed koala will need to be assessed and approved under the *Environment Protection and Biodiversity Conservation Act 1999* before it can proceed. The Australian Government is working with state and territory governments to reduce duplication in environmental assessments and approvals while maintaining high environmental standards, though its 'One-Stop Shop' for environmental approvals. The policy is being implemented through bilateral agreements between the Australian Government and each state and territory which will accredit state assessment and approval processes and remove the need for a separate Commonwealth approval for those processes.
National Koala Conservation and Management Strategy 2009-2014 action 3.01 is consistent with this recommendation. The jurisdictions involved in the Strategy are undertaking programmes and projects in line with the Strategy to support these actions, as noted at the response to Recommendation 13.

Recommendation 15
4.94 The committee recommends that the Australian Government work with the states to develop new national guidelines to ensure that all new roads and upgrades in or adjacent to koala habitat are koala-friendly.

Government response: Agreed in part
The Australian Government agrees in part with Recommendation 15. The Guide to Road design outlined below, while not koala specific, addresses this recommendation in part.

The Australian Government, working with states and territories through Austroads, the association of Australian and New Zealand road transport and traffic authorities, has participated in the development of guidelines that give consideration to fauna management around roads. Austroads publishes a Guide to Road Design, which provides guidance to designers in the production of safe, economical and efficient road designs. Part 6B of the Guide to Road Design contains guidance on fauna management within road reservations, including the protection of habitats, provision of fauna crossings (underpasses, overpasses and culverts) and provision of exclusion or guide fencing for fauna.

As noted at Recommendation 14, National Koala Conservation and Management Strategy 2009-2014 action 3.01 is relevant to this recommendation. The jurisdictions involved in the Strategy are undertaking programmes and projects in line with the Strategy to support these actions.

As noted at Recommendation 14, while the Australian Government provides funding for roads and other infrastructure, the responsibility for planning and delivery of road and infrastructure projects is with the relevant state, territory or local governments. As a matter of National Environmental Significance under the Environment Protection and Biodiversity Conservation Act 1999, any action that is likely to have a significant impact for the listed koala will need to be assessed and approved under the Environment Protection and Biodiversity Conservation Act 1999 before it can proceed. Approval for such actions would only be granted if the impacts are able to be avoided, mitigated and/or offset to acceptable levels.

Additionally, the Department provided project funding through the former National Environmental Research Programme that aimed to provide tools to better manage the impacts of human activities on koalas, including car strike. This project is being undertaken by the University of Queensland with assistance from the New South Wales Office of Environment and Heritage. Final synthesis reports and peer review publications are being reviewed by the scientific community.

Recommendation 16
5.78 The committee recommends that the Environment Minister consider the evidence provided to this inquiry when making his final decision on listing the koala as a threatened species.

Recommendation 17
5.82 The committee recommends the Environment Minister consider options to improve the conservation status of the diverse and rapidly declining koala populations in New South Wales and Queensland to ensure a nationally resilient population is maintained. These options include listing the koala as vulnerable under the EPBC Act in areas where populations have declined significantly or are at risk of doing so.

Proposed response: Agreed
The former Minister for Sustainability, Environment, Water, Population and Communities wrote to the Threatened Species Scientific Committee on 31 October 2011 requesting that it provide further advice on the listing of the koala in light of the findings of this inquiry.
After receiving the revised advice, the then Minister requested further information in relation to the precise boundaries of where koala populations are dwindling. On 30 April 2012 the koala of Queensland, New South Wales and the Australian Capital Territory was listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999. This protection will ensure that any development likely to impact on the listed koala must be assessed and approved under the Act. Interim referral guidelines, aimed at providing proponents with a clearer understanding on how and when they should seek approval for their activities under national environmental law, have been developed. The finalised referral guidelines will be available on the Department of the Environment's website by the end of 2014.

A Recovery Plan will be developed under the Environment Protection and Biodiversity Conservation Act 1999 for the listed koala, to commence following the expiration of the National Koala Conservation and Management Strategy in 2014.

Recommendation 18

6.46 The committee recommends that an independent external review be conducted on the National Koala Conservation and Management Strategy to monitor the adequacy of progress. The review should assess and report on the progress made at the strategy's midpoint.

6.47 The review must include an assessment of the:

- strategy's implementation to date and prospects into the future;
- strategy's effectiveness in stabilising koala numbers in areas of declining population, and in reducing the pressure of overabundant populations;
- strategy's level of ambition, including whether new elements are required; and
- adequacy of the Commonwealth's and the states' respective roles and funding commitments.

Proposed response: Agreed in part

The Strategy contains a requirement for an independent review within five years. The Australian Government agrees that an independent external review of the Strategy be conducted on the National Koala Conservation and Management Strategy to include an assessment of, but not limited by the four identified criteria in 6.47. The review will be undertaken near the end of the Strategy rather than at the midpoint as it is intended that the results of the review will be used to assist in identifying the requirements of a Recovery Plan for the combined populations of Queensland, New South Wales and the Australian Capital Territory. The Recovery Plan will commence following the expiration of the Strategy in 2014.

Recommendation 19

6.52 The committee recommends that the Australian Government adequately resource the National Koala Conservation and Management Strategy, and ensure that it is properly implemented through committing to a much stronger leadership role.

Proposed response: Agreed in principle

The Australian Government agrees with the intent of Recommendation 19. As identified in the Strategy, implementation is a shared responsibility of both the Australian Government and State Strategy partners and would require the contribution of State staff and resources.

The Australian Government has made significant investments in areas that support Strategy actions, and these recommendations, noted in the responses to Recommendations 1, 3, 6, 9 and 10. The Australian Government also provides secretariat support to Strategy partners, and will continue to undertake this role for the duration of the Strategy. The Australian Government acknowledges that it has a leadership role for the National Koala Conservation and Management Strategy, and will continue to work with State and Territory partners on its implementation until the expiration of the Strategy at the end of 2014.
### Recommendation 1

The committee recommends that the Australian Government fund research into the genetic diversity of the koala including a population viability assessment of the southern koala and determining priority areas for conservation nationally.

**6.01** Develop techniques for, and undertake, broad-scale remote sensing to identify areas for further analysis of koala habitat and distribution.

### Recommendation 2

The committee recommends that the Australian Government fund a properly designed, funded and implemented national koala monitoring and evaluation program across the full range of the koala.

**1.06** Develop standard monitoring/habitat assessment protocols

**1.07** Establish a national database of population distribution and density and habitat mapping data

**1.08** Establish or continue surveying and monitoring programmes

**6.02** Identify and prioritise knowledge gaps in koala research

**6.05** Develop methods for enabling comparison of disparate data on koala distribution and abundance

### Recommendation 3

The committee recommends that the Australian Government establish a nationally coordinated and integrated program for population monitoring of threatened species and other culturally, evolutionarily and/or economically significant species.

**N/A** (broader than koalas)

### Recommendation 4

The committee recommends that the Australian Government assist the koala research community and interested organisations to work towards a standardised set of methodologies for estimating koala populations.

**1.06** Develop standard monitoring/habitat assessment protocols

**6.05** Develop methods for enabling comparison of disparate data on koala distribution and abundance
<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Description</th>
<th>Category</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recommendation 5</strong></td>
<td>The committee recommends that the Threatened Species Scientific Committee provide clearer information to the Environment Minister in all future threatened species listing advices, including species population information, and that the Threatened Species Scientific Committee review its advice to the Minister on the listing of the koala in light of the findings of this inquiry.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Recommendation 6</strong></td>
<td>The committee recommends that the Australian Government undertake habitat mapping across the koala's national range, including the identification of priority areas of koala conservation, with a view to listing important habitat under the provisions of the Environment Protection Biodiversity Conservation Act 1999.</td>
<td>All Category 1 actions 6.01</td>
<td>Habitat identification and protection actions</td>
</tr>
<tr>
<td><strong>Recommendation 7</strong></td>
<td>The committee recommends that the habitat maps be used to identify and protect important habitat in known koala ranges.</td>
<td>All Category 1 actions 6.01</td>
<td>Habitat identification and protection actions</td>
</tr>
<tr>
<td><strong>Recommendation 8</strong></td>
<td>The committee recommends that the Australian Government review its land holdings which contain koala habitat and consider biodiversity, and specifically koala populations, in the management and sale of Commonwealth land.</td>
<td>1.02</td>
<td>Assess, develop and implement options for protecting priority koala habitat on public lands using legislation, covenants or agreements, or by new acquisition of koala habitat</td>
</tr>
<tr>
<td><strong>Recommendation 9</strong></td>
<td>The committee recommends that the Australian Government actively consider options for recognition and funding for private land holders for the conservation of koala habitat.</td>
<td>1.03</td>
<td>Assess, develop and implement options for protecting koala habitat on private lands</td>
</tr>
</tbody>
</table>

---

**Recommendation 10** | The committee recommends that the Australian Government extend community involvement in koala conservation and engagement with government | 4.03 | Extend community involvement in koala conservation and engagement with government |
<p>| Recommendation 10 | The committee recommends that the Australian Government fund research into koala disease, including the viability of vaccination programmes and the effect of changes in leaf chemistry. | 3.03 | Assess and develop appropriate methods to reduce vulnerability of populations to disease. |
| Recommendation 11 | The committee recommends that the Australian Government fund the Koala Research Network’s request for a Research Liaison Officer. | 6.03 | Identify directions for research on effects of climate change on koalas. |
| Recommendation 12 | The committee recommends that the Australia Government consider further wild dog control options in priority koala areas. | 6.04 | Facilitate development of a network to support koala research. |
| Recommendation 13 | The committee recommends that local and state governments:— introduce appropriate speed limits in priority koala areas; and—that where appropriate, build or retrofit underpasses or overpasses for major roads in priority koala areas as well as installing koala fencing adjacent to major roads. | 3.02 | Implement strategies which minimise the impacts of dogs on koala populations in both urban and peri-urban areas. |
| Recommendation 14 | The committee recommends that where the Australian Government provides funding for roads or other infrastructure in or adjacent to koala habitat, it be contingent on the provision of adequate koala protections. | 3.01 | Develop appropriate national guidelines for road design in koala habitat. |
| Recommendation 15 | The committee recommends that the Australian Government work with the states to develop new national guidelines to ensure that all new roads and upgrades in or adjacent to koala habitat are koala-friendly. | 3.01 | Develop appropriate national guidelines for road design in koala habitat. |
| Recommendation 16 | The committee recommends that the Environment Minister consider the evidence provided to this inquiry when making his final decision on listing the koala as a threatened species. | N/A | N/A |</p>
<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Description</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recommendation 17</strong></td>
<td>The committee recommends the Environment Minister consider options to improve the conservation status of the diverse and rapidly declining koala populations in New South Wales and Queensland to ensure a nationally resilient population is maintained. These options include listing the koala as vulnerable under the EPBC Act in areas where populations have declined significantly or are at risk of doing so.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Recommendation 18</strong></td>
<td>The committee recommends that an independent external review be conducted on the National Koala Conservation and Management Strategy to monitor the adequacy of progress. The review should assess and report on the progress made at the strategy's midpoint. The review must include an assessment of the:— strategy's implementation to date and prospects into the future;— strategy's effectiveness in stabilising koala numbers in areas of declining population, and in reducing the pressure of overabundant populations;— strategy's level of ambition, including whether new elements are required; and— adequacy of the Commonwealth's and the states' respective roles and funding commitments.</td>
<td>N/A</td>
<td>An independent external reviewer will be contracted to review and evaluate the strategy and its implementation within five years.</td>
</tr>
<tr>
<td><strong>Recommendation 19</strong></td>
<td>The committee recommends that the Australian Government adequately resource the National Koala Conservation and Management Strategy, and ensure that it is properly implemented through committing to a much stronger leadership role.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

1 Para 2.154 of the Senate Inquiry Report
MINISTERIAL STATEMENTS

Education

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (17:49): On behalf of the Minister for Education, Mr Pyne, I table a ministerial statement on our achievements in schools and cross-border education.

BILLS

Defence Legislation Amendment (Military Justice Enhancements—Inspector-General ADF) Bill 2014
Explanatory Memorandum

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (17:50): I table a correction to the explanatory memorandum relating to the Defence Legislation Amendment (Military Justice Enhancements—Inspector-General ADF) Bill 2014.

Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

Customs Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014

Customs Tariff Amendment (Japan-Australia Economic Partnership Agreement Implementation) Bill 2014

Aged Care and Other Legislation Amendment Bill 2014

Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014

Australian War Memorial Amendment Bill 2014

Migration Amendment (Character and General Visa Cancellation) Bill 2014

Tertiary Education Quality and Standards Agency Amendment Bill 2014

Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014

ACT Government Loan Bill 2014

Tax and Superannuation Laws Amendment (2014 Measures No. 6) Bill 2014

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

Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.
Guardian for Unaccompanied Children Bill 2014
Report of Legislation Committee

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (17:51): Pursuant to order and at the request of the Chair of the Legal and Constitutional Affairs Committee, Senator Macdonald, I present the report of the committee on the Guardian for Unaccompanied Children Bill 2014, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMMITTEES
Environment and Communications Legislation Committee

Report


Order that the reports be printed.

BILLS
Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator SESELJA (Australian Capital Territory) (17:52): I believe when I left off before question time I was saying that the government does believe that mandatory minimum sentences are necessary and will act as a strong deterrent for those who would otherwise engage in illicit firearms trafficking. As I said, the bill introduces mandatory minimum sentences of five years imprisonment for offenders charged with trafficking firearms or firearm parts, though this does not apply to minors. The introduction of even a small number of firearms or firearm parts into the illicit market can have a significant impact on the community.

This provision aims to ensure that offenders receive sentences proportionate to the seriousness of their offending. The government believes that mandatory minimum sentences will act as a strong deterrent for those who would otherwise engage in illicit firearms trafficking. This is a similar view to that taken by the Queensland and United Kingdom governments, which have both introduced mandatory minimum sentences for firearms trafficking offences. The introduction of this penalty is appropriate to ensure that high-culpability offenders receive sentences proportionate to the seriousness of their offending, while providing the courts with discretion to set custodial periods consistent with the particular circumstances of the offender and the offence.
The Australian government believes that the current approach to firearms policy strikes an appropriate balance between the interests of those with a genuine need to have access to firearms and the interests of the broader community to live safely and securely. However, the government also recognises and respects the importance of preserving discretion in sentencing and the court’s ability to take into account the particular circumstances of the offence and the offender. Therefore, there is no nonparole period prescribed by the amendments and the actual time a person is incarcerated will be at the discretion of the sentencing judge. The absence of the nonparole period will allow courts to take into account factors such as cognitive impairment, the public interest and the broader circumstances of the offence when setting the period offenders spend in custody.

I also note that all mandatory minimum penalties for firearm trafficking offences will not apply to those under the age of 18. This again preserves judicial discretion in sentencing by ensuring that the courts can take into account minors’ particular circumstances. This approach is consistent with the application of mandatory minimum sentences for offences under the Migration Act 1958 for minors involved in people smuggling offences. It is also consistent with Australia’s obligations under the Convention on the Rights of the Child.

There has been some concern about this provision and the government notes the concern of the Law Council of Australia in relation to mandatory minimum sentences. However, the government is of the firm belief that the introduction of these penalties will send a strong deterrent message to those who would otherwise engage in firearms trafficking. The government notes that the Law Council of Australia has suggested the presence of mandatory minimum sentences reduces the likelihood of offenders pleading guilty. This is because offenders are aware that a guilty plea will still result in the prescribed minimum sentence; they are therefore less likely to enter the a guilty plea, which in turn results in trials running their full course.

However, as I mentioned earlier, given that the government has not attached a nonparole period to the mandatory minimum sentences, this ensures there is still an incentive to enter a guilty plea as the particular circumstances of each case will be considered by the court and the sentencing judge. That to me seems to be an eminently sensible approach.

The government has noted the concerns of the Parliamentary Joint Committee on Human Rights in relation to arbitrary detention. However, the government believes that there are appropriate limitations and safeguards in place to ensure that the detention is reasonable, necessary and proportionate to each individual case and therefore not arbitrary. Consistent with the concerns raised by the committee, the government has amended the explanatory memorandum of the bill, which now notes that the mandatory minimum sentence is not intended as a guide to the nonparole period, which in some cases may significantly differ from the head sentence.

I would also like to briefly note the elements of this bill regarding the International Transfer of Prisoners Scheme. Australia’s International Transfer of Prisoners Scheme promotes the successful rehabilitation and reintegration into society of a prison, whilst preserving the sentence imposed by the sentencing country in the prisoner’s home country. The scheme is important the community safety and ensures that prisoners can be reintegrated into that country’s community and appropriately monitored, supervised and supported during the enforcement of the sentence.
The International Transfer of Prisoners Act 1997, which governs the International Transfer of Prisoners Scheme, came into operation nearly 20 years ago. While it has been effective in enabling prisoners to be transferred back to Australia and out of Australia to their home country, there are opportunities to make this scheme more efficient, more timely and simplified. The existing processes will be streamlined in a number of ways. This includes improving arrangements governing unviable transfer applications, implementing time frames for reapplications and simplifying the process of notifying and seeking the consent of the transfer country.

In conclusion, the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 is an important update to our nation's criminal law so that it remains in step with the key issues of the day. We all know that the consequences of this kind of criminal activity are all too real. We know them well. We see, tragically, that gun-related violence and drug-related deaths are an all too common feature in our community. The Australian government believes very strongly in ensuring that we have the appropriate laws to deal with these issues and also in ensuring that we have the appropriate balance of people's civil liberties. I believe that this bill strikes that balance and I commend it to the Senate.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (17:58): I thank honourable senators for their contribution to the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014, which delivers on the government's continuing commitment to combating drugs and gun-related crime. This bill will also ensure that Australia's criminal justice arrangements for the international transfer of prisoners, anti-money-laundering regime, counter-terrorism regime and investigation and prosecution of slavery offences remain up-to-date and effective.

The bill will reduce the availability of new psychoactive substances by banning their importation and allowing the Australian Customs and Border Protection officers and the Australian Federal Police officers to stop, seize and destroy these substances where they are detected. This will ensure that drug laws keep pace with new and emerging substances where they are presented as alternatives to illicit drugs. The bill also demonstrates the seriousness with which this government considers firearms trafficking and the gravity of supplying firearms and firearms parts to the illicit market by creating a more comprehensive set of firearm offences and penalties.

Australia's international transfer of prisoners scheme is important for community safety, as it ensures that prisoners can be reintegrated into that country's community and appropriately monitored, supervised and supported during the enforcement of the sentence. The bill will make existing processes governing the scheme more efficient, timely and simplified while appropriately maintaining prisoner rights.

This bill will also make clear that slavery offences within Commonwealth criminal law have universal jurisdiction. Slavery is amongst the most abhorrent of all crimes, and this amendment will ensure that Australian law enforcement agencies have the appropriate tools to target this crime wherever it occurs. In addition, the bill will take steps to improve Australia's anti-money-laundering regime by enhancing the ability of the Australian Taxation Office to coach tax cheats and bolster the budget's bottom line.

Question agreed to.
Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole.

**Senator McLUCAS** (Queensland) (18:01): The opposition opposes schedule 2 in the following terms:

1. Schedule 2, item 14, page 16 (lines 17 to 24), **to be opposed**.
2. Schedule 2, item 18, page 21 (lines 13 to 18), section 361.5 **to be opposed**.

We oppose mandatory minimum sentences for the reasons that Senator Collins outlined during the second reading debate.

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:01): The government does not support these amendments. Firearms trafficking is amongst the most serious of crimes, particularly given its ability to facilitate violent and potentially deadly criminal acts. The entry of even a small number of illegal firearms into the Australian community will have a significant impact on the threat posed by the illicit market and due to the enduring nature of firearms a firearm can remain within that market for many years.

Mandatory minimum penalties send a very strong message on the seriousness of gun related crime and violence and certainly act as a deterrent for criminals. The government believes that mandatory minimum sentences are a stronger deterrent than increased maximum penalties. There are protections in place to ensure that mandatory minimums do not cause unjust results. Mandatory minimum sentences will not apply to children, and there is no minimum non-parole period. The offences preserve a level of judicial discretion to allow courts to take into account mitigating factors when setting the period offenders spend in custody. The government amended the explanatory memorandum in response to the Senate Legal and Constitutional Affairs Committee's report to make clear that mandatory minimum sentence is not intended as a guide to the non-parole period, which in some cases may result in significant differences between the head sentence and the non-parole period.

**Senator DI NATALE** (Victoria) (18:03): I would like to put on record that the Greens will be supporting this amendment. For the reasons already described, we do not support the imposition of mandatory minimum sentences of five years imprisonment for illegal firearms trafficking. We think that the appropriate sentence is that left to the discretion of the judge. I would like also to ask the minister representing the Attorney-General a question around the definition of ‘psychoactive substance’. What test will be applied for a substance to be officially determined as a psychoactive substance?

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:04): The bill builds on Customs officers’ existing powers to stop and seize suspicious goods by allowing officers to seize new psychoactive substances. The bill does not use a broad definition of psychoactive effects to capture these substances but includes 12 broad categories of exemptions. The only substances caught by this offence are those that are going to be used or supplied as alternatives to illicit drugs. It is true that offenders will not be required to know with absolute certainty that a substance has a psychoactive effect. They will only need to reasonably suspect that the goods contain a new psychoactive substance. The goods will only be released if the importer shows that they have a legitimate use or are not
psychoactive. This approach is the best way of staying ahead of an ever-changing drug market. The bill will clarify that new psychoactive substances are illegal and potentially very dangerous. It will give Customs officers appropriate powers to stop these substances at the border and will allow the government time to develop and implement more-specific controls. The government believes these changes are critical to protect public safety.

Senator DI NATALE (Victoria) (18:05): Thank you for that explanation, but it still does not address the question that I was asking, which was: what test will be applied to determine whether a substance fits into that category? The definition of a psychoactive substance is one that is not clearly outlined in the bill. It is far too broad. I ask again: what specific test will be used to determine whether a substance is captured under this legislation?

The CHAIRMAN: Before I call the minister, Senator Di Natale, your questions as I understand them relate to schedule 1. The question before us relates to schedule 2. I was wondering whether you have questions in relation to schedule 2. If not, we might deal with schedule 1 and then come back to your questions, given they are not dealing with the question before the chair. Are you happy for me to proceed that way?

Senator Di Natale: Yes.

The CHAIRMAN: Thank you. In that case, I will put the question that:

Item 14 and section 361.5 in item 18 of schedule 2 stand as printed.

The Committee divided. [18:11]

(The Chairman—Senator Marshall)

Ayes ...................... 31
Noes ...................... 31
Majority ............... 0

AYES

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lazarus, GP
Mason, B
McKenzie, B
Nash, F
Parry, S
Reynolds, L
Ryan, SM
Smith, D
Williams, JR
Bernardi, C
Bushby, DC
Cash, MC
Day, R.J.
Fawcett, DJ
Fifield, MP
Johnston, D
Macdonald, ID
McGrath, J
Muir, R
O’Sullivan, B
Payne, MA
Ruston, A (teller)
Seselja, Z
Wang, Z

NOES

Bilyk, CL
Bullock, J.W.
Conroy, SM
Di Natale, R
Brown, CL
Cameron, DN
Dastyari, S
Gallacher, AM
Question negatived.

The CHAIRMAN (18:14): Minister, there is a question before you. Do you need it to be asked again?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:14): No. Just in response to Senator Di Natale’s question, the government believes that this approach is, as I said before—

The CHAIRMAN: If those senators who do not intend to participate in the debate would either take their seats or leave the chamber, that would assist us in conducting our business. Minister.

Senator COLBECK: Thank you, Chair. I understand Senator Di Natale has had an interest in this for a period of time. As I have said, the government believes that having this broad definition is the best way of staying ahead of an ever-changing drug market. I would just reinforce a couple of the points that I made a moment ago. The only substances caught by this offence are those that are going to be used or supplied as alternatives to illicit drugs. That is an important point. The bill deliberately uses a broad definition of ‘psychoactive effect’ to capture these substances but, importantly, it includes 12 broad categories of exemptions. The ban will clearly not apply to any substance with a legitimate use that is imported in accordance with relevant regulatory schemes. Substances without a listed legitimate use are those that are most likely to be imported for use as alternatives to illicit drugs. So the definition of psychoactive substance is deliberately very broad, but it has to be read in the context of the rest of the legislation and, as I have indicated, there are 12 broad categories of exemptions that form part of that overall context for the rest of the legislation.

I know you are looking for something definitive, Senator Di Natale, but the government has taken an approach—as I have indicated to you now on a couple of occasions—that it is about being able to stay ahead of a rapidly changing market. Governments are often criticised for not being able to keep up with changes in the way that the community works, and in this circumstance we have made the deliberate attempt to put in place a provision that allows us to stay ahead of an ever-changing drug market. We understand the damage that that can cause in the broader community. We are looking at the opportunity to develop and implement more specific controls, but we are in a situation where we need to act on this as quickly as possible.
Senator DI NATALE (Victoria) (18:17): Perhaps it might be instructive to use a couple of scenarios. Under this legislation, why wouldn't a substance like a herbal tea that contains caffeine but is not currently registered for use in Australia—such as some of the caffeinated beverages that are used by particular cultural groups—be captured under this bill? We know that caffeine has psychoactive properties; it can produce anxiety and tremor and so on. Why is it that a substance like that is not captured under this bill? It seems to me that it would be.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:18): Senator, that is clearly not the target of this piece of legislation. I did say to you before: substances without a listed legitimate use are the most likely to be imported as alternatives to illicit drugs, and so that is clearly the target of the legislation—substances without a listed legitimate use that are likely to be imported for use as alternatives to illicit drugs.

Senator DI NATALE (Victoria) (18:18): Thank you. I understand that it is not the target. The question is, will it be captured by this definition? And what is it that means that, under this definition, it will not be included? What is it that separates this from other substances that may be captured by the bill as it now stands?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:19): Senator, that particular example is captured by the food exemption.

Senator DI NATALE (Victoria) (18:19): There are some beverages that are ingested that are not listed as foods. In fact, we had a presentation to the inquiry into this legislation which highlighted a specific example of a Uruguayan beverage; we have also had examples listed that include particular therapeutics used in some alternative or complementary medicines: they do in those instances have psychoactive properties. Why is it that they will not be captured under this legislation?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:19): My advice is that the ban will not affect the importation of these goods. Customs and AFP officers will continue to have their current practice of stopping these goods for further investigation if they suspect that they may contain illicit drugs. These goods may be required to comply with other regulations; for example, those regarding quarantine and biosecurity. So it is a matter of giving the flexibility to our law enforcement agencies to make those assessments. I think I said to you earlier: it is about giving officers the flexibility to stay ahead of changes, and to make those assessments. It does not necessarily mean, as I understand this, that they will be captured but that they may be captured.

Senator DI NATALE (Victoria) (18:21): With respect, the question I am asking is not whether they will or will not be captured, but why: what is it that allows you to make a statement that says you understand they will not be captured, when many of the substances that have been described are not listed in the exemptions that are outlined in the legislation. They are not listed in the exemptions. They are used for particular indications that do not satisfy any of the exemptions. I understand that it is not the intention of the police to capture these substances, but if they are being imported, and if they are being imported with the very specific purpose of inducing some psychoactive effect, how is it that they will not be captured by this legislation?
I understand that it is not the intention of the bill. I understand that they are not being targeted. I understand all of that. But for the purposes of this bill, they satisfy the definition of 'psychoactive effect', they satisfy the definition of 'consume', and they are not listed with this substances that are exempt. Why won't they be captured?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:22): I go back to one of the points that I made to you earlier: substances without a listed legitimate use are those that are the most likely to be imported for use as alternatives to illicit drugs. So what we are looking at is substances that are the most likely to be used as alternatives to illicit drugs. The ban will not apply, as I have said to you before, to any substance with a legitimate use. So some of those that are already being brought into the country, which have a recognised legitimate use, fall into that category under the exemptions.

Senator DI NATALE (Victoria) (18:23): I feel we are in a bit of a circular argument here, but I have already indicated to you a number of examples where a particular substance with an active ingredient produces a psychoactive effect—it may be used for a therapeutic purpose; it may be that somebody who is anxious is prescribed a particular medication from an alternative health practitioner—and that substance is not listed under the exemptions. It is currently being imported, it is being prescribed by an alternative health practitioner and it produces a psychoactive effect. It may be to reduce someone's anxiety; it may be to assist somebody with sleep—some of the reasons that illicit drugs are used. Why is it that that drug—which is going to be used for those indications, which will produce a psychoactive effect and which is not currently listed along with the exemptions in the bill—will not be captured under this definition? I still have not had a satisfactory explanation.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:24): Firstly, if a substance is presented as having a therapeutic use, it will be exempt. I think I have mentioned that to you before. If substances are captured, it will be open to the importer to establish that they have a legitimate use. So I go back to the point that I made at the outset: we are taking this approach deliberately to stay ahead of an ever-changing market. You can attempt to prescribe as much as you like—as occurs in some other places—but you will never capture everything: I do not think it is possible. I know that you are looking for a very specific definition. The government has taken a deliberate decision to have a broad definition. I think that you are also right that we could go around this for a considerable period of time if that is what you want to do. You are looking for something specific; the government has taken a deliberate decision to have something that is not so specific but is broad. The reason that we have done that is to stay ahead of an ever-changing drug market, and it is a deliberate strategy of the government.

Senator DI NATALE (Victoria) (18:26): I just ask you to perhaps reflect on the answer that you have just given. The claim that if a substance has a therapeutic use it will be exempt is patently false. Many of these social tonics are marketed as having therapeutic uses—to help control anxiety, help with sleep or help relax. As a former physician, we prescribed medications for those indications; we prescribed drugs that had psychoactive properties to control those particular conditions. It cannot be that if a drug is simply promoted as having a therapeutic use it will be exempt, because it makes the legislation meaningless. I ask you to reflect on the answer that you have given and see if you can provide me with a satisfactory explanation.
Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:27): That was the advice that was given to me, and I go back to a point that I made to you earlier. The ban will clearly not apply to any substances with a legitimate use that are imported in accordance with the relevant regulatory scheme. Perhaps that is a clarification on the last point that I made, but that is a point that I did make to you earlier in the debate. The ban will not apply to any substances with a legitimate use that are imported in accordance with the relevant regulatory scheme.

Senator DI NATALE (Victoria) (18:27): What you are suggesting there is that if a substance has a therapeutic indication, a therapeutic use, and is not registered with a particular scheme—as many currently imported substances are not—then it will be captured. That is what I am trying to get at. You cannot argue on one hand that any drug with a therapeutic indication will be exempt and then on the other hand argue that it needs to be registered under a particular framework like the TGA and so on. There are many, many substances that are imported and are used for therapeutic purposes that are not registered and are not listed in the list of exemptions, so they will be captured—they must be. What you are suggesting to me is that they are not the target. It does not matter whether they are the target or not. They satisfy the definition under the law, and, therefore, you are not providing any assurance that these substances will not be restricted.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (18:28): You are selectively quoting me. I repeat a point that I made in conjunction with the answer to the last question: if some of these substances are captured it will be open to the importer to establish that they have legitimate uses. If a product makes a therapeutic claim, it would have to be imported under the relevant import scheme for therapeutic products. It would, therefore, be exempt from the scheme.

Senator DI NATALE (Victoria) (18:29): I think we have got somewhere there, because what you are suggesting is that the onus is on the importer to demonstrate—

Senator Colbeck: If you listened to my answer it’d be good.

Senator DI NATALE: I am sorry—am I supposed to respond to that?

The CHAIRMAN: No, continue, Senator.

Senator DI NATALE: The onus is on the importer to demonstrate the particular use or indication of that product. If an importer is importing a substance that the importer determines is for therapeutic purposes, what is the test that is going to be applied to distinguish a substance for therapeutic purposes from one that is being used to mimic an illicit drug? What is the test that you are going to use to make that distinction?

Sitting suspended from 18:30 to 19:30

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (19:30): I had a question to answer from Senator Di Natale in relation to an importer making a claim that a product would have an effect or a use. I have to say I am a bit surprised, Senator, that you would actually make that statement. An importer would have to establish that the substance is for a legitimate use, not just make the claim. In respect of the effect, it would also have to establish that the substance would have that effect. Even in our food laws, to make a claim about a therapeutic effect, you have to actually establish that; you cannot just put it on the label. Also under our food laws, it is not legal to mislead. I am surprised that you
would make that statement. An importer would have to establish that a substance is for legitimate use and would have to establish the effect. I think that clarifies the point. Therefore, as I have stated previously, it is dealt with under the legislation.

Senator DI NATALE (Victoria) (19:31): Yes, that is true if the substance is going to be imported under the Therapeutic Goods Administration or under FSANZ regulations. That is absolutely true. But there are other substances that are imported that are not covered by those regulatory frameworks. I have got a list of substances, if you would like me to go through them with you. There are a number of them. They were brought to our attention through the course of the inquiry. There is, for example, the extract of an Amazonian plant, Guayusa. The leaves of this plant contain caffeine. It has a range of polyphenol antioxidants in it. There are claims that it is healthier than other caffeinated alternatives. It has been used traditionally for thousands of years in Ecuador. That specific extract would be captured by this definition. It is not listed under the TGA or FSANZ and therefore it does not have to demonstrate that it has a therapeutic effect. It does not have to substantiate the claim because it is not imported under either of those regulatory frameworks. So why is it that that substance would not satisfy the definition of a psychoactive substance, given that it does contain caffeine and other substances? Why is it that it is not captured?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (19:33): We are not saying it will not; we are saying it may, and it would be open to the importer to establish that they have a legitimate use.

Senator DI NATALE (Victoria) (19:33): Isn’t it a problem that, if a substance that is not the intention of this act is captured, the onus is on the importer to establish that it does not have a psychoactive effect? The question I return to is a question I asked just before the dinner break, which is: how does the importer establish that a substance does not have a psychoactive effect? What is the test to establish that claim?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (19:34): Senator, we actually have been through all this, and that is the intent of the legislation. As I have said to you a number of times, that is the intent of the legislation. It has a broad definition deliberately. The reason it has a broad definition is so that we can stay ahead of an ever-changing drug market. You can keep asking the question and, Senator, I will keep on giving you the answer. That is fine. I am quite content with that. That is the rationale of the government. I have stated that to you a number of times. And that is the reason that we have taken the approach that we have.

I do not believe that it is unreasonable that someone who wants to put something into the Australian market should demonstrate its efficacy or its use. We do that for a number of products. We say that, if a food wants to make a therapeutic claim under our Food Standards Australia New Zealand legislation—and you have acknowledged that—it should demonstrate that. I have acknowledged that a new substance may be caught in the process. I have also said on a number of occasions that the purpose of this is to capture substances that are most likely to be imported for use as alternatives to illicit drug use. So, if you are telling me the substance you have just described might be imported as an alternative to illicit drug use—

Senator Di Natale: No, I haven’t said that.
Senator COLBECK: well, that is the implication that comes to me from your question—and it is captured, and I have said that it may be, then it is open to the importer to demonstrate, to establish, that it is there for a legitimate use. It goes back to a strategy which I said is deliberate, and I will keep repeating the strategy. It is deliberately a broad definition and it is designed so that the government can stay ahead of a rapidly changing drug market. It is a deliberate strategy.

Senator DI NATALE (Victoria) (19:36): I am yet to get an answer on how they establish that it is not used for that intended purpose and it does not have a psychoactive effect. We are talking about a product—in this case one that contains caffeine, which we know has a psychoactive effect—that is imported by particular outlets, that is used as an alternative to other caffeinated beverages and that satisfies the definition under the legislation of being a psychoactive substance. You said that it may be caught; it sounds as if it is not a particularly effective piece of legislation if substances like this ‘may be caught’. You have also said that the onus is on the importer. What I am asking is: how does the importer satisfy the authorities that this is not a substance that is being imported with a view to mimicking the effect of other psychoactive substances? How does that occur? What is the test that is applied?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (19:37): The test is clear on the face of the bill. A substance may be seized if an officer has a reasonable suspicion that a substance has a psychoactive effect and is not otherwise covered by another import scheme. Further, the bill contains a clear definition of ‘psychoactive effect’, and I will read that out for you. It says:

**psychoactive effect**, in relation to a person, means:
(a) simulation or depression of the person’s central nervous system—you have already described some of these in your questions this evening—resulting in hallucinations or in a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood; or
(b) causing a state of dependence, including physical or psychological addiction.
So that is very clear.

Senator Di Natale: No, it is not.

Senator COLBECK: Well, it is very clear, and I have said to you that our strategy in this is—

Senator Di Natale: I am waiting for the minister to answer the question I asked. I am happy to wait here all night.

Senator COLBECK: Well, Senator, that is up to you.

Senator DI NATALE (Victoria) (19:39): You have said in your answer, Minister, the conditions for which a substance may be restricted, and you have also said that the onus will be on the importer. What you have not demonstrated, and what I need an answer to, is: how does an importer demonstrate to the authorities that this is not a psychoactive substance that should be captured by this definition? For example, I am company X; I import product Y into the market. The authorities say to me, ‘We suspect that this may be a substance that has psychoactive properties. We are going to restrict the importation of your product.’ How do I satisfy the authorities that this substance does not have psychoactive properties that are
intended to be captured by this bill? How do I, as the importer, satisfy to the authorities that my substance should not be captured by this piece of legislation?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (19:40): You would provide evidence that demonstrates what you are claiming.

Senator DI NATALE (Victoria) (19:40): I may not be claiming anything. That is the whole point. You keep coming back to the issue of claims. I might be importing this product and there might be absolutely no claim to it, but the authorities may suspect that it is a psychoactive substance. We may have our border enforcement authorities look at a product and express concerns because they might get a tip-off to say, 'We're worried that the product that's being imported has psychoactive properties and is being used to mimic other existing illicit substances.' The onus is then on me to prove that it does not have those properties. How do I do that? (Quorum formed)

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (19:45): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Intellectual Property Laws Amendment Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator KIM CARR (Victoria) (19:46): I indicate to the chamber that in most respects the Intellectual Property Laws Amendment Bill 2014 closely resembles a bill the Labor Party introduced when we were in office but which lapsed with the commencement of the present parliament. The main purpose of the bill is to implement the World Trade Organization's TRIPS protocol. The Trade-Related Aspects of Intellectual Property is an agreement stipulating minimum intellectual property protections for WTO members. Australia has been a signatory to the TRIPS protocol since 2007 but has yet to implement it in legislation.

TRIPS allows for manufacturers of generic pharmaceuticals to apply to the Federal Court for a compulsory licence to produce patented pharmaceuticals and export them to developing countries that are experiencing health crises. It is clearly desirable for Australia to help developing countries in this way. For that reason and because the bill contains other important changes that are long overdue, Labor will be supporting it.

We note, however, a crucial difference exists between the previous government's bill and the present one. The Labor bill would have amended the Patents Act to clarify the operations of Crown use—but this provision has been withdrawn. Crown use is an important, although rarely applied, safeguard that allows governments to use a patented invention for the benefit of the community, without first negotiating a licence. Labor's bill made it clear that Crown
use can be exercised when an Australian state or territory government has the primary responsibility for providing or funding a service. The bill sought to clarify the circumstances in which governments could intervene in response to unreasonable conduct by the patent holder that could result in patients not having access to appropriate health care. The measure was included in the bill in response to community concerns about gene patents and their consequences for the provision of health care. Those concerns remain, and we call on the government to monitor closely the conduct of the gene patent holders.

I am reassured by the advice that the present bill does not dilute Crown use provisions already included in the Patents Act. The act allows patent holders to be compelled to licence their inventions to others in a limited range of circumstances. In evidence given in Senate estimates in October 2014, the Director General of IP Australia, the government agency that administers IP rights and legislation, informed me that the Crown use provisions in the previous bill had been dropped from the present bill because of stakeholder concerns. The provisions had been removed so that IP Australia could consult further with stakeholders. What I do like about it is the speed at which all of these things move, given that we signed these undertakings in 2007. The Deputy Director General said:

I can clarify and make the point that currently the Patents Act does have Crown use provisions in it. The components that were removed from the amendment bill were proposed changes to the existing provisions. I do not want you to interpret that there are no Crown use provisions in the legislation at present.

Here I quote Ms Kelly, the Director General:

The bill … has no impact on the current Crown use provisions. Given the complexity of the IP system and the wide-ranging ramifications of changes in this important area of law, I am pleased to hear that IP Australia continues to consult on the matter.

Labor supports the bill because, as well as implementing Australia's commitment to TRIPS protocol, it will also reduce the cost of litigation for plant breeders, it will pave the way for a single trans-Tasman patent regime for Australia and New Zealand and it will repeal outdated provisions of various acts and correct minor drafting oversights.

According to the World Health Organization, there are over 100 countries currently experiencing one or more serious epidemics. In 2011 an estimated 262 million people were infected with malaria, HIV-AIDS or tuberculosis causing 3.8 million deaths. The WTO has tried to address this situation through the TRIPS agreement, which enables a country that is experiencing a serious epidemic to access patented drugs. Under the TRIPS protocol drafted in 2005, member countries with limited or no manufacturing capacity can access patented pharmaceuticals made under a compulsory licence in another WTO country. The TRIPS protocol aims to encourage patent owners to either provide medicines to the least developed countries at affordable prices or to issue voluntary licences to generic manufacturers to provide medicines at affordable prices. If the patent owner is unwilling to do this, the protocol provides a mechanism to force the patent owner to issue a compulsory licence.

This bill, like Labor's 2013 bill, will enable manufacturers of generic pharmaceuticals to apply to the federal government for a compulsory licence to make and access a patented
pharmaceutical product to address health crises in developing countries, delivering upon Australia's commitment to the WTO's TRIPS protocol. As I have said previously, Australia became a signatory to the TRIPS protocol in 2007, and legislation to enact that commitment to this important international agreement is long overdue. Even without the Crown use provisions, Labor sought to introduce the previous bill. It is important that we implement a proper mechanism to ensure access to essential medicines for countries in need, and that is why Labor will be supporting the bill.

I have got a few minutes here tonight, so perhaps I should cast some reflections upon some observations that others in the coalition have sought to make on this matter. I am particularly interested in the views of the member for Tangney, Dr Dennis Jensen, who of course presents himself as an alternative minister for science and has expressed strong views on these matters. In 2013, when we sought to process this legislation, Dr Jensen was concerned about the non-WTO member countries being beneficiaries of trips protocol's. He stated that 'the Gillard government is actually rushing into treason'. He said:

I wish to remind all in this place that breaking an international treaty is no small matter. It is not a trifling matter. The Commonwealth exposes itself to the full weight of the sanctions of the WTO. How reckless and irresponsible a measure to endanger the economic sustainability of the nation and the livelihoods of millions. To entrench the budgetary emergency borders on treason. Forgive my incredulity, but the Gillard government is actually rushing to this treason.

I note that, despite his protestations, the current bill was introduced by a government of which I understand he remains a member—and one assumes he has made some allowances for the change in political circumstances, even though there is such a dreadful situation where he is not the minister for science in that government. So it is in line with the approach taken by several other WTO countries—Canada, Norway and Switzerland—and it is consistent with the humanitarian principles of the TRIPS protocol. Of course, to not undertake these measures would be to deny access to countries that need it most, such as Timor-Leste, a point explicitly made in the current bill's explanatory memorandum. So I trust that the member for Tangney is able to continue his education in the process of his acclimatisation to the realities of international medicine and international best practice when it comes to Australia fulfilling its humanitarian obligations, despite his previous objections to this bill when it was a Labor bill.

The key to our intellectual property system is about striking a balance between encouraging innovation and ensuring people have access to new technologies. The patent system is typically important for encouraging innovation in the biotech and pharmaceutical sectors. The high costs and the risks associated with developing new medicines mean that, without the right patent protections, many new products would never make it through the development and commercialisation phase and would therefore never reach consumers. A well-balanced IP system advances the interests of Australian innovators by lowering business costs and by making it easy to access export markets. This bill goes a considerable way towards achieving that aim and, therefore, Labor will support it.

Senator WRIGHT (South Australia) (19:57): The Australian Greens have spoken to this bill at length in the House, so I will make here a few brief comments in support of our position. Under the Abbott government, investment in science, research and innovation is at its lowest level since records began in the 1970s. This bill has to be seen as part of a package of legislation that is about attacking the research, innovation and development system in this
country. Added to that is the horror budget that people all across the country have turned their backs on because they know it attacks not only the young, the old, the sick and the poor, but also the smart. Through the budget, the government cut $111 million of funding from the CSIRO, causing hundreds and hundreds of jobs to be lost from the CSIRO.

As the Greens have made clear when dealing with this bill in the House, the health and medical research sector is not only vital to the health and welfare of the Australian people, it is a key part of our economy. The Greens have repeatedly put forward costed plans to grow research and business in this vital sector, but are yet to get support from the government or the opposition. We also believe, though, that we must make sure new discoveries and cures are made available to the population. It is incredibly disappointing that this bill, which comes in the context of an attack on the innovation system generally, fails to grapple with the important question of how we make sure the cures, research and technology are available to everyone.

The Greens moved amendments in the House in an attempt to strike a balance between growing research and making new cures available to everyone. It is our view that, unless we deal with this issue, we will see ever more litigation, as we are seeing over breast cancer treatments. Our amendments also addressed both the issue that patients have raised about the difficulty of addressing Crown use provisions and getting ministers to make decisions, and the issue that companies have raised about how they sometimes feel that the capacity for Crown use provisions to be exercised can work against them commercially. It is disappointing that the amendments did not receive support from either the government or the opposition.

We will support this bill but note that it is a missed opportunity and that the Greens will continue to press for changes. I place on record, again, the Greens desire that parliament work out how to strike the right balance to ensure that Australia becomes an innovation powerhouse and continues to lead the world in areas like health and medical research but that, as we lift our discoveries and the economy, we also lift the standard of public health.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:00): In summing up, I would like to thank my fellow senators for their contribution to the debate on the Intellectual Property Laws Amendment Bill 2014. I would like to acknowledge and thank the New Zealand government for its cooperation in the development of the trans-Tasman provisions of this bill. I would also like to thank all the industry stakeholders who contributed to the development of the bill. This proposed legislation, as many in this place would know, has been the subject of extensive consultation in recent years.

The proposed legislation will reduce a number of barriers and regulatory costs for Australian businesses using the intellectual property system. Introducing a trans-Tasman patent attorney regime, and patent application and examination processes, will reduce costs for businesses operating in both countries. Implementing the TRIPS protocol will allow Australian manufacturers of generic pharmaceuticals to provide assistance to developing countries. The Howard government accepted the terms of the protocol in 2007. We have heard from the current opposition that they supported them in government and the Abbott government is now pleased to deliver on this important change.
Enabling the owners of plant breeders rights to use the Federal Circuit Court will give them a faster and, in particular, a more cost-effective way to protect their rights. Repealing unnecessary provisions on the storage of documents will reduce warehousing costs and increase efficiencies.

Whilst I note that no changes are sought here, I would just make a brief response to those issues brought up by the Greens. We understand that the member for Melbourne did seek to introduce amendments to the Crown use provisions. In the other place, these amendments were not supported.

The challenges placed by both the government and the opposition in the other place indicated that if those amendments had been supported they would have created significant challenges to the legislation. There were challenges to the scope of the terms used in those amendments and they failed to address recommendations made by the Productivity Commission in its 2013 review of compulsory licensing and the Crown use of patents. It is for these reasons and others that it was not supported in the other place. Again, I commend the bill to the house.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Seselja) (20:03): 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 SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (20:03): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Tax Laws Amendment (Research and Development) Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator KIM CARR (Victoria) (20:03): At the start of the second reading debate on the Tax Laws Amendment (Research and Development) Bill 2013 I explained that Labor oppose this bill because it is not in the nation's interests. Senator Wang has circulated an amendment on behalf of the Palmer United Party, which will be debated if we actually reach the committee stage. I commend Senator Wang for seeking to alleviate some of the concerns that the Palmer United Party has identified about this bill. For instance, he and his colleagues felt that the government measure unfairly disadvantaged Australian firms over multinationals.

In respect of Senator Wang's concerns I, in fact, have even more serious concerns about the implications of what is being proposed in the Palmer United amendment. The Palmer United amendment would see the removal of the R&D tax incentive for all firms with expenditure
over $100 million. In practice this means that, for companies thinking of investing in R&D in Australia, any expenditure above $100 million would not attract an incentive.

In a private briefing before the economics committee, Treasury officials admitted that there was no modelling available to show how many businesses would be affected by this $100 million cap. I repeat: no modelling for this measure has been undertaken. We have got no understanding of what impact this measure would have on whether firms would actually invest hundreds of millions of dollars in an R&D capacity in this country. We have no modelling, either, to indicate the longer term impacts on our economy or on jobs. In the same briefing Treasury estimated that the measure could affect up to 25 consolidated groupings of companies. The term 'consolidated grouping' means that diverse companies held by a common investment company will be treated as one single business entity. As such, when compared to their peers, smaller companies held within the larger group would be disadvantaged by the proposals. Quite frankly, that is not the only concern about this proposed amendment. Capping a firm's ability to claim spending of over $100 million will encourage companies to keep their R&D spending within this amount. Corporate behaviour will change and Australian companies will take the excess of their R&D offshore. This is a recipe for the exporting of jobs. Companies that particularly trade overseas will ensure that amounts over $100 million will be done in their facilities overseas.

There are also serious technical concerns with the bill, especially with regard to feedstock adjustments and clawback provisions. Taxation experts have told me that manufacturing businesses will potentially get a much lower benefit as a result of the amendment as it is currently drafted.

There is also the issue of retrospectivity. These measures are highly retrospective. That is why I will be moving an amendment, should we get into a committee stage, to limit the effect. When it comes to this issue, I urge my Senate colleagues to consider the implications of what is being proposed. The R&D cuts under this government will affect and reduce R&D spending in this country.

(Time expired)

(Quorum formed)

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:11): I rise tonight to speak on the Tax Laws Amendment (Research and Development) Bill 2013. The issue of research and development is one that for quite some time has been fraught in Australia. Under the previous government I made it very clear that the Greens were very supportive of maximising research and development in Australia. Under the previous government I made it very clear that the Greens were very supportive of maximising research and development in Australia. We are concerned that there had been a number of rorts in the system, so it was not carefully enough targeted.

In the previous government I conducted a round table and managed to get a number of businesses and research organisations in the room and it led to a good outcome. One of the issues that was raised, particularly for small and medium sized businesses, was the fact of cash flow—that they would like to be involved in more research and development and like to spend more on it but were unable to do so because they had to expend the money up-front and then wait for a year before they could claim it back. The issue for them was whether there was a mechanism that enabled them to claim it quarterly. That way it would not impact on their cash flow so adversely. That was the biggest issue for those engaged in accessing funding for research and development. As a result of that round table I put forward the proposition that there be quarterly payments. I indicate to the Senate that that is the amendment the Greens
have to this bill. It is to enable businesses to maintain a reasonable cash flow by being able to anticipate what their likely rebate was going to be for research and development expenditure, and then be able to claim that on a quarterly basis.

My original strong opposition had been to large corporations being able to claim vast amounts of money for research and development when only one small aspect of a mine or of a particular construction or whatever might have been for research and development. They were able to virtually claim the whole lot back, which was grossly unfair. When talking to businesses, universities and other research institutions at the round table it was interesting to see the extent to which they were saying that with governments cutting back funding for research and development they now relied on some of the bigger corporations for access to research and development dollars so that they could then partner with the universities and other research institutions to develop a research hub. So you found that the dollars were actually being used in a way that you would like to actually support, in the sense that universities and their researchers, such as PhDs, are able to get funding for and be involved in research work.

Research and development in Australia is a lot more complicated than it might appear at first glance. It is something that I feel very strongly about. If we are going to move from a country with a 'dig it up and cut it down' economy to a country with an economy that is based on innovation, new technologies and a shift from that 'dig it up, cut it down and ship it away' attitude that Australia has been known for, we have to invest in education and we have to invest in research and development. It is absolutely critical.

That is why the Greens went to the election in 2013 with a plan to increase Australia's spending on R&D to three per cent of our GDP, both public and private. It was a fully costed policy. Since then, we have seen the government absolutely slash the funding for research and development across the board. The attack on science has been unprecedented. When you travel outside Australia, people find it extraordinary to see the attack on science funding and research funding. People cannot believe that the government turned on the CSIRO in the way that it did last year. It slashed over $100 million out of the CSIRO budget.

What we are seeing is a government which fails to recognise that, at the end of the mining boom—and let's recognise that that is what is happening—you have to have spent money in building up education and building up innovation, being able to not only sell product but also develop capacity here in Australia and also overseas. That has really been a major problem. My concern here is that the whole motivation for this change is not to improve R&D funding but to free up R&D funding to go back to the consolidated fund. That is clearly what is going on here. If this money was all targeted towards R&D then I would be much more positively predisposed. But, tragically, what I am seeing is yet another attempt by this government to slash research and development funding from Australian innovation. I would like to see that money kept in research and innovation in Australia. That is why I do not support what is, at first blush, an attempt to focus R&D funding. I do not like that an estimated $1.1 billion will go back into the government coffers. That is not something I want to see happen. I want to see that money spent on research and development.

If you have a look at the Global Innovation Index, you will see that Australia is slipping well behind. It is published by the World Intellectual Property Organization. It shows that we moved from 18th in 2010 to 21st in 2011 to 23rd in 2012. I do not know where we are up to.
now, but I can imagine we are slipping further and further behind. That is an absolute tragedy for the country.

I look around the world and see the challenges there are, particularly in converting from old energy sources to renewable energy sources and looking at new forms of sustainability, particularly in agriculture and the management of water systems. I know that Australia has fantastic research and a great capacity. We should be looking at exporting some of that intellectual property and capacity to be used elsewhere in the world and not keep focusing on propping up the coal industry and propping up BHP and its uranium mine in South Australia. Let's face it: this royal commission is no more than an attempt to prop up BHP's failing copper and uranium model at Olympic Dam.

We need to be making sure that we see the future in terms of the intellectual capacity we have in Australia. I cannot stand the idea that the government would attack research and development funding in order to bleed it back into the consolidated fund at exactly the same time as it is allowing a lot of these companies off the hook through tax evasion. I would much rather see the government—and I would work with any government on this—work to close these loopholes of tax evasion. We have seen a fair bit of that, with the latest example just today. There is a report out of Switzerland with leaked bank details. At least 300 Australian individuals and corporations are involved in fairly dubious tax arrangements through Swiss banking. I would rather see the government go after them and get that tax from people who should be paying it on their assessable income rather than bleeding funding out of research and development in order to put it back into the consolidated fund.

Let's maintain research and development funding. If the government would get up and say that they are going to maintain the funding then we would be open to talking about how better to direct it. But if they are going to bleed the funding out of research and development then I am not going to support this legislation, because this is something that the Greens feel very strongly about. I would urge that, when we get to the committee stage, if people are going to support this bill that they support the capacity for small- and medium-sized enterprises to be able to reclaim their expenditure in quarterly payments so that we can see those who would benefit most—those smaller enterprises—not have their cash flow really squeezed.

Senator KETTER (Queensland) (20:21): I rise to oppose the Tax Laws Amendment (Research and Development) Bill 2013. This bill is yet another illustration of the fact that this is a government that has run out of ideas when it comes to the future of our economy. When it comes to planning for jobs for the future, this government has nothing to add to the national debate. This is a government which is out of touch.

In my home state of Queensland, economic issues were very important to the results of the state election on 31 January. We are waiting to see the final result there, but it is quite clear to me that the voters in my home state rejected this ideological obsession with government cuts and privatisation for its own sake.

This is a government with twisted priorities and based on broken promises. I will talk further about that in my contribution later on. I also want to go some way further in the path of debunking the mythology that this is a government that is somehow closer to business, speaks for business and understands the business community, because we have seen illustrations of the fact that it is out of touch even in this particular area.
In terms of the background to my contribution, I just want to take the debate back to February 2013, when the then Prime Minister announced a new plan for Australian jobs in a package of measures designed to encourage innovation and stimulate investment. That package received widespread industry and community support. Central to that plan was a redirection of innovation funding to high-value projects that stood to benefit both larger and smaller firms. It is true to say that Labor government proposed to introduce a third tier to the eligibility requirements for the R&D tax incentive, with the result that very large companies with an aggregate Australian assessable income of $20 billion or more would no longer be able to claim the tax incentive. It was never intended by the Labor government that that would be a reduction in funding. It was never intended that those savings return to consolidated revenue, as the government is proposing today.

To illustrate that, I want to just take you back to that jobs plan which Labor had proposed, which illustrates the difference between the Labor approach and the approach of the coalition. There were three major strategies as part of that jobs plan: firstly, backing Australian industry to win more work at home, which consisted of, amongst other things, a new Australian industry participation authority to help businesses to build their capabilities and connections to win work on major projects; secondly, supporting Australian industry to win new business abroad, and amongst the initiatives under that heading there was the promise to invest more than $500 million in establishing up to 10 industry innovation precincts to drive business innovation and growth in areas of Australian competitive advantage; and, thirdly, helping Australian small and medium businesses to grow and create new jobs. In that area, amongst other things, there was a proposal for a new $350 million round of the Innovation Investment Fund to stimulate private investment in innovative Australian start-up companies.

Labor had a vision the Australian economy for the future and that stands in stark contrast to the approach that the coalition has taken, which is evidenced by the bill which is before us. The coalition has no coherent strategy when it comes to jobs. We are concerned that the government has failed to lay down that strategy for a shift from the resources boom to the jobs of the future, which are jobs in advanced manufacturing, creative industries and health. Instead, under this government, we are seeing the departure of the automotive industry from our shores and the potential loss of our submarine building industry, although we see some dramatic developments, apparent U-turns and interesting language being used in that space. We are also seeing a substantial decline in the manufacturing capability in our major centres and unemployment continuing to rise. I would categorise the approach of the current government as economic vandalism.

It is not only Labor that understands this paucity of ideas on the part of the coalition. The business community is also understanding that this government is seriously out of touch. I draw the Senate's attention to the Australian Institute of Company Directors' indicator of confidence. There was a report dated 5 November 2014, from which I quote:

Directors' confidence in the Federal Coalition Government has slumped to its lowest level since its election in September 2013 and almost half of all directors rate the Government's performance in its first year in office as "poor" or "very poor", according to the latest Director Sentiment Index (DSI). …

The Australian Institute of Company Directors' DSI is the only indicator measuring the opinions and future intentions of directors. It is based on a survey of 501 directors of private business, not-for-profit organisations and ASX-listed companies. …
Almost half of all directors believe the Government's performance had a negative impact on their business decision-making and around 75 per cent believe it had a negative impact on consumer confidence. This continues a downward trend in sentiment that has been apparent since the Coalition took power last September.

Directors nominate multinational tax arrangements as the top priority in any comprehensive review of the tax system, followed by reforms to state levies such as payroll tax. GST reform ranks as the third most important priority.

We have those damning comments and that research from the Australian Institute of Company Directors. We also have some commentary from the representatives of the small business sector. I refer to comments by Mr Peter Strong, the chief executive of the Council of Small Business in Australia. This is in respect of another decision made by the government. On 9 September last year, he is said to have expressed:

... extreme disappointment with the government following the decision announced today to back date the removal of tax support provisions for small business that comes as a result of the removal of the mining tax.

And that:

... the change should not be back dated as this creates confusion for the small business community as well as extra paperwork for those who, in good faith, purchased goods and/or claimed these as part of their tax return.

So we have a continuation of shambolic decisions, from this government, in the economic space.

We have a government that is prepared to take the savings they are proposing for the research and development incentive and pocket them. It is concerning that the government is scrapping measures to enable the claiming of specified research and development refundable tax offsets, in quarterly instalments, in anticipation of their end-of-year return. This is yet another anti-small-business measure from this out-of-touch government. From the outset, the coalition's approach to the R&D tax incentive has smacked of ignorance, opportunism and hypocrisy.

I want to particularly make reference to comments of the then shadow Treasurer, Joe Hockey, on 28 February 2013. He stated:

And more recently the government announced with no warning it was funding its Orwellian titled “Plan for Australian Jobs” package by cutting the Research and Development tax break for large companies, reaping $1 billion over four years.

The government has become immensely unpredictable on tax policy despite the charade of consultation. With the benefit of hindsight, how ironic these comments are from the shadow Treasurer, Mr Hockey—and now Treasurer—and from this government. We saw that the coalition at the time took a policy to the last state election stating:

We will therefore use the opportunity of the scheduled 2014 changes to the R&D Tax Incentive programme to review access to R&D tax support for many businesses that have been barred from possible access under a series of retrograde cost savings made by Labor.

Businesses could have been excused for feeling that access to the R&D tax incentive was going to be broadened rather than curtailed. That appears to be another broken promise from this government.
We see in the *Intergenerational report* that the government now seems to be in breach of the Charter of Budget Honesty in failing to publish the latest *Intergenerational report* on time. Similarly, on the taxation white paper we are seeing a delay in its issue to start that process. To add to the shambolic approach of this government, when it comes to economic matters, we see the announcement made by Mr Morrison recently that the coalition is moving towards the introduction of a two-tiered corporate tax system, for the first time in 40 years—after Mr Morrison confirmed that the levy designed to fund the now abandoned Paid Parental Leave Scheme would not be redirected to child care.

We are seeing flip-flopping from the government when it comes to the important matter of the corporate tax rate. Small companies—outside the top 3,000—will still see a cut in their corporate tax rate to at least 28.5 per cent, creating a two-tiered corporate tax structure that was last seen between 1948 and 1972. Mr Morrison admitted that business had been left in limbo about the future of the $4 billion PPL levy, since the Prime Minister used a speech last Monday to announce that the scheme would be ditched.

When it comes to unpredictability and chaotic decision making, this is a government that now has runs on the board. This is particularly interesting when we have had comments from the opposition complaining about the former Labor government and so-called sovereign risk. After pledging their commitment to tax incentives for innovation and industry, the new coalition government reintroduced the Labor measure—minus the plans for quarterly credits and minus any policy rationale.

This bill represents another broken promise from the coalition—that went to the election stating they would reverse the government's decision. It is a cut to the innovation budget at a time when jobs and investment are badly needed. It strips away not just incentive for the largest firms affected by the threshold but even business looking for clear policy signals from the government.

This is reflected in submissions received by the Senate committee when it was examining the bill. I refer to the report of the Senate Economics Legislation Committee of March 2014. Amongst some of the comments made at that time, key stakeholders directed their arguments against the bill under the heading of 'Impact on economic activity in Australia.' A number of submissions questioned the impact the amendments would have on Australia's ability to attract or retain R&D investment in the global economy. They suggested that any loss of R&D would negatively impact economic growth, employment and tax revenue. A point repeated in submissions was that the proposed amendments would encourage large companies to shift R&D activities to other countries with more favourable and stable R&D arrangements.

KPMG was amongst the submitters in that regard and they claimed that, to the best of their knowledge, Australia would be the first country in the world to exclude such a specific and targeted subset of large companies from claiming an R&D tax incentive. BDO Australia observed that any move by companies affected by the proposed amendments to conduct more R&D activities in other countries could result in the loss of Australian jobs and tax revenue associated with those jobs. Ernst & Young summed up its concerns about Australia's apparent divergence in R&D tax policy by comparing countries in Asia and stated:

In short, as the Government prepares Australia and Australians to thrive in the "Asian Century", it appears counter-productive to be pulling back on incentivising R&D activities for our largest companies.
just when the Asian region appears to be heading in the opposite direction when it comes to R&D tax policy.

In closing, I put it to the Senate that this bill illustrates that this government has no vision for the economy and no plan for jobs. The Prime Minister assured us this afternoon after the tumultuous events of this morning that good government starts today. If that is the case, then this bill should not proceed.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (20:38):
First of all, I want to make it clear that the Palmer United Party does not believe the budget is headed for a crisis but, when it is reasonably possible to improve the budget, we should do it. Even though I wholeheartedly support the R&D activities in this country, at a time when we are facing harsh budget measures from the government, I think this bill does present a reasonable opportunity for us to target wealthy companies and individuals rather than the sick, the poor and the vulnerable.

There are three things the Palmer United Party does not like about this bill: first of all, it is retrospective. Secondly, it targets Australian companies unfairly because overseas companies can shift their income to other countries. Thirdly, this bill, as it reads, is a long-term policy which no doubt will hurt our research and development industry. As I said, if it is reasonably possible to improve the budget, we should do it. I think this is a good example of the Palmer United Party working constructively with the government to try to improve the budget while also stopping the government from making harsh budget cuts to the sick, poor and vulnerable.

I will move amendments under my name and Senator Xenophon's name. The amendments will address the issues I talked about. First of all, we are going to change the starting date of this bill so that it is no longer retrospective. Secondly, we will change the assessment from income based assessment to R&D based assessment so that this bill targets both Australian companies and overseas companies fairly. Thirdly, because it reads as a long-term policy, which as I said will damage the R&D industry, we are putting a sunset clause in the amendment so that this legislation will sunset in 10 years' time. As I said, this bill, amongst all the other budget-saving measures, is a reasonable measure that we do want to support and will support, subject to our amendments being carried. I urge senators to consider this bill carefully.

(Quorum formed)

Senator SESELJA (Australian Capital Territory) (20:44): I want to add my voice to the debate on the Tax Laws Amendment (Research and Development) Bill 2013. Australia is a country that can be proud of its heritage in research and development. Our record in innovation is strong and it is important that the government continue to invest in this field so that we can stay ahead of the curve

It is now even more important that we encourage innovation in our industry, because of some of the great advances that we have seen under this government in signing free trade agreements with China, Korea and Japan. These agreements provide excellent opportunities for our industries to expand internationally and for us to share our innovations with the region. That is why there are tax incentives for R&D, and the government supports these incentives.
At the same time, we have the legacy of debt and deficit left by the previous Labor government. Labor’s debt is already costing about $1 billion a month in net interest payments, and that is borrowed money. No country can go on paying the mortgage from the credit card. This is the cost of the former Labor government’s mismanagement and waste. We all wish we had money to throw around on all sorts of things. But, thanks to Labor, we do not. So in important areas of expenditure, we need to target our spend more effectively and that is true in this space. We need to find savings where we can. This bill will amend the R&D incentive so that it still promotes innovation and rewards creativity in our industries but also ensures that these incentives go to those companies who need it. This bill will ensure the Research & Development Tax Incentive better targets small and medium-sized companies, which have been shown to respond to incentives for innovation. Originally, this bill proposed removing access to the R&D tax incentive for companies with aggregated assessable incomes of more than $20 billion for an income year. These larger companies would have been subject to normal income tax rules on their R&D expenditures, while smaller and medium-sized companies could have accessed the incentive. However, I know that crossbench senators have moved some amendments to this bill.

The Palmer United Party has proposed amendments to the bill which would delete the original measure and instead introduce a cap of $100 million on the amount of eligible R&D expenditure that companies can claim at the standard rate under the R&D tax incentive. For expenditure beyond $100 million, companies would claim a non-refundable tax offset at the corporate tax rate, which is broadly equivalent to claiming a normal deduction. Under an expenditure cap, companies—both Australian and foreign resident companies—would continue to be eligible for the R&D tax incentive and would continue to receive a substantial tax benefit. This would address crossbench concerns about the perceived discriminatory effect of the original measure on Australian resident companies. An R&D expenditure cap of $100 million would also achieve revenue gains approximately equal to the revenue gain from the original measure contained in the bill. This would ensure that the changes still play an important part in the government’s budget repair job.

The crossbench amendments to the bill also include consequential amendments to the feedstock, clawback and balancing adjustment provisions. These additional amendments to the bill take account of concerns raised in consultation by the Senate Economics Legislation Committee on the Palmer United Party’s draft amendments to the bill. The consequential amendments acknowledge concerns about possible unintended consequences of an R&D expenditure cap on the operation of the existing law relating to the recoupment, feedstock and balancing adjustments. In the absence of any changes to the law to address this issue, an expenditure cap could result in some companies having to adjust their previous R&D tax claims more than necessary for feedstock, recoupments or other amounts that do not qualify for a tax benefit under the R&D tax incentive. The consequential amendments therefore seek to exempt a company from a requirement to make certain adjustments to a previous R&D tax claim, where the company is affected by the expenditure cap for the income year in question.

Those amendments would also delay the start date of the measure to income years beginning on or after 1 July 2014, in order to minimise the risk of the law applying to companies retrospectively. Under the original start date of 1 July 2013, the measures would affect income years that have finished and would therefore raise the risk of companies being
required to make an amended assessment. The cost to the budget of a delayed start date is $300 million over the forward estimates period in both underlying cash and fiscal balance terms. However, delaying the start date is the right course of action. If the government does not proceed with the measure, the net impact on the budget would be $1.35 billion in total over the current forward estimates. By delaying the start date, the amendments would only apply to companies lodging their tax returns from 1 July 2015 onwards. This would provide affected companies with additional time and notice to plan for the changes in the law.

The bill also makes a consequential amendment to the Industry Research and Development Act 1986, to ensure that very large companies are still able to claim their overseas R&D activities for income years in which they fall below the $20-billion threshold. This allows the tests for eligibility of R&D activities which are conducted overseas to continue to operate as intended. While it would be nice to be in a position where these amendments were not needed, the fact is that we need to have changes like this to focus our spending and to get the greatest benefit for the country from the money we are spending.

Senators on the other side of the chamber have made comments regarding this bill. They have criticised it, saying that it has only been two years since the scheme has been in place and we are making changes. But I say to that: they are changes that are effectively targeting spending, and cutting down the waste and deficit left to us by the former Labor government. We cannot sit on the sidelines and do nothing. These changes are based on targeting the spending more effectively, not only ensuring that we can continue to support research and development in Australia but also ensuring that we take account of the serious budget problems we face. I commend the bill to the Senate.

Senator CORMANN (Western Australia—Minister for Finance) (20:50): I thank all senators who have contributed to this debate. It is important, again, to remember that this legislation seeks to implement—albeit in a slightly amended form as a result of discussions that the government has had with crossbench senators—a Labor party budget saving. This measure was initiated by the previous Labor government. It was banked by the previous Labor government in their last budget, but it was never legislated by the previous Labor government. We talk about delays in implementing budget measures into legislation; well, here we are still dealing with a savings measures initiated by the Gillard Labor government in May 2013, in their last budget, which we are seeking to give effect to—and of course, the Labor opposition under the current leadership of Mr Shorten is now opposed to what is their own savings measure. That is the circumstance, sadly, that we are dealing with here in Australia today.

The other thing that we have to remember is that what we are talking about here is a tax subsidy in relation to research and development for some of the most profitable companies in Australia. In the way that the legislation was introduced by the government, we are talking about businesses across Australia which are making more than $20 billion a year in profit. We have had a lot of commentary from the Labor opposition on how we should ensure that profitable companies, multinational companies, pay their fair share of tax. Here we have an opportunity to ensure that the particularly profitable companies—the top 20 or 25 companies at best—do not take advantage of what is, quite frankly, an excessively generous tax subsidy in the context of our current fiscal circumstances.
Enough has been said about this bill. As I have mentioned, this is actually a Gillard Labor government budget measure which was identified by the then Treasurer, Mr Swan, as contributing, at least in part, to the effort of budget repair. I know that the Labor opposition now has said, ‘No, this was always about other things,’ but the truth is that Mr Swan, the then Treasurer, is on the record as clearly identifying that this was a savings measure which was meant to contribute to the task of budget repair. Of course, now we are in the situation where Labor, under the current leader, is even more reckless and even less responsible than Labor was when Julia Gillard was Prime Minister and Wayne Swan was Treasurer. Thankfully, we have been able to work with reasonable and rational senators on the crossbench to give effect to this measure, and I am hopeful that the Senate will support the implementation of this measure, which, as I have indicated, was initiated by the previous Labor government.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): The question is that the bill be now read a second time.

The Senate divided. [20:59]

(The President—Senator Parry)

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

AYES

Back, CJ
Birmingham, SJ
Cash, MC
Cormann, M
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lazarus, GP
Madigan, JJ
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Smith, D
Williams, JR

NOES

Bilyk, CL (teller)
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Hanson-Young, SC
Lambie, J
Ludlam, S
Marshall, GM
Milne, C

Bernardi, C
Bushby, DC
Colbeck, R
Day, R.J.
Fawcett, DJ (teller)
 Fiffield, MP
Johnston, D
Macdonald, ID
Mason, B
Muir, R
O’Sullivan, B
Payne, MA
Ronaldson, M
Ryan, SM
Seselja, Z
Wang, Z
Xenophon, N

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Gallacher, AM
Ketter, CR
Lines, S
Ludwig, JW
McLucas, J
Moore, CM
Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:03): I move Australian Greens amendment (1) on sheet 7542:

(1) Schedule 1, page 3 (line 1) to page 4 (line 13), omit the Schedule, substitute:

Schedule 1—Quarterly R&D credits
Part 1—Main amendment
Taxation Administration Act 1953
1 After Part 2-10 in Schedule 1
Insert:
Part 2-15—Quarterly credits of refundable tax offsets
Division 48—Quarterly credits
Table of Subdivisions
Guide to Division 48
48-A Object
48-B Participating in the quarterly credits system
48-C Tests for participation
48-D Working out and paying quarterly credit amounts
48-E End of year reconciliation
48-F Ending participation
48-P Special rules for consolidated groups etc.
48-T Other matters
Guide to Division 48
48-1 What this Division is about
You can apply to participate in the quarterly credits system for an income year if you expect to be entitled to refundable tax offsets for the income year that are covered by the system.

Participating gives you quarterly credits towards your likely refund from those tax offsets. These credits will either be based on your refund from a recent income year, or on a varied amount chosen by you after estimating your refund for the current year.

A reconciliation happens when the current year's assessment is made. General interest charge may be payable if you chose to base your credits on a varied amount and they are excessively high.
**Subdivision 48-A—Object**

**Table of sections**

48-3 Object

**48-3 Object**

The object of this Division is to benefit the Australian economy by improving entities' cash flow by enabling them to realise the benefit of certain expected refundable tax offsets on a quarterly basis during the income year.

**Subdivision 48-B—Participating in the quarterly credits system**

**Table of sections**

48-5 Participating in the quarterly credits system
48-10 Refusing participation
48-15 Applying to participate

**48-5 Participating in the quarterly credits system**

(1) The Commissioner may, on application, allow you to participate in the *quarterly credits system for:

(a) each of the *instalment quarters in an income year, other than any excluded under subsection (3); and

(b) one or more specified *tax offsets covered by section 48-100.

Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-800).

(2) The Commissioner must notify you in writing of:

(a) the Commissioner's decision under subsection (1); and

(b) the reasons for the decision, if the decision refuses to allow you to participate as set out in your application.

(3) An *instalment quarter is excluded if the Commissioner receives your application after:

(a) if all or a part of a December falls within the last month of the instalment quarter—the next 14 February after the end of the instalment quarter; or

(b) otherwise—the 14th day after the end of the instalment quarter.

**48-10 Refusing participation**

(1) The Commissioner must, under subsection 48-5(1), refuse to allow you to participate for:

(a) any of the *instalment quarters, and a specified *tax offset, if the Commissioner is aware that you fail a test in Subdivision 48-C necessary for that participation; or

(b) a specified instalment quarter, and a specified tax offset, if during that instalment quarter you have already withdrawn under section 48-400 from participating in the *quarterly credits system for that tax offset.

Note 1: The Commissioner may allow you to participate to the extent that paragraph (a) or (b) does not prevent this.

Note 2: This subsection applies separately for each tax offset mentioned in your application.

(2) The Commissioner may, under subsection 48-5(1), refuse to allow you to participate for one or more specified *instalment quarters and *tax offsets if:

(a) you fail to give the Commissioner, in accordance with section 48-15, information requested under that section; or
(b) for a tax offset listed in table item 20 (about R&D) in section 48-100—at any time you failed to give *Innovation Australia, in accordance with section 28H of the Industry Research and Development Act 1986, information requested under that section of that Act.

48-15 Applying to participate

(1) An application to participate in the *quarterly credits system for one or more *instalment quarters in an income year, and one or more *tax offsets, must be given to the Commissioner in the *approved form before:

(a) if all or a part of a December falls within the last month of the income year—the next 15 February after the end of the income year; or

(b) otherwise—the 15th day after the end of the income year.

(2) The Commissioner may request you in writing to give specified information to the Commissioner about your application.

(3) The request may be for the information to be given to the Commissioner in the *approved form within:

(a) 14 days after the request was made; or

(b) a further period allowed by the Commissioner.

Note: A failure to give the information in accordance with this subsection may result in the Commissioner refusing to allow you to participate (see subsection 48-10(2)).

Subdivision 48-C—Tests for participation

Table of sections

48-100 Tests for participation

48-105 Reasonable receipt test

48-110 Complying taxpayer test

48-100 Tests for participation

To participate in the *quarterly credits system for one or more *instalment quarters in an income year and a *tax offset listed in the table, you must pass each of the following tests:

(a) the reasonable receipt test in section 48-105;

(b) the complying taxpayer test in section 48-110;

(c) any extra test listed in the table for the tax offset.

<table>
<thead>
<tr>
<th>Item</th>
<th>Participating in the quarterly credits system for this tax offset:</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>the *tax offset to which entities become entitled under section 355-100 (about R&amp;D) of the Income Tax Assessment Act 1997</td>
</tr>
</tbody>
</table>

48-105 Reasonable receipt test

It must be reasonable to expect that:

(a) you will become entitled to the *tax offset for the income year; and

(b) the tax offset will be subject to the refundable tax offset rules.

48-110 Complying taxpayer test

(1) You pass the complying taxpayer test if:
(a) no part of any of your *tax-related liabilities remains unpaid after the time by which that liability is due to be paid; and

(b) during the current income year, and the 5 most recent income years, you have not been convicted of an offence against:
   (i) a *taxation law; or
   (ii) a law relating to a taxation law; and

(c) you are complying with all of your obligations under taxation laws to provide documents or information to the Commissioner or another entity; and

(d) it is reasonable to expect that you will comply with your obligations under taxation laws in the future.

(2) However, if this table applies to you, the corresponding entities mentioned in the table (your managing entities) must also satisfy the paragraphs in subsection (1).

<table>
<thead>
<tr>
<th>Item</th>
<th>If you are:</th>
<th>these entities must also satisfy the paragraphs in subsection (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>a partnership</td>
<td>each of your partners</td>
</tr>
<tr>
<td>2</td>
<td>a *corporate limited partnership</td>
<td>each of your *general partners</td>
</tr>
<tr>
<td>3</td>
<td>a trust</td>
<td>your trustee</td>
</tr>
<tr>
<td>4</td>
<td>an unincorporated association</td>
<td>each member of your committee of management</td>
</tr>
</tbody>
</table>

Note: This subsection only applies to each of your managing entities when it is in that capacity (see section 960-100 of the *Income Tax Assessment Act* 1997).

Subdivision 48-D—Working out and paying quarterly credit amounts

Table of sections

48-200 Quarterly credit amounts
48-205 Standard amount
48-210 Choosing a varied amount
48-215 Disallowing proposed varied amounts
48-220 Notifying the Commissioner of proposed varied amounts
48-225 When quarterly credit amounts are payable to you
48-230 When quarterly credit amounts are payable by you
48-235 The amount's quarterly credit due day

48-200 Quarterly credit amounts

If you are participating in the *quarterly credits system for an *instalment quarter in an income year (the present year) and one or more *tax offsets (the present tax offsets), your quarterly credit amount for the instalment quarter and the present tax offsets is:

(a) any varied amount applying under section 48-210 for the instalment quarter and the present tax offsets; or

(b) otherwise—the standard amount worked out under section 48-205.

Note: If you recommence participating in the quarterly credits system, paragraph (a) covers any varied amount applying for the instalment quarter under your earlier participation in the system.
48-205 Standard amount

(1) If:
   (a) for the most recent income year (the reference year) for which the Commissioner has made an assessment of your income tax, you were entitled to *tax offsets of the same kinds as each of the present tax offsets; and
   (b) those reference year tax offsets were subject to the refundable tax offset rules; and
   (c) the reference year is one of the last 2 income years immediately before the present year;

   the standard amount worked out under this section is 1/4 of the lesser of:
   (d) the total amount of those reference year tax offsets; and
   (e) the total of your *tax offset refunds (for tax offsets of any kind) for the reference year.

   Note: If the instalment quarter is the first in the present year, the reference year will usually be a different year to that for later instalment quarters.

   (2) Otherwise, the standard amount worked out under this section is nil.

48-210 Choosing a varied amount

(1) You can choose to notify the Commissioner under section 48-220 of a proposed varied amount for the *instalment quarter and the present tax offsets.

   Note: If you do, your notice must include a proposed varied amount for each later instalment quarter in the income year (see paragraph 48-215(1)(a)). A later notice can propose a replacement varied amount for those later instalment quarters.

   (2) An amount you so notify for an *instalment quarter is the varied amount applying under this section for that instalment quarter and the present tax offsets if that amount is the most recent that:

       (a) has been so notified for that instalment quarter; and
       (b) has not been disallowed by the Commissioner.

   That amount may be a nil or negative amount.

   (3) The Commissioner may disallow a proposed varied amount.

   Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-800).

   (4) The Commissioner must notify you in writing of:

       (a) a decision under subsection (3) to disallow a proposed varied amount; and
       (b) the reasons for the decision.

48-215 Disallowing proposed varied amounts

(1) The Commissioner must, under subsection 48-210(3), disallow each proposed varied amount included in your notice given under section 48-220 if:

   (a) that notice does not include a proposed varied amount for each of the following *instalment quarters in the present year for which you are participating in the *quarterly credits system:

       (i) an instalment quarter that is yet to end when you gave that notice;
       (ii) an instalment quarter for which the last month included all or a part of a December, if you gave that notice before the next 15 February;
       (iii) an instalment quarter that ended less than 15 days before you gave that notice; or

   (b) for any of the proposed varied amounts included in that notice (the test amount), the sum of:

       (i) the test amount; and
(ii) any of the other proposed varied amounts that are for earlier instalment quarters in the present year; and

(iii) your *quarterly credit amounts payable for any earlier instalment quarters in the present year;

is less than nil or exceeds the amount worked out under subsection (2).

(2) Work out the amount from the following formula:

\[
\text{Number of instalment quarters so far} \times \frac{\text{Estimated end of year amount}}{4} \text{ End of year amount}
\]

where:

*estimated end of year amount means the lesser of:

(a) the likely total of the present tax offsets and any other *tax offsets for which you are participating in the *quarterly credits system for an earlier *instalment quarter in the present year; and

(b) the likely total of your *tax offset refunds (for tax offsets of any kind) for the present year.

*number of instalment quarters so far means the number of *instalment quarters in the income year, up to (and including) the instalment quarter for which the test amount is proposed, for which you are participating in the *quarterly credits system.

(3) The Commissioner may, under subsection 48-210(3), disallow each proposed varied amount included in your notice under section 48-220 if you fail to give the Commissioner, in accordance with that section, information requested under that section.

(4) The Commissioner must not, under subsection 48-210(3), disallow the proposed varied amounts included in your notice under section 48-220 if:

(a) none of the following provisions applies:

(i) paragraph (1)(a) or subsection (3);

(ii) paragraph (1)(b), if the sum in that paragraph is less than nil; and

(b) each of those proposed varied amounts is less than or equal to the amount that would otherwise be your *quarterly credit amount for the relevant *instalment quarter and the present tax offsets.

48-220 Notifying the Commissioner of proposed varied amounts

(1) A notice of one or more proposed varied amounts must be given to the Commissioner in the *approved form before:

(a) if all or a part of a December falls within the last month of the earliest of the *instalment quarters to which the amounts relate—the next 15 February after the end of that instalment quarter; or

(b) otherwise—the 15th day after the end of the earliest of the instalment quarters to which the amounts relate.

Note: You must keep records in relation to the varied amount (see section 262A of the *Income Tax Assessment Act 1936*).

(2) The Commissioner may request you in writing to give specified information to the Commissioner about the notice.

(3) The request may be for the information to be given to the Commissioner in the *approved form within:

(a) 14 days after the request was made; or

(b) a further period allowed by the Commissioner.

Note: A failure by you to give the information in accordance with this subsection may result in the Commissioner refusing to allow the proposed varied amounts (see subsection 48-215(3)).
48-225 When quarterly credit amounts are payable to you

General rule

(1) The Commissioner must, on behalf of the Commonwealth, pay you your *quarterly credit amount for an *instalment quarter and the present tax offsets on or before this day:

(a) the 28th day of the calendar month after the end of the instalment quarter; or

(b) if all or a part of a December falls within the last month of the instalment quarter—the next 28 February.

Delayed payment—varied amount under examination

(2) Despite subsection (1), if:

(a) your *quarterly credit amount is a varied amount applying under section 48-210 that exceeds the amount otherwise payable to you; and

(b) the Commissioner is examining whether to disallow that varied amount;

the Commissioner may, until the examination ends, delay paying you so much of that varied amount as is equal to the excess.

Note 1: If you are dissatisfied with a decision under this subsection to delay payment of the excess, you may object against it in the manner set out in Part IVC (see section 48-800).

Note 2: Interest accrues under Part IIIAB of the Taxation (Interest on Overpayments and Early Payments) Act 1983 while the Commissioner delays payment of the excess.

Note 3: The excess (and the interest) is not payable if the examination results in the varied amount being disallowed.

Delayed payment—participation under examination

(3) Despite subsection (1), the Commissioner may delay paying you your *quarterly credit amount if and while:

(a) the Commissioner is examining whether your participation should be revoked; or

(b) the Commissioner is aware that a regulator mentioned in the table is examining a matter relevant to whether your participation should be revoked.

<table>
<thead>
<tr>
<th>Item</th>
<th>If the present tax offsets include:</th>
<th>the other regulator is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>the tax offset listed in table item 20 (about R&amp;D) in section 48-100</td>
<td>*Innovation Australia.</td>
</tr>
</tbody>
</table>

Note 1: If you are dissatisfied with a decision under this subsection to delay your payment, you may object against it in the manner set out in Part IVC (see section 48-800).

Note 2: Interest accrues under Part IIIAB of the Taxation (Interest on Overpayments and Early Payments) Act 1983 while the Commissioner delays your payment.

Note 3: Your payment (and the interest) is not payable if the examination results in your participation being revoked.

Delayed payment—you cannot receive electronic payments etc.

(4) Despite subsection (1), the Commissioner must delay paying you your *quarterly credit amount if and while the Commissioner is aware that your circumstances do not enable payments to be made to you in accordance with subsection 48-820(1) (about electronic payments etc.).

Note: Interest accrues under Part IIIAB of the Taxation (Interest on Overpayments and Early Payments) Act 1983 if the Commissioner delays your payment more than 14 days after becoming aware that electronic payments can now be made to you.
Matters relevant to delayed payments

(5) The Commissioner must notify you in writing of:

(a) a decision under subsection (2), (3) or (4) to delay your payment; and

(b) the reasons for the decision.

Payments cannot be made on or after assessment

(6) Despite subsection (1), your *quarterly credit amount for an *instalment quarter and the present tax offsets must not be paid to you on or after the assessment day (see paragraph 48-300(1)(b)) for the present year.

48-230 When quarterly credit amounts are payable by you

(1) However, if your *quarterly credit amount for the *instalment quarter and the present tax offsets is a negative amount, you are liable to pay the Commonwealth that amount (expressed as a positive amount).

Note: The amount will only be a negative amount if you choose a varied amount that is a negative amount.

(2) That amount is due and payable on the *quarterly credit amount's *quarterly credit due day.

Note: For provisions about collection and recovery of the amount, see Part 4-15.

(3) If any of that amount (the varied amount) remains unpaid after the *quarterly credit amount's *quarterly credit due day, you are liable to pay the *general interest charge on the unpaid amount for each day in the period that:

(a) starts on the day after that due day; and

(b) ends on the last day any of the following remains unpaid:

(i) the varied amount;

(ii) general interest charge on any of the varied amount.

(4) This section does not apply if the *quarterly credit amount's *quarterly credit due day is on or after the assessment day (see paragraph 48-300(1)(b)) for the present year.

48-235 The amount's quarterly credit due day

The quarterly credit due day for a *quarterly credit amount is:

(a) if that amount is a positive amount—the day referred to in subsection 48-225(1); or

(b) if that amount is a nil or negative amount—the day that would have been the day referred to in subsection 48-225(1) were that amount a positive amount.

Subdivision 48-E—End of year reconciliation

Table of sections

48-300 Debit equal to the total quarterly credits paid

48-305 When the debit is due

48-350 Liability to GIC on excess quarterly credits worked out using varied amounts

48-355 Benchmark amount for the variation quarter

48-300 Debit equal to the total quarterly credits paid

(1) You are liable to pay the Commonwealth an amount (a debit) under this section if:

(a) you are participating in the *quarterly credits system for one or more *instalment quarters in an income year and one or more *tax offsets; and

(b) on a particular day (the assessment day), the Commissioner makes an assessment:

(i) of the total of your *tax offset refunds for the income year; or
(ii) that you can get no such refunds for the income year.

Note: The debit will be offset by a credit equal to the total of your tax offset refunds.

(2) The debit is equal to the sum of your quarterly credit amounts for those instalment quarters and those tax offsets, disregarding so much of any of those amounts as:

(a) is a positive amount not paid before the assessment day; or

(b) is a negative amount with a quarterly credit due day that is on or after the assessment day.

Note: This debit only includes your quarterly credit amounts for those instalment quarters for which you are participating in the quarterly credits system. It does not include quarterly credit amounts for instalment quarters for which you (under Subdivision 48-F) have ceased to participate.

(3) The Commissioner must give you notice of the debit, unless subsection 166A(3) of the Income Tax Assessment Act 1936 applies to you for the income year.

Note 1: This could be done by including the debit in the notice of your assessment referred to in paragraph (1)(b).

Note 2: The debit is the debit as amended. So, if a previously notified debit is incorrect, notice of the debit (as amended) must also be given for this subsection to be satisfied.

48-305 When the debit is due

(1) Parts of the debit may be due on different days.

(2) So much of the debit as does not exceed the total of your tax offset refunds for the income year is due and payable on the assessment day.

Note: This part of the debit will be offset by the credit equal to the total of your tax offset refunds.

(3) So much of the debit (if any) as exceeds the total of your tax offset refunds for the income year is due and payable on the day your income tax for the income year:

(a) is due and payable; or

(b) would have been due and payable if you were liable to pay income tax for the income year.

Note 1: For the day income tax is due, see section 5-5 of the Income Tax Assessment Act 1997.

Note 2: For provisions about collection and recovery of this excess, see Part 4-15.

(4) If so much of the debit as is covered by subsection (3) (the excess) remains unpaid after the time by which it is due to be paid, you are liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) starts on the day after the excess was due to be paid; and

(b) ends on the last day any of the following remains unpaid:

(i) the excess;

(ii) general interest charge on any of the excess.

48-350 Liability to GIC on excess quarterly credits worked out using varied amounts

(1) You are liable to pay the general interest charge under this section if:

(a) you are participating in the quarterly credits system for an instalment quarter (the variation quarter) in an income year and one or more tax offsets; and

(b) this is the case:

Benchmark amount < 85% of your total credits

where:

benchmark amount means the amount worked out under section 48-355 for the variation quarter and those tax offsets.
**your total credits** means the sum of your *quarterly credit amounts for the variation quarter and any earlier instalment quarters in the income year, disregarding so much of any of those amounts as:

(i) is a positive amount not paid before the assessment day (see paragraph 48-300(1)(b)) for the income year; or

(ii) is a negative amount with a *quarterly credit due day that is on or after that assessment day.

Note: You will not be liable for this charge if your quarterly credit amounts have never been varied above the standard amounts, as your total credits will never exceed the benchmark amount (see section 48-355).

(2) You are liable to pay the *general interest charge on the difference between your total credits and the benchmark amount.

(3) You are liable to pay the charge for each day in the period:

(a) starting on the *quarterly credit due day for your *quarterly credit amount for the variation quarter; and

(b) ending on the earlier of:

(i) if you have a quarterly credit amount for one or more later *instalment quarters in the income year—the quarterly credit due day for the first of those later quarterly credit amounts; and

(ii) the assessment day (see paragraph 48-300(1)(b)) for the income year.

Note: Subparagraph (b)(i) includes the case where you have a nil or negative quarterly credit amount for a later instalment quarter.

(4) The Commissioner must give you written notice of the *general interest charge to which you are liable under subsection (2). You must pay the charge within 14 days after you are given that notice.

Note: The Commissioner may remit the charge (see section 8AAG).

(5) If any of the *general interest charge to which you are liable under subsection (2) (the original GIC) remains unpaid at the end of the 14 days referred to in subsection (4), you are also liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) starts on the day after those 14 days; and

(b) ends on the last day any of the following remains unpaid:

(i) the original GIC;

(ii) general interest charge on any of the original GIC.

**48-355 Benchmark amount for the variation quarter**

(1) The amount worked out under this section for the variation quarter and those *tax offsets is the greater of:

(a) the sum of the standard amounts worked out under section 48-205 for:

(i) the variation quarter; and

(ii) any earlier *instalment quarters in the income year for which you are participating in the *quarterly credits system; and

(b) the amount applying under subsection (2).

(2) The amount applying under this subsection is as follows:

\[
\text{Number of instalment quarters so far} \times \frac{\text{End of year amount}}{4}
\]

where:
end of year amount means the lesser of:

(a) either:

(i) the total amount of those *tax offsets and any other tax offsets for which you are participating in the *quarterly credits system for an earlier *instalment quarter in the income year; or

(ii) nil, if you are not entitled to any of the tax offsets referred to in subparagraph (i) for the income year; and

(b) the total of your *tax offset refunds (for tax offsets of any kind) for the income year.

number of instalment quarters so far means the number of *instalment quarters in the income year, up to (and including) the variation quarter, for which you are participating in the *quarterly credits system.

Subdivision 48-F—Ending participation

Table of sections

48-400 Withdrawing participation
48-405 You must withdraw if you later fail a test etc.
48-410 Excusing noncompliance after you start participating
48-415 Applying for noncompliance to be excused
48-420 Revoking participation
48-425 Collecting and recovering quarterly credits paid to you for quarters for which you no longer participate
48-430 Recovering quarterly credits paid by you for quarters for which you no longer participate

48-400 Withdrawing participation

(1) You may withdraw from participating in the *quarterly credits system for any or all of the *instalment quarters (whether past, current or future) in the income year and one or more *tax offsets.

Note: You will need to repay any quarterly credit amounts paid to you for instalment quarters that you later withdraw from (see section 48-425).

(2) A withdrawal must be by notice given to the Commissioner in the *approved form.

(3) The withdrawal takes effect, for the *instalment quarters and *tax offsets specified in it, when it is given to the Commissioner.

Note: You may apply to participate again in the quarterly credits system for later instalment quarters in the income year.

(4) A withdrawal is irrevocable.

48-405 You must withdraw if you later fail a test etc.

Failing a test necessary for participation

(1) You contravene this subsection if:

(a) you are participating in the *quarterly credits system for an *instalment quarter in an income year and a *tax offset; and

(b) during the instalment quarter, you (or any of your *managing entities) fail a test in Subdivision 48-C necessary for that participation, other than paragraph 48-110(1)(a) or (c); and

(c) that participation is not revoked under section 48-420; and

(d) you do not, within 28 days after that failure happened or started, withdraw from participating in the quarterly credits system for the instalment quarter and the tax offset in accordance with section 48-400.
Note 1: This subsection applies separately for each instalment quarter and tax offset for which you are participating in the quarterly credits system.

Note 2: Your managing entities may contravene this subsection if you are a partnership, trust or unincorporated association or body (see Division 444).

Failing to comply with a taxation obligation

(2) You contravene this subsection if:

(a) you are participating in the quarterly credits system for an instalment quarter in an income year and a tax offset; and

(b) during the instalment quarter, you (or any of your managing entities) fail to comply with an obligation under a taxation law (whether the obligation arises before, at or after the start of the instalment quarter); and

(c) that participation is not revoked under section 48-420; and

(d) none of the following happen within 28 days after that failure happened or started:

(i) that failure is excused under subsection 48-410(2);  

(ii) you apply for that failure to be excused under subsection 48-410(2);  

(iii) you withdraw from participating in the quarterly credits system for the instalment quarter and the tax offset in accordance with section 48-400.

Note 1: This subsection applies separately for each instalment quarter and tax offset for which you are participating in the quarterly credits system.

Note 2: Your managing entities may contravene this subsection if you are a partnership, trust or unincorporated association or body (see Division 444).

Strict liability offence

(3) You commit an offence of strict liability if you contravene subsection (1) or (2).

Penalty: 60 penalty units.

Note 1: For strict liability, see section 6.1 of the Criminal Code.

Note 2: Section 4K of the Crimes Act 1914 applies to an offence against this subsection, so you commit an offence for each day after that 28 day period that you do not withdraw from the quarterly credits system.

Administrative penalty

(4) You are liable to pay to the Commissioner a penalty of 20 penalty units if you contravene subsection (1) or (2).

Note 1: Division 298 in this Schedule contains machinery provisions for administrative penalties.

Note 2: This administrative penalty is not payable if you are prosecuted under subsection (3) for the same contravention (see section 8ZE).

48-410 Excusing noncompliance after you start participating

(1) This section applies if:

(a) you are participating in the quarterly credits system for one or more instalment quarters in an income year and a tax offset; and

(b) after you start participating, you (or any of your managing entities) fail to comply with an obligation under a taxation law (whether the obligation arises before, at or after the time you start participating).

Note: This subsection applies separately for each tax offset for which you are participating in the quarterly credits system for those instalment quarters.
(2) For the purposes of this Division, the Commissioner may excuse that failure.

Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-800).

(3) In deciding whether to excuse that failure, the Commissioner must have regard to:

(a) the consequences of that failure; and

(b) the consequences of any other failure for which this section applies in relation to that participation; and

(c) the likelihood of you (and your *managing entities (if any)) complying in the future with obligations under taxation laws; and

(d) the likely consequences if you (or any of those managing entities) do not so comply.

(4) That failure may be excused, under subsection (2), on the Commissioner's own initiative or on application.

(5) The Commissioner may, under subsection (2), refuse to excuse that failure if you fail to give the Commissioner, in accordance with section 48-415, information requested under that section.

(6) The Commissioner must notify you in writing of:

(a) the Commissioner's decision under subsection (2); and

(b) if the decision refuses to excuse that failure—the reasons for the decision.

48-415 Applying for noncompliance to be excused

(1) An application for the Commissioner to excuse a failure must be given to the Commissioner in the *approved form within:

(a) 28 days after the day that failure happened or started; or

(b) a further period allowed by the Commissioner.

(2) The Commissioner may request you in writing to give specified information to the Commissioner about your application.

(3) The request may be for the information to be given to the Commissioner in the *approved form within:

(a) 14 days after the request was made; or

(b) a further period allowed by the Commissioner.

Note: A failure to give the information in accordance with this subsection may result in the Commissioner refusing to excuse that failure (see subsection 48-410(5)).

48-420 Revoking participation

Mandatory revocation if fail a test when start participating

(1) The Commissioner must, by notice in writing given to you, revoke your participation in the *quarterly credits system for:

(a) all of the *instalment quarters (whether past, current or future) in an income year; and

(b) one or more *tax offsets;

if the Commissioner is aware that, when you started participating, you (or any of your *managing entities) failed a test in Subdivision 48-C necessary for that participation.

Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-800).
Revocation if default event happens

(2) The Commissioner may, by notice in writing given to you, revoke your participation in the quarterly credits system for any or all of the instalment quarters (whether past, current or future) in an income year and one or more tax offsets if:

(a) at any time during the income year after you start participating, you (or any of your managing entities) fail a test in Subdivision 48-C necessary for that participation, other than paragraph 48-110(1)(a) or (c); or

(b) at any time during the income year after you start participating:

(i) you (or any of your managing entities) fail to comply with an obligation under a taxation law (whether the obligation arises before, at or after the time you start participating); and

(ii) the failure has not been excused under subsection 48-410(2); or

(c) you do not lodge your income tax return for the income year with the Commissioner on or before the required day.

Note: If you are dissatisfied with a decision under this subsection, you may object against it in the manner set out in Part IVC (see section 48-800).

Matters relevant to revocations

(3) A revocation takes effect for:

(a) the tax offsets specified in the notice; and

(b) for a revocation under subsection (2)—the instalment quarters specified in the notice.

(4) A notice under subsection (1) or (2) must include the reasons for the revocation.

48-425 Collecting and recovering quarterly credits paid to you for quarters for which you no longer participate

(1) If:

(a) on a particular day (the payment day), you are paid all or part of a quarterly credit amount for an instalment quarter in an income year and one or more tax offsets; and

(b) under this Subdivision, you cease to participate in the quarterly credits system for that instalment quarter and one or more of those tax offsets;

you are liable to repay the Commonwealth so much of that amount as you were paid (the repayable amount).

(2) The repayable amount is due and payable on the payment day.

Note: For provisions about collection and recovery of that amount, see Part 4-15.

(3) If any of the repayable amount remains unpaid after the payment day, you are liable to pay the general interest charge on the unpaid amount for each day in the period that:

(a) starts on the day after the payment day; and

(b) ends on the last day any of the following remains unpaid:

(i) the repayable amount;

(ii) general interest charge on any of the repayable amount.

48-430 Recovering quarterly credits paid by you for quarters for which you no longer participate

(1) If:

(a) on a particular day (the payment day), you pay an amount under section 48-230 for an instalment quarter in an income year and one or more tax offsets; and
(b) under this Subdivision, you cease to participate in the *quarterly credits system for that instalment quarter and those tax offsets;

the Commissioner must, on behalf of the Commonwealth, repay that amount to you on or before the 14th day after the day the notice is given that causes that cessation.

Note: See Division 3A of Part IIB for the rules about how the Commissioner must pay that amount. Division 3 of Part IIB allows the Commissioner to apply that amount as a credit against tax debts that you owe to the Commonwealth.

(2) However, the Commissioner must delay repaying you that amount if and while the Commissioner is aware that your circumstances do not enable payments to be made to you in accordance with subsection 48-820(1) (about electronic payments etc.).

Note: Interest accrues under Part IIIAB of the Taxation (Interest on Overpayments and Early Payments) Act 1983 if the Commissioner delays the repayment more than 14 days after becoming aware that electronic payments can now be made to you.

**Subdivision 48-P—Special rules for consolidated groups etc.**

**Table of sections**

- 48-700 Single entity rule
- 48-705 Entry rule
- 48-710 Exit rule
- 48-715 Effect of choice to continue group after shelf company becomes new head company
- 48-720 Effect of change of provisional head company of a MEC group
- 48-725 Conversions—MEC group to consolidated group
- 48-730 Conversions—consolidated group to MEC group
- 48-735 Giving notice if new group comes into existence

**48-700 Single entity rule**

For each *instalment quarter starting during the period an entity is a *subsidiary member of a *consolidated group or *MEC group:

(a) that entity; and

(b) any other subsidiary member of the group;

are taken for the purposes of this Division to be parts of the *head company or *provisional head company of the group (rather than separate entities).

Note 1: The entity will continue to have any quarterly credit amount payable for the instalment quarter in which it joins the group. However, the group will continue to have any quarterly credit amount payable for the instalment quarter in which the entity leaves the group.

Note 2: Each entity that continues to have that quarterly credit amount will also have an end-of-year debit under section 48-300 that takes account of that amount.

Note 3: Despite this single entity rule, a subsidiary member of the group is jointly and severally liable for a liability under this Division of the head company (see section 721-10 of the Income Tax Assessment Act 1997).

**48-705 Entry rule**

(1) This section applies if an entity becomes a *subsidiary member of a *consolidated group or *MEC group during an *instalment quarter in an income year.
(2) Except as set out in the table, for the purposes of this Division and future *instalment quarters, everything that happened in relation to the entity before those future instalment quarters is taken to have happened instead in relation to the *head company or *provisional head company of the group.

<table>
<thead>
<tr>
<th>Things to which the entry rule does not apply</th>
<th>Item</th>
<th>Any of these things that happened in relation to the entity before those future instalment quarters:</th>
<th>is not taken to have happened in relation to the head company or provisional head company of the group for these purposes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>a</td>
<td>a failure to satisfy a paragraph in subsection 48-110(1)</td>
<td>whether the *head company or *provisional head company:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(a) satisfies a paragraph in subsection 48-110(1); or</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(b) has failed to comply with an obligation under a *taxation law</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>participating in the *quarterly credits system for an *instalment quarter and a *tax offset</td>
<td>whether the *head company or *provisional head company is participating in the quarterly credits system for an instalment quarter and the tax offset</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>having *quarterly credit amounts</td>
<td>whether the *head company or *provisional head company has quarterly credit amounts working out the *head company's or *provisional head company's standard amount under section 48-205</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>becoming entitled to *tax offsets for a previous income year</td>
<td></td>
</tr>
</tbody>
</table>

Note: Table item 1 does not prevent the entity's personnel, past practices and culture etc. from being relevant for working out, during future instalment quarters, whether the head company or provisional head company satisfies paragraph 48-110(1)(d) (about complying with future tax obligations).

**48-710 Exit rule**

(1) This section applies if an entity ceases to be a *subsidiary member of a *consolidated group or *MEC group during an *instalment quarter in an income year.

(2) Except as set out in the table, for the purposes of this Division and future *instalment quarters, nothing that happened in relation to the *head company or *provisional head company of the group before those future instalment quarters, whether:

(a) while the entity was a *subsidiary member of the group; or

(b) because of the application of section 48-705 (about transferring the entity's earlier history to the group); is taken to have happened in relation to the entity.

<table>
<thead>
<tr>
<th>Things to which the exit rule does not apply</th>
<th>Item</th>
<th>If the group's history includes:</th>
<th>then, for the purposes of this Division and those future instalment quarters:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>the *head company or *provisional head company becoming entitled to a *tax offset for an income year</td>
<td>the entity is also taken to be entitled to a tax offset of the same kind for the income year, but not for the purposes of working out the entity's standard amount under section 48-205</td>
</tr>
</tbody>
</table>

(3) For the *head company or *provisional head company:

(a) any varied amount applying under section 48-210 at the start of the next *instalment quarter (if any) in the income year; and

(b) the standard amount worked out under section 48-205; are taken to be nil for that next instalment quarter and any later instalment quarters in the income year.
Note: The head company or provisional head company may, after the start of that next quarter, choose to notify the Commissioner of further proposed varied amounts for that quarter and later quarters.

**48-715 Effect of choice to continue group after shelf company becomes new head company**

(1) This section applies if:
   (a) immediately before a particular time (the *completion time*), a company (the *original company*) is the *head company of a *consolidated group; and
   (b) another company (the *interposed company*) chooses under subsection 124-380(5) of the *Income Tax Assessment Act 1997* that the group is to continue in existence at and after the completion time.

(2) For the purposes of this Division:
   (a) the group is taken not to have ceased to exist under subsection 703-5(2) of that Act because the original company ceases to be the *head company of the group; and
   (b) the interposed company is taken to have become the head company of the group at the completion time; and
   (c) the original company is taken to have ceased to be the head company at that time.

(3) For the purposes of this Division at and after the completion time, everything that happened in relation to the original company before the completion time:
   (a) is taken to have happened in relation to the interposed company instead of in relation to the original company; and
   (b) is taken to have happened in relation to the interposed company instead of what would (apart from this section) be taken to have happened in relation to the interposed company before that time;

   just as if, at all times before the completion time, the interposed company had been the original company and the original company had been the interposed company.

Note: The original company and the interposed company have in effect exchanged identities throughout the period before the completion time for the purposes of the quarterly credits system.

Example: The original company is participating in the quarterly credits system for all 4 instalment quarters in an income year, but then the completion time happens during the third quarter. The interposed company will be paid the quarterly credit amounts for the third and fourth quarters, and will have a debit under section 48-300 for the amounts paid for all 4 quarters.

(4) However, while subsection (3) applies to a negative *quarterly credit amount having a *quarterly credit due day that is before the completion time, that subsection does not apply to:
   (a) the original company's liability to pay that amount; or
   (b) any other *tax-related liability arising from this Division before the completion time.

Example: In the example from subsection (3), if the quarterly credit amount for the second quarter was a negative amount:
   (a) after the completion time, the original company will continue to be liable under section 48-230 to pay that amount; and
   (b) the interposed company's end-of-year debit under section 48-300 will take account of that amount.

**48-720 Effect of change of provisional head company of a MEC group**

(1) This section applies if:
   (a) a company (the *old head company*) is the *provisional head company of a *MEC group just before a *cessation event happens to the company; and
(b) a different company (the new head company) is the provisional head company of the group at the time (the transition time) just after that cessation event.

(2) For the purposes of this Division at and after the transition time, everything that happened in relation to the old head company before the transition time:

(a) is taken to have happened in relation to the new head company instead of in relation to the old head company; and

(b) is taken to have happened in relation to the new head company instead of what would (apart from this section) be taken to have happened in relation to the new head company before that time;

just as if, at all times before the transition time, the new head company had been the old head company and the old head company had been the new head company.

Note: The new head company and old head company have in effect exchanged identities throughout the period before the transition time for the purposes of the quarterly credits system.

(3) However, while subsection (2) applies to a negative quarterly credit amount having a quarterly credit due day that is before the transition time, that subsection does not apply to:

(a) the old head company's liability to pay that amount; or

(b) any other tax-related liability arising from this Division before the transition time.

Note: The examples to subsections 48-715(3) and (4) apply in a similar way to subsections (2) and (3) of this section.

48-725 Conversions—MEC group to consolidated group

(1) This section applies if, at a particular time (the conversion time), a consolidated group (the new group) is created from a MEC group (the old group).

(2) For the purposes of this Division at and after the conversion time:

(a) the new group is taken to be a continuation of the old group; and

(b) everything that happened in relation to the provisional head company of the old group before the conversion time is taken instead to have happened in relation to that entity in its role as head company of the new group.

48-730 Conversions—consolidated group to MEC group

(1) This section applies if, at a particular time (the conversion time), a MEC group (the new group) is created from a consolidated group (the old group).

(2) For the purposes of this Division at and after the conversion time:

(a) the new group is taken to be a continuation of the old group; and

(b) everything that happened in relation to the head company of the old group before the conversion time is taken instead to have happened in relation to that entity in its role as provisional head company of the new group.

48-735 Giving notice if new group comes into existence

(1) The head company of a consolidated group, or provisional head company of a MEC group, must notify the Commissioner if:

(a) the group comes into existence on a particular day in an income year; and

(b) just before that day, an entity that has become a subsidiary member of the group was participating in the quarterly credits system for one or more instalment quarters in the income year.

Note: The Commissioner must also be notified of other situations where the entity joins or leaves a group (see sections 703-60 and 719-80 of the Income Tax Assessment Act 1997).
(2) The notice must be given to the Commissioner in the *approved form within 28 days after the day the group comes into existence.

(3) This section does not limit section 703-58 or 719-76 (about giving notice of a new group) of the Income Tax Assessment Act 1997.

**Subdivision 48-T—Other matters**

**Table of sections**

| 48-800 Objecting to decisions
| 48-820 How amounts are to be paid
| 48-840 Alternative constitutional basis

**48-800 Objecting to decisions**

A person who is dissatisfied with a decision of the Commissioner under any of the following provisions may object against it in the manner set out in Part IVC:

(a) subsection 48-5(1);
(b) subsection 48-210(3);
(c) subsection 48-225(2);
(d) subsection 48-225(3);
(e) subsection 48-410(2);
(f) subsection 48-420(1);
(g) subsection 48-420(2).

**48-820 How amounts are to be paid**

(1) Payments under this Division to or by you must be by:

(a) a means of *electronic payment; or
(b) a method applying to you under subsection (2).

Note: You are liable to an administrative penalty if you fail to comply with paragraph (a) or (b) when making payments under this Division (see section 288-20).

(2) The Commissioner may, in writing, approve a method by which payments under this Division to or by an entity may be made.

Note: Different methods can be approved for different classes of entities, see subsection 33(3AB) of the Acts Interpretation Act 1901.

(3) An approval may be expressed to apply from a day before the approval is made.

**48-840 Alternative constitutional basis**

(1) Without limiting its effect apart from this subsection, this Division has the effect it would have if:

(a) subsection (2) had not been enacted; and
(b) a *quarterly credit amount could only be worked out for an entity that:

(i) is a *constitutional corporation; or
(ii) has its registered office (within the meaning of the Corporations Act 2001) or principal place of business (within the meaning of that Act) located in a Territory.

(2) Without limiting its effect apart from this subsection, this Division has the effect it would have if:

(a) subsection (1) had not been enacted; and
(b) *quarterly credit amounts could only be worked out in respect of activities, or parts of activities, conducted or to be conducted.
(i) solely in a Territory; or
(ii) solely outside of Australia; or
(iii) solely in a Territory and outside of Australia; or
(iv) for the dominant purpose of supporting core R&D activities conducted, or to be conducted, solely in a Territory.

Part 2—Innovation Australia's role

Industry Research and Development Act 1986

2 Section 26A

Omit "The R&D entity can seek an advance finding to get", substitute "The Board may make an advance finding to give".

3 Section 26A

Omit "The R&D entity can seek a", substitute "The Board may make a".

4 Paragraph 27L(2)(a)

Repeal the paragraph, substitute:

(a) a finding in force under subsection 28A(1) (advance findings about activities) is about an activity conducted during an income year and is related to an R&D entity; and

5 Section 28

Omit "An R&D entity can seek" (wherever occurring), substitute "The Board may make".

6 Section 28A

Repeal the section, substitute:

28A Advance findings about the nature of activities

(1) The Board may make one or more findings to the following effect about an activity that is related to an R&D entity:

(a) that all or part of the activity is a core R&D activity;
(b) that all or part of the activity is a supporting R&D activity in relation to one or more specified core R&D activities for which the entity has been or could be registered under section 27A for an income year;
(c) that all or part of the activity is neither:
(i) a core R&D activity; nor
(ii) a supporting R&D activity of a kind covered by paragraph (b).

Note 1: A finding is reviewable (see Division 5).
Note 2: A finding binds the Commissioner for the purposes of income tax assessments and the provision of quarterly credits (see subsections 355-705(2) and (3) of the Income Tax Assessment Act 1997).

(2) The Board must not make a finding under subsection (1) about an activity unless the Board is satisfied that the activity:

(a) is being conducted, or has been completed, during the income year applying under subsection (3); or
(b) is yet to be conducted, but that it is reasonable to expect that the activity will be conducted in any or all of the following income years:
(i) the income year applying under subsection (3);
(ii) either of the next 2 income years.
(3) The income year applying under this subsection is either:
   (a) the income year in which the process of considering whether to make the finding starts; or
   (b) the previous income year, if this is preferred by the entity causing this process to start, and
      clearly stated as such:
         (i) in any application or request (see subsection 28AA(1)) causing this process to start; or
         (ii) in the Board’s reasons for making, or not making, the finding, if the Board causes this
              process to start on its own initiative.

   However, paragraph (b) does not apply if this process starts after the R&D entity has applied to
   register activities under section 27A for that previous income year.

   Note: The process of considering whether to make the finding starts when the application or request
   is made, or when the Board starts considering whether to make the finding on its own initiative.

(4) If the Board makes a finding under subsection (1) about an activity that is being conducted, or
    has been completed, during the income year applying under subsection (3), the Board may specify in
    the finding the times to which the finding relates.

(5) This section has effect subject to section 32B (findings cannot be inconsistent with any earlier
    findings).

7 After section 28A

   Insert:

28AA Causing advance findings to be made

   (1) If:
      (a) an R&D entity applies for one or more findings under subsection 28A(1) about an activity; or
      (b) the Commissioner:
         (i) requests one or more findings under subsection 28A(1) about an activity that is related to an
             R&D entity; and
         (ii) does not later withdraw the request;
      the Board must:
      (c) make one or more findings under that subsection about all or part of the activity; or
      (d) if justified in accordance with the decision-making principles—refuse to make a finding under
          that subsection about all or part of the activity.

   Note 1: For requirements of applications by R&D entities, see section 28G.
   Note 2: Refusing to make a finding is reviewable (see Division 5).
   Note 3: Section 32A deals with the decision-making principles.

   (2) The Board may also make a finding under subsection 28A(1) on its own initiative in accordance
       with any applicable decision-making principles.

   Note: Section 32A deals with the decision-making principles.

8 Subsection 28C(1)

   Repeal the subsection, substitute:

   (1) The Board may make one or more findings to the following effect about an activity that is related
       to an R&D entity:
       (a) that all or part of the activity is an activity (the overseas activity) that meets the conditions in
           section 28D;
       (b) that all or part of the activity is not an activity that meets the conditions in section 28D.
Note 1: A finding is reviewable (see Division 5).

Note 2: An effect of a finding under paragraph (a) is that a tax offset may be available for expenditure incurred on the overseas activity after the finding comes into force (see Division 355 of the *Income Tax Assessment Act 1997*, in particular paragraphs 355-210(1)(d) and (e) of that Act).

9 At the end of Subdivision C of Division 3 of Part III

Add:

**28DA Causing overseas activity findings to be made**

(1) If:

(a) an R&D entity applies for one or more findings under subsection 28C(1) about an activity; or

(b) the Commissioner:

(i) requests one or more findings under subsection 28C(1) about an activity that is related to an R&D entity; and

(ii) does not later withdraw the request;

the Board must:

(c) make one or more findings under that subsection about all or part of the activity; or

(d) if justified in accordance with the decision-making principles—refuse to make a finding under that subsection about all or part of the activity.

Note 1: For requirements of applications by R&D entities, see section 28G.

Note 2: Refusing to make a finding is reviewable (see Division 5).

Note 3: Section 32A deals with the decision-making principles.

(2) The Board may also make a finding under subsection 28C(1) on its own initiative in accordance with any applicable decision-making principles.

Note: Section 32A deals with the decision-making principles.

10 Subsection 28E(1)

Repeal the subsection, substitute:

(1) If an R&D entity has acquired, or has acquired the right to use, particular technology wholly or partly for the purposes of one or more R&D activities conducted, or to be conducted, during one or more income years, the Board may make a finding to the effect:

(a) that the technology is core technology for the R&D activities; or

(b) that the technology is not core technology for the R&D activities.

Note 1: A finding is reviewable (see Division 5).

Note 2: A finding under paragraph (a) means that a tax offset will not be available for expenditure incurred in acquiring, or in acquiring the right to use, the technology for the R&D activities (see subsection 355-225(2) of the *Income Tax Assessment Act 1997*).

11 Subsections 28E(3) and (4)

Repeal the subsections.

12 At the end of Subdivision D of Division 3 of Part III

Add:

**28EA Causing core technology findings to be made**

(1) If:

(a) an R&D entity applies for a finding under subsection 28E(1) about the R&D entity, one or more R&D activities and particular technology; or
(b) the Commissioner:

(i) requests a finding under subsection 28E(1) about one or more R&D activities, and particular technology, that are related to an R&D entity; and

(ii) does not later withdraw the request;

the Board must:

(c) make a finding under that subsection about the R&D activities and the technology; or

(d) if justified in accordance with the decision-making principles—refuse to make a finding under that subsection about the R&D activities and the technology.

Note 1: For requirements of applications by R&D entities, see section 28G.
Note 2: Refusing to make a finding is reviewable (see Division 5).
Note 3: Section 32A deals with the decision-making principles.

(2) The Board may also make a finding under subsection 28E(1) on its own initiative in accordance with any applicable decision-making principles.

Note: Section 32A deals with the decision-making principles.

13 Section 28F (heading)
Repeal the heading, substitute:

28F Notice of findings or of decisions refusing to make findings

14 Subsections 28F(1) and (2)
Repeal the subsections, substitute:

(1) The Board must notify an R&D entity in writing of any findings, and of any decisions refusing to make findings, under this Division that are related to the R&D entity.

15 Subsection 28F(3)
Omit "or (2)"

16 Subsection 28F(3) (note)
Omit "applicant's", substitute "R&D entity's".

17 Subsection 28F(4)
Omit "the notice if the notice includes one or more certificates", substitute "each notice under subsection (1) of a finding".

18 Subsection 28G(1) (heading)
Repeal the heading, substitute:

Applications by R&D entities for findings

19 Subsection 28G(2)
Omit "An", substitute "However, an".

20 Subsection 28H(1)
Repeal the subsection, substitute:

(1) The Board may request an R&D entity in writing to give such specified information, or specified kinds of information, to the Board as the Board believes could be relevant to the making of a finding under this Division that is related to the R&D entity.

(1A) However, if as described in section 28B another entity applied for the finding on behalf of the R&D entity, the Board must first request in writing the information or kinds of information from that other entity.
21 Subsection 28H(2)
Omit "The request", substitute "A request under subsection (1) or (1A)".

22 Subsection 28H(2) (note 3)
Repeal the note, substitute:
Note 3: A failure to give the information may result in a refusal to make a finding.

23 Subsection 28H(3)
Omit "The request", substitute "A request under subsection (1) or (1A)".

24 Subsection 28H(4)
After "subsection (1)", insert "or (1A)".

25 Section 30A (table items 11 to 13)
Repeal the items, substitute:
11 An advance finding about the nature of an activity Subsection 28A(1)
11A Refusing to make an advance finding about the nature of an activity Paragraph 28AA(1)(d)
12 A finding about an activity to be conducted outside Australia Subsection 28C(1)
12A Refusing to make a finding about an activity to be conducted outside Australia Paragraph 28DA(1)(d)
13 A finding about particular technology Subsection 28E(1)
13A Refusing to make a finding about particular technology Paragraph 28EA(1)(d)

26 Subsection 30B(2) (note)
Omit "or 11", substitute ", 11, 12 or 13".

27 At the end of section 32A
Add:
; (d) whether making a finding under Division 3 on its own initiative is justified.

28 Paragraph 47(2A)(c)
Omit "or the Income Tax Assessment Act 1997", substitute ", the Income Tax Assessment Act 1997 or Division 48 in Schedule 1 to the Taxation Administration Act 1953".

29 At the end of subsection 47(2A)
Add:
Note: Division 48 in Schedule 1 to the Taxation Administration Act 1953 is about crediting the R&D tax offset on a quarterly basis.

Part 3—Other amendments
Income Tax Assessment Act 1936
30 After subsection 262A(2AAE)
Insert:
(2AAF) Subsection (1) applies to an entity for whom a varied amount applies under section 48-210 in Schedule 1 to the Taxation Administration Act 1953 even if the entity is not carrying on a business.
**Income Tax Assessment Act 1997**

31 **Subparagraph 355-705(1)(a)(iii)**

Omit "about", substitute "relating to".

32 **Subsection 355-705(1)**

Omit all the words after "the finding binds the Commissioner", substitute:
for the purposes of:

(c) assessments of the R&D entity for the income year or years (as appropriate); and
(d) for a finding under section 28E of that Act—the R&D entity's participation in the *quarterly credits system for the *instalment quarters in the income years.

33 **Subsections 355-705(2) and (3)**

Repeal the subsections, substitute:

*Advance findings about activities yet to be completed*

(2) If:

(a) *Innovation Australia makes a finding under subsection 28A(1) of the *Industry Research and Development Act 1986 relating to an *R&D entity and all or part of an activity; and
(b) *Innovation Australia gives the Commissioner a certificate under that Act setting out the finding; and
(c) the activity is being conducted, or is yet to be conducted, during the income year applying under subsection 28A(3) of that Act for the finding;

the finding binds the Commissioner for the purposes of:

(d) assessments of the R&D entity for the income year and the next 2 income years; and
(e) the R&D entity's participation in the *quarterly credits system for the *instalment quarters in the income year or in the next 2 income years.

*Advance findings about completed activities*

(3) However, if that activity is completed during the income year applying under subsection 28A(3) of that Act for that finding, that finding binds the Commissioner for the purposes of:

(a) assessments of the *R&D entity for the income year; and
(b) the R&D entity's participation in the *quarterly credits system for the *instalment quarters in the income year.

34 **Subparagraph 355-710(1)(a)(iii)**

Repeal the subparagraph, substitute:

(iii) a finding under section 28A or 28C of that Act relating to an R&D entity and all or part of an activity conducted or to be conducted during one or more income years; or

35 **Subparagraph 355-710(1)(a)(iv)**

Omit "about", substitute "relating to".

36 **Subsection 721-10(2) (after table item 60)**

Insert:

62 section 48-230 in Schedule 1 to the *Taxation Administration Act 1953* (negative quarterly credit amounts) the *instalment quarter to which the negative *quarterly credit amount relates*
62A section 48-300 in Schedule 1 to the *Taxation Administration Act 1953 (debit equal to total quarterly credit amounts paid) the income year to which the debit relates

62B section 48-350 in Schedule 1 to the *Taxation Administration Act 1953 (general interest charge on excess quarterly credits) the *instalment quarter to which the general interest charge relates

62C section 48-425 in Schedule 1 to the *Taxation Administration Act 1953 (quarterly credit amounts for quarters for which you no longer participate) the *instalment quarters for which you no longer participate

37 Subsection 995-1(1)
Insert:

*managing entity*, in relation to you, is an entity set out in a table item in subsection 48-110(2) in Schedule 1 to the *Taxation Administration Act 1953* that applies to you.

38 Subsection 995-1(1)
Insert:

*quarterly credit amount* has the meaning given by section 48-200 in Schedule 1 to the *Taxation Administration Act 1953*.

39 Subsection 995-1(1)
Insert:

*quarterly credit due day* has the meaning given by section 48-235 in Schedule 1 to the *Taxation Administration Act 1953*.

40 Subsection 995-1(1)
Insert:

*quarterly credits system* means the system described in Division 48 in Schedule 1 to the *Taxation Administration Act 1953* for providing quarterly credits during an income year for certain *tax offsets to which entities expect to be entitled for the income year.

41 Subsection 8AAB(4) (after table item 44)
Insert:

44A 48-230 in Schedule 1 *Taxation Administration Act 1953* negative quarterly credit amounts

44B 48-305 in Schedule 1 *Taxation Administration Act 1953* part of debit exceeding total tax offset refunds

44C 48-350 in Schedule 1 *Taxation Administration Act 1953* excess quarterly credit amount worked out using varied amounts

44D 48-425 in Schedule 1 *Taxation Administration Act 1953* quarterly credit amounts for quarters for which you no longer participate

42 Subsection 250-10(2) in Schedule 1 (after table item 135)
Insert:

135A negative quarterly credit amounts 48-230 in Schedule 1 *Taxation Administration Act 1953*
135B debit equal to total quarterly credit amounts paid
debit equal to total quarterly credit amounts paid
48-300 in Schedule 1 Taxation Administration Act 1953

135C quarterly credit amounts for quarters for which you no longer participate
quarterly credit amounts for quarters for which you no longer participate
48-425 in Schedule 1 Taxation Administration Act 1953

43 Subsection 286-75(2) in Schedule 1
After "these Acts", insert "or provisions".

44 At the end of subsection 286-75(2) in Schedule 1
Add:
; or (d) subsection 48-405(1) in this Schedule.

45 Paragraph 288-20(b) in Schedule 1
Omit "electronically;", substitute "electronically; or".

46 After paragraph 288-20(b) in Schedule 1
Insert:
(c) under subsection 48-820(1) in this Schedule is required to pay an amount electronically or by
an approved method;

47 Paragraph 298-5(c) in Schedule 1
After "Division 16", insert "or 48".

48 Subsection 355-65(4) in Schedule 1 (table item 6)
Repeal the item, substitute:

| 6 | *Innovation Australia | is for the purpose of administering any *Commonwealth law relating to: |
|   |                    | (a) venture capital; or |
|   |                    | (b) research and development (including related tax incentives). |

49 Subsections 444-120(1) and (6) in Schedule 1
Before "the *MRRT law", insert "Division 48 or".

Taxation (Interest on Overpayments and Early Payments) Act 1983

50 After Part IIIAA
Insert:
Part IIIAB—Interest on delayed payments under quarterly credits system

12BA Definitions
In this Part:
assessment day means the day the Commissioner makes an assessment (within the meaning of the Income Tax Assessment Act 1997):
(a) of the total of the entity's tax offset refunds (within the meaning of the Income Tax Assessment Act 1997) for the year of income for which the quarterly credits system amount is payable; or
(b) that the entity can get no such refunds for that year of income.

instalment quarter has the same meaning as in the Income Tax Assessment Act 1997.

interest start day has the meaning given by section 12BB.

quarterly credits system amount means:
(a) a quarterly credit amount (within the meaning of the Income Tax Assessment Act 1997); or
(b) an amount repayable under subsection 48-430(1) in Schedule 1 to the *Taxation Administration Act 1953*.

*RBA* has the same meaning as in section 8AAZA of the *Taxation Administration Act 1953*.

*RBA surplus* has the same meaning as in section 8AAZA of the *Taxation Administration Act 1953*.

12BB Meaning of interest start day

(1) The *interest start day*, for a quarterly credits system amount, is:

(a) if the amount is a quarterly credit amount (within the meaning of the *Income Tax Assessment Act 1997*)—the amount’s quarterly credit due day (within the meaning of that Act); or

(b) if the amount is an amount repayable under subsection 48-430(1) in Schedule 1 to the *Taxation Administration Act 1953*—the last day the amount is repayable under that subsection.

(2) However, if on that day your circumstances do not enable the amount to be paid to you in accordance with subsection 48-820(1) in Schedule 1 to the *Taxation Administration Act 1953*, the amount’s *interest start day* is the 14th day after the day the Commissioner becomes aware that your circumstances have changed to enable the amount to be paid to you in accordance with that subsection.

Note: Subsection 48-820(1) in Schedule 1 to the *Taxation Administration Act 1953* is about electronic payments etc.

12BC Interest for late refunds of RBA surpluses after amounts become payable

(1) If:

(a) disregarding subsections 48-225(2) and (3) in Schedule 1 to the *Taxation Administration Act 1953*:

(i) a quarterly credits system amount is payable to an entity; and

(ii) that amount is to be allocated to an RBA of the entity; and

(iii) on that amount’s interest start day, the Commissioner is required under subsection 8AAZLF(1) of the *Taxation Administration Act 1953* to refund to the entity an RBA surplus for that RBA; and

(b) all or part of the refund takes place after that interest start day;

then interest is payable by the Commissioner to the entity on so much of the refund as takes place after that interest start day.

(2) Interest under this Part is payable for the period:

(a) starting on the day after that interest start day; and

(b) ending at the earlier of:

(i) the day the refund finishes taking place; and

(ii) the assessment day.

12BD Interest for late payments of amounts

(1) If:

(a) disregarding subsections 48-225(2) and (3) in Schedule 1 to the *Taxation Administration Act 1953*:

(i) a quarterly credits system amount is payable to an entity; and

(ii) that amount is not allocated to an RBA of the entity; and

(b) the Commissioner pays all or part of that amount to the entity after that amount’s interest start day;
then interest is payable by the Commissioner to the entity on so much of that amount as is paid after
that interest start day.

(2) Interest under this Part is payable for the period:
(a) starting on the day after that interest start day; and
(b) ending at the earlier of:
(i) the day that amount is completely paid to the entity; and
(ii) the assessment day.

12BE Rate of interest
Interest under this Part is payable at the base interest rate (within the meaning of the Income Tax
Assessment Act 1997).

Tax Laws Amendment (Research and Development) Act 2011
51 Subsection 2(1) (table item 7)
Omit "Schedules 3A and 4", substitute "Schedule 4".

52 Schedule 3A
Repeal the Schedule.

Part 4—Application and transitional provisions
53 Application of amendments
(1) The amendments made by Parts 1 and 3 of this Schedule apply in relation to instalment quarters
starting on or after 1 January 2014.

(2) The amendments made by Part 2 of this Schedule apply in relation to processes for making
findings that start on or after the commencement of that Part.

Note: Part 2 relates to findings under Division 3 of Part III of the Industry Research and
Development Act 1986.

54 Transitional—current findings of Innovation Australia
(1) This item applies to a finding of the Board if:
(a) the finding was made under subsection 28A(1), 28C(1) or 28E(1) of the Industry Research and
Development Act 1986; and

(b) the finding was in force immediately before the commencement of this item.

(2) The finding has effect, after the commencement of this item, as if it had been made under that
subsection as amended by this Schedule.

As I mentioned in my second reading contribution, many small businesses have mentioned to
me that the main impediment or difficulty that they have with regard to accessing research
and development funding and rebates is the cash flow issue; they cannot get it back in
quarterly payments. That is what this particular amendment does.

I would like to inform the chamber that I first mooted this issue at a round table, and one of
the umbrella groups there at the time was AusBiotech. They have something like 3,000 small
to medium sized enterprises as members. They said it would make an enormous difference to
the operation of those particular companies. These are the ones where innovation and cutting-
edge technology is being developed, and they are the small innovative businesses that you
really want to advantage in being able to spend money on R&D.

The Greens amendment would establish a scheme for making refundable tax offsets
available in quarterly instalments. Eligible small and medium companies would be able to
access these on a quarterly basis in anticipation of claiming the 45 per cent research and development refundable tax offset at the end of the income year. Refundable tax offsets result in a payment to taxpayers, thereby improving their cash flow. Making quarterly payments removes the cash flow barriers facing small R&D companies, which otherwise would have to wait until the end of the financial year.

Amendments are also made to the Industry Research and Development Act 1986 to accommodate Innovation Australia's role in relation to the quarterly credits scheme. This was an innovation that was proposed by the Greens. It was accepted by the previous government and it was put into the legislation, but, as we have heard, the bill was presented but was never passed. The former Assistant Treasurer, Senator Sinodinos, dumped the measure, but it is actually desperately needed for small start-up R&D entrepreneurs. I think it is essential if we are going to get serious about research and development, particularly supporting cutting-edge businesses.

We have heard the government talk at length about its support for medical research. In biotechnology you have here an umbrella group representing 3,000 small- to medium-sized enterprises all saying that this is precisely what they want. Cash flow is their issue and they want to be able to access it as quarterly payments. That is the basis for this amendment that is being moved by the Australian Greens.

Senator CORMANN (Western Australia—Minister for Finance) (21:06): The government is not in a position to support the Greens amendment. The Greens amendment effectively seeks to drop the original intent of this bill, which, as I indicated in the second reading debate, was actually a budget savings measure initiated and banked in the last budget of the previous Gillard Labor government and which seeks to remove access to R&D tax incentives for companies with annual aggregate assessable income of more than $20 billion a year.

The Greens are proposing a quarterly credit scheme which would allow businesses to receive tax credits for eligible R&D activities before the expenditure has actually occurred. This would introduce a number of risks, as the scheme seeks to anticipate a company's expected entitlement to a refund of the R&D refundable tax offset and requires payments to be made on the basis of an estimate. Allowing a company to receive credits for R&D expenditure before that expenditure has actually occurred would, in particular, introduce a risk of fraud and a risk of overpayment. Further, any integrity rules to reduce these risks would increase the compliance costs associated with the scheme while not eliminating the risks. The integrity rules introduced in the Greens' proposed scheme would not be sufficient to eliminate the risks, and it is likely that cases of fraud and overpayment would occur.

Senator KIM CARR (Victoria) (21:08): Can I indicate that the opposition will be supporting the Greens amendment. I want to say a few things about the minister's statements. He is sorely testing the patience of this chamber, given how extraordinarily poorly briefed he is on these matters. These particular measures that the Greens have spoken of in regard to the quarterly credits were introduced by the previous Labor government from 1 January as part of negotiations with the Greens and the independent members of the parliament in the legislation to implement the tax incentive. The quarterly credits approach was recommended by the review of the National Innovation System. The quarterly credits were introduced by the 2013 measures bill—a bill which included other measures that the minister has referred to but
which, of course, were not passed by the parliament at the time. The R&D quarterly credits received strong support from business stakeholders, particularly small and medium sized firms and from the biotech sector. AusBiotech indicated that companies had already factored in R&D quarterly credits in their R&D and financial planning, based on the 1 January 2014 start-up dates.

Specific proposals were built into the act in terms of Innovations Australia's capacity to monitor these measures, and a reference committee to ensure the appropriate application of these matters. These are steps that this government has abolished—just as they have sought to abolish the plan for Australian jobs and related savings measures. These are, of course, an integral part of the actions the previous government took on these questions which related to the funding arrangements for a transfer of resources on R&D to those jobs programs—programs which this government has abolished. It is on that basis that the opposition has walked away from those announcements. If we were introducing measures to fund responsible actions to defend Australian jobs and to defend manufacturing, then of course you would have a reasonable expectation. If this government implemented the same measures for the same purposes, of course we would support them. But this is a government that has lied through its teeth about everything it has done before it was elected and after it was elected.

The Labor government's R&D tax measures were introduced after extensive consultations, and provided a 45 per cent refundable R&D tax offset for small and medium sized enterprises and a 40 per cent non-refundable R&D tax offset for other eligible companies. The new data, which came in after these measures, indicated that there had been a significant expansion in the number of firms that were actually undertaking R&D in this country. And as of 30 June 2014, 11,936 companies had registered some $19 billion of R&D expenditure. That was a substantial increase on the level of R&D activity, despite the fact that we tightened up the definitions quite dramatically. There was an additional 2,700 companies that were new to the program, and 74 per cent of the registrations received in 2012-13 were companies with an aggregate turnover of less than $20 million. They were particularly in the services sector, but 33 per cent were in manufacturing and nine per cent were in mining, which is an important component of how the R&D taxation concession system works.

We are supporting this proposal that Senator Milne has advanced today because it is consistent with the original intent of the bill. The minister has just told this chamber that we had overly generous taxation arrangements—'overly generous' were the words he used. Minister, how do the taxation arrangements in the current regime compare with our international competitors in the Asia-Pacific region and in Europe? Minister, tell us that.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:13): The Minister for Finance stood up and completely rejected this notion of being able to have quarterly instalments. He made some general criticisms that, supposedly, it would allow fraud and so on. He showed absolutely no consideration of the checks and balances that are in this particular amendment, which were worked through, as Senator Carr has just indicated. There are careful considerations. There is clearly a whole governance arrangement set out, with rules around what you have to do to be able to participate in the quarterly credits system. You can be refused participation; you have to apply; there are tests imposed to determine whether you are able to participate. You have to pass the following tests—the reasonable receipt test, the complying-taxpayer test and any extra test listed in the table for the tax offset. There is a...
whole governance arrangement. It is absolutely scandalous for the minister to stand here and just glibly say, 'This allows for fraud.'

This has the support of the R&D sector. It has the support particularly of small business—the most innovative part of the R&D sector.

This minister has now clearly revealed to the Senate that he has no real interest in facilitating research and development in Australia. His only interest is to get legislation through that will make sure that $1.1 billion does not go into research and development in Australia. I will be very surprised if the sector does not give him very strong feedback on that absolutely glib dismissal of a whole governance arrangement which has been previously worked through and put in place. All of the complying texts are there of how to work out and pay the quarterly credit amounts, to look through the whole disallowing of the proposed varied amounts and to notify the commissioner of proposed varied amounts and so on and so forth. It is all here in this amendment.

This is a very long and complicated amendment. It is based on what the government had in previous legislation that was developed. It requires careful consideration, not just a glib dismissal on the basis that it is some supposed thing that was thought up in five minutes; it is not. It has been carefully considered. There are the rules associated with it—the governance arrangements. I would be very interested to hear specifically in relation to this amendment if the minister can point to why and where he thinks the room for fraud is.

Senator CORMANN (Western Australia—Minister for Finance) (21:16): Firstly, in response to the issues raised by Senator Carr: the comparisons he seeks to make in relation to arrangements in other countries are not valid. This is because, essentially, you cannot just look at one aspect of our tax system as it relates to incentives to encourage research and development expenditure, because all of the schemes in different jurisdictions are fundamentally structured differently and obviously the flow-on consequences are different depending on what the specific arrangements are in individual jurisdictions.

In relation to Senator Milne's question, it stands to reason that if, as you are proposing we should do, the government provides a benefit up-front on a quarterly basis before any expenditure has been incurred by a business—so we the government provide the entitlement up-front—and then after the business may or may not incur the expenditure, there has to be a reconciliation. If too much has been claimed, the business has to refund the Commonwealth. The Commonwealth then has to go and chase businesses that might be tardy in refunding the entitlements that they have received from the Commonwealth erroneously or in excess of what their entitlement actually was. There will be such situations. It is just an intuitive reality that some businesses will seek to exploit this sort of loophole in order to facilitate their cash flows.

The advice that we have is that the proposal before the Senate and put forward by the Greens will increase the risk of over-payments, with all of the compliance issues and increased compliance costs that come with that, and will increase the risk of fraud. We accept that advice from Treasury. We accept that advice from the experts. On that basis, the government has decided not to support this amendment.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:18): I would appreciate your tabling that advice from Treasury, because it was not the advice that was
previously provided. Since it is Treasury that has supposedly said this, I would like to see that advice, because a huge amount of work went in to make sure that these governance arrangements went in. As Senator Cormann said, it is intuition that now determines his view of what will or will not happen in relation to this particular amendment. The whole arrangement here in governance is that, of course, if a company gets involved in that then they would not be available for it in the future. This is obviously going to be something that has to be put into practice. Companies would have to have been eligible for this concession in one of the previous five years before they would even be considered, and they would go through those tests ahead of it. So it is not any fly-by-night company that is able to do as it likes. There are clear governance arrangements, clear oversight arrangements, and this amendment is about encouraging R&D in the small- and medium-scale sector.

The minister is being extremely dismissive. I think he owes it to small- and medium-sized companies around Australia to table the advice that he says he has that says this arrangement is going to lead to fraud, given that the same advice was to the contrary previously.

**Senator KIM CARR** (Victoria) (21:20): Minister, you have indicated that you cannot make international comparisons on the basis of one element of the R&D tax incentive, but that is exactly what you did. You made a statement in this chamber that we have an overly generous R&D tax incentive arrangement. Those were the claims that you made. On what basis did you make that claim? On what basis did you assert to this chamber that our scheme here in Australia was overly generous?

**Senator CORMANN** (Western Australia—Minister for Finance) (21:20): It is very simple. It is on the same basis as the claim made by the previous government. The previous Gillard Labor government made a judgement that businesses generating more than $20 billion a year in profits were not an appropriate beneficiary of a research and development tax subsidy over and above the normal deduction of actual expenses incurred. So what you are suggesting now, contrary to what the previous Gillard Labor government suggested, is that businesses generating more than $20 billion in profit every year should have the advantage, the benefit, of an additional tax subsidy on top of the normal and ordinary deductions of genuine and legitimate business expenses that occur in the ordinary course of events.

Given the general discussion that we are having in Australia at present, prosecuted in part by the Labor opposition, that we need to ensure that companies generating profits in Australia pay their fair share of tax in Australia, I am somewhat bemused as to why it is that in relation to this particular aspect of our tax system that Labor thinks that businesses generating more than $20 billion in profits a year—the big companies, the BHPs, the Rios, the banks—are not an appropriate beneficiary of a research and development tax subsidy. We are talking about 20 of the biggest businesses in Australia—should have an additional tax subsidy. These are the businesses where the Labor Party are saying, ‘We want to keep that special inflated tax subsidy for research and development in place.’ But previously, when Julia Gillard was the Prime Minister and Wayne Swan was the Treasurer, you identified this as an appropriate area to make some savings and help contribute to the important task of budget repair. I think you are just play politics with this. That is essentially all this is.

**Senator KIM CARR** (Victoria) (21:22): Minister, you referred to the inflated rate in this country. Can you confirm that the rate of the taxation concession in Japan is 150 per cent, in Malaysia it is 200 per cent and in Singapore it is 400 per cent on the first $400,000 and 150 per cent thereafter? Can you confirm that the rate in China is 150 per cent, in Thailand it is
200 per cent and in France it is between 160 and 180 per cent? Minister, can you confirm those figures?

Senator CORMANN (Western Australia—Minister for Finance) (21:23): Senator Carr, the company tax rate in Australia is 30 per cent, which means that any legitimate business expense can effectively be deducted from your tax liability, out of your profits, at a rate of 30 per cent. What you are saying is that businesses generating more than $20 billion in profits a year should be able to claim 40 to 45 per cent in tax deductions when they only pay 30 per cent in tax. How is that consistent with the argument that you are otherwise prosecuting? It is inconsistent. You are saying that we ought to ensure that we protect the revenue base of the Commonwealth. Well, here we are seeking to protect the revenue base of the Commonwealth through a measure that you and the Labor Party, not us, initiated and banked in your last budget in May 2013. Here we are dealing with a budget measure out of your last budget still hanging around the country's neck. You are playing politics. I know that you rolled your leader in relation to this. I know that Mr Shorten was not strong enough to stand up to you because you have got a particular personal interest in relation to these matters. But the truth is that it was the former Labor government that initiated this particular saving. It is the coalition that is doing your work because you never legislated something that you banked in your last budget.

Senator KIM CARR (Victoria) (21:25): Minister, you made a statement that we have inflated rates in this country. I am asking you to confirm that that is not consistent with the fact that Japan has a 150 per cent rate, Malaysia has a 200 per cent rate, Singapore has a 400 per cent rate on the first $400,000 and 150 per cent thereafter, China has a 150 per cent rate, Thailand has a 200 per cent rate and France has a rate of 160 to 180 per cent. I would ask you to confirm that, rather than make bland statements about the inflated rate in this country. Minister, what is the evidence that companies will not simply transfer their R&D to those places, where they can get a better rate of return and a higher level of support from the local government?

Senator CORMANN (Western Australia—Minister for Finance) (21:26): I think it is really interesting that Senator Carr continues to prosecute the case against former Prime Minister Gillard. All of the arguments he is running are arguments against the policy measure that Ms Gillard and Mr Swan initiated in their last budget in government. Ms Gillard and Mr Swan made a judgement that it is not appropriate for businesses generating more than $20 billion a year in profits to have the benefit of tax deductions well in excess of 30 per cent—40 to 45 per cent. It is appropriate to have the usual 30 per cent reduction that applies across the board. Why should a company generating more than $20 billion in profit a year be able to claim more than the applicable company tax rate as a deduction? We think 30 per cent is appropriate. We agree with former Prime Minister Gillard and former Treasurer Swan that it is more appropriate to bring that down to the applicable rate across the board. That will help repair the budget. That is why we are implementing the budget measure that Labor initiated in government.

Senator KIM CARR (Victoria) (21:27): I think it is quite clear that the minister is now babbling. His hypocrisy is demonstrated by the fact that he intends to support Senator Wang's amendment. Is that the case, Minister, or not? Is it the case that you are intending to abandon
the key plank of this government's measures in this bill and support Senator Wang's amendment?

Senator CORMANN (Western Australia—Minister for Finance) (21:27): I just have to explain to Senator Carr that there is currently a refundable tax offset in the law for research and development expenses for small companies. We consider the risk to revenue, as I mentioned to you before. That is now talking about the Greens amendment, and additional compliance costs to companies are not appropriate. But the important point here is that the tax deduction that Senator Carr is talking about is, in effect, a tax deduction of 140 per cent, which includes the 40 per cent tax offset because 100 per cent of the expenditure is deductible. What we are saying is that it should be 133 per cent—that is, 100 per cent of the expenditure and also the 30 per cent effectively related to the company tax rate. Senator Carr is still arguing against the policies adopted by the former Gillard Labor government, in which he was a minister, which initiated and banked the savings measure that we are currently dealing with.

Senator KIM CARR (Victoria) (21:29): I asked a specific question, Minister. Are you intending to support Senator Wang's amendments, which have the effect of abandoning your chief claim concerning the $20 billion?

Senator CORMANN (Western Australia—Minister for Finance) (21:29): Given that the Labor Party is so reckless and irresponsible and is not supporting its own budget measures, we have worked with Senator Wang and the Palmer United Party, and other crossbench senators, to come up with a different way to achieve the same policy objective. Of course, we are not yet dealing with the amendments of the Palmer United Party. But given that it is a wide-ranging debate I am quite happy to go to that point now. The Palmer United Party has proposed amendments to the bill which would delete the original measure and, instead, introduce a cap of $100 million on the amount of eligible research and development expenditure that companies can claim at the standard rate under the research and development tax incentive. For expenditure beyond $100 million, companies would claim a non-refundable tax offset at the corporate tax rate, which is broadly equivalent to claiming a normal deduction. Under an expenditure cap, Australian and foreign-resident companies would continue to be eligible for the research and development tax incentive and continue to receive a substantial tax benefit. This would address crossbench concerns about the perceived discriminatory effect of the original measure on Australia-resident companies. A research and development expenditure cap of $100 million would also achieve revenue gains approximately equal to the revenue gained from the original measure contained in the bill. This ensures that the changes will still play an important part in the budget repair effort.

The crossbench amendments to the bill also include consequential amendments, which we can discuss later. But the important point here is that the Palmer United Party engaged constructively with the government. Senator Xenophon, Senator Madigan and other crossbench senators, including Senator Muir, said to the government, 'We understand what it is that you're trying to achieve. We agree with the principle, but we are concerned that this will impact disproportionately only on Australian companies and less so on companies that are predominantly operating overseas.' So by introducing a cap on the level of research and development related expenditure that is eligible we are achieving the same objective. But whether you operate predominantly in Australia and generate your profits predominantly in
Australia or whether you generate your profits predominantly overseas, you are treated the same way for the purposes of this particular measure. We think that is a sensible improvement that has been put forward by the Palmer United Party.

If I might here thank Senator Zhenya Wang very much for the very constructive approach he has taken and for the hard work of his staff as well, who have been working with my office in trying to come to a sensible landing point that helps us not only achieve the policy objective and the saving but achieve the saving in a better way than was originally intended. Let me just say, again, that the original measure of course was the measure put forward by the Labor Party during their last period in government.

The CHAIRMAN: The question is that amendment (1) on sheet 7542, moved by Senator Milne, be agreed to.

The committee divided. [21:36]

(The Chairman—Senator Marshall)

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

AYES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Conroy, SM
Di Natale, R
Hanson-Young, SC
Lambie, J
Ludlam, S
Marshall, GM
Milne, C
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Waters, LJ
Wright, PL

Browne, CL
Cameron, DN
Collins, JMA
Dastyari, S
Gallacher, AM
Ketter, CR
Lines, S
Ludwig, JW
McLucas, J
Moore, CM
Polley, H
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

NOES

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Heffernan, W
Lazarus, GP
Madigan, JJ
McGrath, J
Nash, F
Parry, S
Ronaldson, M

Bernardi, C
Bushby, DC
Cash, MC
Cormann, M
Edwards, S
Fifield, MP
Johnston, D
Macdonald, ID
Mason, B
Muir, R
O'Sullivan, B
Reynolds, L
Russon, A (teller)
Question negatived.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (21:40): by leave—I move Palmer United Party amendments (1) and (2) on sheet 7618 (revised) appearing in my name and Senator Xenophon's name—I move the amendments together:

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provisions</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1, Part 1</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>3. Schedule 1, Part 2</td>
<td>1 July 2024.</td>
<td>1 July 2024</td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

(2) Schedule 1, page 3 (line 1) to page 4 (line 13), omit the Schedule, substitute:

Schedule 1—Reduced tax offset rate for expenditure above $100 million

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Subsection 67-30(1)

Before "the amount", insert "all or part of".

2 Section 67-30 (note 2)

Repeal the note, substitute:

Note 2: This subsection can apply to an entitlement under any subsection of section 355-100.

3 Subsection 355-100(1) (heading)

Repeal the heading, substitute:

If notional deductions are between $20,000 and $100 million

4 At the end of section 355-100
Add:

If notional deductions exceed $100 million

(3) Despite subsection (1), if the total of those amounts exceeds $100 million, the *R&D entity is instead entitled to a *tax offset for the income year equal to the sum of:

(a) that percentage of $100 million; and

(b) the product of the excess and the *corporate tax rate.

Note: The R&D entity may be able to reduce related amounts that would otherwise be:

(a) included in its assessable income because of a balancing, or feedstock, adjustment; or

(b) payable as extra income tax because of an R&D recoupment;

(see section 355-720).

5 At the end of section 355-525
Add:

Amount to be included in assessable income may be reduced if notional deductions exceeded $100 million

(4) For the purposes of subsection (3), the partner may choose to reduce the adjusted section 40-285 amount in that subsection if:

(a) subsection 355-100(3) applied to the partner for an earlier income year or the event year (the excess year); and

(b) the partner's deductions for the excess year included deductions covered by paragraph (1)(c) of this section for the asset.

(5) Subsection 355-720(3) applies to the partner as if a reduction under subsection (2) of that section for the present year included a reduction under subsection (4) of this section for the event year.

(6) The way the partner prepares its income tax returns is sufficient evidence of the making of a choice under subsection (4).

(7) A choice under subsection (4) is irrevocable.

6 At the end of Subdivision 355-W
Add:

355-720 Certain related amounts may be reduced if notional deductions exceeded $100 million

(1) The object of this section is to prevent the portion of a *tax offset worked out using the *corporate tax rate being clawed back in later income years.

Note: This applies when the R&D entity's notional deductions exceed $100 million (see subsection 355-100(3)).

(2) For the purposes of working out a matter referred to in column 1 of an item of this table for an income year (the present year), the *R&D entity may choose to reduce the amount referred to in column 3 of that item if:

(a) subsection 355-100(3) applied to the R&D entity for an earlier income year or the present year (the excess year); and

(b) the R&D entity's deductions for the excess year included deductions covered by a provision referred to in column 2 of that item.
Reducing extra income tax or amounts included in assessable income

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>For the purposes of working out this matter:</td>
<td>If its excess year deductions included those covered by:</td>
<td>This can be reduced:</td>
</tr>
<tr>
<td>1</td>
<td>any amount to include in the *R&amp;D entity's assessable income for the present year because of a *balancing adjustment event happening for an asset it *held</td>
<td>(a) paragraph 40-292(1)(b); or (b) paragraph 355-315(1)(c); for the asset</td>
<td>its adjusted section 40-285 amount (see subsection 40-292(5) or 355-315(3)) for the present year, the asset and the *balancing adjustment event</td>
</tr>
<tr>
<td>2</td>
<td>any amount of extra income tax payable by the *R&amp;D entity under section 355-435 for the present year</td>
<td>subsection 355-450(1)</td>
<td>those excess year deductions</td>
</tr>
<tr>
<td>3</td>
<td>any amount to include in the *R&amp;D entity's assessable income for the present year under section 355-465</td>
<td>paragraph 355-465(1)(b)</td>
<td>those excess year deductions</td>
</tr>
</tbody>
</table>

Note 1: Item 2 is about R&D recoupments and item 3 is about feedstock adjustments.

Note 2: Reducing the amount in column 3 will reduce the amount in column 1.

(3) The *R&D entity's circumstances may allow it to choose multiple reductions under subsection (2) for the present year. The total of any reductions cannot be more than the amount of its excess under subsection 355-100(3) for the excess year.

(4) The way an *R&D entity prepares its income tax returns is sufficient evidence of the making of a choice under this section.

(5) A choice under this section is irrevocable.

355-750 Review of rate when notional deductions exceed $100 million

(1) The Minister must cause a review of the operation of subsection 355-100(3) (about the rate of tax offset when notional deductions exceed $100 million) to be undertaken as soon as possible after the fifth anniversary of the commencement of that subsection.

(2) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of receiving it.


7 After subsection 355-325(4)

Insert:

Amount to be included in assessable income may be reduced if notional deductions exceeded $100 million

(4A) For the purposes of subsection (4), the partner may choose to reduce the adjusted section 40-285 amount in that subsection if:

(a) subsection 355-100(3) of the Income Tax Assessment Act 1997 applied to the partner for an earlier income year or the event year (the excess year); and

(b) the partner's deductions for the excess year included deductions covered by paragraph (1)(c) of this section for the asset.
(4B) Subsection 355-720(3) of the *Income Tax Assessment Act 1997* applies to the partner as if a reduction under subsection (2) of that section for the present year included a reduction under subsection (4A) of this section for the event year.

(4C) The way the partner prepares its income tax returns is sufficient evidence of the making of a choice under subsection (4A).

(4D) A choice under subsection (4A) is irrevocable.

8 At the end of Division 355

Add:

Subdivision 355-W—Other matters

Table of sections

355-720 Certain related amounts may be reduced if notional deductions exceeded $100 million

355-720 Certain related amounts may be reduced if notional deductions exceeded $100 million

Section 355-720 of the *Income Tax Assessment Act 1997* also applies as if the table in subsection (1) of that section included the following item:

1A  any amount to include in the *R&D entity's assessable income for the present year because of a *balancing adjustment event happening for an asset it *held

| 1A | any amount to include in the *R&D entity's assessable income for the present year because of a *balancing adjustment event happening for an asset it *held | (a) paragraph 40-292(1)(b) of the *Income Tax (Transitional Provisions) Act 1997*; or its adjusted section 40-285 amount (see subsection 40-292(3) or 355-320(4) of that Act) for the present year, the asset and the *balancing adjustment event |

9 Application of amendments

The amendments made by this Part apply relation to an R&D entity's assessments for income years commencing on or after 1 July 2014.

Part 2—Amendments commencing on 1 July 2024

*Income Tax Assessment Act 1997*

10 Subsection 67-30(1)

Omit "all or part of".

11 Subsection 355-100(1) (heading)

Repeal the heading, substitute:

*If notional deductions are at least $20,000*

12 Subsection 355-100(3)

Repeal the subsection.

13 Subsections 355-525(4) to (7)

Repeal the subsections.

14 Sections 355-720 and 355-750

Repeal the sections.

*Income Tax (Transitional Provisions) Act 1997*

15 Subsections 355-325(4A) to (4D)

Repeal the subsections.

16 Subdivision 355-W

Repeal the Subdivision.
17 Application of amendments

The amendments made by this Part apply in relation to an R&D entity's assessments for income years commencing on or after 1 July 2024.

Senator KIM CARR (Victoria) (21:40): I move opposition amendment (1) on sheet 7650, which is consequential upon Senator Wang's amendment (2):

(1) Amendment (2), item 9, omit "1 July 2014", substitute "1 July 2016".

In moving this amendment, I am surprised that Senator Wang has not taken this opportunity to explain the merits of his proposal. In this chamber I trust that we are able to assess these things, if we actually have the information.

Senator Cormann: There was an inquiry.

Senator KIM CARR: No, you are quite wrong about that, Minister. There was a briefing by officers from the Department of the Treasury, who advised us that there had been no modelling undertaken on this arrangement—no modelling at all. Minister, is it the case that there has in fact been no modelling undertaken as a consequence of this amendment? I would also ask you, Minister, if it is the case that, at the Senate briefing on this matter, officers of the Treasury advised the Economics Committee that Treasury officers had actually drafted this amendment. Is that true or not?

Senator CORMANN (Western Australia—Minister for Finance) (21:42): In relation to the last question, the government has been working very closely with Senator Wang, on behalf of the Palmer United Party, to develop this alternative approach, given that Labor was taking this incredibly reckless and irresponsible approach of opposing their own budget measure.

The government is very grateful to crossbench senators—the Palmer United Party, Senator Madigan, Senator Muir, and Senator Xenophon in particular—for the constructive approach they have taken with the government. We negotiated this as an alternative method of achieving the same objective. We wanted to ensure that research and development tax incentives were appropriately targeted and were not directed at those businesses that are extremely profitable.

The initial measure was consistent with what Labor had banked in their budget, essentially applying this measure to businesses generating more than $20 billion in profits, but the Palmer United Party and Senator Wang in particular pointed out quite rightly to us that this would mean that Australian businesses operating and generating profits predominantly in Australia were comparatively disadvantaged compared with businesses that generated most of their profits overseas, but that might be generating more than $20 billion in profits, but outside of the Australian tax jurisdiction. So in order to take that observation on board we came up with this as an alternative method. The advice we have is that the number of companies that will be impacted by putting this $100 million cap in place in relation to eligible research and development expenditure will be broadly the same.

If the Labor Party takes this approach where they oppose their own savings measures we will work with those senators across the chamber who take a constructive approach and are prepared to work with the government in the national interest. That is how we came to this point. And the government, of course, worked closely with Senator Wang in putting the relevant amendment together to make sure that it was technically accurate and well targeted.
Senator KIM CARR (Victoria) (21:44): I take it that the minister is confirming that the department drafted this amendment. I raise that because it is not in itself a matter of odium that that happened but it is a question of whether or not these amendments are understood. It does raise the issue of what support the government provided to understand the implications of these amendments. I take it that you are also confirming that there was no modelling undertaken. Is that the case? Was there any modelling undertaken to establish that, as you say, the same effect would be generated by this new amendment?

Senator CORMANN (Western Australia—Minister for Finance) (21:45): To clarify: the Clerk of the Senate is who would have provided assistance to the Palmer United Party in relation to the drafting of those amendments, as is usual practice, but subject to comment, advice and input by Treasury as appropriate. There is nothing unusual in relation to this to ensure that, as I have indicated before, these amendments are technically accurate.

In relation to the other matter, you would be aware that, in particular at the request of Senator Xenophon, after the Palmer United Party amendments were circulated the government did make Treasury and others available for an extensive briefing session of the Senate Economics Committee. That happened before Christmas. At the time, the indication was that this bill would be dealt with in the last sitting week before Christmas. As it turned out, of course, after the legislation on temporary protection visas we did not end up having enough time to deal with this, so this is a hangover from last year. The appropriate briefings and all of the background have been provided in good faith, and my feedback is that those senators who participated in that briefing—perhaps with the exception of Senator Carr—accepted that that was a very useful explanation of the background.

I think everyone very clearly understands what it is that we are trying to achieve. In effect, we are trying to implement a budget measure of the previous Gillard Labor government and trying to do it in a way that is acceptable to the crossbench so that we preserve the policy intent in a way that is slightly better than the original proposal. This is democracy at work. This is the Senate process at work. The government has engaged in it in good faith and constructively, and so have crossbench senators. Sadly, the Labor opposition has not.

Senator KIM CARR (Victoria) (21:47): The proposal that the government has put to us is that we senators were all pleased with the briefing that we got. It is true that we were pleased. We were pleased by the fact that Treasury officers confirmed that no modelling had been undertaken. The point of my question was for you to confirm with officers in the box at the moment whether that information was accurate. We have a situation here where the government is proposing measures fundamentally different from the original bill which directly and adversely affect manufacturers in this country.

The amendments proposed by Senator Wang fundamentally change the measures in the original bill. We had a bill that set a threshold excluding particular firms from accessing the incentive. Now we are debating a measure that puts a cap on how much R&D expenditure firms can claim. On that basis, Minister, how can you say that this has the same effect as the original bill? It is a fundamentally different measure drafted by Treasury officers without any modelling and without any knowledge of the consequences of it other than your guesswork. How can you make the claim that this has the same effect as the original bill?

Senator CORMANN (Western Australia—Minister for Finance) (21:49): Because Treasury has modelled the revenue effect and the departmental costs of the Palmer United
Party amendment. Of course in the ordinary process of government the Treasury has costed and modelled the revenue effect, and the advice that we have been given quite clearly by Treasury is that the impact of the Palmer United Party amendment is such that the saving to the budget is broadly the same and that the companies impacted are broadly the same. I could not be more transparent. I could not be any more clear. The government has in good faith engaged with the crossbench to seek to achieve the policy intent of the original budget measure initiated and banked in the 2013-14 budget by the Gillard Labor government. We are still dealing with budget measures of the Gillard Labor government.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lines) (21:50): Order! It being 9:50 pm, I propose the question:

That the Senate do now adjourn.

Agriculture

Senator CANAVAN (Queensland) (21:50): I want to talk a little bit about beef prices and agriculture prices more generally tonight. A couple of weeks ago I went to the Gracemere saleyards near Rockhampton. They are getting record prices for beef right now, which is a great thing for our farmers because particularly in the beef sector they have been doing it tough for a very long time. When I was there young steers were going for 288c a kilo that week. There were not too many yardings; there were only 400 there that week because of rain, and that affected how much could get there. But last Friday, when I was not there, just over 4,000 head were sold and prices were still very strong. Light feeder heifers went for 200c to 234c a kilo, grown steers averaged 236c a kilo and bullocks—there were not that many of them, apparently—went for 245c a kilo. These prices have massively increased over the past year and are some of the highest prices we have seen since the 1970s.

Last year a guy from Bruce Farrel Dorn & Associates reported in the paper that prices for these types of cattle were averaging $1.60 a kilo at the same time last year. For a 400-kilo bullock you would get around $650 a head—$650 you would take away. This year, because the prices have gone up, that same bullock would get you $1,000 a head. So, if you were bringing 50 head to market that week, you would get an extra $17,500 for your product. That is solely because of that increase in prices.

When we came to government around 16 months ago, the agriculture minister, Barnaby Joyce, and the trade minister, Andrew Robb, said that we would get money into the back pockets of farmers and we would increase profitability for farmers, and we have done that. We said we would do that, and we have done that. We have done that across more than just the Gracemere saleyards. It is across the beef sector generally. At the election, prices were around 313c a kilo—that is according to the Eastern Young Cattle Indicator, which is the most comprehensive cattle price indicator in the country. Back at the election, 313c a kilo dressed weight—that is not live weight. The prices that I quoted before were live weight and that is why this one is a bit higher. Then, 313c a kilo; today, 450c a kilo. That is an increase of 44 per cent in just 16 months. Lamb prices have gone up as well. At the election they were 417c a kilo and today they are 565c a kilo, an increase of 35 per cent. Milk prices as well have gone up across the country. The farm-gate milk price has increased from 40.2c per litre at the
election to 51.2c per litre today, an increase of 27 per cent. Milk solids have gone up as well, from $5.41 a kilo to $6.89 a kilo, also an increase of 27 per cent.

I am not trying to claim that these increases are all because of government policy. There are always lots of things that affect market prices, demand of course being one of them. But demand for agricultural products has been high for a number of years. It was high during the Labor government and it has continued to be high, particularly in beef markets across the world. But what has changed is that this government is making sure that our farmers have more access to overseas markets and that they can export the product that they want without uncertain and onerous restrictions from government policies and knee-jerk reactions. Of course, top of the list there is the live cattle trade. When you shut down an element of trade for a market you bring down prices. It is not very hard to work out. If you make it harder for people to sell their product overseas, they are going to get a lower price. People who have invested in that industry and have put their livelihoods on the line in Northern Australia in that industry were getting a lower price thanks to the Labor-Greens policies to shut down the live cattle trade in the last government. Since the election, in the live cattle market, we have opened up access to six more countries—or the Minister for Agriculture has got access to six more countries. He has access to Egypt, Bahrain, Iran, Cambodia, Thailand and Lebanon. A report was released the other week and we have 99 per cent compliance with the ESCAS. I do recognise that the Labor Party brought that system in, but only after much prodding because of the disastrous decision to shut down the live cattle trade. But there has been a 99 per cent compliance rate. What other industry could claim that? It is actually more than 99 per cent, but I am using that as a round figure. There has been a 99 per cent compliance rate with the ESCAS.

Of course we have also signed trade agreements with three countries that have given substantially more access to beef: Korea, Japan and China. In Korea, our beef tariffs will be gone after 15 years, and we are no longer disadvantaged relative to the US, whereas before, if we had not signed that agreement, each year we were getting worse and worse relative to the US and we would have lost Korean markets. In the Japanese market, which still remains our biggest market—I think the US is actually going to beat it this year, but that is because of their drought—we have had tariffs fall by 20 per cent in just the last two weeks. They fell from 38.5 per cent for both chilled and fresh beef to 30.5 per cent for frozen beef and 32.5 per cent for fresh beef. That is a 20 per cent reduction for our farmers. That helps them get better prices.

We have had better access to horticulture as well. We have got table grapes into Japan and Korea for the first time. Our first shipment of mangoes to the US has left in the last couple of weeks. Our focus has been on making sure we can get more money into the back pockets of our farmers, because we know that if we do that they will have more confidence to invest in their region, they will have more confidence to employ people in their region and more money gets spun around the town, around the community. A lot of these communities have been doing it very tough both because of those low beef prices that I spoke about earlier and because of the drought. The drought does remain in many areas, but at least we are not creating a government induced drought here for our farm sector by turning our backs on the failed policies of the former government.
There is much more to do here. We have a lot more plans to make sure we have a stronger agricultural sector in this country. Getting prices up was a prerequisite, because if prices had not increased we could not make any more investments in agriculture. No-one would be willing to do that if prices were at record lows. If prices stayed at that $1.60 per kilo we would not have any need to invest in dams or new ports or rail lines, because there would be no need to use that infrastructure with prices so low. No-one would be able to make a buck growing a beast on grass—they would not bother doing it. So we have got those prices up now and we can take the next step and make further investments in infrastructure. That is why I am very happy that last week the Nationals had our first party room meeting for the year. We had it in Wodonga on the Murray. At that meeting we discussed a number of things that we think we need to do for regional Australia. Two of the four priorities we chose are more investment in regional Australia, one of which is to create some real funding to build dams in this country and the other is to introduce stronger competition laws to protect farmers and small businesses from the large supermarket chains. Both of those things can help give a further shot in the arm to our farming sector, because we know there are so many water resources in this country.

The area where I live, the Fitzroy Basin, is the largest catchment on the eastern seaboard. More water goes out from the Fitzroy River to the Pacific Ocean than any other river in Australia; yet it only really has one major dam in its system, the Fairbairn Dam at Emerald. There are other sites for dams that have environmental approval already or environmental approval is not far away. There is the Connors River Dam into the north of Rockhampton, the Nathan Dam to the south-west of Gladstone and the Urannah Dam further up closer to Mackay in the Burdekin catchment. But there is lots of potential in Central Queensland for further investment in dams that will allow people to invest in more intensive irrigated agriculture so that they can fatten more cattle and make more money for our country.

We also need those stronger laws for small businesses and farmers to make sure they have the confidence that they can make a return, because no-one is going to invest in farming in this nation unless they can make a buck doing it. That is why we put our sole focus on making sure we get farmers’ profitability up before we start talking about their productivity. In my view, there has been far too much concentration in agricultural policy in this country on just making farmers do better and run faster without being able to make more money. There is no point in investing in ways to become more productive unless you can make more money from it. That is why our focus has been on getting prices up and costs down for farmers, boosting their profits so that we can have a stronger agricultural sector in this country—an agricultural sector that has a positive outlook—and it can provide more jobs, employment and investment for communities in regional Australia.

Greste, Mr Peter

Paris: Terrorist Attacks

Senator SINGH (Tasmania) (22:00): I rise this evening to talk about the importance of press freedom and welcome home Peter Greste, who has finally, and thankfully, been released from the jails of the Egyptian government. After 400 days lost behind the bars of Tora Prison, Peter Greste is free. Last week I had hopes of being able to report as well that, after those 400 days, Peter's colleague Mohamed Fahmy would also be free to leave Egypt for Canada,
having had to give up his Egyptian citizenship. But, with sadness for his family, Mohammed Fahmy has still not yet been freed.

As everyone in this place is no doubt aware, in June last year Peter was sentenced to seven years in prison on outrageous and politically motivated charges of defaming Egypt and aiding banned Islamists. Mohamed Fahmy was also sentenced to seven years jail, while Baher Mohamed was sentenced to 10 years, though their cases are set to be retried this week. The three were arrested over their coverage of the violent crackdown on Islamist protests following the military overthrow of President Mohamed Morsi in 2013. Egyptian authorities accused them of providing a platform for Morsi's Muslim Brotherhood, now declared a terrorist organisation. I said in this place last year that the eyes of the world needed to be very much focused on Egypt and that the potential for the corruption of the high ideals of the Arab Spring needed to be monitored. Unfortunately, the rot has not eased. In fact, it has indeed set in.

In a democratic society, journalism is not a crime. Journalism is a necessity. These men are journalists. Their careers in journalism, careers they loved and of which they are understandably proud, may well have finished in the Egyptian sands. But I hope very much for his sake, for his family's sake, for Egypt's and its people's sake and for journalism's sake that Peter's career is not over.

Peter Greste has had a distinguished career as a journalist with CNN, Reuters, WTN, BBC and Al Jazeera. The long pre-trial incarceration, refusal of bail, procedural errors, extraordinary allegations and extremely severe sentences have been ridiculous and unjustified. The widespread international condemnation of the process was characterised by the comment of the United States Secretary of State, John Kerry, that it was 'a chilling and draconian sentence'. This sums up the views around the globe.

A free press with freedom of expression and opinions is one of any country's most critical democratic rights and freedoms. In the UN General Assembly's first session in 1946, before any human rights declarations or treaties had been adopted, it adopted resolution 59(I), stating:

Freedom of information is a fundamental human right and … the touchstone of all the freedoms to which the United Nations is consecrated.

In this country, courageous journalism improves our democracy by enabling public participation in decision-making. Australian and global citizens cannot exercise their right to vote effectively, if they have that right, or take part in public decision making, if they have that opportunity, unless they have free access to information and ideas about difficult and challenging issues, as reported by journalists.

These invaluable freedoms of journalists to report, to comment and to speak, as we saw recently, were attacked viciously in Paris in January. The attacks related to Charlie Hebdo, a satirical, confronting magazine emerging out of the progressive and free-thinking mindset of the soixante-huitards, were attacks on this fundamental human right. They were attacks on ideas and on journalists who open up those ideas for us. The terrorists who launched their assault on the cartoonists of Charlie Hebdo may have thought that they were merely attacking a small, controversial paper, but in fact the consequences of their crime were much broader. The murder of the workers of Charlie Hebdo was an attempt to damage the rights and freedoms and the bonds of solidarity that lie at the base of French society and, beyond this,
that underpin many of the world's multicultural democracies. All those who participate in and support free discussion across cultural differences and who appreciate the need to talk about the most difficult and offensive topics in an open way and reaffirm their belief in solidarity despite fundamentally different views of the world were drawn into this threat. But around the world we saw different religious, ethnic, social and cultural groups rise up and defend the principle by which our societies function. Christian, Islamic, Jewish, Hindu and other religious leaders all condemned the attacks and pledged themselves to stronger relationships and support.

I want to assure the press gallery in Australia too: I stand in solidarity with you as you come to terms with this brutal attack that happened in Paris this year. Whatever you do and however you do it, you will always have our support because, in the words of Peter Preston in The Guardian:

Press freedom knows no bounds and has no religion. Press freedom is your right to be informed, educated, entertained, stirred to laughter or action. Press freedom is every society's safety valve.

... ... ...

... the fate and resilience of Charlie tells us something vital we were in danger of forgetting. Freedom isn't always comforting. Freedom delivers horror as well as hope. But freedom—including press freedom—is something precious we instinctively hug close on one dire day, a day to remember. No buts. It matters.

It is a fact that totalitarian governments can never allow a free press. In 2014, Egypt was a world top 10 journalist jailer, imprisoning at least 12 reporters. Most of those were Egyptians like Mahmoud Abou Zeid, a 27-year-old freelance photographer who has been detained without charge since August 2013.

While, in name, Peter Greste was tried and convicted of the so-called 'crime' of helping to promote false news benefiting the Muslim Brotherhood, in reality he was tried and convicted of being a journalist. Along with his colleagues, Peter was arrested in late December 2013, two weeks into a routine assignment covering Egypt's political situation. The prosecution's most damning evidence against him included a documentary he had produced about Egyptian soccer, footage of sheep farming and photos of his parents on a European vacation.

According to the Egyptian foreign ministry, Egypt's judiciary:

... enjoys full independence, and the new constitution provides safeguards to ensure media freedom and to guarantee due process in judicial proceedings.

And yet, on the basis of evidence less conclusive and less relevant than images of Italian holidays and sheep eating grass, Egypt's 'fully independent' courts sentenced Peter and Mohamed to seven years in prison, while Baher received 10 years. In front of the world, this is as good as Egyptian due process gets. So the standards of due process afforded to those 22,000 untried Egyptians not in the global spotlight might be imagined—or perhaps better not.

I would like very much to recognise the extraordinary bravery and inspirational attitudes of Peter's family, particularly his parents Lois and Juris Greste. Again I applaud Tanya Plibersek, our shadow foreign affairs minister and Deputy Leader of the Opposition, for her early and unwavering support of Peter and the idea of a free press. She expressed brilliantly Labor's anger at Peter's treatment and how appalled we all were by his sentence, even though he has been deported. She made it absolutely clear, more than once, that Labor stood ready to assist
the Abbott government to do everything it could to secure Peter's release, and talked about Labor's gratitude for the hard work of Australian diplomats on Peter's behalf.

Peter Greste is not a criminal; nor is Mohamed Fahmy or Baher Mohamed. They and their families are innocent victims of a terrible, frightening injustice. But Mohamed Fahmy is still not free; Baher Mohamed is still not free. They are at the front of Peter's thoughts. They must remain at the front of ours.

**Ebola Virus**

**Senator DI NATALE** (Victoria) (22:10): In December last year I visited the countries of Liberia and Sierra Leone to monitor the international response to the Ebola epidemic. As a former doctor who has worked in international public health and now, as a federal senator with a platform that few others enjoy, I had a responsibility to bear witness to what was going on in West Africa. It was an opportunity to listen to people's stories, to better understand the outbreak and to identify areas where Australia might better contribute. Ultimately I felt compelled to visit largely because of Australia's inaction and a feeling of wanting to do more.

I reflect on that experience with mixed feelings. There is a deep sadness that comes from watching an orphaned infant in isolation being comforted by someone in a protective suit; from hearing the wailing of a grieving woman who is watching a burial team carry away a loved one in an orange body bag; or from seeing young kids playing, knowing that they are some of the ten thousand orphans who have lost their parents to this terrible disease.

But there were some uplifting moments, too, like the courage of the West African people at the front line of this effort. They are people like the West African 'hygienists', the people who are responsible for cleaning down the vomit and other wastes, disposing of all the infectious material and decontaminating and removing dead bodies from treatment centres; or people like the midwives at Liberia's largest hospital who continued to deliver babies right through the peak of the epidemic while doctors around them died. When you think that Ebola is transmitted through exposure to body fluids, these people are working some of the most dangerous jobs on earth.

We have now seen a total of almost 22,500 cases of Ebola. We have seen 9,000 people dead. But that headline figure does not do justice to the profound and far-reaching impact of this disease. There are countries that rank near the bottom of the Human Development Index—some of the poorest countries on earth—where, on the back of civil wars, Ebola has wrought further havoc across the health and education sector.

In each country, the health system was barely functioning before the outbreak, and all are now near total collapse. Hospitals in both countries are either closed or barely functioning. There have been a number of doctors who have died; in fact, some of the most senior doctors in the biggest hospital in Monrovia in Liberia have died as a result of Ebola. Not only have they lost doctors but doctors and mentors who are responsible for training the next generation, so it is a double blow.

It has had an impact on the health system more broadly. When you consider that Sierra Leone, for example, has the highest under-five mortality rate in the world, we are now seeing childhood immunisation rates plummet even further. A number of people are now dying as a result of the impact of Ebola on the health system. While they will not be counted in the official death toll, they are directly attributable to this outbreak.
In education things are just as grim. Schools and universities were completely shut down; the school buildings were used as holding centres. Many of the kids who were going to school have now started working and they will be lost to the school system for good. We spoke to NGO workers who told us that a whole generation of young kids are now lost completely to the education system. On the economy, the World Bank estimates that the impact on the three most badly affected countries, Liberia, Sierra Leone and Guinea, will be US$1.6 billion in forgone economic growth in 2015.

We are making some progress. Most of the progress is a consequence not just of the treatment that is being provided but of the huge public health that is happening. We have workers and volunteers educating people about transmission, identifying new cases, tracing contacts and restricting the spread of the disease.

One of the challenges is that it is a disease spread through love, through human contact. People most at risk are the parents or siblings looking after somebody dying from this disease. The instinct is to reach out, to care for, to console—indeed, to clean—somebody who is vomiting or suffering from severe symptoms of this. It is very hard to resist. Imagine having a loved one who is sick or ill and not being able to engage in any physical contact with that person. That is why it is such a challenging disease.

The impact on those people who do survive is also traumatic. When you consider that half the people who are infected will survive, many of them will return to their communities—but they are often shunned. There is the sense that they might infect others. It is a sad irony, because they are people who are now immune from the disease and could be used to help combat the spread of the illness. It is a cruel double blow. Now we are seeing signs of post-traumatic stress disorder on survivors, carers and health workers.

It was really great to see the many Australians in the field who are making a contribution to the fight against Ebola. We have Australians working at every level. Some of them head global organisations, like the World Health Organisation and UNICEF. They are leading the charge working with NGOs. Many of them are on the front-line themselves—doctors, nurses and logisticians—and are providing health care in very high-risk settings. It was really inspiring to see the work they are doing.

It must be said that the Australian government is not flavour of the month in West Africa at the moment. I was shocked at how many people noticed some of the things that our government had done or had not done. The thing that raised the ire of most people was Australia’s unilateral decision to impose travel restrictions that do nothing to protect people from Ebola. They do not improve people’s safety. They do not contain the spread of the disease. All they do is spread fear and information about the disease. I remember speaking to an aid worker who was really frustrated by the announcement around travel restrictions. He told me it was the first time after 20 years of aid work that he had not felt welcome returning home from a mission.

It is true that Australia did make a small and reluctant contribution by awarding Aspen Medical the contract to staff a treatment facility. I have expressed concerns about how that contract was awarded and I was grateful to be offered a tour of the facility. I met with the operations manager, Daniel Kerr. It must be said that the work they were doing was of a high standard, that the training they were offering to their team—and I met with the training
facilities there—again was of a high standard. They were doing all the right things in the lead up to opening up the training centre.

The danger is that with Ebola now almost absent from the headlines, there is a perception that things are under control and that we do not have to do any more. But there is a note of caution here. This was the first week where we have seen an increase in the number of cases for this year, with 124 new confirmed cases reported in the week to 1 February. What is most disappointing is all this is preventable.

When you see what the UK government, for example, are doing it is hard not to be impressed by their work and to feel that Australia's reputation for responding early to disasters with significant humanitarian assistance is now being undermined. I do not know how you can fathom a cut in the aid budget when you bear witness to what is happening in West Africa. It is not a natural disaster. It is a disease fostered by poverty, through lack of water, sanitation and access to health care.

We have not been there during the crisis, but we can step up and make an impact in rebuilding the country. We need to commit more financial resources, more technical expertise and commit to long-term development and assistance. One thing we could do is support Oxfam's call for a multi-million dollar post-Ebola Marshall plan to put the three West African countries hit by the crisis back on their feet. If we are going to do this, we have to recognise that these are people like you and me. We share a common humanity. Their lives are no less important.

In concluding, I would like to thank some of the people who were of tremendous assistance during this visit. I would like to thank George Wisner, of the National Investment Commission, who accompanied me during my time in Liberia; many other officials, including the Vice President of Liberia, for meeting with me; members of the Red Cross burial team for showing me around; people like the Liberian Minister for Health, Tolbert Nyenswah, who gave me the honour of chairing a meeting of all major agencies involved; and the many Australians working there—Ian Norton, Anthony Stewart and Rob Moodie, who helped facilitate my visit. (Time expired)

Bushfires

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (22:20): This year started, as many summers do in South Australia, being hot. I remember growing up there. You always planned on having at least two or three weeks of very hot weather, but this year the heat combined with hot winds. Many senators will remember the bushfires that raged through South Australia in the hills to the north-east of the city, particularly around Sampson Flat, where we had some 27 homes that were lost, fires that spread to around a 240-kilometre perimeter, involving some 600 firefighters. There were 132 people who ended up requiring some treatment.

Those statistics belie the effect it had on many families who had to evacuate, on people who lost property, fencing and livestock, and children who lost pets. It was a pretty grim start for many people. The thing that really encourages me about Australia though is that when you see these kinds of crises occurring you also see the compassion of other Australians and the courage they show and the character they show by getting alongside and really recreating community.
On 1 February I had the privilege of going up to Kersbrook, to the football club there, to attend an event that was run by Eddy Barrett and Jodie Clavell and a number of local businesses. They had put on a fun day for kids. This is post the fires. A lot of these people had been involved during the fires, in both firefighting and supporting the clean-up. But they realised that they also needed something to rebuild for the kids and for the communities, so they put on a fun day. Businesses such as THR Developments, All Transport Crash Repairs, Noises for Kids, Mark Jannsan, Kennedy Engineering, Clovercrest Baptist Church and HPSTransport all put on an afternoon for kids. It was just fantastic that a whole range of kids were enjoying that.

It also provided an opportunity for some of the other groups that had been involved to go and to reconnect with people, and to continue to provide support. Some of those groups that I was able to connect with not only on that day but in other visits were groups like Samaritan's Purse. They are an organisation that I have always known as the group that does the shoe boxes at Christmas time for kids in Third World countries. But they actually have a whole relief arm that had came down from Queensland with a semitrailer that was specifically kitted out with firefighting equipment, chainsaws and other equipment for clearing blocks. Essentially, they had a professional team that acted as a catalyst to engage local volunteers to go up and help people clear blocks, cut down trees and clear fence lines to enable other groups, like BlazeAid, to come in and actually start re-fencing. So it is just a testament, I think, to the Australian character. Here you have people who have driven all the way from Queensland down to South Australia to help out with that support and that recovery effort.

It reminds me very much of the clean-up after the 2009 bushfires, where another group, also out of Queensland, Global Care, with their slogan 'mates helping mates', did a very similar thing. They came down and were really there for the long haul. Well after the media had moved on and forgotten the fact that those fires had swept through and there were still lots of families who needed help and support, there were groups like Global Care on the ground helping out and providing support for people who were seeking to clear, work through insurance issues, work through issues with local councils, and get things like caravans and portable toilets set up so that they could resume some kind of life while they started sorting out their building.

The other group that really reached out was Clovercrest Baptist Church, which helped to run the fun day. But, more importantly, they turned their church into an emergency relief centre in collaboration with the CFS and the state government, providing water, clothing, bedding and toys. Over a period of weeks, they had people like the Crows football team—some 15 of their players came and helped to pack hampers and delivered hampers up to members of the Kersbrook community who had been affected. At the end of the first week they had delivered some 500 hampers to over 1,200 people in that area. And those consisted of everything from clothing to food and even pamper packs for women who had to leave their home and go to shelters and who had left all those kinds of possessions behind. Even at this fun day, weeks after the fire had passed, they were still there helping to run the day and helping to provide that relief effort—those goods for people. All of those goods had been donated by the community in South Australia.

There were some fantastic stories coming out, including where one volunteer firefighter had come out and said, 'Gee, what I would give for a beer!' Somebody heard that and, social
media being what it is, tweeted. The next thing, up rocks a refrigerated trailer full of more beer than they could poke a stick at. Things like that that propped up all through the fire zone were really encouraging. So whilst Australia, and particularly South Australia—the driest state in the driest continent in the world—is prone to drought and fire and some pretty devastating consequences, it is a great country. I will finish tonight’s debate with the words of Dorothea Mackellar from part of her poem *My Country*:
Core of my heart, my country!
Land of the Rainbow Gold,
For flood and fire and famine,
She pays us back threefold –

**Senate adjourned at 22:26**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

[Literary instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

*A New Tax System (Family Assistance) Act 1999*—Schoolkids Bonus Amendment Determination 2014 (No. 2) [F2014L01828].

*A New Tax System (Family Assistance) (Administration) Act 1999*—Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2015 (No. 1) [F2015L00098].

*A New Tax System (Goods and Services Tax) Act 1999*—

- Goods and Services Tax: Classes of Recipient Created Tax Invoice Amendment Determination (No. 1) 2014 [F2014L01661].
- GST-free Supply (National Disability Insurance Scheme Supports) Amendment Determination 2015 [F2015L00112].


*Aged Care Act 1997*—

- Accountability Amendment Principle 2014 (No. 1) [F2015L00050].
- Fees and Payments Amendment Principle 2014 (No. 1) [F2015L00047].
- Quality of Care Amendment Principle 2014 (No. 1) [F2015L00021].


*Antarctic Treaty (Environment Protection) Act 1980*—


Anti-Money Laundering and Counter-Terrorism Financing Act 2006—

Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 5) [F2014L01796].

Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2014 (No. 6) [F2014L01797].

Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2015 (No. 1) [F2015L00067].

Archives Act 1983—Archives (Discretionary Service Charges) Determination 2014 [F2015L00051].

Australian Aged Care Quality Agency Act 2013—Australian Aged Care Quality Agency (Other Functions) Specification 2014 [F2015L00044].


Australian National University Act 1991—

Academic Board and Committees Statute 2014—Academic Board (Election of Members) Order 2014 (No. 3) [F2014L01667].

Academic Misconduct Statute 2014 [F2014L01662].


Appeals Statute 2014 [F2014L01663].


Fees Statute 2006—

Fees Rules 2014 [F2014L01771].

Tuition Fees Order 2014 [F2014L01774].

Tuition Fees Order 2015 [F2015L00066].

Pro-Chancellorship Statute 2014 [F2014L01664].

Programs and Awards Statute 2013—Assessment Rules 2014 (No. 3) [F2014L01688].

Australian Prudential Regulation Authority Act 1998—Australian Prudential Regulation Authority (confidentiality) determinations—

No. 18 of 2014 [F2014L01764].

No. 1 of 2015 [F2015L00080].


Banking Act 1959—
Banking Amendment (Credit Card) Regulation 2014—Select Legislative Instrument 2014 No. 207 [F2014L01710].
Banking exemption No. 4 of 2014 [F2014L01639].
Banking (prudential standard) determination No. 3 of 2014 – Prudential Standard APS 001 – Definitions [F2014L01649].
Banking (prudential standard) determination No. 5 of 2014 – Prudential Standard APS 221 – Large Exposures [F2014L01655].
Banking (prudential standard) determination No. 6 of 2014 – Prudential Standard APS 610 – Prudential Requirements for Providers of Purchased Payment Facilities [F2014L01656].
Banking (prudential standard) determination No. 7 of 2014 – Prudential Standard APS 120 – Securitisation [F2014L01658].
Banking (prudential standard) determination No. 8 of 2014 – Prudential Standard APS 220 – Credit Quality [F2014L01652].
Banking (prudential standard) determination No. 9 of 2014 – Prudential Standard APS 222 – Associations with Related Entities [F2014L01654].
Banking (prudential standard) determination No. 10 of 2014 – Prudential Standard APS 310 – Audit and Related Matters [F2014L01657].


Broadcasting Services Act 1992—
Broadcasting Services (Events) Notice (No. 1) 2010—
Amendment No. 15 of 2014 [F2014L01801].
Amendment No. 16 of 2014 [F2014L01803].
Television Licence Area Plan (Brisbane) Variation 2014 [F2014L01766].
Television Licence Area Plan (Melbourne) Variation 2014 [F2014L01768].
Television Licence Area Plan (Regional Victoria) Variation 2014 [F2014L01761].
Television Licence Area Plan (Sydney) Variation 2014 [F2014L01770].
Variation to Licence Area Plan – Goulburn Radio—No. 1 of 2014 [F2015L00102].
Variation to Licence Area Plan – Hamilton Radio—No. 1 of 2014 [F2014L01787].
Variation to Licence Area Plan – Riverland (Television and Radio)—No. 1 of 2014 [F2014L01682].

Carbon Credits (Carbon Farming Initiative) Act 2011—
Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2014 (No. 2)—Select Legislative Instrument 2014 No. 190 [F2014L01694].
Carbon Credits (Carbon Farming Initiative—Commercial Buildings) Methodology Determination 2015 [F2015L00058].
Carbon Credits (Carbon Farming Initiative—Interim Measures) Rule 2014 [F2014L01695].
Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015 [F2015L00059].


Charter of the United Nations Act 1945—

Civil Aviation Act 1988—
Civil Aviation Order 82.0 Amendment Instrument 2014 (No. 3) [F2014L01793].
Civil Aviation Regulations 1988—
Civil Aviation Order 20.18 (Aircraft equipment — basic operational requirements) Instrument 2014 [F2014L01743].
Civil Aviation Order 82.0 Amendment Instrument 2014 (No. 1) [F2014L01693].
Civil Aviation Order 82.0 Amendment Instrument 2014 (No. 2) [F2014L01763].
Civil Aviation Order 82.0 Instrument 2014 [F2014L01689].
Civil Aviation Order 104.0 Amendment Order 2015 (No. 1) [F2015L00065].
Direction — to conduct right-hand circuits off Runway 12 (Brisbane West Wellcamp)—CASA 278/14 [F2014L01646].
Direction under regulation 209 — conduct of parachute training operations—CASA 09/15 [F2015L00103].
CASA 10/15 [F2015L00105].
Permission and direction — helicopter operations by Northshore Holdings (NT) Pty Limited, trading as Remote Helicopters Australia—CASA 293/14 [F2015L00024].

Permission and direction — helicopter operations by Wellspring Rural Services Pty Ltd, trading as Northern Helicopter Charter—CASA 295/14 [F2014L01777].

Permissions under CAR 143 and 144 — to have firearms in an aircraft of the Western Australia Police Air Wing and discharge a firearm from the aircraft—CASA 06/15 [F2015L00077].

Civil Aviation Regulations 1988 and Civil Aviation Safety Regulations 1998—

Approval and permission — use of Class A airspace by gliders; Exemption — from carriage of ADS-B equipment by gliders—CASA 07/15 [F2015L00093].

Civil Aviation Order 20.91 (Instructions and directions for performance-based navigation) Instrument 2014 [F2014L01703].

Civil Aviation Safety Amendment (Cape Town Convention) Regulation 2014—Select Legislative Instrument 2014 No. 204 [F2014L01717].

Civil Aviation Safety Regulations 1998—

Approval — for Approved Training Pilot approval holders under CAO 29.10 to conduct flight tests for a low-level rating, low-level endorsement and mustering endorsement—CASA 289/14 [F2014L01802].

Approval — for Approved Training Pilot approval holders under CAO 29.10 to conduct flight training for a low-level rating, low-level endorsement and mustering endorsement—CASA 290/14 [F2014L01798].


Conditions and direction concerning certain aircraft fitted with engines manufactured by Jabiru Aircraft Pty Ltd—CASA 292/14 [F2014L01806].

Conditions on authorisations — flight crew licences and aircraft endorsements (Edition 1) [F2015L00014].

Exemption — aerial application proficiency check and operator proficiency check (head of flight operations) – aeroplanes—CASA EX162/14 [F2014L01643].

Exemption — carriage of cockpit voice recorders and flight data recorders—CASA EX20/15 [F2015L00084].

Exemption — carriage of flight data recorder (Pel-Air Aviation)—CASA EX177/14 [F2014L01804].

Exemption — CASR Part 137 (incendiary dropping at or above 500 feet)—CASA EX24/15 [F2015L00088].

Exemption — display of markings and carriage of identification plates—CASA EX16/15 [F2015L00085].

Exemption — for cabin crew member to use passenger seat—CASA EX15/15 [F2015L00074].

Exemption from paragraph 5.1 of Civil Aviation Order 20.16.3 for Airbus 330 aircraft operated by Qantas Airways Limited—CASA EX168/14 [F2014L01644].

Exemption — operations by hang gliders in the Corryong Cup—CASA EX03/15 [F2015L00026].

Exemption — operations by paragliders in the Corryong Paragliding Open—CASA EX04/15 [F2015L00028].

Exemption — operations by sport and recreational aircraft in restricted area R979A (Avalon Air Show 2015)—CASA EX171/14 [F2015L00016].

Exemption — power-assisted glider at the Australian International Air Show, Avalon—CASA EX156/14 [F2014L01630].
Exemption — requirement to wear seat belt and safety harness—CASA EX09/15 [F2015L00096].
Exemption — turns after take-off at Australian International Air Show—CASA EX142/14 [F2014L01629].
Horizontal Stabiliser Attachment Pins and Bolts — Inspection—AD/B737/224 Amdt 4 [F2014L01683].
Inspection of Wooden Structure—
AD/DH 60/10 [F2015L00108].
AD/DH 83/6 [F2015L00109].
Maintenance on warbird and historic and replica aircraft (WHR) — directions and licence conditions—CASA 03/15 [F2015L00095].
Prescription of aircraft and ratings — CASR Part 61 (Edition 1) [F2015L00013].
Prescription — type ratings for CASR Part 142 flight training (Edition 1) [F2015L00031].
Primary Flight Control Cable Assembly Retirement—AD/GENERAL/87 [F2015L00045].
Repeal of Airworthiness Directives—
CASA ADCX 020/14 [F2014L01647].
CASA ADCX 021/14 [F2014L01698].
CASA ADCX 001/15 [F2015L00046].
CASA ADCX 002/15 [F2015L00062].
CASA ADCX 003/15 [F2015L00072].
Water Washing—AD/PT6A/28 Amdt 1 [F2015L00020].
Classification (Publications, Films and Computer Games) Act 1995—
Classification (Authorised Television Series Assessor Scheme) Amendment (Consumer Advice) Determination 2014 [F2014L01756].
Commissioner of Taxation—Public Rulings—
Class Rulings—
Goods and Services Tax Determinations—
Addendum—GSTD 2012/4.
GSTD 2015/1.
Goods and Services Tax Rulings—
Erratum—GSTR 2014/3.
GSTR 2014/2 and GSTR 2014/3.
Miscellaneous Taxation Ruling—Addendum—MT 2008/2.

Product Rulings—
Notice of Withdrawal—PR 2014/2.
PR 2015/1.

Self Managed Superannuation Funds Product Ruling—Notice of Withdrawal—SMSFPR 2009/1.

Taxation Determinations—
TD 2015/1.

Taxation Rulings—

*Competition and Consumer Act 2010*—
Competition and Consumer (Monitoring of Prices, Costs and Profits) Repeal Direction 2014 [F2014L01749].


*Corporations Act 2001*—
Amendments to Australian Accounting Standards – Agriculture: Bearer Plants—AASB 2014-6 [F2015L00106].
Amendments to Australian Accounting Standards arising from AASB 15—AASB 2014-5 [F2015L00107].

ASIC Class Orders—
CO 14/885 [F2014L01778].
CO 14/1217 [F2014L01648].
CO 14/1249 [F2014L01690].
CO 14/1252 [F2014L01692].
CO 14/1262 [F2014L01773].
CO 14/1270 [F2015L00018].
CO 14/1276 [F2014L01735].


*Currency Act 1965*—Currency (Royal Australian Mint) Determination 2015 (No. 1) [F2015L00025].
Customs Act 1901—
CEO Directions No. 1 of 2015 [F2015L00099].
CEO Directions No. 2 of 2015 [F2015L00101].

Exercise of the Defence Minister's Powers pursuant to Division 1AA—30 September 2014.

Defence Act 1903—
Section 58B—
Home port and district allowance – amendment—Defence Determination 2015/2.
Housing contributions – amendment—Defence Determination 2015/5.
Post indexes – price review—
Defence Determination 2015/1.
Rent allowance – amendment—Defence Determination 2014/70.
Review of housing contributions and allowances – amendment—Defence Determination 2014/68.
Travel costs and hardship allowance – amendment—Defence Determination 2014/66.

Section 58H—
Salaries – Senior Officer Specialist Chaplain – Amendment—Defence Force Remuneration Determination No. 12 of 2014.
Salaries – Special Forces – Amendment—Defence Force Remuneration Determination No. 11 of 2014.
Special Air Service Trooper Grade 2 Transitional Salary—Defence Force Remuneration Determination No. 13 of 2014.
Woomera Prohibited Area Rule 2014—Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2014-2015 Amendment [F2015L00097].


Defence Service Homes Act 1918—Variation to the Statement of Conditions under subsection 38A(3) (8 February 2012) [F2015L00003].

Director of Public Prosecutions Act 1983—Ministerial Direction (Commonwealth Director of Public Prosecutions).

Education Services for Overseas Students (TPS Levies) Act 2012—Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Determination 2014 [F2014L01660].

Environment Protection and Biodiversity Conservation Act 1999—
Amendment – List of Specimens taken to be Suitable for Live Import (12 January 2015) [F2015L00079].
Amendment of List of Exempt Native Specimens – South Australian Marine Scalefish Fishery (23 January 2015) (deletion)—EPBC303DC/SFS/2015/01 [F2015L00069].
Amendment of List of Exempt Native Specimens – South Australian Marine Scalefish Fishery (23 January 2015) (inclusion)—EPBC303DC/SFS/2015/02 [F2015L00070].
Amendment to the list of migratory species under section 209 (26 November 2014) [F2014L01674].
Amendment to the list of threatened species, ecological communities and key threatening processes under sections 178, 181 and 183 (3 December 2014) [F2014L01681].
Amendments to the list of threatened ecological communities under section 181 – Shale Sandstone Transition Forest of the Sydney Basin Bioregion (EC25R) (4 December 2014) [F2014L01702].
Inclusion of ecological communities in the list of threatened ecological communities under section 181 – Hunter Valley Weeping Myall (Acacia pendula) Woodland (EC 44) (3 December 2014) [F2014L01706].
Section 269A – Amendment – Instrument Adopting and Revoking Recovery Plans (3 December 2014) [F2014L01671].
Excise Act 1901—Excise (Concessional spirits – class of persons) Determination 2014 (No. 1) [F2014L01667].
Financial Framework (Supplementary Powers) Act 1997—
Financial Sector (Collection of Data) Act 2001—
Financial Sector (Collection of Data) (reporting standard) determination No. 28 of 2014 – GRS 440.0 – Claims Development Table [F2014L01811].
Financial Sector (Collection of Data) (reporting standard) determination No. 29 of 2014 – GRS 112.0 – Determination of Capital Base [F2014L01821].


Fisheries Management Act 1991—


Food Standards Australia New Zealand Act 1991—

Australia New Zealand Food Standards Code – Standard 1.4.2 – Maximum Residue Limits Amendment Instrument No. APVMA 10, 2014 [F2014L01708].

Australia New Zealand Food Standards Code – Standard 1.4.2 – Maximum Residue Limits Amendment Instrument No. APVMA 1, 2015 [F2015L00071].

Food Standards (A1091 – Enzyme Nomenclature Change – Carboxyl Proteinase to Aspergillopepsin I & II) Variation [F2014L01624].

Food Standards (Application A1088 – Sodium Hydrosulphite as a Food Additive) Variation [F2014L01626].

Food Standards (Proposal P1029 – Maximum Level for Tutin in Honey) Variation [F2015L00037].


Health Insurance Act 1973—

Common Form of Undertaking for Participating Optometrists Amendment Instrument 2014 [F2014L01753].

Health Insurance (General Medical Services Table) Amendment (Duration of Attendance) Regulation 2014—Select Legislative Instrument 2014 No. 194 [F2014L01714].

Health Insurance (General Medical Services Table) Amendment (Duration of Attendance) Regulation 2014 (No. 2)—Select Legislative Instrument 2014 No. 214 [F2015L00029].

Health Insurance (General Medical Services Table) Repeal (Duration of Attendance) Regulation 2015—Select Legislative Instrument 2015 No. 1 [F2015L00049].


Health Insurance (Midwife and Nurse Practitioner) Amendment Determination 2015 [F2015L00035].

Health Insurance (Midwife and Nurse Practitioner) Revocation Determination 2015 [F2015L00048].

Health Insurance (Pharmacogenetic Testing – RAS (KRAS and NRAS)) Determination 2014 [F2014L01767].

Health Insurance (Section 19AB Exemptions) Guidelines 2015 [F2015L00038].

Higher Education Support Act 2003—

Amendment No. 3 to the Other Grants Guidelines (Education) 2012 [F2014L01633].

Higher Education Provider Approval—No. 6 of 2014 [F2014L01632].

Higher Education Support (Maximum Payments for Other Grants) Determination 2015 [F2015L00056].
List of grants under Division 41 for 2015 [F2015L00052].
List of grants under Division 41 for 2015 in relation to the Indigenous Support Programme [F2015L00034].

VET Provider Approvals—
No. 67 of 2014 [F2014L01635].
No. 68 of 2014 [F2014L01636].
No. 69 of 2014 [F2014L01637].
No. 71 of 2014 [F2014L01659].
No. 72 of 2014 [F2015L00033].
No. 73 of 2014 [F2014L01731].
No. 74 of 2014 [F2014L01685].
No. 75 of 2014 [F2015L00032].

Insurance Act 1973—
Insurance (prudential standard) determination No. 5 of 2014 – Prudential Standard GPS 310 – Audit and Related Matters [F2014L01678].


Jervis Bay Territory Acceptance Act 1915—Administration Ordinance 1990—Amended Electricity Supply Fees Determination 2014 (Jervis Bay Territory) [F2015L00075].


Life Insurance Act 1995—

Major Sporting Events (Indicia and Images) Protection Act 2014—Major Sporting Events (Indicia and Images) Protection Amendment Rules 2014 (No. 1) [F2014L01727].

Migration Act 1958—
Determination of Protection (Class XA) and Refugee Humanitarian (Class XB) Visas 2014—IMMI 14/117 [F2014L01819].
Migration Regulations 1994—
Alternative English Language Proficiency Tests to the International English Language Testing System for Student Visa Purposes—IMMI 14/080 [F2014L01673].
Evidence of Functional English Language Proficiency 2015—IMMI 15/004 [F2014L01668].
Language Tests, Score and Passports 2015—IMMI 15/005 [F2014L01666].
Payment of Visa Application Charges and Fees in Foreign Currencies 2015 (Conversion Instrument)—IMMI 15/001 [F2014L01712].
Places and Currencies for Paying of Fees (Places and Currencies Instrument)—IMMI 15/002 [F2014L01711].
Statements under section 91L—1 July to 31 December 2014 [12].
Statements under section 91Q—1 July to 31 December 2014 [4].
Statements under section 195A—1 July to 31 December 2014 [135].
Statements under section 197AB—1 July to 31 December 2014 [94].
Statements under section 198AE—1 July to 31 December 2014 [1].
Statements under section 351—1 July to 31 December 2014 [85].
Statements under section 417—1 July to 31 December 2014 [17].
Migration Legislation Amendment Act (No. 1) 2014—Migration Legislation Amendment Commencement Proclamation 2014 [F2014L01722].
National Health Act 1953—
National Health Determination under paragraph 98C(1)(b) Amendment 2014 (No. 12)—PB 108 of 2014 [F2014L01772].
National Health Determination under paragraph 98C(1)(b) Amendment 2015 (No. 1)—PB 2 of 2015 [F2015L00039].
National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2014 (No. 12)—PB 104 of 2014 [F2014L01826].
National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2015 (No. 1)—PB 4 of 2015 [F2015L00083].

CHAMBER
National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2014 (No. 10)—PB 102 of 2014 [F2014L01834].

National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2015 (No. 1)—PB 3 of 2015 [F2015L00087].

National Health (Immunisation Program – Designated Vaccines) Variation Determination 2014 (No. 1) [F2014L01822].

National Health (Listed drugs on F1 or F2) Amendment Determination 2014 (No. 12)—PB 105 of 2014 [F2014L01808].

National Health (Listed drugs on F1 or F2) Amendment Determination 2015 (No. 1)—PB 6 of 2015 [F2015L00082].


National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2015 (No. 1)—PB 1 of 2015 [F2015L00040].

National Health (Pharmaceutical Benefits (Application to supply pharmaceutical benefits following the death of approved pharmacist – documentary evidence) Determination 2015—PB 5 of 2015 [F2015L00094].


National Health (Prescriber bag supplies) Amendment Determination 2015 (No. 1)—PB 7 of 2015 [F2015L00042].

National Health (Prescriber bag supplies) Amendment Determination 2015 (No. 2)—PB 107 of 2014 [F2014L01789].


Payment Systems (Regulation) Act 1998—
Revocation of the Access Regime for the Visa Debit System (December 2014) [F2014L01759].
Variation to the Access Regimes for the MasterCard and Visa Credit Card Systems (December 2014) [F2014L01760].


Private Health Insurance Act 2007—Private Health Insurance (Benefit Requirements) Amendment Rules 2014 (No. 6) [F2014L01775].

Public Governance, Performance and Accountability Act 2013—
Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2013-2014 (No. 1) [F2015L00092].
Public Governance, Performance and Accountability (Section 75 Transfers) Determination 2014-2015 [F2015L00091].


Public Governance, Performance and Accountability Legislation Amendment Rule 2014 (No. 2) [F2015L00027].


Radiocommunications Act 1992—
Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2014 [F2014L01794].
Radiocommunications (Cordless Communications Devices) Class Licence 2014 [F2014L01800].
Radiocommunications (Specified Radiocommunications Receivers and Types of Transmitter Licences and Receiver Licences) Determination 2014 [F2014L01790].

Remuneration Tribunal Act 1973—

Social Security Act 1991—
Social Security (Australian Government Disaster Recovery Payment) Determination 2015 (No. 1) [F2015L00023].
Social Security (Disaster Recovery Allowance) (Rate calculator) Determination 201 [F2015L00022].
Social Security (Administration) Act 1999—
Student Assistance Act 1973—Student Assistance (Education Institutions and Courses) Amendment Determination 2014 (No. 2) [F2014L01733].
Taxation Administration Act 1953—Pay as you go withholding – Tax table for additional amounts to withhold as a result of an agreement to increase withholding [F2014L01665].
Telecommunications Act 1997—
Carrier Licence Conditions (Networks supplying Superfast Carriage Services to Residential Customers) Declaration 2014 [F2014L01699].
Telecommunications (Agreements for Compliance with Structural Separation Undertaking) Determination 2014 [F2014L01700].
Telecommunications (Collection of Numbering Charges) Determination 2014 [F2014L01783].
Telecommunications (Service Provider — Identity Checks for Prepaid Mobile Carriage Services) Amendment Determination 2014 (No. 1) [F2014L01750].
Therapeutic Goods Act 1989—
Therapeutic Goods (Articles that are Medical Devices) Specification 2014 [F2014L01741].
Veterans' Entitlements Act 1986—
Statements of Principles concerning albinism—
No. 19 of 2015 [F2014L01823].
No. 20 of 2015 [F2014L01825].
Statements of Principles concerning alpha-1 antitrypsin deficiency—
No. 29 of 2015 [F2014L01837].
No. 30 of 2015 [F2014L01840].
Statements of Principles concerning autosomal dominant polycystic kidney disease—
No. 39 of 2015 [F2015L00004].
No. 40 of 2015 [F2015L00005].
Statements of Principles concerning Charcot-Marie-Tooth disease—
No. 21 of 2015 [F2014L01827].
No. 22 of 2015 [F2014L01829].
Statements of Principles concerning decompression sickness—
No. 13 of 2015 [F2014L01830].
No. 14 of 2015 [F2014L01832].
Statements of Principles concerning dysbaric osteonecrosis—
No. 17 of 2015 [F2014L01841].
No. 18 of 2015 [F2014L01842].
Statements of Principles concerning epicondylitis—
No. 7 of 2015 [F2014L01784].
No. 8 of 2015 [F2014L01786].
Statements of Principles concerning Gaucher's disease—
No. 27 of 2015 [F2014L01843].
No. 28 of 2015 [F2014L01846].
Statements of Principles concerning haemophilia—
No. 23 of 2015 [F2014L01831].
No. 24 of 2015 [F2014L01833].
Statements of Principles concerning horseshoe kidney—
No. 31 of 2015 [F2014L01844].
No. 32 of 2015 [F2014L01845].
Statements of Principles concerning Huntington's chorea—
No. 37 of 2015 [F2014L01851].
No. 38 of 2015 [F2014L01852].
Statements of Principles concerning malignant neoplasm of the small intestine—
No. 1 of 2015 [F2014L01807].
No. 2 of 2015 [F2014L01810].
Statements of Principles concerning malignant neoplasm of the testis and paratesticular tissues—
No. 3 of 2015 [F2014L01813].
No. 4 of 2015 [F2014L01815].
Statements of Principles concerning Marfan syndrome—
No. 25 of 2015 [F2014L01835].
No. 26 of 2015 [F2014L01838].

Statements of Principles concerning multiple osteochondromatosis—
No. 43 of 2015 [F2015L00008].
No. 44 of 2015 [F2015L00009].

Statements of Principles concerning osteogenesis imperfecta—
No. 35 of 2015 [F2014L01848].
No. 36 of 2015 [F2014L01850].

Statements of Principles concerning pulmonary barotrauma—
No. 15 of 2015 [F2014L01836].
No. 16 of 2015 [F2014L01839].

Statements of Principles concerning shin splints—
No. 9 of 2015 [F2014L01805].
No. 10 of 2015 [F2014L01812].

Statements of Principles concerning soft tissue sarcoma—
No. 5 of 2015 [F2014L01817].
No. 6 of 2015 [F2014L01818].

Statements of Principles concerning tinea—
No. 11 of 2015 [F2014L01814].
No. 12 of 2015 [F2014L01816].

Statements of Principles concerning trochanteric bursitis and gluteal tendinopathy—
No. 45 of 2015 [F2015L00010].
No. 46 of 2015 [F2015L00011].

Statements of Principles concerning von Willebrand's disease—
No. 41 of 2015 [F2015L00006].
No. 42 of 2015 [F2015L00007].

Statements of Principles concerning Wilson's disease—
No. 33 of 2015 [F2014L01847].
No. 34 of 2015 [F2014L01849].


Veterans' Entitlements Treatment (Anxiety and Depressive Disorders) Amendment Determination 2014—2014 No. R114 [F2014L01781].


*Water Efficiency Labelling and Standards Act 2005*—Water Efficiency Labelling and Standards (No. 2) Amendment Determination 2015 (No. 1) [F2015L00064].

*Water Efficiency Labelling and Standards (Registration Fees) Act 2013*—Water Efficiency Labelling and Standards (Registration Fees) Amendment Determination 2015 (No. 1) [F2015L00063].


Environment portfolio.

**Tabling**

The following documents were tabled:

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]

Aboriginal Land Commissioner—Report no. 72—Wangkangurru Land Claim No. 156.

Auditor-General—Audit reports for 2014-15—

No. 10—Performance audit—Administration of the Biodiversity Fund Program: Department of the Environment. [Received 9 December 2014]

No. 11—Performance audit—The award of grants under the clean technology program: Department of Industry. [Received 10 December 2014]

No. 12—Performance audit—Diagnostic imaging reforms: Department of Health. [Received 11 December 2014]

No. 13—Performance audit—Management of the Cape Class patrol boat program: Australian Customs and Border Protection Service. [Received 16 December 2014]

No. 14—2013-14 major projects report: Defence Materiel Organisation. [Received 17 December 2014]

No. 15—Performance audit—Administration of the Export Market Development Grants scheme: Australian Trade Commission. [Received 17 December 2014]

No. 16—Financial statement audit—Audits of the financial statements of Australian Government entities for the period ended 30 June 2014. [Received 18 December 2014]

No. 17—Performance audit—Recruitment and retention of specialist skills for Navy: Department of Defence. [Received 18 December 2014]

No. 18—Performance audit—The Ethanol Production Grants Program: Department of Industry and Science. [Received 28 January 2015]

No. 19—Performance audit—Management of the disposal of specialist military equipment: Department of Defence. [Received 5 February 2015]
No. 20—Performance audit—Administration of the tariff concession system: Australian Customs and Border Protection Service. [Received 5 February 2015]


Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2014. [Received 15 January 2015]

Business of the Senate—1 January to 31 December 2014.

Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2013-14. [Received 15 January 2015]

Cotton Research and Development Corporation (CRDC)—Report for 2013-14. [Received 17 December 2014]

Department of Defence—Special purpose flights—Schedule for the period 1 January to 30 June 2014. [Received 12 December 2014]

Department of Finance—
Certificate of compliance—Report for 2013-14. [Received 28 January 2015]
Consolidated financial statements for the year ended 30 June 2014. [Received 12 December 2014]

Environment—
Climate change—Letter to the President of the Senate from the Minister for the Environment (Mr Hunt), dated 15 January 2015, responding to the resolution of the Senate of 3 December 2014.

Western Australia—Carnaby's Cockatoo—Letter to the President of the Senate from the Minister for the Environment (Mr Hunt), dated 4 December 2014, responding to the resolution of the Senate of 2 September 2014.

Environment and Communications References Committee—Report—The koala – saving our national icon—Government response, dated November 2014. [Received 17 December 2014]

Estimates hearings—Unanswered questions on notice—Budget estimates 2014-15 (Supplementary)—Statements pursuant to the order of the Senate of 25 June 2014—
Australian Centre for International Agricultural Research. [Received 28 January 2015]
Australian Public Service Commission. [Received 28 January 2015]
Commonwealth Ombudsman. [Received 7 January 2015]
Finance portfolio. [Received 5 February 2015]
Fisheries Research and Development Corporation (FRDC)—Report for 2013-14.

Gene Technology Regulator—Quarterly report for the period 1 July to 30 September 2014. [Received 15 January 2015]


Health—
Dementia—Letter to the President of the Senate from the Assistant Minister for Social Services (Senator Fifield), dated 18 December 2014, responding to the resolution of the Senate of 23 September 2014.

Mental health—Letter to the President of the Senate from the Minister for Health (Mr Dutton), dated 19 December 2014, responding to the resolution of the Senate of 18 November 2014.
Renal health—Western Desert Nganampa Walytja Palyantjaku Tjutaku Aboriginal Corporation—Letter to the President of the Senate from the Minister for Health (Mr Dutton), dated 2 December 2014, responding to the resolution of the Senate of 25 September 2014.

Indigenous Australians—
Deaths in custody—Letters to the President of the Senate responding to the resolution of the Senate of 17 November 2014 from the—
Director-General, Queensland Department of Premier and Cabinet (Mr Grayson), dated 12 January 2015.
Victorian Minister for Aboriginal Affairs (Ms Hutchins), dated 27 January 2015.
Hearing loss—Letter to the President of the Senate from the Minister for Health (Mr Dutton), dated 2 December 2014, responding to the resolution of the Senate of 28 August 2014.
Institutional Responses to Child Sexual Abuse—Royal Commission—
Report of Case Study No. 11—Congregation of Christian Brothers in Western Australia response to child sexual abuse at Castledare Junior Orphanage, St Vincent's Orphanage Clontarf, St Mary's Agricultural School Tardun and Bindoon Farm School, dated December 2014. [Received 19 December 2014]
Report of Case Study No. 14—The response of the Catholic Diocese of Wollongong to allegations of child sexual abuse, and related criminal proceedings, against John Gerard Nestor, a priest of the Diocese, dated December 2014. [Received 19 December 2014]
Murray-Darling Basin Authority—Report for 2013-14. [Received 16 December 2014]
National Capital Authority—Report for 2013-14. [Received 15 December 2014]
National Health and Medical Research Council (NHMRC)—NHMRC Licensing Committee—Report on the operation of the Research Involving Human Embryos Act 2002 for the period 1 March to 31 August 2014. [Received 16 December 2014]
Rural Industries Research and Development Corporation (RIRDC)—Report for 2013 14.
Report for 2011-12. [Received 5 December 2014]
Report for 2012-13. [Received 5 December 2014]
Report for 2013-14. [Received 5 December 2014]
Quarterly reports on the operation of the Government co-contribution scheme—
Section 54(1)—
1 January to 31 March 2012. [Received 5 December 2014]
1 April to 30 June 2012. [Received 5 December 2014]
1 July to 30 September 2012. [Received 5 December 2014]
1 October to 31 December 2012. [Received 5 December 2014]
1 January to 31 March 2013. [Received 5 December 2014]
1 April to 30 June 2013. [Received 5 December 2014]
1 July to 30 September 2013. [Received 5 December 2014]
Monday, 9 February 2015

1 October to 31 December 2013. [Received 5 December 2014]
1 January to 31 March 2014. [Received 5 December 2014]
1 April to 30 June 2014. [Received 5 December 2014]
Section 12G(1)—
1 October to 31 December 2013. [Received 5 December 2014]
1 July to 30 September 2013. [Received 5 December 2014]
1 January to 31 March 2014. [Received 5 December 2014]
Tax expenditures statement 2014, dated January 2015. [Received 30 January 2015]


Trade Union Governance and Corruption—Royal Commission—Interim report—Volumes 1 and 2, dated 15 December 2014. [Received 19 December 2014]


Wet Tropics Management Authority—
Workplace Gender Equality Agency—Report for 2013-14. [Received 18 December 2014]
Youth—Youth Connections Program—Letter to the President of the Senate from the Minister for Education (Mr Pyne), dated 9 January 2015, responding to the resolution of the Senate of 1 December 2014.

Tabling

The following documents received on the dates indicated were tabled:

Defence—Air Warfare Destroyer Program—Letter to the President of the Senate from the Minister for Defence (Senator Johnston) and the Minister for Finance (Senator Cormann) responding to the order of the Senate of 2 December 2014 and raising a public interest immunity claim. [Received 5 December 2014]

Family and community services—Child care and early childhood learning—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 4 December 2014, responding to the order of the Senate of 3 December 2014. [Received 5 December 2014]

Law and justice—Data retention—Cost estimates—Letter to the President of the Senate from the Attorney-General (Senator Brandis), dated 4 December 2014, responding to the order of the Senate of 3 December 2014 and raising a public interest immunity claim. [Received 5 December 2014]