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**SITTING DAYS—2015**

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- **BRISBANE** 936AM
- **CANBERRA** 103.9FM
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- **HOBART** 747AM
- **MELBOURNE** 1026AM
- **PERTH** 585AM
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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SIXTH 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 Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator 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 Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and Senator Larissa Joy Waters
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

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

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

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

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.

(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.

(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), 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

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<th>Party</th>
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Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
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<tr>
<th>Title</th>
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon. Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon. Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister on Counter-Terrorism</strong></td>
<td>The Hon Michael Keenan MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>Senator the Hon. Michaelia Cash</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Charles Porter MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon. Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon. Jamie Briggs MP</td>
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<tr>
<td><strong>Assistant Minister for Infrastructure and Regional Development</strong></td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon. Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon. Andrew Robb AO MP</td>
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<tr>
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<td>The Hon. Steven Ciobo MP</td>
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<tr>
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<td>The Hon. Steven Ciobo MP</td>
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<tr>
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<tr>
<td>(Deputy Leader of the House)</td>
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<td><strong>Attorney-General</strong></td>
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<td><strong>Minister for the Arts</strong></td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<td>The Hon. Michael Keenan MP</td>
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<td>Senator the Hon. Richard Colbeck</td>
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<td>(Manager of Government Business in the Senate)</td>
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<td>The Hon. Malcolm Turnbull MP</td>
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<td>The Hon. Paul Fletcher MP</td>
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Thursday, 25 June 2015

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

DOCUMENTS

Tabling

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

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

COMMITTEES

Legal and Constitutional Affairs References Committee

Meeting

Senator JACINTA COLLINS (Victoria) (09:31): by leave—I move revised motion No.
776, standing in my name:

That—

(1) The Legal and Constitutional Affairs References Committee be required to hold a private
meeting today, 25 June 2015, otherwise than in accordance with standing order 33(1), immediately
following the adjournment of the scheduled Legislation Committee meeting or at 11 am, whichever is
earliest and that the agenda for the Reference Committee meeting include:

(a) The election of a new chair of the committee; and

(b) Deliberation on the committee's progress on its inquiry into the handling of a letter sent by Mr
Mon Haron Monis to the Attorney-General, including the letter, dated 24 June 2015 from Mr
Thawley, Secretary of the Department of Prime Minister and Cabinet, and received by committee on
24 June 2015.

(2) The time for the presentation of the report on the handling of a letter sent by Mr Mon Haron
Monis to the Attorney-General be extended to 12 August 2015.

Senator IAN MACDONALD (Queensland) (09:32): I would like to speak to the motion.
This is another outrageous abuse by the Labor Party of the whole Senate practice. In case
people do not know: I am the chair of the Legal and Constitutional Affairs Legislation
Committee. I am told by Senator Collins—nobody has bothered to tell me, as chair of this
committee or as deputy chair of the references committee—that apparently the chair of the
references committee, Senator Wright, has resigned. No-one has had the courtesy to tell me as
deputy chair, and now I am apparently the acting chairman of the references committee and
chairman of the legislation committee.

This motion just announced by Senator Collins sets up a meeting with me—as the acting
chair, apparently—and with other colleagues, without any consultation about their diaries,
their timetables or their requirements for today. This is just outrageous, and it brings the
Senate committee system into abject disrepute.

You might recall, Mr President, that this Monis letter, the subject of the references
committee, was a matter that the legislation committee was dealing with as a result of
evidence that came up in the estimates committee at the last estimates hearings. There was a
request from two Labor senators and one Greens senator to have a spillover specifically on
the matter of the Monis letters. The legislation committee has dealt with that and has set down or is about to set down hearings for that particular matter. The Greens support Labor on everything—all of their dodgy deals—and I do not think the crossbenchers care about these things, because they are just committee matters, so, unfortunately, with crossbench and Greens support, the references committee was then given the same reference, given the whole inquiry that the legislation committee had properly already before it.

I say to the crossbenchers: I know these are not matters of great consequence to you and they are just more political games by the ALP, but we have to draw the line somewhere. We have to say, 'Enough is enough.' If the Senate committee system is going to mean anything at all, then we have to do this regularly. I had not even seen the motion that Senator Collins just moved. She just showed it to me when I went to tell her, a minute ago, that, because I thought there were going to be a lot of divisions early, I have changed the scheduled meeting of the legislation committee, which was set down for 9.30. I just went to tell Senator Collins that, instead of having it in 1S6, we are going to have it outside here so we are available to come in if there are divisions. It was then that Senator Collins, for the first time, showed me this amended motion before the chair.

I am not sure, but I think I saw that Senator Lazarus was about to be appointed the Chair of the Legal and Constitutional Affairs References Committee. Those positions usually go to the Labor Party. Occasionally the Labor Party allows them to go to the Greens, as happened in this case. Now we are going to apparently—according to a motion by the Labor Party—have as chair an Independent senator, who is a nice guy but who has taken absolutely no interest in the legal and constitutional affairs committees of this parliament and who has taken no apparent interest in the Monis letters. And suddenly this person, so I am told, is about to be appointed by a majority as chair. I will have to have a look at where the numbers lie on that committee now, because, with Senator Wright having resigned, it may be that the voting—

Senator Jacinta Collins: No; it is a standing order, Ian.

Senator IAN MACDONALD: What is the standing order?

Senator Jacinta Collins: It is a crossbench position.

The PRESIDENT: Order! Senator Macdonald, you have the call.

Senator IAN MACDONALD: This sort of activity brings not only the Senate committee system but the Senate generally into disrepute. The motion says that:

… the Legal and Constitutional Affairs References Committee be required to hold a private meeting today, 25 June 2015, otherwise than in accordance with standing order 33(1), immediately following the adjournment of the scheduled Legislation Committee meeting or at 11 am, whichever is earliest …

The agenda for the references committees shall be:

(a) The election of a new chair of the committee—

Senator Whish-Wilson: Boring!

Senator IAN MACDONALD: Do you know why I am reading this out? Because it is the first time that I, as the deputy chairman of the committee, have had the opportunity of seeing it. It goes on to say:

(b) Deliberation on the committee's progress on its inquiry into the handling of a letter by Mr Mon Haron Monis to the Attorney-General, including the letter, dated 24 June 2015 from Mr Thawley,
Secretary of the Department of Prime Minister and Cabinet, and received by committee on 24 June 2015.

Apparently we are going to elect a new chair and we are going to deliberate on the committee's progress on its inquiry into the Man Haron Monis letter. That should not take very long because there has been absolutely no progress. What we have had is two committee hearings so far where officers of the department are being required to advise to the exact minute when they made a phone call three months ago. I have been critical of them because they have been able to give the minute when they got the thing but they have not been able to give a second. This committee is so outraged that these public officials are being asked three or four months later to say exactly what minute of the day they actually went to the toilet, when they blew their noses and when they happened to make a phone call to someone else. It is outrageous. There is a standing convention, of course, that secretaries of the Department of Prime and Cabinet do not appear before committees. In this instance, that does not really matter because the deputy secretary, who was principally involved in this inquiry, the 2IC—certainly, Mr Thawley is the nominated person who had oversight and who released the report—and who knows everything, I would say, has not been 'grilled'—the questioning was a bit like a lettuce leaf, except when I demanded that he give the second rather than just the minute.

Senator Jacinta Collins: Oh, it was you!

Senator IAN MACDONALD: Yes, but it shows how stupid the whole thing was: was the phone call at 8.55, 8.56 or 8.57? Because the officials could not quite remember, they were berated by members of the Labor Party. Deliberation on the progress of this committee's inquiry will not take long because there has been no progress. What Senator Brandis said in the estimates committee hearing, and he then corrected in one small area immediately he was able, has all been there on the public record for weeks and for months; yet, this references committee has sat for two days already going over and over and over and over the same things. This abuse of the process, again, continues today.

Somewhere along the line this Senate has to get the Senate committee system back to the times when it was respected and when it operated properly, when it operated with cooperation between all senators because we were doing good things. I am sorry that Senator Lazarus seems to be tied up in this because you will recall that that Queensland committee—the reference about the Newman government to be investigated by a select committee which Senator Lazarus chaired—was a committee set up notwithstanding that the government had by far the biggest number of senators in this chamber. The government had one senator on that committee, the Labor Party had two, the Greens had one and Senator Lazarus was the other one. So of a five-member committee, the government had one member. That brought the Senate into disrepute. It was an absolute farce, that committee; nothing came out of it and nothing was achieved. No new information came out and it was just a waste of the senators' time and the taxpayers' money.

There have been a couple of other instances and this is just another one—purely political. Once the Senate adopts what seems to be an increasing situation by the Labor Party that we will run these committees purely for partisan political purposes or to give one of their allies the additional resources that come with the chairmanship of a committee—and, as I say, the chair is a person who, to my knowledge, has taken absolutely no interest in this matter at all,
has not attended an estimates committee and has not, as a participating member, attended any of the other committees. As I understand it—someone has mentioned this to me—I am assuming the suggestion is that this crossbench senator will become the new chair.

The motion we are dealing with states:
The time for the presentation of the report on the handling of a letter sent by Mr Mon Haron Monis to the Attorney-General be extended to 12 August 2015.

This committee should have been able to report five minutes after it started, but the reporting date is now being extended to 12 August. I have no indication of what that is about. There has been no argument by the mover of the motion as to the reason for this. The committee was supposed to report today. I would have hoped that the committee would have had its report circulated to committee members, as is usual. Certainly, those of us who suspect what the chair's report might be have taken the precaution of getting a dissenting report ready for tabling today, in accordance with the procedures of the Senate.

Again, changing these things without notice to other members of the committee—with 10 seconds notice—is not the way that this chamber should operate. It is not the way the Senate committee system has operated in years gone by. It distresses me, as someone who has been in this place a long time, who has seen the good work that Senate committees have done, very often in a bipartisan way, very often correcting legislation and actions of governments, be they Liberal governments or Labor governments. Committees have investigated various areas and looked into them, as they should, and have made recommendations which both Liberal and Labor governments have accepted as being a sensible addition to the debate on these issues. Yet, in recent times, we have had the sort of dodgy dealing that is evidenced by this motion today.

Does it matter that I and other members of the committee have other things planned for 11 o'clock today? Did it matter that, when this committee first sat, the majority of the committee members picked a day that they knew I would be in Cairns for the launch of the northern Australia policy and that Senator Reynolds, the other regular member of this committee, would be in Amberley with a defence committee, that being a longstanding commitment? They knew that, so they set down the meeting for that day, when government senators would not be available. Fortunately, we were able, at short notice, to get another senator—one senator only—to fill in. But that sort of activity just brings the whole system into disrepute and means that the cooperation needed to run the Senate is rapidly dissipating.

I suspect that one of the decisions of this committee—I have no notice of this—is that they will probably want to have a hearing tomorrow. That is because they know that tomorrow is the meeting of the Federal Council of the Liberal Party and they know that all Liberal senators will be in Melbourne for the Federal Council.

Senator Bilyk: I didn't, but I do now!

Senator IAN MACDONALD: Well, if you did not know that, you should ask Senator Dastyari—he is the one with all the intelligence, although that is mainly within the Labor Party, not outside.

This procedure is a sad indictment of where the Senate has gone. I am sad that the Senate has come to this. The Greens political party are no Democrats, I have to say—at least the
Democrats used to follow some of the norms of this chamber and some of the procedures that made the place work. This is an outrageous abuse of the proceedings of the Senate.

The PRESIDENT: The question is that the motion moved by Senator Collins be agreed to.

The Senate divided. [09:55]

(The President—Senator Parry)

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

AYES

Bilyk, CL
Carr, KJ
Conroy, SM
Di Natale, R
Gallagher, KR
Ketter, CR
Lazarus, GP
Ludwig, JW
McAllister, J
McLucas, J
Moore, CM
Peris, N
Rhiannon, L
Siewert, R
Urquhart, AE (teller)
Waters, LJ
Wright, PL

Bullock, J. W.
Collins, JMA
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lambie, J
Ludlam, S
Marshall, GM
McEwen, A
Milne, C
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Wang, Z
Whish-Wilson, PS
Xenophon, N

NOES

Back, CJ
Birmingham, SJ
Bushby, DC
Colbeck, R
Day, R.J.
Fawcett, DJ (teller)
Fifield, MP
Johnston, D
Lindgren, JM
Madigan, JJ
McKenzie, B
O’Sullivan, B
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

Bernardi, C
Brandis, GH
Canavan, M.J.
Cormann, M
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Leyonhjelm, DE
Macdonald, ID
McGrath, J
Nash, F
Parry, S
Ruston, A
Scullion, NG
Smith, D

PAIRS

Brown, CL
Payne, MA

CHAMBER
Cameron, DN        Reynolds, L
Lines, S           Seselja, Z
Sterle, G          Cash, MC
Wong, P            Abetz, E

Question agreed to.

**Legal and Constitutional Affairs Legislation Committee**

**Meeting**

The Clerk: A proposal has been lodged by the Legal and Constitutional Affairs Legislation Committee for a private meeting today from 9.30 am.

The President (09:57): Does any senator wish to have the motion put on that question about the committee meeting? There being none, I will call Senator Fifield to move a motion.

**BUSINESS**

**Consideration of Legislation**

Senator Fifield (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (09:58): by leave—I move:

That, on Thursday, 25 June 2015:

(a) the hours of meeting shall be 9.30 am to adjournment;

(b) consideration of general business private senators’ bills under temporary order 57(1)(d)(ia) shall not be proceeded with and that government business shall have precedence for 2 hours and 20 minutes;

(c) consideration of general business and consideration of committee reports, government responses and Auditor General’s reports under standing order 62(1) and (2) shall not be proceeded with;

(d) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 4.30 pm shall be government business only;

(e) divisions may take place after 4.30 pm;

(f) the question for the adjournment of the Senate shall be proposed after it has finally considered the Migration Amendment (Regional Processing Arrangements) Bill 2015, or a motion for the adjournment is moved by a minister, whichever is the earlier; and

(g) debate on the question for the adjournment shall not exceed 40 minutes, and a senator shall not speak to that question for more than 10 minutes

The President: The question is that that motion be agreed to. Those of that opinion say aye; those against—Senator Hanson-Young?

Senator Hanson-Young (South Australia) (09:58): I would like to ask the minister: what is the urgency for this motion to be passed today, and why on earth is it being put forward?

The President: Just a moment, Senator Hanson-Young. You are seeking leave to ask a question of the minister?

Senator Hanson-Young: I am seeking leave to make a statement in relation to the motion as moved by the minister.

The President: Well, you have two choices. The motion has been moved. You can actually speak to the motion, if you wish to; you have that right.
Senator HANSON-YOUNG: Yes, I would like to speak to the motion.

The PRESIDENT: Well, you are entitled now to speak to the motion.

Senator HANSON-YOUNG: Thank you, Mr President. This motion of course has been put forward by the government to change the order of business to rush through legislation that was only introduced into the House at four o'clock yesterday. There has been no explanation given by the government as to why this is urgent. There has been no explanation given at all as to why it has to be rammed through both chambers in a matter of 24 hours.

We know that the government is in a flux because there is a case before the High Court that suggests that the detention and the spending of billions and billions of Australian taxpayers' dollars is illegal in terms of offshore processing in Nauru and Manus Island. But the minister responsible, the immigration minister, has known about this case since February and the case has been before the court since May. What is the explanation for this having to be rammed through now, even when the High Court itself will not be hearing the arguments of the case until September? There has been no explanation given by the government as to why the entire Senate agenda has to be thrown out the window today to bring on this piece of legislation. It makes you wonder what is going on that they desperately want to hide.

We know this government is in absolute denial about the human rights abuses that are going on inside the immigration detention camps on Nauru and Manus Island. We know that they are desperate to keep secret how they run these concentration camps. We know that they are desperate to keep the public eye out of what is going on in these places. Now we find out that locking up children for the last three years in the hellholes in Nauru may indeed have been illegal all along—not just the spending of money but the detention of those children as well. It staggers me that the minister wants to come in here today and throw out the normal Senate agenda to push through a piece of legislation that was only introduced to the House at 4 pm yesterday—less than 24 hours ago. Why on earth the Labor Party have given the government a nod and a wink to allow this to happen is beyond me.

This court case is one about a number of families who are here in Australia—a newborn baby, a number of young children, people who are currently listed for deportation to Nauru. That is why this case has been put forward. This government want to send to Nauru a baby who was born here, an Australian born baby, and lock that child up indefinitely. That child currently has a case before the High Court to ask whether it is legal to be locked up, jailed and detained indefinitely in Nauru. Rather than allowing that child and her family to have their day in court, the government wants to scuttle the court case, push through legislation and ensure that that child will remain in indefinite detention in the hellholes in the Nauru camp. That is what this piece of legislation is about. That is what this hours motion is about.

It is unconscionable that the government and the Labor Party are willing to throw all rules out the window, throw out all normal Senate procedure, in order to push this through. You have to wonder why the government are so afraid of a newborn baby's right to have a court consider whether it is legal that they be jailed or not? What is so worrying to the government that that child has a right to have its day in court and that the family have a right to have a judge consider whether their indefinite detention is indeed legal for the government to do?

There are almost 80 children here in Australia at the moment whose livelihoods depend on whether this High Court case wins or not. These 80 children are all here in Australia and the
government want to deport them to Nauru. We know the awful conditions inside that camp. There is the Moss review and the Human Rights Commission report, and of course the Senate's own inquiry, which is currently underway, has seen mounting evidence of child abuse, sexual assault and harassment—conditions that the UN describe as amounting to torture. That is how this place is being run in Nauru.

Rather than allowing a court to make a decision on whether that child—a newborn baby born here in Australia—should be deported, locked up in that place indefinitely, the cabinet want to rush through emergency legislation in less than 24 hours, throw all the Senate procedure out the window and ram legislation through to say, 'Yes, okay, the Australian parliament believes that this child deserves to be indefinitely detained.' Well, they do not deserve to be indefinitely detained; they do not deserve to be detained in these horrendous conditions. If indeed there is a need to respond legislatively to whatever the High Court decides, well wait until the High Court has made a decision; wait until the High Court has heard the case and made a determination. At least consider the legislation before ramming it through—it was only tabled in the House at 4 pm yesterday. I must point out that Senator Brandis misled this chamber yesterday in question time when I asked him about this matter.

The PRESIDENT: Senator Hanson-Young, I do not think you can make that inference about Senator Brandis.

Senator HANSON-YOUNG: I will explain why. Senator Brandis, in answering my question during question time yesterday, said the legislation had been tabled in the House that morning. It had not. It did not come into the house until 4 pm yesterday. We were given notice in this place that it had passed at 6 pm. We have less than 24 hours to deal with this piece of legislation, to consider (a) if it is needed and (b) what the consequences might be. I have had a look at this very short bill, and it gives unfettered power to the Abbott government to keep children in detention indefinitely in Nauru. That is what it does. It says that Australian taxpayers will be footing the bill. It also retrospectively amends the legislation to say that for the last three years the billions and billions of dollars that have been spent by Australian taxpayers on these illegal detention centres will now be accepted because the government has found out that all along this was the wrong thing to do—spending billions and billions of Australian dollars locking up children indefinitely. That is why the government is rushing this through—not because it is a good process, not because it is good legislation but because they were about to face the music in the High Court.

This hours motion and the rushing through of this legislation is an abuse of power and an abuse of the use of parliament. If this government were confident that they were acting lawfully they would not be rushing this legislation through the parliament. They would give the Senate time to consider it. Why is it not going to an inquiry like every other piece of legislation? I notice today that the citizenship bill, despite being debated for weeks, despite the fact that there are divisions in the government's own ranks about that bill, has been introduced into the House and has now gone off to a committee inquiry. Yet when it comes to the issue of refugee children, oh no, they could not possibly inquire into the legislation; they could not possibly look at what the consequences will be.

The fact is that this government has been running the Nauru and Manus Island detention centres appallingly, illegally. They are rife with abuse. It is a waste of taxpayers money.
Children are suffering. Rather than dealing with the consequences, rather than working out how to fix the problem, they want to confirm the situation, cover it up, rush legislation in and ram it through the Senate and no-one will be any the wiser. No, the Senate should not be allowing this to happen. The government does not have a mandate to abuse the Senate processes. They do not have a mandate to rush through pieces of legislation at their whim designed just to spend taxpayer money locking up kids. The parliament has a responsibility to ensure that the government is held to account. The government does not have a mandate for this and the Senate should stand up to this abuse. The Senate should stand up and say, 'Give us the reasons. Why is this urgent?'—there are not any reasons. 'Give us the reasons these changes are needed'—because, possibly, what you have been doing for the last three years has been illegal.

This is an opportunity to fix the horrors of what is going on on Manus Island and Nauru. I do not agree with offshore processing; that is no secret. The Greens do not believe that we should be locking refugees up in these hell-holes, punishing them simply because they have had to flee war and persecution. We will never agree to that. But we accept that they exist. And what we are always about is trying to improve the lives of people. Here is an opportunity: if you want to get good outcomes—and this is straight to the Labor Party—if you want to try and improve the conditions in these places, this is the place to do it. This is the opportunity.

Do not give unfettered power to Tony Abbott to keep children locked up indefinitely. Tony Abbott has no care. He has been proven to have absolute disregard for the lives of those kids. Do not let him get away with it. Put some restrictions on how that power of detention can be used. Do not keep kids locked up forever. Put some time limits in. Let the Human Rights Commission visit and inspect the conditions.

Have some oversight. Make it mandatory that staff who see children being abused have to report it. Do this, because we know what has happened for the last two years under this government; it has been covered up, and children who have been abused in the Nauru detention centre have had to stay there, unable to escape the hands of their abusers. And here we have the Senate rushing through legislation to make sure those children stay there forever. It is appalling. It is absolutely sickening. And we want to change the hours in this place, throw out Senate procedure, so those kids have to stay put at the hands of their abusers? It is disgusting.

The Greens will not be supporting this change of sitting hours motion. This is an abuse of Senate procedure. The government thinks they have a mandate to do whatever they want; they do not. It may be the Prime Minister's attitude that he 'will do whatever it takes', but it has to be within the law. It has to be within the processes. It has to be under the checks and balances of this place. If the Senate allows them to ram through a bill in 24 hours, that is the Senate not doing its job. That is not what we are elected to do. We are elected to keep a check on the executive. Stand up and make a difference.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:12): I think it is important to recognise this is a procedural motion that we are debating here at the moment. The purpose of the procedural motion is actually to allow additional time for the consideration of the legislation that we are seeking to introduce here. The terms of the motion that I have moved is that the Senate will sit...
for so long as the Senate feels it needs to in order to debate and examine the legislation. So there is nothing in the motion that I am moving that seeks in any way, shape or form to preclude the Senate from executing its duties and obligations. The Senate will sit for so long as the Senate feels that it needs to examine these matters.

Mr President, just to respond to Senator Hanson-Young’s question in relation to the necessity for this legislation: I think colleagues would be well aware that offshore processing is a central part of our efforts to protect our borders, and it is important to ensure that there is certainty and a robust legislative basis for offshore processing.

The PRESIDENT: The question is that the motion moved by the Manager of Government Business to vary the routine and hours of business today be agreed to.

The Senate divided. [10:18]

(The President—Senator Parry)

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

AYES

Back, CJ
Birmingham, SJ
Bullock, J.W.
Canavan, M.J.
Colbeck, R
Dastyari, S
Edwards, S
Fifield, MP
Gallagher, KR
Ketter, CR
Lines, S
Madigan, JJ
McAllister, J
McGrath, J
McLucas, J
Muir, R
Parry, S
Ruston, A
Sindonis, A
Sterle, G
Wang, Z
Xenophon, N

Bernardi, C
Brown, CL
Bushby, DC (teller)
Carr, KJ
Cormann, M
Day, R.J.
Fawcett, DJ
Gallacher, AM
Johnston, D
Lindgren, JM
Ludwig, JW
Marshall, GM
McEwen, A
McKenzie, B
Moore, CM
O’Neill, DM
Peris, N
Ryan, SM
Smith, D
Urquhart, AE
Williams, JR

NOES

Di Natale, R
Lambie, J
Ludlam, S
Rhiannon, L
Sievert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Lazarus, GP
Milne, C
Rice, J
Waters, LJ
Wright, PL
Question agreed to.

BILLS

Migration Amendment (Regional Processing Arrangements) Bill 2015

First Reading

Bill received from the House of Representatives.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:22): I move:

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

Question agreed to.

Bill read a first time.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:22): I seek leave to move a motion to exempt this bill from the bills cut-off order.

Leave not granted.

Senator FIFIELD: Pursuant to contingent notice standing in the name of the Leader of the Government in the Senate, Senator Abetz, I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consideration of the matter, namely a motion to give precedence to a motion to exempt this bill from the bills cut-off order.

As I indicated in my contribution on the motion relating to hours, the offshore processing arrangements are central to the government's efforts to protect our borders. We place a very high premium as a government on the protection of our borders. We are seeking exemption from the cut-off in order to enable this legislation to be debated and resolved today. The government is clearly of the view that it is important to ensure certainty and a robust legislative basis for offshore processing. In seeking to move exemption from the cut-off, we are not attempting to do anything other than what has frequently been done in this place for bills which are time critical.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (10:24): I am scratching my head about why this is so critical today, because we are told that it is important to rush this legislation through, that it is absolutely critical that we bypass the ordinary procedures of the Senate to ensure there is certainty around the law. I go back to a question asked by my colleague Senator Hanson-Young of Senator Brandis yesterday where she asked whether the government was ramming this through the Senate because the actions of this government have indeed been unlawful. Senator Brandis said:

No, that is incorrect, Senator. The government is of the view that the offshore processing arrangements are lawful. That is the view of the government. … and I understand the former Labor government also believed—that the offshore processing arrangements were lawful.

You cannot have it both ways. Either Senator Brandis was misleading the parliament yesterday when he put his position forward that these arrangements are lawful, or this legislation is necessary because they are unlawful. Only one of the two is correct.
If we are to accept that Senator Brandis did not mislead the parliament yesterday, there is absolutely no need to do this. There is no need to bypass the ordinary procedures of the Senate. There is no need to ram through this legislation; there is no need to do it without any scrutiny; there is no need to bypass the courts; there is no need to trample on the democratic institutions this country is founded on. There is no need to do it. Senator Brandis made it crystal clear: in his view, in the view of the government, existing arrangements are lawful. So why are we having the debate? What is the reason for doing this? There is none. Or perhaps there is a reason. Perhaps Senator Brandis was misleading the parliament.

We will give him the opportunity to correct the record. If he indeed does believe, and if he is certain, that the arrangements are not legal, then I am sure the Labor Party would agree that we can assume that this is totally unnecessary and that what we are doing here is wasting the parliament's time. If, on the other hand, the government feels the urgency to support this motion, again with the support of the Labor Party, then I expect that Senator Brandis will correct the record, and he will correct the response that he gave to Senator Hanson-Young in question time.

This is a disgraceful abuse of the parliament. We have a system of detention where there is some contention. It is the job of the High Court to resolve that; it is not the job of this parliament to bypass the law. We do not support the motion. We think it is critical that a decision of this importance—effectively saying that the court needs to be bypassed by the actions of this parliament in a last minute rush on the verge of a long break—is not appropriate. We will not be supporting the motion. We think that the Labor Party and the crossbenchers should join us in opposing this abuse of the parliament.

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

Question agreed to.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:28): I move:

That a motion to exempt this bill from the bills cut-off order may be moved immediately and have precedence over all other business today until determined.

The PRESIDENT: The question is that the motion moved by the Manager of Government Business to grant precedence to allow him to move a motion in relation to the cut-off be agreed to.

The Senate divided. [10:32]

(The President—Senator Parry)

Ayes ....................42
Noes ....................11
Majority ...............31

AYES

Back, CJ
Bilyk, CL
Birmingham, SJ
Brown, CL
Bullock, J.W.
Bushby, DC
Cameron, DN
Canavan, M.J.

CHAMBER
AYES

Carr, KJ
Colbeck, R
Dastyari, S
Edwards, S
Fifield, MP
Gallagher, KR
Lindgren, JM
Macdonald, ID
Marshall, GM
McEwen, A
McKenzie, B
Moore, CM
O'Neill, DM
Parry, S
Ryan, SM
Sterle, G
Wang, Z
Cash, MC
Cormann, M
Day, R.J.
Fawcett, DJ
Gallacher, AM
Lazarus, GP
Ludwig, JW
Madigan, JJ
McAllister, J
McGrath, J
McLucas, J
Muir, R
O'Sullivan, B
Ruston, A
Smith, D
Urquhart, AE (teller)
Xenophon, N

NOES

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

Question agreed to.

Senator Fifield (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:34): I move:

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

I move:

That the question be now put.

The President: The question is that that motion—that the question be now put—be agreed to.

Question agreed to.

The President: The question now is that the cut-off motion be agreed to.

Question agreed to.

Senator Fifield (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:35): I table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

The statement read as follows—
STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2015 WINTER SITTINGS

MIGRATION AMENDMENT (REGIONAL PROCESSING ARRANGEMENTS) BILL

Purpose of the Bill

The bill amends the Migration Act 1958 to provide express statutory authority for actions undertaken by the Commonwealth in relation to an arrangement with a regional processing country or the regional processing functions of a country, including expenditure related to those arrangements or functions.

Reasons for Urgency

This bill should be introduced and passed in the same sittings as it makes critical amendments to the Migration Act 1958 which will ensure that there is a robust legislative basis for regional processing and related expenditure.

Proceedings have been commenced in the High Court which challenge aspects of the Commonwealth’s regional processing arrangements. The amendments in this bill seek to address the issues raised in these proceedings. As it is desirable for these amendments to be in place prior to the High Court Hearing, this bill must be passed as a matter of urgency.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:35): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Migration Amendment (Regional Processing Arrangements) Bill 2015 amends the Migration Act 1958 to provide express statutory authority which applies where the Commonwealth has entered into an arrangement with another country with respect to the regional processing functions of that country.

The amendment solely goes to:

1. Enabling payments; and
2. Enabling the fact of regional processing.

The legislation does not change or in any way expand the current situation in regional offshore processing.

The amendments made by this Bill strengthen and put beyond any doubt the existing legislative authority to give practical effect to the substantive regional processing provisions inserted by the Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012.

This is achieved by providing clear express statutory authority for the Commonwealth to provide assistance to other countries to carry into effect arrangements for the processing and management of unauthorised maritime arrivals who have been taken to regional processing countries. This also extends to the expenditure of Commonwealth money on these arrangements.

The substantive regional processing provisions came into effect on 18 August 2012. It provides for the transfer of illegal maritime arrivals, who arrive in Australia by boat without a visa, to be transferred to another country for assessment by that country of their claims to be refugees. The only condition for the designation of a country is that the Minister thinks that it is in the national interest to make the designation. Currently, the Republic of Nauru and the Independent State of Papua New Guinea are designated as regional processing countries.
The current regional processing framework was introduced by the Labor Government. The amendments were made to the Migration Act 1958 by the Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012 to:

- provide that an offshore entry person is a person who has, at any time, entered Australia at an excised offshore place after the excision time for that offshore place and became an unlawful non-citizen because of that entry;
- allow a regional processing country to be designated without limitation by the international obligations or domestic law of that country;
- provide that, subject to relevant limitations, that an offshore entry person detained under section 189 of the Migration Act 1958 must be taken to a regional processing country as soon as practicable.

On 10 September 2012, the then Minister for Immigration and Citizenship designated Nauru a regional processing country.

On 9 October 2012, the then Minister for Immigration and Citizenship designated the Independent State of Papua New Guinea a regional processing country.

The Bill confirms the ability of Australian officials, acting on behalf of the Commonwealth, to take action to assist the foreign government in the regional processing country, consistent with the law of that country.

The Bill only seeks to ensure that there is express legislative authority for the Commonwealth to provide assistance to other countries to carry into effect arrangements for the processing and management of unauthorised maritime arrivals who have been taken to regional processing countries. It does not purport to have any effect in itself on the rights of those persons.

The Bill applies where the Commonwealth has entered into an arrangement with a person or body in relation to the regional processing functions of a country. ‘Person’ includes a ‘body politic’ and therefore a country

Specifically, the Bill provides statutory authority for the Commonwealth to:

- take, or cause to be taken, any action in relation to the arrangement or the regional processing functions of the country;
- make payments, or cause payments to be made, in relation to the arrangement or the regional processing functions of the country; and
- do anything that is incidental or conducive to the taking of such action or the making of such payments.

In this Bill, “regional processing functions” includes the implementation of any law or policy, or the taking of any action, by a country in connection with the role of the country as a regional processing country, whether the implementation or the taking of action occurs in that country or another country.

The Bill also makes clear that an arrangement is a very broad term, and can apply to arrangement, agreement, understanding, promise or undertaking, whether or not it is legally binding.

The term "action" explicitly includes exercising restraint over the liberty of a person. I wish to make it clear that Australia does not restrain the liberty of persons in regional processing countries. To the extent that the liberty of persons taken to regional processing countries is restrained in those countries, this is done by those countries under the respective laws of those countries.

These amendments do not otherwise provide authority for any restraint over the liberty of persons. The lawful authority for any restraint over liberty arises under the law of the relevant regional processing country.
To avoid any doubt about the intention of these amendments, the Bill includes a provision to clarify that these amendments are intended to ensure that the Commonwealth has capacity and authority to take action, without otherwise affecting the lawfulness of that action. The purpose of this provision is to assist readers to understand the purpose of these amendments, which are limited to providing the Commonwealth with express legislative authority to take action to assist foreign governments in regional processing countries.

These amendments will apply from 18 August 2012. This has the effect of retrospectively and prospectively authorising Commonwealth actions and expenditure in regional processing countries. 18 August 2012 is the date on which the existing legislative framework for regional processing under the Migration Act commenced. The retrospective operation of these provisions will provide authority for all activity undertaken in relation to regional processing arrangements for the entire period these arrangements have been in place.

The Government wishes to ensure that there is a sustainable and solid framework for Australia’s role in regional processing arrangements. To ensure the long term viability of regional processing, the amendments in the Bill seek to strengthen the existing legislative framework for regional processing activities.

There is no question that the regional processing arrangements are important to Australia’s strong border protection policies. Specifically, regional processing arrangements help combat people smuggling. Offshore processing removes the attraction of engaging a people smuggler and taking a dangerous boat journey. Anyone who comes to Australia illegally by boat without a visa will never be settled in Australia. Regional processing is therefore an important regional solution for maintaining Australia’s strong border protection policies.

The Government does not want the sustainability of regional processing weakened. The Australian people do not want to see a surge in people smuggling ventures again. Nor do we want people’s lives put at risk. We want a sustainable and solid framework for processing claims in regional processing countries. The Australian population deserves greater confidence in the integrity of the regional processing framework.

Regional cooperation is a key element of the Government’s approach to the protection of our borders. This Bill will ensure that Australia is able to continue to provide the necessary support and assistance to regional processing countries to carry out these arrangements.

I trust this Bill will have the support of all members, most particularly those with an interest in ensuring the continued success of regional processing arrangements.

Senator KIM CARR (Victoria) (10:36): This government seeks this chamber’s support to deal with an urgent bill which it introduced yesterday, the Migration Amendment (Regional Processing Arrangements) Bill 2015. It would be comforting to say that this level of disorganisation was unusual for this government, an aberration to its otherwise smooth and efficient running of policy and parliamentary processes. That would be comforting but it would not be true. This is a government that is characterised by chaos and dysfunction. I do not think I have seen anything like this in my 22 years in this chamber, where a government has had matters before it—as has been indicated—since February and discovers, on the second last day of a session, that as a matter of urgency it must resolve this question within 24 hours.

We of course acknowledge there are occasions when governments do have to act quickly, but the government has had these matters—this court case—before it since February and has only resolved to act in the last 24 hours of this session. That strikes me as gross incompetence. But it does not change the fact that there is a major problem that requires
resolution, and, despite the fact that those opposite have never provided the level of support that they are now seeking from us—they never provided that when we were in government—we will offer that support today. We will help the government out. This urgent bill does require the support of this chamber, and the opposition will be doing all that it can. Despite the gross misrepresentations that this government has made of Labor’s position, despite the extraordinary attempts to manipulate, divide and polarise the community around these issues, we will be supporting these measures, because we are better than them when it comes to these questions.

We could retaliate in exactly the same way as the Prime Minister, when he was Leader of the Opposition, acted when the High Court took steps on the Malaysia agreement. When Prime Minister Gillard wrote to Mr Abbott seeking his support for legislative change, what did Mr Abbott say? He said, ‘This is a problem that you have created and it is your responsibility to solve it.’ Just imagine if Mr Shorten responded to the Prime Minister’s request in exactly the same terms. Where would we be? Of course, the reality is we will not be responding in those terms. We will not be responding in the way Mr Howard acted on the ‘Tampa’ issue or Mr Reith acted on the ‘children overboard’ issue. We will not be presenting to the people of this country a proposition that the government wants to roll out the red carpet to people smugglers and terrorists. We said that there are substantive issues of principle that we need to deal with in a proper and peaceable way. That is the approach we will be taking.

We have accepted the assurances put down in the second reading speech by this government that this bill does not seek to go further in the introduction of new policy in regard to regional processing. It seeks only to enable payments to be made at law. That is the basis on which we are acting. We accept the assurances put down in the second reading speech that the purpose of this legislation is quite specific.

We acknowledge that regional processing is necessary. We reintroduced regional processing in government. We did so on the clear understanding that it was a mechanism that was necessary to stop the criminal syndicates sending people to this country, endangering their lives and exploiting their misery. There was no question that that policy was successful. The number of boats that came immediately after the introduction of that policy dropped by 90 per cent. But in no circumstances did we ever sign up to the proposition that the establishment of regional processing centres meant that we were going to legitimise the brutalisation and mistreatment of people who were detained. At no point have we signed up to that. That is the substantive question that I have no doubt we will want to explore here today.

There is no excuse whatsoever for a country like Australia to abandon its responsibilities at law, on international terms or in terms of basic morality. We have a duty of care when we detain people, and they have not been treated properly. Under the current arrangements, we cannot even guarantee people's security let alone assure them that they will not be mistreated by people who we pay to protect them.

The proposition we have before us is a very simple measure, but there are circumstances on which I believe firmly there need to be some answers. Labor senators will be pursuing that. What the opposition leader put yesterday is that these are circumstances in which the government comes before the parliament where trust is in short supply. This is a government that has managed to take a political advantage out of every circumstance here. This is a government that has, as I have indicated, since Peter Reith and John Howard had the firm
belief that it can appeal to the most xenophobic and racist elements of our community and that it can seek to win votes by being more brutal about these issues than anybody else.

If anyone even raises a question, it is presented in a dog whistle way that the person asking the question lacks legitimacy. That is a proposition we reject. It is our responsibility to defend our country's reputation, to make sure that people who are detained by this country are treated properly and humanely. We will be supporting this legislation on the basis of what the government has said, but we will not stop criticising the way in which this government has behaved when it comes to the gross political exploitation of these issues. We acknowledge that there should be no confusion between the need to stop criminal syndicates exploiting human misery and the need to act properly, humanely and compassionately. That is the basis on which we will proceed on this question.

There are genuine refugees. The proposition that the government seems to advance is that that is an alien concept. There is a notion in this government that rejects the idea that people have any rights to appeal for refugee status in this country. Why else would the government constantly refer to these people as ‘illegals’? They do not even acknowledge the legal right that people have to seek political refuge.

What we have at this time throughout the world is probably the greatest period of social distress and displacement of people that we have seen since the Second World War. There are more displaced people, more asylum seekers and more refugees on the planet today than at any time since the extraordinary upheavals of 1945. Our response calls upon us to acknowledge that there is a huge crisis throughout the world. Our response should not be to draw up the bridges and say, ‘We don't want to know anything about that.’ Our response should be to engage through the international community and the regional processing arrangements to ensure that Australia does its bit to end the human misery.

That is why we have committed to the highest numbers ever for humanitarian settlement. That is why we have committed to ensure that people are treated properly. We also have to acknowledge that desperate, downtrodden people will do desperate things. We have to stop that occurring when it endangers their lives. We are supporting this bill because we acknowledge that people's safety comes first—much before any partisan advantage that politicians can derive on human rights.

We know that the regional processing arrangements work. The government is acknowledging that in the fact that it has brought this legislation forward. We know that the agreements that have been negotiated with Papua New Guinea and Nauru are very important in stopping the actions of those criminal syndicates. We also note, however, that there is no reason why those actions in themselves should legitimise the mistreatment of people as part of a deterrent.

This issue was first raised through the Malaysia agreement. I have already mentioned Tony Abbott's response to that, but I have not forgotten the fact that the Greens and the Liberal opposition at the time came together to stop that. I can understand that the conservatives in this country would play politics hard on these issues. We now know, though, that the real reason they did it was not because the agreement was not any good. I can remember Joe Hockey in tears. Do you remember that? There were extraordinary scenes of Joe Hockey in tears. He said he would not send unaccompanied kiddies across to Malaysia. Yet he has sat in a cabinet of a government that has done the sorts of things that this government has done to
people on Nauru. We know that the real reason the Liberals opposed the Malaysia agreement was not that they thought it was morally objectionable. They opposed it because they thought it might work and take away from the Liberal opposition at the time a major political weapon that they could use against the Labor government.

Yesterday the Leader of the Opposition reminded the government of another truth about this country. It is probably one of the single most important truths about this issue. That is that this country as a nation has been made great because of migration. It has been made great because of multiculturalism. It has been made great because of our diversity. We are a country that should believe—and I believe the overwhelming number of people do believe this—that we are great because we embrace every faith, every flag and every culture. It is our good fortune that people are attracted to this country and are able to live lives that do not call upon them to turn their backs on other cultures. That is at the heart of multiculturalism.

Multiculturalism is so vital to the prosperity of this nation. Yet, since 2001, we have seen this issue be exploited by the most racist and xenophobic in this country, tearing at the fabric, the very idea, of a multicultural Australia. We are saying that we as a nation need to move beyond that. We need to turn our backs on that sort of division and help this community reach an understanding of how important it is not only to honour our international obligations but to demonstrate that we are not a soft touch but that we are a country that acknowledges the strengths of diversity and understands the importance of a national consensus around multiculturalism.

Labor's approach is founded on that principle—that is, our obligations to the international community, international conventions, international treaties and international human rights. Our approach is to ensure that this nation is welcoming of people of all faiths, and there is a demand that we place upon them of the shared respect and tolerance of other faiths. And our approach is that we have to find a place for the most vulnerable in the world; they should be able to come to this country safely and they should come legitimately. On that basis, we are saying that we will support the government in its efforts, but we will not endorse the dehumanising, inflammatory language or the vicious attempts to divide and to shame those that take a different view or those that seek to exercise their rights to approach this country for the purposes of political asylum.

Some hope that this bill might be an opportunity to change the terms of political debate in this country. I am not quite certain that that will occur; but we could at least proffer the idea that, as a country, we should be calling on this parliament to enact laws for a nation that is compassionate, that is strong, that is generous, that is secure, that is safe and that is fair. I look forward to that actually happening.

Senator HANSON-YOUNG (South Australia) (10:54): I rise today to speak in opposition to the Migration Amendment (Regional Processing Arrangements) Bill 2015. I have already raised my concerns about the way this bill has been rushed into the parliament without any real justification by the government. We really have to get to the heart of what this debate is about.

Back in 2012 under the Gillard government there was an agreement between Julia Gillard as Prime Minister and Tony Abbot as the Leader of the Opposition to pass legislation in this place to reopen the detention camps on Manus Island and Nauru. The Greens strenuously opposed that at the time and we spent hours in this place debating the legislation and running
through amendment after amendment. Back then we questioned the wisdom of pushing through legislation that would not have significant safeguards for conditions inside the Nauru and Manus Island detention centres, the fact that there was no independent oversight of these centres, the fact that there was no media access, the fact that there was no time limit on the detention of any person held in these places, let alone those who are most vulnerable, including children and minors who arrive here on our shores all on their own. Every single one of those amendments was opposed at the time by both the Labor government and the Abbott opposition.

What we have seen since then, unfortunately, despite being told, 'It will all be okay, Joe—trust us; we will run these places properly' is the exact opposite. These places have turned into camps of hell. Children have been detained for over two years; young men have been detained for three or four years. There are children who are now suffering in Nauru after being sexually abused and assaulted. One young girl, five years old, was swallowing razor blades because of her level of depression and mental health—a five-year-old child swallowing razor blades. That is what is going on in the Nauru detention camp.

Last year explosive evidence was brought forward in relation to child sexual abuse in Nauru, with women, mothers, being forced to exchange sexual favours so that they could get more time in the shower blocks to clean their children. Witness account after witness account, through the Moss review, the Human Rights Commission report and now this chamber's own parliamentary inquiry, shows that the conditions inside the Nauru detention centre are toxic, are seedy and are inhumane, and it is simply unconscionable for this parliament to not act in order to clean this up.

The bill that we have before us today has been brought forward in a rush, in less than 24 hours, because there is a case before the High Court that involves a number of families. One of those families has had a baby, born here in Australia—a little baby born here in an Australian hospital. In any other world, that child would be considered an Australian, considered to be able to have access to Australian citizenship. That family, in any other circumstance, would be able to celebrate the birth of that child and think about how they would be providing for that child, what school that child would go to, what a great Australian that child would grow up to be. One of those families is one of the claimants in this case, and they are horrified and scared about being sent back to indefinite detention in Nauru.

There are two parts to this case. The first is that the government has not had the legal authority to pay contractors and the Papua New Guinea and Nauru governments the billions and billions needed over the last three years to run these camps. This bill would give legal authority to keep paying billions of Australian taxpayer dollars to keep these camps, that are being run atrociously, operating. The second aspect of this legal challenge is the authority to keep these people in detention, the authority to transfer that newborn baby from Australia to Nauru and to lock her up indefinitely and to lock up the other 80 children who are here in Australia that the immigration minister wants to send to Nauru. There are 80 children here in Australia who have been told they are on the next plane to Nauru, to be locked up in these hellhole conditions indefinitely. I have heard the government's comments on this bill and I have heard the statements made by members of the Labor Party. I want to make it very clear that this bill does more than just give the power to pay contractors. This bill specifically goes to allowing the Commonwealth to do several things, the first of which is:
To take, or cause to be taken, any action in relation to the arrangement or the regional processing functions of the country; …

It is unfettered power as to how they want to run these places; it is an action that is defining this piece of legislation as legislation that permits the exercising of restraint over the liberty of a person. This goes to the heart of the lawfulness of indefinitely detaining a person, whether it is a man, woman or child, in these places.

This is not just about plugging a loophole. These detention camps have been getting worse by the day for the last three years. Now we find they have been run illegally; they have been paid for illegally. You could probably fix those things pretty simply, sure, but the only way to clean these things up is to put some constraints on the government's power to detain people. That is why we will propose a number of amendments in the committee stage. I do not agree with offshore processing; I do not agree that the 'do whatever it takes' attitude means locking children up in an island prison indefinitely. I do not agree that keeping people in squalid conditions in the vain hope that they will give up on seeking protection and just go home to a war zone to face their torturers is what we should be doing. I do not agree that Australia should just legislate away our legal, international and moral obligations and responsibilities. I do not agree with any of those things—but these hellholes exist.

This government and the Labor opposition are rock-solid on keeping these places going. I wish that was not the case. While they are open, Australian taxpayers are going to be spending billions and billions of dollars—one contract for Transfield Services to keep Nauru open for 20 months costs the Australian taxpayer $1.2 billion, and yet there is no running water in these camps. There is not enough food for the children. There are not any toys in the camp. Two years ago hundreds of Australians donated toys to my office to send to Nauru because there were no toys for the children locked up in this place—yet the contractor is paid $1.2 billion of Australian taxpayer money. What is it being spent on? It is not being spent on running a camp that is humane, that is well functioning or that is safe. Staff employed by these contractors are abusing children, are raping women, are sexually assaulting people, are intimidating people detained there. We know this because the evidence has come forward over and over again, and particularly in recent months, to this Senate chamber's own parliamentary inquiry into the matter.

We have to put some restrictions on how these places are run. There need to be some time limits. Why do we think it is okay to fly somebody to Nauru and lock them up forever without trial, without ever being able to see a judge, with no legal protection, with no access to a lawyer—lock them up and effectively throw away the key, all because they had the courage to flee a war zone with their family? Australia's asylum seeker policy is an international disgrace. We have to be doing things better. I do not think anyone can argue that the detention of a child is worth this; that robbing a child of their childhood simply to send not a message to the people smugglers—let's get real—but a political message in the midst of what has become an ugly, ugly debate in this country is worth it.

The Human Rights Commission has no access to the Nauru or Manus Island detention centres, and neither does the Commonwealth Ombudsman, despite the fact that billions of Australian taxpayers' dollars are spent funding these. One of the elements of this court case that the government wants to scuttle is that these facilities are Australia's responsibility. We sign the contracts. The Australian government sets the rules. They sign the cheques. They
train the staff. They decide who goes in, who comes out and how long they are there for. These places are run by the Australian government. This government and the previous government put these places in Nauru and PNG so that they could be out of sight, out of mind and out of the hands of what we would normally expect in Australia to be the rule of law. But they are still Australian. These are still Australia's camps that are locking up men, women and children—punishing them for fleeing torture, abuse and war.

There are a number of Syrian families detained in Nauru. There are also 68 people who are Rohingyans who have fled the torture camps in Burma and then in the jungle in Malaysia and Thailand. There are 68 of them locked up in Nauru. We have seen, over recent weeks, the footage of how these people are treated. We have seen the world, the international community, condemn the treatment of these people by both the Burmese government and of course the people smugglers who tricked them. And yet, rather than dealing with the problem at the source, we are punishing those 68 people by keeping them locked up indefinitely in a hellhole in Nauru. That is wrong.

Those people have not committed any crime. There is nothing in Australian law that says that it is illegal to come here as a refugee—nothing. There is a law that says: ‘For administrative purposes, you must be detained,’ but nothing that says: 'It is illegal to seek asylum.' It does not matter how you get here; that is not what the Australian law says. It does not matter how many times the government wants to use the word 'illegal'. It does not matter how many directions the minister gives his public servants to use the word 'illegal'. It is not illegal in Australian law, let alone international law, to seek asylum or to be a refugee.

This would have been and this is today an opportunity for us to try and fix things. And I appeal to the crossbench and to the Labor Party. I have on the record my views and the Greens' views. We do not support offshore processing. But we will do whatever we can to make it a less cruel place. The dozens of children and women who have suffered at the hands of abusers in the Nauru detention centre over the last two years deserve that. They deserve some help. They deserve to have their suffering acknowledged, heard and acted upon. Today is an opportunity to do that.

We could have spent a good amount of time going through the legislation and working out if there was anything else that needed to be done. If we are going to spend Australian taxpayers' money running these places, let us make sure that they are being run properly, because we know that at the moment they are certainly not.

The private contractors that are making hundreds of millions and billions of dollars' worth of profit out of the people's misery on Nauru do not even want to answer basic questions. We saw that in the recent Senate inquiry. They do not want a bar of it. They want the Australian government to take responsibility. And then we have the Australian government saying, 'We don't want to take responsibility; it's all Nauru's and PNG's fault.' No—what the case before the High Court and the Australian government's response today, of rushing through legislation, shows is that the responsibility lies squarely at the feet of the Australian government, the immigration minister and his department.

So this is where we have to fix it. Let us get some time limits on detention. Let us stop children who are being born in Australia having to be deported back to Nauru. Let us ensure that people who are employed in these places have a legal requirement to report abuse and suffering, just as we would in any other government institution or agency. There should not
be an explosive decision for this chamber today to make to ensure that if staff, who are employed to care for individuals, children and families who are locked up, see abuse happening, they must report it—and that cannot just be to the immigration department, because we know that, in 2013, two years ago, children were being sexually abused, the department knew about it, and nothing was done to remove those children from the centre. We know that because that is the evidence that has been given. We know that because some brave staff who work in these places have had enough—enough of the secrecy; enough of the cruelty—and have been prepared to stand up. And now is the time for the Senate to do the same. I urge the Labor Party to act with courage.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Hanson-Young, your time has expired. Were you intending to move your second reading amendment?

Senator HANSON-YOUNG: I should also add—

The ACTING DEPUTY PRESIDENT: I do not need you to add anything; I just need you to move the second reading amendment.

Senator HANSON-YOUNG: I move:

At the end of the motion, add “but the Senate notes:

(a) the findings of the review by Mr Phillip Moss into conditions in Nauru and the evidence currently before the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru that women and children have been suffering rape, sexual assault, child abuse and severe physical and mental trauma associated with the conditions in Nauru; and

(b) the United Nations Subcommittee on the Prevention of Torture found the conditions on Nauru to amount to torture and trauma”.

The ACTING DEPUTY PRESIDENT: Thank you very much.

Senator LINES (Western Australia) (11:14): I have long advocated the rights of refugees. I support those who seek asylum, who flee persecution, war, uncertainty. Before coming to this place, I actively worked with refugee organisations on processing claims and I continue to donate to refugee organisations. In some ways, the work that I did on behalf of refugees was easier than being in this place and having to make decisions in the best interests of our country—having to make the difficult decision to support this legislation. I take this opportunity to set out why I support this legislation and to make it very clear what I do not support.

I do not support the Abbott government’s continued demonisation of refugees and asylum seekers. They began this attack in opposition and they have ramped up this attack in government. I will never forget, during the election campaign, the billboards demonising refugees which sprang up in Western Australia. With those horrendous billboards all over the city and on the backs of trucks, there was nowhere you could go in the metropolitan areas of Perth and ignore them. That a political party thought it was okay, in Australia, to make the plight of people fleeing persecution an election issue is a disgrace. That it continues this attack, almost on a daily basis in this place, on those fleeing persecution shows the depths they will go to to ensure their political survival.

My reservations about this bill go to the fact that, like many in the Australian community, I do not trust the Abbott government. It has betrayed the trust of the Australian people by breaking its election commitments—its promises. So, when the government comes to Labor
for support of this bill at the eleventh hour, my suspicions are aroused. The Abbott
government, if it ever had any morals, has certainly lost its way on the issue of asylum
seekers and refugees. The Labor opposition opposed this bill and demanded assurances, and
we demanded that they be in the second reading speech. So the government set out
assurances, in the second reading speech, that the amendments in this Migration Amendment
(Regional Processing Arrangements) Bill 2015 solely go to enabling payments and enabling
the fact of regional processing, and that the legislation does not in any way change or expand
the current situation with regional offshore processing. Labor have been given the
commitment that this bill does not empower new conduct and that nothing in it is the basis for
new action. That was set out in the second reading speech.

Our leader, Bill Shorten, summed up the feelings of the Labor Party on this proposal by the
government in his speech on this bill. He said:

When Labor were asked to support this amendment there was some considerable recollection in my
party of Labor's first regional resettlement policy that centred on the Malaysian arrangement. Because
of the High Court's decision in that case, the fate of this plan was left in the hands of the parliament, just
as we are being entrusted now. It was a debate that captured, for all to see, the poisonous, obstructionist
negativity of the Abbott opposition. We remember that, after years of slogans and scaremongering, they
suddenly sought to lecture us on the rights of refugees. We remember the then shadow minister for
immigration, the member for Cook—
Mr Scott Morrison—
the man who said in 2011 that allowing relatives of asylum seekers who drowned at sea to attend the
funeral of their loved ones and, for some, the funeral of their own child was not a reasonable use of
money—lecturing us about being humane.

... ... ...

We will never forget that when Prime Minister Gillard wrote to Tony Abbott asking for
bipartisanship, seeking cooperation to reach a solution, he wrote back saying: 'This is a problem that
you have created and it is your responsibility to solve.' That was his idea of leadership: 'This is your
mess, you fix it.'

We will never forget the deal that the Liberals and the Greens did in teaming up to defeat the
Malaysia arrangement. We will never forget the 689 souls that were lost after that vote. My fear is that
the truth is that the coalition opposed the Malaysia arrangement not because they thought it would not
work but precisely because they were afraid it would work. They played their politics hard.
It is precisely because we remember that Labor are determined to be better. When
confronted with the same facts as Mr Abbott was when he was Leader of the Opposition, our
leader and our Labor caucus did not draw the same conclusion that he did—that it was his
mess and he needed to fix it.

The Moss review, the Human Rights Commission and the Senate select committee on
Nauru have all reported on the inhumane treatment of refugees, the alleged sexual abuse of
children, the alleged rape of women, and on mental illness and poor health. What is the
response of the Abbott government? They bury their heads in the sand, they ignore the truth
and they continue to demonise those who seek asylum.

Questions about the death of Reza Berati remain unanswered. I remember how the then
minister, Scott Morrison, in his initial response, blamed asylum seekers for protesting and
creating a dangerous situation—again, using the tragic death of this young man as an
opportunity to demonise and blame asylum seekers. Where is the justice for Reza Berati?
Where is the pressure on the Papua New Guinean government to undertake a thorough and transparent inquiry? There is no pressure being applied by the Abbott government for the truth to be told, because their agenda is about the demonisation of those who seek asylum and those who seek refuge.

Under John Howard our notion of a fair go country was under attack. He went too far, and it was his changes to industrial relations which finally turned Australians against him. Not only was the Howard government voted out of office—he lost his seat. The Prime Minister was unseated. Now we are seeing the same attacks by the Abbott government—our fair go once more under attack. I would hope that the treatment of those who seek asylum is one of the issues which ensures that the Abbott government are voted out of office at the next election. The Abbott government is turning Australia into a small, mean, closed-border country. No longer do we see words or actions from our government that we are a global player on any issue, let alone see or hear the Abbott government acknowledge that displaced persons and refugees are a global issue. We are becoming the outlier—a country which says that refugees are anybody's problem but ours.

There is no doubt that as a Labor senator I will be criticised by refugee advocates for supporting this bill. My support for this bill in no way legitimises the inhumane way in which the Abbott government are treating refugees. There is no doubt that the situation on Nauru and Manus Island is horrendous. No matter how much the Abbott government tries to cover up, to hide the truth, to hide behind national security, to hide behind border protection, to hide behind on-water matters, the truth always comes out. I want Australia to take its responsibilities for refugees seriously. I want Australia to be a global player, to take its global responsibilities seriously. I want to see the humane treatment of refugees. I want to see timely and fair processing and giving people who seek asylum the opportunity to rebuild their lives. There is a world refugee crisis. Australia needs to be part of the solution to that crisis. In my view that does involve regional processing, but it does not in any way involve the sorts of actions and inactions that we are seeing from the Abbott government when we see what they are doing on Nauru and Manus Island.

The reality is that there are refugee camps all over the world. There are people living on the borders of Turkey; there are people fleeing into Jordan and other places. All over the world there are people seeking refuge, seeking a safe place. There are displaced people everywhere, and it needs a global solution.

What we want to see from the Abbott government is the timely and fair treatment and processing of asylum seekers—not holding people in camps for years and years and years; not picking the cheapest contractor, who does not understand that people are traumatised and need to be treated fairly and humanely. That is what I want to see from the Abbott government. But I do not believe that I will see that. I know in my heart and my head that it suits the Abbott government to continue to demonise asylum seekers, to call them illegals, to give them numbers, to deny their humanity. That is not good enough, and I am working, every day that I can, to expose the inhumane treatment of the Abbott government, the way it treats people in asylum. Any one of us, depending on where we were born, could have been faced with that situation. I know that if my family were under threat I would do everything that I could to remove them from that threat. We want to see asylum seekers, no matter where they
land, being processed quickly and being treated fairly and humanely. I do not believe we will see that from the Abbott government.

This morning, before coming down here, I took a call from a refugee advocate who was in tears at the treatment of children. She told me many stories. Of course we all know those stories are there, yet they fall on the deaf ears of the Abbott government and we have no response. How many more times do reports have to come before this parliament, have to be published, that talk about the inhumane treatment of refugees on Manus Island and Nauru? How many more times do those things have to be reported before the Abbott government finally steps up to its responsibility? I fear that for the term of this government they will continue to ignore those pleas.

My take is that in detention camps, wherever they are run, people need to be processed humanely and fairly. Of course that is not what this bill is about, but those emotions become aroused when we talk about Australia's treatment of refugees. I certainly will continue to condemn, in this place and in other places, the inhumane treatment of refugees. It reflects on all of us, whether we are elected politicians in this place or members of the community. The way the Abbott government is treating refugees in our name is a reflection on all of us. And I know that this is gaining currency in the Australian community. You can only demonise asylum seekers so far. When ordinary Australians actually meet people who are fleeing persecution they can imagine themselves in exactly the same situation. Any of us in this place would do exactly the same thing—take action to protect ourselves and our families.

The legislation before us today is an opportunity for the Abbott government to step up to the plate, to start treating asylum seekers humanely, to stop calling them illegals or illegal boat arrivals, to stop using refugees as some kind of political football. But I suspect that will not happen in this place today. During the committee stage we will be questioning the government and seeking further assurances on just exactly what their intentions are. Despite the bill setting those intentions out, we have no trust in the Abbott government and what they put forward as legislation. We will be assuring once again that they are very clear about particular causes in the amendment they are seeking today. We will hold them to account on this bill and any other bills they bring before this place. I can only urge them today to look at their own actions, to look at their poor, unjust, unfair, inhumane treatment of those seeking asylum. I can only urge them to get on with the processing, to give people the opportunity to rebuild their lives, to give people their humanity back and to treat people fairly.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:31): I rise to speak against this bill. This bill is really an acknowledgement that the operation of our detention centre network is illegal. This bill is an acknowledgement that the abuse and atrocities that have been committed in detention centres have been committed under an illegal framework. Far from asylum seekers being illegal, it is the actions of this government that are illegal. Yesterday we heard assurances from Senator Brandis that what is occurring in our offshore detention centre network is legal, lawful and within the rule of law. But a government that is confident that what it doing is within the law does not rush through legislation like this at a minute to midnight. A government that is confident that what is going on in its name is within the law does not bypass the parliamentary processes that need to be scrutinising bills like this. This is an acknowledgement that what is going on in detention is going on illegally.
The case that has triggered the response from the government was brought on by the Human Rights Law Centre. It involves a number of families, some members of whom are children born here in Australia, who are being deported. Their stories and their families represent the stories and families of many other thousands of people who are suffering in detention in our name. We recently had 40 people transferred from a detention centre near Darwin. Many of those people were going back to Nauru after reporting sexual abuse in that detention centre. They were returning to a place where they have suffered horrific abuse. There were allegations of rape and people being denied antenatal care or decent medical care and children exposed to violence being forced to self-harm. That is what this bill is about. It is about changing the law to allow these things to happen within the law. It is about changing the law to allow the continued abuse, rape and violence that our system of detention centres now represents.

This is part of a worrying pattern from this government. Far from being a conservative government, this is a radical and extreme government that is prepared to trash the very foundations of our democracy. It has used bribes to turn back boats on the high seas in an effort to aid people traffickers. It has implemented gag orders to prevent doctors, nurses and teachers from disclosing what is happening in detention centres. It has referred journalists to the Australian Federal Police. It has engaged in surveillance, going as far as to spy on a senator in the Australian parliament doing nothing else but her duty in ensuring that we get access to what is going on in these facilities. It is a government that across so many other areas is trashing the rule of law. In the very unedifying debate around citizenship, we saw a government that is prepared to deny people a very basic and fundamental right. This is a government that is lawless, that is out of control and that needs a check. That check should be the Australian parliament, the Senate, and yet here we are forced to rush through this legislation with the support of the Labor Party. The government will argue that all of these actions are justified because it has stopped the boats. In the words of the Prime Minister, 'that is all that matters'. Well no, Prime Minister, that is not all that matters. What matters is respect for our democratic institutions. What matters is respect for the separation between executive government and the courts.

We are paying a huge price. Stopping the boats is not difficult. The question is: what price are we prepared to pay for it? Are we prepared to trash the institutions that all of us have fought so hard to protect? Are we prepared to justify the epidemic of mental health issues that are occurring inside detention? Are we prepared to justify young children self-harming? At a time when the nation is asking itself about how we could allow child sexual abuse to occur in our national institutions, are we going to turn a blind eye when that occurs in those institutions that are dealing with people who are fleeing torture and persecution and doing nothing other than coming to us for help? What is the economic cost of what we are engaged in? What is the economic cost? The billions of dollars that are necessary to sustain this immoral, illegal policy of offshore detention comes at a huge economic cost. I cannot help but wonder if that money were invested in resettlement in our regional communities what sort of contribution they could be making to the nation right now. We would be a richer, better, more decent nation for having offered them assistance and for allowing them to do what they want to do, which is to contribute, to give their kids a decent education, to become citizens of this nation and to contribute in a way that generations before them have been able to do.
I think of the cost in terms of our international reputation and the relationship we have with our nearest neighbours, like Indonesia. We recently met with the Indonesian ambassador, and it is very clear that they are hurt, angry and disappointed in the way we have responded to this problem by isolating ourselves from the rest of the world and by not recognising that what we are confronting is a global issue that requires a global response. We must engage at a regional level with Indonesia, with Malaysia and with our neighbouring countries to ensure that we all work together to resolve what is a diabolically difficult issue.

What we will hear from the government, and from good people on all sides, is that we have to do this to stop the boats and to stop the drownings at sea. But this response started long before the issue of people drowning at sea entered the public consciousness—it started with language like 'queue jumpers' and 'illegals'; that we were being 'swamped'; we need to 'protect our borders'; we have to 'keep terrorists out'. That is the language in which this debate started. Not for a moment do I believe that this is driven by any concern for drownings at sea—not for a moment.

We need to ask ourselves: by stopping the boats are we keeping people safe? If people do not drown in Australian waters but die elsewhere, does that mean that they are safe? If we, through our policy of deterrence, condemn someone to remaining in an environment where they are being tortured, where they are being raped, where they are suffering tremendous abuse, and where they are at risk of being killed for their religious beliefs or their sexual orientation, that does not mean they are safe. It means that we have outsourced the problem to someone else.

The issue here is that we have a political debate dominating what really is a moral question. The politics have become so toxic in this debate that political self-interest is motivating the actions of this government and governments before them. There is a different way. We saw bipartisanship in the early 1980s in response to the wave of South-East Asian refugees. There was a compact back then that we would not play the race card. There was a compact that said that we as a rich, prosperous, decent nation would play our part in resettling people who are fleeing horrendous circumstances. We did that through leadership, and we brought the Australian community with us. We can do that again, but what we are engaged in now is a race to the bottom—it is a political race to the bottom because we have one party that knows no boundaries on this issue. It will gag people from speaking out. It will pay people traffickers. It will bring in legislation at one minute to midnight to allow what is an unlawful policy to continue to operate, which means more abuse, more torture and more children being driven to self-harm. That is what is being allowed to happen in this parliament today.

I say to the Labor Party: this is a race you cannot win because with each step this government will take us further away from what is decent, from what is right and from what cannot be justified in any way. There are no perfect solutions; I readily admit that. It is a diabolically difficult problem. There is no perfect solution to this issue, but what we are doing cannot continue. No matter what the problem is, forcing young children to self-harm and condoning abuse within detention centres can never be a solution—it can never be a solution. There has to be another way. Through this debate, we will introduce a range of amendments that, while not perfect and while not going far enough, will improve what is a terrible situation.
Let me talk to some of those amendments. We have to have time limits in detention. We cannot continue to operate a system that deprives people of all hope, and that is what we are doing right now. We cannot have forced deportations of young children who are being born here in Australia and sent away to the hellholes that are the Nauru and Manus Island detention centres. We cannot continue to allow that to happen. We have to lift the cloak of secrecy that exists within our detention centres. Journalists should get access to what is going on there and we should be forced to witness it with our own eyes. We cannot continue to keep this 'out of mind, out of sight'. The whole edifice depends on the Australian community not knowing what is going on in detention—because the moment that we connect with people in there as people, with children in there as children, we know that what goes on there cannot continue. We have to lift the veil of secrecy that sustains this inhumane policy, and that is why journalists must get access.

There must be mandatory reporting of child abuse. How can we have a situation, as reported, where a four-year-old girl is exhibiting behaviour consistent with a child who has been sexually assaulted:

… including sexualised dancing and pulling her pants down to invite adults to insert their finger into her anus. Despite child protection workers assessing her to be at "high risk of ongoing sexual abuse", … the immigration department did not remove her from detention.

That is a report from The Guardian. How can we allow that to happen? At this time, we are questioning the issue of institutional childhood sexual abuse, where we are hearing horrific stories of people whose lives have been damaged right across the nation. We have a royal commission and we are asking ourselves that singular question: how could we let this happen? Yet here we are with people going through what we have accepted as a huge tragedy and a wrong that needs to be addressed. So we must have mandatory reporting of sexual abuse. We have to give access to the centres to the institutions that are a check on the executive, like the Human Rights Commission. Rather than denigrating the human rights watchdog, which is doing nothing other than speaking truth to power, we should be allowing it access to these institutions so that we know what is happening in our name.

There is another way. This is an opportunity for the Labor Party to stand up with us and for the crossbench to stand up with us and say to the government, 'Enough is enough.' This cannot continue, it must stop and this bill cannot be supported.

Senator LAMBIE (Tasmania) (11:48): I rise to contribute to the debate and oppose the Migration Amendment (Regional Processing Arrangements) Bill 2015. I want to make it clear that I support the principle of offshore processing of illegal immigrants, as long as it is done according to the law of our country and the countries which are being paid to process illegal immigrants trying to travel to Australia. I am pleased that the boats have been stopped and that the deaths at sea and the exploitation of those illegal immigrants by Indonesian government officials and people smugglers have been severely curbed. I am happy that our boarders have been secured and I will not be supporting any Greens amendments to undermine the principle of offshore processing.

However, having said that, it is clear that this legislation is nothing more than a get-of-jail-free card for the government. Before any legislation is passed through this parliament, we should wait and hear what our High Court has to say. We should learn the valuable legal lessons that the High Court challenge will provide. The possibility still exists that this
legislation is overreach and not needed. The manner in which this legislation is being brought into the Senate, with no community consultation and in a blind panic, smells of political fear. Because of a High Court challenge to the Migration Act by the Human Rights Law Centre, both the Liberal Party and the Labor Party have agreed to rush legislation through this parliament at a dangerous, rude and unseemly speed, in order to justify expenditure on offshore processing of illegal immigrants at Nauru.

According to a media report written by Shalailah Medhora in The Guardian, the Human Rights Law Centre:

... also claims that the government does not have jurisdiction to detain people offshore. Constitutionally, Australia has authority to lock people up onshore, and deport people. The HRLC—

the Human Rights Law Centre—

maintains that Australia does not have specific legislative authority to lock people up in another country.

If this media report turns out to be true, then both the Labor Party and the Liberal Party in this place have a lot of explaining to do. Why wasn't this legislation fixed in the first place? If it is proven to be defective, who will be held accountable? Labor will have been the culprits to have introduced dodgy migration laws and the Liberals will have been the ones to turn a blind eye to them and operate under them.

Isn't it strange to think that yesterday I delivered a speech to the National Press Club in Canberra, where I defended independent crossbench senators from the claim by this government that we had caused chaos in this parliament? And here we are today debating dodgy government legislation which was rushed through the lower house and into the Senate yesterday in two hours, in order to carry out a pre-emptive political strike on a future High Court decision which may find that the Australian government has broken the law and made illegal payments to host countries participating in our offshore processing and detention of illegal immigrants. Of course, all this comes after our Prime Minister refused to answer questions about credible allegations that his government has also arranged for international criminals who smuggle illegal immigrants to be paid $30,000 worth of bribes.

The definition of chaos is when a government rushes dodgy legislation through parliament in order to make a pre-emptive political strike on the rule of law, while paying international criminals $30,000 worth of bribes. What we have before us is proof of chaos and dysfunction within the present Liberal government and an example of the lingering chaos and dysfunction from the old Rudd-Gillard-Rudd Labor government.

More examples of chaos and dysfunction can been seen by the disclosure, yesterday, of the PM's stage-managed trip to ASIO headquarters and subsequent media coverage that illegally disclosed the location of terrorism hot spots. For his own political survival, this PM is milking the terrorism threat for all it is worth—for every single, last, little drop. His deliberate media strategy of overly focusing on the threat of terrorism is covering up the cuts to the entitlements of pensioners and veterans.

We do not need new terrorism laws. We already have laws of sedition and treason that will protect us from those who assist and help our enemies in any way whatsoever. We just do not have politicians who will allow our law enforcement authorities to properly apply the laws of sedition and treason which must be approved by the Attorney-General.
Another example of this Prime Minister milking the threat of terrorism for all it is worth is the deployment of Australian troops to the Middle East. There is absolutely no military sense in basing our troops in the Middle East and exposing them to threats of insider attack, abduction and attack by gas. Our allies, the Americans, by their own standards with only 3,000 troops in Iraq—about one-third of the number of US forces in Afghanistan—are guilty of flying the flag with a token force. The main purpose of our troops' presence in the Middle East is so that the Liberal backbench will not revolt and overthrow their own PM. Our troops' presence in the Middle East provide a great backdrop for our Prime Minister's next staged-managed press conference.

As Mr Abbott's popularity drops, and the Liberal backbenchers plot, he will continue to milk the terrorism threat for all it is worth and fly to the Middle East to visit our troops. Mr Abbott will shamelessly pose with our diggers, the people he has taken money from, yet he still denies them back pay and a fair pay rise of a full three per cent not, effectively, a two per cent pay cut. Back home, according to last year's budget papers, his government spends $20 million on culturally appropriate residential aged care to Arabic-speaking communities in Western Sydney, which is one of the places, according to yesterday's ASIO maps, that is a terrorism hot spot. How about that!

As I have indicated in this place before, if you want to address and defeat the threat from Islamic State, accept the fact that Iraq, Syria and Libya should be allowed to organise itself into three ethnic and religious groups—the Kurds, the Shiites and the Sunnis—and then fund and provide resources to the Kurds. They are the only effective democratic force on the ground against the Islamic State brutes, and with 40 million people in the Middle East the Kurds are a stateless nation deserving of our support. They deserve our support and that is where we should be sending our resources. This is who we should be assisting.

The government's official explanation of the bill in their explanatory memorandum reads:

The Bill provides statutory authority for the Commonwealth to:

- take, or cause to be taken, any action in relation to the arrangement or the regional processing functions of the country;
- make payments, or cause payments to be made, in relation to the arrangement or the regional processing functions of the country; and
- do anything that is incidental or conducive to the taking of such action or the making of such payments.

This Bill provides statutory authority for the Commonwealth to provide assistance to other countries to carry into effect arrangements for the processing and management of unauthorised maritime arrivals who have been taken to regional processing countries, including the expenditure of Commonwealth money on these arrangements. The Bill confirms the ability of Australian officials, acting on behalf of the Commonwealth, to take action to assist the foreign government in the regional processing country, consistent with the law of that country.

The amendments in the Bill will have retrospective and prospective effect.

Everyone knows that retrospective law making is extremely bad law making. It breaches fundamental human rights, democratic and legislative standards, and must be avoided at all costs. Yet this government expects the people of Australia to accept these retrospective laws.
You do not have to search far to find quotes which describe the kind of legislative madness and chaos that the Liberal government has created by introducing the retrospective element. If you look at the Attorney-General's website it will tell you—and I quote:

Where does the prohibition on retrospective criminal laws come from?

Australia is a party to seven core international human rights treaties. The prohibition on retrospective criminal laws is contained in article 15 of the International Covenant on Civil and Political Rights (ICCPR).

The Australian Law Reform Commission said in one of its papers on retrospective laws, at paragraph 7.5:

Retrospective laws are commonly considered inconsistent with the rule of law. In his book on the rule of law, Lord Bingham wrote:

'Difficult questions can sometimes arise on the retrospective effect of new statutes, but on this point the law is and has long been clear: you cannot be punished for something which was not criminal when you did it, and you cannot be punished more severely than you could have been punished at the time of the offence'.

At paragraph 7.6 of the paper the Australian Law Reform Commission also said:

Retrospective laws make the law less certain and reliable. A person who makes a decision based on what the law is, may be disadvantaged if the law is changed retrospectively. It is said to be unjust because it disappoints 'justified expectations'.

How many Australians today with disappointed justified expectations would like the opportunity to retrospectively cast their vote at the last election now that the truth about the dysfunction and chaos besting this Liberal government is starting to emerge?

While the Liberal government seems as if it is prepared to use bribery to reward and stop people smugglers from sailing into Australian waters, I believe there are better solutions to target people smugglers and take them out of business permanently. That way we would not have to rely so much on the threat of offshore processing to deter illegal immigrants from trying to breach our border protection.

People smugglers, wherever they are in the world, must be treated like international criminals and referred to the International Criminal Court, the ICC. A Parliamentary Library study I commissioned says:

While the ICC—

the International Criminal Court—

has jurisdiction over "crimes against humanity" and these could include people smuggling type offences ...

There's a couple of different ways that the ICC could be tasked by the UN—

the United Nations—

to target people smugglers.

It is sitting here! Further, it says:

1) Australia could ask the UN Security council to refer cases of people smuggling to the ICC. If that request was granted by the security council, then the ICC would be officially authorized to Compulsory jurisdiction and against people smugglers.

2) The ICC statute or the Rome Statute, Australia signed on the 9th of December 1998, establishes a permanent international Criminal Court to try individuals accused of the most serious of crimes to the
International community as a whole, namely genocide, crimes against humanity, war crimes and the crime of aggression.

3) The Rome Statute contains obligations on the State parties to co-operate fully with the ICC. The Rome statute applies to natural persons irrespective of whether they are government officials (e.g., Heads of State, Government and parliamentary officials).

4) No statute of limitations applies to crimes within the ICC's jurisdiction.

5) The ICC is empowered by its enabling statute to sentence an offender to a term of imprisonment (not exceeding 30 years) a fine and to order forfeiture of assets and property derived directly or indirectly from the crime.

Wouldn't a few Indonesian people smugglers think twice about bringing illegal immigrants to Australia—raping and murdering them along the journey—if they and their government accomplices or travel agents organising the trip knew they all could receive a long jail sentence, heavy fines and have their assets seized after the ICC investigated them and hauled them before an international court? The involvement of the ICC must be seriously considered by the Australian government. Once again, I call on—and will continue to call on—the foreign minister to make the appropriate representations to the UN on our behalf.

Another method of deterring people smugglers and having fewer people transferred to offshore processing facilities is to decrease our foreign aid budget to Indonesia every time our forces detect people-smugger boats. Our foreign aid budget to Indonesia is currently over $300 million a year and over the forward estimates it is worth $1.2 billion. If Indonesia allows people smugglers to fill their boats and leave their ports bound for Australia, then, for each boat our Customs and Navy vessels intercept, let's take away a minimum of $5 million worth of foreign aid to Indonesia. Let's put our foot down. I am sure they would get the message very quickly. The money could be spent on looking after our serving diggers, our pensioners and our veterans who are being unfairly targeted by this government with cuts to their pay, entitlements and pensions.

I note that this matter was supposedly dealt with on 21 September 2011 when the then Minister for Immigration and Citizenship introduced amendments to the immigration act in response to another High Court challenge. During the debate, Minister Bowen said:

The purpose of this bill is clear: to restore to the executive the power to set Australia's border protection policies, specifically the power to transfer asylum seekers arriving at excised offshore places to a range of designated third countries within the region, while ensuring protection from refoulement, for the processing of their claims.

This is a power that was thought to exist until 31 August this year, when the majority of the High Court decided that transfers under section 198A of the Migration Act could only take place to countries legally bound to provide protections equivalent to those offered by Australia.

Subsequent legal advice has made it clear that the High Court's decision has thrown into significant doubt the ability of governments—present or future—to effect transfers to a range of countries in our region who are prepared to offer protection from refoulement, and will allow processing of refugee claims to be made, including Papua New Guinea and Nauru.

So today the government is introducing amendments to the Migration Act to make parliament's intention absolutely clear.

The questions I pose to the Senate after considering Mr Bowen's speech are the following. Why didn't both the Liberal and the Labor parties have a good look at the immigration legislation four years ago after the High Court raised the red flag? The red flag was raised so
high you could not miss it. Will we be going through the same chaotic rushed process in another three or four years? Surely a properly measured, thoughtful, independent review of our immigration laws would be a good idea.

In closing, I again repeat my introduction. While I oppose this legislation, I support the principle of offshore processing of illegal immigrants as long as it is done according to the law of our country and the countries which are being paid to process illegal immigrants trying to travel to Australia. I am pleased that the boats have been stopped and the deaths at sea and the exploitation of the illegal immigrants by Indonesian government officials and people smugglers has been severely curbed. Before any legislation is passed through this parliament, we should wait and hear what our High Court has to say. This parliament must show respect to our High Court. We must do that. We should learn the valuable legal lessons that the High Court challenge would provide. The possibility still exists that this legislation is overreach and not needed.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:06): I rise to sum up the debate. I am bound to say that I did not hear most of the debate. I will reply to you in a moment, Senator Lambie. From what I heard of the contributions made by the Greens, we heard nothing more than the usual platitudes and insincere objections to a series of measures that has saved hundreds, if not thousands, of lives, and it is disgraceful.

Senator Lambie, I did hear your contribution. May I answer the question that you put directly at the end of your contribution—when the High Court, some four years ago, struck down what was then called the Malaysian Solution of the previous government, why the Migration Act was not amended at that time. That, of course, Senator Lambie is a question for those who were then the government—the Labor Party. It was a Labor scheme that, at the time, was opposed by the coalition of which you speak. But, nevertheless, and to be fair, the issues in the Malaysian Solution case—and I have, of course, studied carefully the judgements in the Malaysian Solution case—were not about offshore processing. So the issues addressed in this legislation are completely unrelated to the issues that were before the High Court in the Malaysian Solution case. And, of course, Senator Lambie, it goes without saying that we respect the High Court. Nobody knows that better than I, as a person who used to practice before the High Court.

I will deal with the bill itself. The amendments provided for in the bill give the Commonwealth express statutory authority to take certain action to give effect to regional processing arrangements. The amendments apply where the Commonwealth has entered into an arrangement with another country with respect to the regional processing functions of that country. The current regional processing framework was introduced by the Labor government. It provides for the transfer of unauthorised maritime arrivals, who arrive in Australia by boat without a visa, to another country for assessment by that country of their claim to be refugees. The bill strengthens and puts beyond doubt the existing legislative authority for the Commonwealth's regional processing arrangements provided for by the Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012. As I said to Senator Lambie a few moments ago, this is an act of the previous Labor government. But this government believes that that act has a sound legal foundation. The fact that we are introducing this legislation and passing it through the parliament today does not mean we do
not consider that the act already has a sound legal foundation. But, as honourable senators would be aware, it is the subject of challenge in three proceedings before the High Court at the moment and is to be disposed of, as I understand it, in the second half of August.

Regional processing arrangements are important to Australia's strong border protection policies to ensure the long-term viability of regional processing. The amendments in the bill strengthened the existing legislative framework for regional processing and activities so as to put it beyond doubt. The amendments in the bill are necessary to ensure that the legislative framework for regional processing remains solid, as it is—but, as I said, to put it beyond doubt. The bill confirms the ability of Australian officials acting on behalf of the Commonwealth to take action to assist the foreign government in the regional processing country, consistent with the law of that country.

The bill ensures that there is express legislative authority for the Commonwealth to provide assistance to other countries to carry into effect arrangements for the processing and management of unauthorised maritime arrivals who have been taken to regional processing countries. It does not purport to have any effect in itself on the rights of those persons. In other words, the bill is declaratory. It does not change the law; it provides additional legislative support for the existing law. It represents neither a change of law nor a change of policy.

Regional cooperation is a key element of the government's approach to the protection of our borders, consistent with the Australian government's responsibility to maintain strong border protection policies. The bill will ensure that Australia is able to continue to provide the necessary support and assistance to regional processing countries to carry out these arrangements. It deserves the support of all parties, and I acknowledge and thank the opposition for both their support to the bill and their willingness to facilitate this passage through the parliament today. I commend the bill to the Senate.

Senator BERNARDI (South Australia) (12:12): Mr Deputy President, I seek your advice in ruling in respect of the second reading amendment moved by Senator Hanson-Young. Senator Hanson-Young's amendment does refer to evidence that is before a Senate committee, which, although not specifically, may include evidence that has been received by the committee in confidence. It has always been my understanding that matters before the Senate should not be further adjudicated on by a vote of the Senate before they are ready. That may not be the correct technical term, but it has always been my understanding that was the case. I just wonder whether this second reading amendment is actually in order. I seek your guidance.

The DEPUTY PRESIDENT: There is no such rule and, therefore, I do not rule in favour of your point of order. The second reading amendment will stand, and that is now the question before the chair.

Senator KIM CARR (Victoria) (12:13): Mr Deputy President, could you advise the chamber on the status of the second reading amendment, such as the one that we have before us, in terms of the overall bill.

The DEPUTY PRESIDENT: The status, as I understand it, is that, if passed, it will be noted in the Journals of the Senate.
Senator HANSON-YOUNG (South Australia) (12:13): I seek leave to amend the second reading amendment.
Leave granted.

Senator HANSON-YOUNG: Obviously, I want to be able to get through this legislation today in the most constructive way, despite the fact that I have very strong feelings about this legislation. I want to make sure that I am, at the outset, providing an opportunity of goodwill in this place. I would just like to amend the second reading amendment to end after the words, 'The findings of the Review by Phillip Moss into conditions in Nauru and the evidence currently before the Senate Select Committee into conditions in Nauru.' Therefore, I amend the second reading amendment to read as follows:

At the end of the motion, add "but the Senate notes the findings of the review by Mr Phillip Moss into conditions in Nauru and the evidence currently before the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru".

The DEPUTY PRESIDENT: The second reading amendment of the Greens has been amended in the terms outlined by Senator Hanson-Young.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:14): Can I seek clarification on that. So, Senator Hanson-Young, when you say there will be a full stop after the word 'Nauru', where it appears in the second line of the amendment, everything thereafter is deleted. Is that right?

The DEPUTY PRESIDENT: That is also my understanding of the amendment. The question now is that the second reading amendment, as amended, moved by Senator Hanson-Young be agreed to.

Question agreed to.

The DEPUTY PRESIDENT: The question now is that the second reading motion, as amended, be agreed to.

The Senate divided. [12:21]

(The Deputy President—Senator Marshall)

Ayes ......................37
Noes ......................13
Majority ...............24

AYES

Back, CJ
Brown, CL
Bushby, DC (teller)
Canavan, M.J.
Day, R.J.
Fawcett, DJ
Fifield, MP
Ketter, CR
Lines, S
Madigan, JJ
McAllister, J

Brandis, GH
Bullock, J.W.
Cameron, DN
Dastyari, S
Edwards, S
Fierravanti-Wells, C
Gallagher, KR
Lindgren, JM
Ludwig, JW
Marshall, GM
McEwen, A
**AYES**

- McGrath, J
- McLucas, J
- O’Neill, DM
- Peris, N
- Ruston, A
- Singh, LM
- Sterle, G
- Williams, JR
- McKenzie, B
- Moore, CM
- O’Sullivan, B
- Polley, H
- Seselja, Z
- Smith, D
- Urquhart, AE

**NOES**

- Di Natale, R
- Hanson-Young, SC
- Lambie, J
- Lazarus, GP
- Ludlam, S
- Milne, C
- Muir, R
- Rhiannon, L
- Rice, J
- Siewert, R (teller)
- Waters, LJ
- Whish-Wilson, PS
- Wright, PL

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**Question agreed to.**

**Bill read a second time.**

**In Committee**

Bill—by leave—taken as a whole.

**The CHAIRMAN:** The question is that the bill stand as printed.

**Senator HANSON-YOUNG** (South Australia) (12:24): There are a number of amendments to this legislation that are in the process of being circulated that we will move throughout this committee process. But, firstly, I have some questions. A bunch of amendments is being circulated as we speak—I can see the attendants handing out wads of paper as I stand here. As I said from the beginning, in relation to this debate this morning—

**Senator Brandis:** Mr Chairman, on a point of order: is there a question before the chair at the moment?

**The CHAIRMAN:** Yes, the question before the chair is that the bill stand as printed, and Senator Hanson-Young is speaking to that question.

**Senator Brandis:** When are we going to have the amendments?

**The CHAIRMAN:** The amendments are being circulated now. I have the amendments in front of me.

**Senator HANSON-YOUNG:** I need to say it five times—I have already said it four times. Maybe there is a bit of chatter over on that side. I want to make it clear that I asked the attendants to circulate the amendments over 40 minutes ago. I am sorry: it is not my fault. Perhaps, if we had not rushed this legislation into the chamber so quickly, we would all be in a much better situation to deal with the piece of legislation and amendments before us. In the meantime, I ask the minister: how much money has already been spent on the legal action in relation to the court case that this legislation is seeking to undermine?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:26): The question is based on a false premise, Senator.

Senator HANSON-YOUNG (South Australia) (12:26): I ask the minister: how much money has been spent on the current case before the High Court in relation to these matters?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:27): It is not the practice to disclose fees paid to individual legal practitioners.

Senator HANSON-YOUNG (South Australia) (12:27): I do not understand why the government is so desperate to keep this secret. We know there are actually a number of High Court cases currently afoot in relation to offshore detention, the detention of children and the legalities in relation to the indefinite detention of children and families. You would think—that even being the Attorney-General—there would be some understanding of how much money these current laws are costing the Australian taxpayer, because they were not drafted very well in the beginning. They have tried for years now to keep it quiet and they are now being found to be illegal.

I would like clarification as to whether the amendments have been circulated to everybody who needs them. I have one copy before me.

The CHAIRMAN: I have seen the attendants surround the chamber and I believe everyone who is in the chamber now has a copy.

Senator HANSON-YOUNG (South Australia) (12:29): I wish to move the amendments on sheet 7738. We are normally given a running sheet—

The CHAIRMAN: That is correct, Senator Hanson-Youn. We are just going to take our time and get through this so there is no confusion in the chamber. There are a number of amendments. I suspect that maybe you want to deal with (1), (2) and (3) together? I will leave it to you. It may be easier, without a running sheet, to simply deal with them one at a time.

Senator KIM CARR (Victoria) (12:29): The opposition will be asking the government a number of questions. We have indicated that we will facilitate the passage of this legislation, and we are not in any way moving away from that commitment. There will be a number of questions, and it will facilitate the passage of this legislation if we are able to get answers to our questions.

Minister, the Minister for Immigration and Border Protection tabled a statement on the urgency of the bill. Can the minister advise the Senate as to why it took the government from February, when the court proceedings were initiated, to now to take this action? Can you indicate in your answer the process that determined that this bill should amend the Migration Act in the manner that it does?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:31): The process was the ordinary process of deliberation by cabinet and the party room.

Senator KIM CARR (Victoria) (12:31): Senator Brandis, at the risk of repeating myself, it will facilitate the passage of this bill if we can get some answers. To say that it is the normal process of deliberation is not quite what I call a fulsome answer. So I will ask again: will the
minister be able to indicate what was in the government's mind as to why it was necessary to change the legislation and, in particular, why it took from February to now to reach that conclusion?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:31): In relation to the first question you ask, I have already answered that in my summing up speech to the second reading debate. In relation to the second question you ask, I have nothing to add to my answer to your earlier question.

Senator HANSON-YOUNG (South Australia) (12:32): I have been told that we are not going to have a running sheet, which will mean that I will have to pick out which of my amendments relate to each other and explain that to the chamber as we go. Amendment (1) is linked to amendment (7), and this is in relation to stopping children that are here in Australia being sent to Nauru for further detention.

Obviously, I am extremely concerned. The Australian Greens have been on the record for a long time that we do not believe that children should be kept in indefinite detention. We do not believe that they should be kept in the conditions in Nauru. We have seen over and over again the mounting evidence that detention harms children—frankly, whether it is here in the Australian mainland or in offshore facilities. Despite the fact that across most sides in this place most people would argue that children do not belong in detention, we have a situation where children remain in detention as a matter of course. Whether they arrive here or are born here in Australia to asylum seeker parents, as a matter of course, children are being put on a plane and sent to detention in Nauru. This amendment says that children should not be deported to Nauru for the purpose of detention.

We are talking about young children. We are talking about newborn babies who have been born here in Australian hospitals. One of the claimants in relation to the case currently before the court is a family with a newborn baby. That baby was born on Australian soil. That baby was born in an Australian hospital and, like every other child that is born here in Australia, that baby should have access to protection here under Australian law. Instead, that baby is staring down the barrel of being deported for detention in Nauru. It is unconscionable that, with all of the evidence of the damage that detention does to children, we continue to keep children locked up and we continue to automatically detain children simply because they have been born to asylum seeker parents.

Over the last six months, we have seen more and more evidence come forward about the specific conditions in Nauru and how unfit those conditions are for children—particularly young children. Save the Children are the agency contracted by the government to provide services to children in detention. They are the people employed to look after these children, and they themselves say that they cannot do that properly while it is going on in Nauru. That is how bad the conditions are in the camp. It is unsafe for children. It is unsafe for babies. The issues of child abuse, you would have to argue, is the worst example of how unsafe Nauru has become for children and babies in this place. While we continue to send more children there, we are turning a blind eye to the harm that is being done inside.

It is beyond belief that this still happens after the Moss review, which detailed horrific evidence in relation to the abuse of children; after the Human Rights Commission report *The forgotten children*, which listed that there were 38 cases of child abuse inside centres; and
after the evidence from staff who work in Nauru themselves saying that they cannot look after these kids properly. They cannot do their job as social workers, teachers or case managers properly while they are in these conditions. The conditions are simply not fit for children.

We have to make a stand today. This is an opportunity. The government wants more power to detain people and wants to shore up its power to detain people. It should not include children who are currently here in Australia being deported to Nauru. That is what these amendments do. I hope that we can get some agreement across this chamber that no more children should be sent to this place from here in Australia. I would argue that never again should children be detained but, with the conditions as they are at the moment, surely people can understand that for now there should be no excuse for continuing to send children, infants and babies to be detained indefinitely in Nauru or any other offshore facility. That is the substance of those particular amendments.

The CHAIRMAN: Senator Hanson-Young, I have now had an opportunity to look at your amendments and have taken some advice, and it would appear that they could be done in groups, with (1) and (7) together, (2) and (8) together, (3) and (5) together and (4) and (6) together. That is just a suggestion from me given that they are on different topics, but it is simply a matter for you. Do you want to move any amendments at this point?

Senator HANSON-YOUNG: I think we can go to (1) and (7), which are in relation to the further detention of children.

The CHAIRMAN: Do you seek leave to move amendments (1) and (7) together?

Senator HANSON-YOUNG: I seek leave to move those amendments together.

Leave granted.

Senator HANSON-YOUNG: I move amendments (1) and (7) on sheet 7738 together:

(1) Clause 2, page 2, at the end of the table, add:
3. Schedule 2 The day after this Act receives the Royal Assent.

(7) Page 4 (after line 5), at the end of the Bill, add:

Schedule 2—Detention of vulnerable persons

Migration Act 1958

1 Subsection 198AD(1)

Omit "sections 198AE, 198AF and 198AG", substitute "sections 198AE, 198AF, 198AG and 198AGA".

2 After section 198AG

Insert:

198AGA Vulnerable persons

(1) Section 198AD does not apply to an unauthorised maritime arrival if the person is a vulnerable person for the purpose of subsection (2).

(2) A person is a vulnerable person for the purpose of this subsection if:

(a) the person is aged under 18; or

(b) the person is the parent or guardian (or other family member) of a person covered by paragraph (a).

3 Application
The amendments to the *Migration Act 1958* made by this Schedule apply in relation to an unauthorised maritime arrival on or after the day on which this Schedule commences.

**4 Transitional—vulnerable persons transferred before Royal Assent**

1 This item applies to a person if:

(a) the person was an unauthorised maritime arrival at any time on or after 13 August 2012; and

(b) the person was taken from Australia to a regional processing country in accordance with subsection 198AD(2) of the *Migration Act 1958*; and

(c) at the time the person was taken to the regional processing country the person was:

(i) aged under 18; or

(ii) the parent or guardian (or other family member) of a person covered by subparagraph (i); and

(d) on the day this Act receives the Royal Assent, the person is:

(i) aged under 18; or

(ii) the parent or guardian (or other family member) of a person covered by subparagraph (i).

2 As soon as reasonably practicable, an officer must ensure the person is removed from the regional processing country and returned to Australia.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:39): Senator Hanson-Young, you do not have a monopoly on compassion, you know. These measures, which were introduced by the previous Labor government and continued by the current government, were designed as part of a solution to a problem. The previous government, because of the lack of other measures which we have now introduced, failed to solve the problem, but this is nevertheless an important element in the solution to the problem. Please, Senator Hanson-Young, do not insult everybody else in this Senate by suggesting that there is anyone in this chamber who is glad to see children in detention. Of course there is not—not one person. But what we want to do is to stop the people-smuggling trade, a trade which, as we know, during the six years of the Labor government cost the lives of more than 1,100 people, many of them children. This measure, supported by the opposition, gives further legal strength to arrangements that the opposition, when they were the government, put in place. We want to see children out of detention. We have released more than 90 per cent of the children who were in detention.

Senator XENOPHON (South Australia) (12:40): I have some questions to put to the Attorney, and I have had a brief discussion with the Minister for Immigration and Border Protection's office this morning. I can indicate that I do broadly support the legislation, with some reservations. I understand that Senator Leyonhjelm, for instance, has an amendment that has just been circulated, which I think is an excellent amendment and an excellent safeguard which I hope the government will seriously consider. He will obviously speak to that very soon.

My question goes to the litigation that is in place. I am happy for this to be taken on notice: insofar as there has been a challenge to the existing legislation and the litigation or the challenge took place based on the legislation as it stands, and this legislation seeks to change the legislation so that there is no question mark or potential valid challenge to this legislation, what is the government's attitude, firstly, to there being no costs orders to this date against those parties that sought to challenge the legislation—that is, if they are given an opportunity
to withdraw their case up until this point in time—and also to meeting any reasonable costs to this time, given that they proceeded on the basis of the current legislation and the rules? The goalposts are being shifted. I understand why, but there seems to be an issue of fairness in respect of that aspect of this legislation and the impact on those parties that have sought to challenge this legislation.

Progress reported.

NOTICES

Presentation

Senator Ludlam to move:

That—

(a) the Senate notes the comments made by Productivity Commissioner, Mr Peter Harris, who said ‘we treat consumers like idiots if we don’t publish [cost benefit studies]’ in relation to Commonwealth funding of major infrastructure projects; and

(b) there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development, no later than 5pm on Tuesday, 11 August 2015, the following documents held or prepared by Infrastructure Australia:

(i) the Infrastructure Australia Board evaluation of the Perth Freight Link project that occurred at its meeting on 7 May 2015,

(ii) any business case presented by the Western Australian Government for the Perth Freight Link project,

(iii) any other documents in relation to the Perth Freight Link project provided to Infrastructure Australia by the Western Australian Government, and

(iv) any assessment of the proposed Perth Freight Link undertaken by Infrastructure Australia, including the priority of this project as compared to other projects.

Withdrawal

Senator WRIGHT (South Australia) (12:42): Pursuant to notice, I withdraw business of the Senate notice of motion No. 3 standing in my name for today for the disallowance of the Federal Courts Legislation Amendment (Fees) Regulation 2015.

COMMITTEES

Membership

The DEPUTY PRESIDENT (12:42): The President has received letters from party leaders requesting changes in the membership of various committees.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:43): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Intelligence and Security—Joint Statutory Committee—

Appointed—Senators Gallagher and Wong, pursuant to the Intelligence Services Act 2001

Murray Darling Basin Plan—Select Committee—

Appointed—Senators Canavan and Ruston
Thursday, 25 June 2015

SENATE

4589


Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru—Select Committee—

Appointed—Substitute member: Senator Johnston to replace Senator Bernardi from Friday, 26 June 2015 to Friday, 31 July 2015

Participating member: Senator Bernardi

Question agreed to.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:43): by leave—I move:

That

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

No. 2 Defence Legislation (Enhancement of Military Justice) Bill 2015
No. 3 Export Charges (Imposition—General) Bill 2015
Export Charges (Imposition—Customs) Bill 2015
Export Charges (Imposition—Excise) Bill 2015
Export Charges (Collection) Bill 2015
No. 4 Imported Food Charges (Imposition—General) Bill 2015
Imported Food Charges (Imposition—Customs) Bill 2015
Imported Food Charges (Imposition—Excise) Bill 2015
Imported Food Charges (Collection) Bill 2015
No. 5 Tax and Superannuation Laws Amendment (Employee Share Schemes) Bill 2015;

(b) the following business be called on after the bills listed in paragraph (a) till not later than 2 pm:

(i) tabling and adoption of Selection of Bills Committee report,
(ii) placing of business, and
(iii) discovery of formal business; and

(b) government business be called on at the completion of business listed in paragraph (b) till not later than 2 pm today.

Question agreed to.

BILLS

Defence Legislation (Enhancement of Military Justice) Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator LAMBIE (Tasmania) (12:44): Continuing my previous contribution, quoting from a letter received from a member of the Defence community:
The Bill gives statutory recognition which in effect does little to enhance the perceptions of a decreasing control by the chain of command.

Little consultation has been undertaken by DL in this process and little thought has been given to the mechanics. For example, the proposed section 110ZA(2) states that CDF (Chief of Defence Force) is to appoint the DDCS (Directorate of Defence Counsel Services) Director.

Firstly is it appropriate that the head of the chain of command should be the one appointing the body whose sole purpose is to assist the member, usually as a result of discipline decisions by the chain of command?

Currently the Director is a policy officer on rotation from DL (Defence Legal) for a period of 3 years.

This is problematic in that once their rotation is completed, they go back into Defence Legal and report through the same chain of command that they have been supposedly been battling against on behalf of the ADF accused members.

This has created significant difficulties in moving DDCS forward in both its roles and functions.

This year, however, a (RLO Reserve Legal Officer) on CFTS is in the role which has brought the first independent Director, allowing significant changes in policy and procedures to allow the Directorate to become effectively a legal aide office for the ADF members.

Significant concern has to be raised as to what will occur in 2016 unless the current Director is extended, or another independent RLO is appointed.

The functions in the proposed section 110ZB should be expanded to include the independent provision of legal assistance for all ADF members regardless of whether it is required as a result of discipline or administrative decisions by command.

Currently Navy has 3 independent personnel billets around Australia that solely looks after the member's interests. They report directly to DDCS.

As Army and Air Force are reluctant to enter into this arrangement, DDCS should be tasked with being the independent provider of legal assistance.

Currently command legal officers arrange the provision of legal assistance for members which is obviously a major conflict.

This can result in a number of issues depending on the Service—for example Air Force reluctant to engage a non Air Force RLO for a member despite the members request.

I would respectfully suggest that significant consultation needs to be undertaken in relation to this aspect of the Bill and/or it being referred off to a Committee.

The opportunity to create a statutorily independent DDCS (Directorate of Defence Counsel Services) for the benefit of all ADF members should not be lost.

I hope that the minister and government will listen carefully to the concerns I have raised with this legislation. The key question is: is the Director of Defence Counsel Services truly independent and serving in the best interests of the troops? Our military justice system is all about justice and fairness. I remind this government: how can you have military leaders and politicians talking about justice and fairness when you have still denied a fair wage rise to the men and women of our Defence Force? You must deliver an extra one per cent pay rise and you must back pay our troops from November last year.

I pray to God that the troops we have in the Middle East stay safe. I make this simple plea: bring them home. We have the wrong policy in the Middle East. We could bring our troops home from the Middle East and save $750 million a year or $3 billion over the forward estimates. It is dumb, so dumb, to risk our diggers' lives in Iraq when the US has made a half-
hearted commitment with only 3,000 troops in the recognition that it is a lost cause in Iraq now. Any clear-thinking person knows that the current Iraqi army will turn on our diggers and betray them to the ISIS enemy in a heartbeat. If, as Australian Strategic Policy Institute executive director Peter Jennings suggests, Australian troops' role is upgraded from 'advise and assist' to 'advise, assist and accompany' it is a recipe for disaster.

After my briefing with the Australian Kurdish lobby last week and many conversations with Australian veterans who have previously fought in the Middle East, it is clear that the best future for the Iraqi people is for the country to split into 3 autonomous regions controlled by the Shia, the Sunnis and the Kurds. There are 40 million Kurds living in various countries in the Middle East. They are the only fighters on the ground who are able to take on the brutes in Islamic State and they do not drop their weapons and do a runner. The Kurdish people have a culture and value system that is similar to Australians'. Unlike the majority of cultures in the Middle East, the Kurds value human, women's and animal rights. They also support a democratic federal system of government similar to Australia's, which is made up of autonomous regional governments.

If Mr Abbott and his government fail to bring our soldiers home soon and listen to the advice of Australian Strategic Policy Institute executive director Peter Jennings, who wants the diggers' role upgraded from 'advise and assist' to 'advise, assist and accompany', then they had better be ready for questioning. Will you negotiate if ISIS captures any of our diggers? How will our military justice system deal with that scenario? Would it authorise cash payments to terrorists to secure the safe release of our Australian diggers?

I am aware of a system that the military has whereby our troops are authorised to give cash payments to foreign nationals. It is called tactical payments. After receiving a heads-up from our young diggers, I questioned our senior ADF officers during the recent Senate estimates hearings about the practice of our troops paying large sums of Australian cash to Afghan and Iraqi nationals. As the official parliamentary record shows, this practice was confirmed to me by senior officers in charge of our ADF, who described the policy of paying large sums of cash to Afghan and Iraqi civilians as 'tactical payments'.

However, the official record also shows those in charge of our military were very reluctant to release any further information. Rear Admiral Griggs told me in relation to tactical payments authorised by the Australian government: 'There will be elements of that which we will not be able to answer.' My response is: why not? That cash was Australian taxpayers' money. It still comes with a strict level of accountability. There should be no cover-up. My genuine fear was that, if this scheme was not properly administered, then the Australian government could have been guilty of giving cash to the Taliban and other enemies, and funding their fight against our own people.

With the knowledge that our government officials, perhaps working with our military, could have been involved in paying off or bribing people smugglers—who are not only international criminals, murderers and rapists but clearly also enemies of Australia—I am even more determined to find out the truth of this matter and to hold this government to account.

I have questions on notice regarding the full details of our military's tactical cash payments and I would like them to be answered. I expect the government to cover them up; however, they are now getting to the 28-day period from estimates, and I would like my questions answered. As I said to Rear Admiral Griggs on 1 June, I want to know: who it was paid to;
where it was paid to; the dates, times and locations; how much all up we have spent over the last 12 years paying this money; and whether or not that information has been paid for, for counterintelligence, within that domain.

With our Prime Minister and senior Liberal ministers dodging questions about cash payments to people smugglers, it is reasonable to ask: were tactical cash payments made to bribe our enemies in the Middle East? Are cash payments to people smugglers part of our military's tactical payment scheme? How does the current military justice system deal with the rights of diggers who, on behalf of this government, may be part of a cash payment scheme which a future royal commission may determine to be illegal? And exactly where do our soldiers stand on these illegal payments? Those are the answers I am looking for. I want to make sure that it is not our soldiers who are going to be thrown behind bars.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:54): I thank senators for their contribution.

Question agreed to.

Bill read a second time.

Third Reading

The DEPUTY PRESIDENT (12:54): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:54): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Export Charges (Imposition—General) Bill 2015
Export Charges (Imposition—Customs) Bill 2015
Export Charges (Imposition—Excise) Bill 2015
Export Charges (Collection) Bill 2015

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:54): I thank senators for their brevity.

Question agreed to.

Bills read a second time.

Third Reading

The DEPUTY PRESIDENT (12:53): As no amendments to the bills have been circulated, I shall call the minister to move the third reading unless any senator requires that the bills be considered in Committee of the Whole.
Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:55): I move:
That the bills be now read a third time.
Question agreed to.
Bills read a third time.

Imported Food Charges (Imposition—General) Bill 2015
Imported Food Charges (Imposition—Customs) Bill 2015
Imported Food Charges (Imposition—Excise) Bill 2015
Imported Food Charges (Collection) Bill 2015

Second Reading
Debate resumed on the motion:
That the bills be now read a second time.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:56): I again thank senators for their courtesy.
Question agreed to.
Bills read a second time.

Third Reading
The DEPUTY PRESIDENT (12:56): As no amendments to the bills have been circulated, I shall call the minister to move the third reading unless any senator requires that the bills be considered in Committee of the Whole.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:56): I move:
That these bills be now read a third time.
Question agreed to.
Bills read a third time.

Tax and Superannuation Laws Amendment (Employee Share Schemes) Bill 2015

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

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:57): I again thank senatorial colleagues for their courtesy.
Question agreed to.
Bill read a second time.

Third Reading
The DEPUTY PRESIDENT (12:57): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.
Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (12:57): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

COMMITTEES
Selection of Bills Committee
Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:58): I present the eighth report of 2015 of the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 8 of 2015
1. The committee met in private session on Wednesday, 24 June 2015 at 7.22pm.
2. The committee resolved to recommend—That—
   (a) the Australian Government Boards (Gender Balanced Representation) Bill 2015 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 8 September 2015 (see appendix 1 for a statement of reasons for referral);
   (b) the provisions of the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 17 August 2015 (see appendix 2 for a statement of reasons for referral);
   (c) contingent upon its introduction in the House of Representatives, the provisions of the Fairer Paid Parental Leave Amendment Bill 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 15 September 2015 (see appendix 3 for a statement of reasons for referral);
   (d) the provisions of the Gene Technology Amendment Bill 2015 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 18 August 2015 (see appendix 4 for a statement of reasons for referral); and
   (e) the Voice for Animals (Independent Office of Animal Welfare) Bill 2015 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 15 September 2015 (see appendix 5 for a statement of reasons for referral).
3. The committee resolved to recommend—That the following bills not be referred to committees:
   Australian Citizenship Amendment (Allegiance to Australia) Bill 2015
   Excise Tariff Amendment (Fuel Indexation) Bill 2015 Customs Tariff Amendment (Fuel Indexation) Bill 2015 Fuel Indexation (Road Funding) Special Account Bill 2015 Fuel Indexation (Road Funding) Bill 2015
   Higher Education Support Amendment (New Zealand Citizens) Bill 2015
   Migration Amendment (Regional Processing Arrangements) Bill 2015
   Passports Legislation Amendment (Integrity) Bill 2015
Social Security (Administration) Amendment (Consumer Lease Exclusion) Bill 2015
Social Services Legislation Amendment (Defined Benefit Income Streams) Bill 2015
Tax Laws Amendment (Small Business Measures No. 3) Bill 2015
Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015.

The committee recommends accordingly.

4. The committee considered the following bill but was unable to reach agreement:
   Shipping Legislation Amendment Bill 2015.

5. The committee deferred consideration of the following bills to its next meeting:
   Aboriginal Land Rights (Northern Territory) Amendment Bill 2015
   Acts and Instruments (Framework Reform) (Consequential Provisions) Bill 2015
   Australian Centre for Social Cohesion Bill 2015
   Australian Defence Force Superannuation Bill 2015
   Australian Defence Force Cover Bill 2015
   Defence Legislation Amendment (Superannuation and ADF Cover) Bill 2015
   Civil Law and Justice (Omnibus Amendments) Bill 2015
   Competition and Consumer Amendment (Australian Country of Origin Food Labelling) Bill 2015
   Corporations Amendment (Publish What You Pay) Bill 2014
   Motor Vehicle Standards (Cheaper Transport) Bill 2014
   Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2014
   Tax and Superannuation Laws Amendment (2015 Measures No. 2) Bill 2015

David Bushby
Chair
25 June 2015

APPENDIX 1

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
Australian Government Boards (Gender Balanced Representation) Bill 2015

Reasons for referral/principal issues for consideration:
In undertaking the inquiry, the Committee should consider:
1. The benefits of ensuring gender-balanced representation on Government boards;
2. The reasons behind existing policy in this area;
3. The support given to existing policy by both major parties;
4. The need to secure such measures in legislation; and
5. Any related matters.

Possible submissions or evidence from:
Department of Prime Minister and Cabinet — Office for Women
Boardlinks
Women on Boards
Women's Leadership Institute Australia

Committee to which bill is to be referred:
Senate Finance and Public Administration Committee (Legislation)

Possible hearing date(s):
July 2015

Possible reporting date:
September 2015

(signed)
Senator Rachel Siewert

APPENDIX 2

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
Australian Radiation Protection and Nuclear Safety Amendment Bill 2015

Reasons for referral/principal issues for consideration:
This bill deals with sensitive matters pertaining to the administration of radioactive and nuclear materials. It should be referred to committee for examination to ensure that the wider community of involved stakeholders has the ability to put forward its views to fully inform Senators on the details of the legislation.

Possible submissions or evidence from:
Friends of the Earth, the Australian Conservation Foundation, the Beyond Nuclear Initiative, the Office of the Supervising Scientist, ARPANS, ANSTO, the Medical Association for the Prevention of War, Northern Territory Environment Centre, Department of Industry and Science, Sutherland Shire Council.

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

Possible hearing date(s):
N/A

Possible reporting date:
17 August 2015

(signed)
Senator Rachel Siewert
APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Fairer Paid Parental Leave Amendment Bill 2015
Reasons for referral/principal issues for consideration:
   To scrutinise the impact of proposed changes to Paid Parental Leave through this legislation..
Possible submissions or evidence from:
   Department of Social Services
   ACTU
   National Foundation for Australian Women
   The Parenthood
   Economic Security for Women
   The Victorian Women's Trust
   Australian Council of Social Service
Committee to which bill is to be referred:
   Senate Community Affairs Legislation Committee
Possible hearing date(s):
   To be determined by the committee
Possible reporting date:
   12 October 2015
(signed)
   Senator Anne McEwen

APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Gene Technology Amendment Bill 2015
Reasons for referral/principal issues for consideration:
   To consider:
   Changes to license variation, including extending licenses beyond the scope of the original Risk Assessment and Risk Management Plan.
   Amendment to the list of factors which the regulator must consider before the dealings can be declared Notifiable Low Risk Dealings by the Governor-General. This includes removing the requirement that the GMO be biologically contained so that it is not able to survive or reproduce without human intervention.
   Any other matter of the committee's interest.
Possible submissions or evidence from:
   OGTR
CSIRO

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

Possible hearing date(s):
The committee's discretion

Possible reporting date:
1st week August 2015

(signed)
Senator Anne McEwen

APPENDIX 5

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:

Reasons for referral/principal issues for consideration:
This Greens private members bill establishes the Office of Animal Welfare as an independent statutory authority - with its CEO responsible for reviewing and advising upon the protection of animal welfare in Commonwealth regulated activities.

Animal welfare is an important issue to Australians across political divides. It receives regular media coverage and commensurate outrage from community and large animal welfare networks. The recent inquiry into National Senator Back's Ag-gag private members bill received over 2,000 responses.

In the face of continuing animal abuse, this government has responded by dissolving the federal Australian Animal Welfare Strategy and its independent advisory committee, and the Inspector General of Animal Welfare and Live Animal Exports.

In 2012 Labor endorsed the developing of a model for an Office of Animal Welfare, which was then set aside when Labor gained government. Last week Labor tabled a motion in the House noting the Government's abolition of Inspector General of Animal Welfare and Live Animal Exports. This inquiry can provide an opportunity to test Labor's commitment.

The inquiry will also provide an important animal welfare campaign hook, especially if an early election is called.

Possible submissions or evidence from:

Committee to which bill is to be referred:
Rural and Regional Affairs and Transport

Possible hearing date(s):
Weeks of beginning 21 & 28 August

Possible reporting date:
September sittings
(signed)
Senator Rachel Siewert

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

Senator MOORE (Queensland) (12:58): Mr Deputy President, I have an amendment. We have circulated the amendment to the Selection of Bills Committee report, and I believe the Greens also have an amendment to the Selection of Bills Committee report. Ours, as circulated, refers to the Shipping Legislation Amendment Bill 2015. I move:
At the end of the motion, add, "and, in respect of the Shipping Legislation Amendment Bill 2015, the provisions of the bill be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by the first sitting day of 2016".

The DEPUTY PRESIDENT: Senator Siewert, my advice is that your amendment is actually in the form of an amendment to Senator Moore's amendment.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:59): I do understand now. Senator Moore moved her amendment first, and I am now amending hers. I do apologise. I move:
At the end of the amendment, add, "and:
(a) the Migration Amendment (Regional Processing Arrangements) Bill 2015 be referred to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 18 August 2015; and
(b) the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015 be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 19 August 2015".

The DEPUTY PRESIDENT: Senator Fifield, I understand that you have foreshadowed a further amendment. What I intend to deal with first is Senator Siewert's amendment to Senator Moore's amendment, and then I will come back to you for a further amendment to the amendment. The question before the chair now is that Senator Siewert's amendment be agreed to.

The Senate divided. [13:05]
(The Deputy President—Senator Marshall)

Ayes .................11
Noes .................40
Majority ................29

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

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

NOES
Back, CJ
Bullock, J.W.

Brown, CL
Bushby, DC

CHAMBER
Senator WRIGHT (South Australia) (13:07): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator WRIGHT: I want to express the great disappointment of the Australian Greens on the vote that just took place, when the government and the opposition and a significant number of the crossbenchers voted not to refer the citizenship bill, also known as the allegiance to Australia bill, to the full scrutiny of the Legal and Constitutional Affairs Legislation Committee of the Senate.

The Prime Minister indicated that this significant legislation, which will be looking at the revocation of one of the most fundamental rights in a democracy—that of citizenship—would be given a full inquiry, but that means it will only go to the Parliamentary Joint Committee on Intelligence and Security. The only members of that committee are government and opposition members, and all nine men on that committee have had past associations with the military, security and spy agencies through government. This means that those other MPs in this parliament who represent people who have voted for the Greens and Independents will not have the ability to ask and inform ourselves properly, and it will not be transparent for the public. It is a shame and it should not keep happening.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:09): by leave—I move the following amendments to Senator Moore’s amendment in respect of the Shipping Legislation Amendment Bill 2015:

Omit “Rural, Regional Affairs and Transport Legislation Committee”, substitute “Economics Legislation Committee”.

Omit the reporting date, substitute “12 August 2015”.

Let me just emphasise that Senator Moore’s amendment seeks to have the inquiry into this legislation report in 2016. I know that it will not have escaped your attention that it is currently 2015. In fact, we have yet to reach the middle of 2015. What this amendment from
Senator Moore seeks to do is to put the consideration of this legislation out into the never-never. The government is not adverse to an inquiry. We are very comfortable with an inquiry. In fact, we would have understood if the opposition had elected to have a date later in the year, but they have chosen not to.

The Deputy Prime Minister, who has responsibility for this legislation, has repeatedly stated the government's intention to ensure that the bill be subject to scrutiny by the parliament. We do not have an issue with that, but, as I have indicated, an inquiry process that will take more than six months is not reasonable, is counterproductive and will do nothing but further damage the shipping industry in Australia. We have already seen the number of major Australian registered ships with coastal licence plummet from 30 vessels in 2006-07 to just 15 in 2013-14. I pose the question: do Labor and the Greens want to wait until the industry is past the point of no return before action is taken?

The government has been consulting with stakeholders for more than a year on coastal shipping policy. Their response has been resounding. They want Labor's overly bureaucratic, deliberately cumbersome and inflexible legislation changed. It is also interesting that Labor would propose such a long committee process when this is the complete opposite of their behaviour when they introduced their own legislation when last in government. Labor rushed the legislation through the parliament, dumping a significant number of amendments on the parliament and without providing the then opposition or industry the opportunity to consider them in any detail to determine their impact. Such significant economic reform that will have such wide-reaching positive impact on the Australian economy warrants the consideration of the Senate economics committee, we propose. It warrants a reasonable time to be considered, but it does not need more than six months. This bill is broader than just shipping companies and our transport network. This is about the cost of doing business in Australia. This is about our sugar industry, our cement industry, aluminium, mineral sands, the resource sector, fertiliser industry, gypsum and petrol refineries to name but a few.

The government would like to send this bill to the Senate economics committee for a report date after the winter break, which would provide adequate time for consideration of this. If the opposition has proposed a date between that which we are nominating and next year, I could have understood that, but they are not. They have nominated 2016. That is unreasonable. We are proposing that this legislation is referred to the Economics Legislation Committee for report on 12 August 2015. We think that is an entirely reasonable proposition.

Senator MOORE (Queensland) (13:13): We are seeking that this piece of legislation go to the Senate Rural and Regional Affairs and Transport Legislation Committee. We are doing that for a number of reasons. One is that this is the committee under which most of these issues around shipping and transport are normally heard. We have Senator Sterle, behind me, who works in this committee. The important issues of shipping in Australia are already the subject of an extensive Senate Rural and Regional Affairs and Transport References Committee hearing, so it makes sense for the people who are working and negotiating all the time in this area, as an effective Senate committee, to have the same issues that they have been looking at to go to the same committee, which already has the estimates process for this industry.

We know that this is an extraordinarily complex area. We know that there was a long history of engagement in this process when Labor was in government. There were extensive
considerations in the House of Reps looking at the whole area around national shipping, and we know that it has important environmental, national security and freight transport efficiency implications.

This is an important issue. There have been a number of reviews in the past, all of which reinforce the need for these issues to be considered carefully. They need a wide range of engagement. Sensibly, if you already have a committee process operating that has a reporting date in the first sitting week of next year, we truly believe that this is a more effective way. It will use the expertise best and respond most effectively to the industry if this matter is referred to the Rural and Regional Affairs and Transport Legislation Committee with the same reporting date as the references inquiry so that the work can be done together, all the issues can be looked at and we can maximise the efficiency of the debate. It is an important process. In speaking against Senator Fifield's amendment, I am also speaking to mine to minimise the length of the debate.

Senator LAMBIE (Tasmania) (13:15): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator LAMBIE: Thank you. The crossbenchers are a little concerned. August is too early, but 2016 is too late, so we are asking that some other compromise be made. Like you said, Senator Moore—and I respect you for it—it is a really important matter and it needs to be dealt with. I just think that leaving it to 2016 is too long.

Senator IAN MACDONALD (Queensland) (13:16): Mr Deputy President, are we debating a motion?

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

Senator IAN MACDONALD: I will speak to that.

The DEPUTY PRESIDENT: And let me advise the Senate that the time for this debate will end at 1.28 pm. If the question has not been put by then, it will be put at that time.

Senator IAN MACDONALD: I come from North Queensland, as I never stop telling people. Some of the big industries up there, such as sugar, aluminium and cement, are industries which use coastal shipping. Because of the actions of the Labor government in previous years, industries are being forced to ignore Australian product and import product—in sugar, in cement and in lots of things—because they simply cannot afford the cost of domestic shipping in Australia. This has been an issue for a long, long period of time and the government intends to do something about it. The opposition will no doubt oppose it, but, more than oppose it, they want to delay any real consideration of the bill out into the never-never. Suggesting that this be put out to next year is just incredibly dishonest. It shows that the Labor Party have no real interest in it. They are frightened that an earlier consideration by the committee and report to the Senate would encourage the crossbenchers to support the government's legislation. Labor do not want to take their chances, so they put it out into the never-never.

Senator Moore's contribution was full of hypocritical jargon. She was talking about sending things to another committee when a different committee is looking at it. Of course, the Labor Party have just facilitated another one of the abuses of the committee system by referring a
matter that was being dealt with by the Senate Legal and Constitutional Affairs Legislation Committee—the Monis letters. It had come up in estimates and a request had been made. The legislation committee had moved to have a spillover so that people could be questioned about that. But, in the meantime, the Labor Party introduced a motion to send this to a references committee—the exact same issue.

As I said earlier today, this makes just a complete mockery of what was once a revered and respected Senate committee system. When I first joined the Senate 25 years ago, Senate committees worked cooperatively. They worked in a nonpartisan way. They actually achieved results that were good for governments. They alerted governments to obvious errors. Be they Liberal or Labor governments, the Senate committee system used to work in a bipartisan way. Today, I say with a lot of regret, the Senate committee system has just become a tool in the armoury of the Labor Party and the Greens political party to use them for purely political purposes—no real gain and no real policy commitment but purely for political purposes. That is what brings these committees into disrepute.

I think that Senator Fifield's motion is a good one, but perhaps I could foreshadow a further amendment that would, as Senator Lambie suggests, be a compromise that would involve something between August and next year. Rather than me foreshadowing an amendment, perhaps others in the chamber will. (Time expired)

Senator XENOPHON (South Australia) (13:23): Mr Deputy President, I seek to move an amendment to Senator Fifield's amendment, and seek your guidance as to how we do this. The first part is that I move that the amendment be put in two parts. The question of which committee it ought to go to should be a separate question to the issue of the date, and, in respect of the date, that I move an amendment to Senator Fifield's amendment that the date be amended to Monday, 12 October 2015. I hope that is clear enough, Mr Deputy President.

The DEPUTY PRESIDENT: Senator Fifield and Senator Moore are indicating it is clear.

Senator XENOPHON: I am glad they find it clear. I move:

> omit "12 August 2015", substitute "12 October 2015".

The DEPUTY PRESIDENT: The question now is that Senator Xenophon's amendment, which is amending Senator Fifield's amendment, which is amending Senator Moore's amendment, which is amending the motion moved by Senator Bushby, be agreed to. The trouble is that I do not have any of these amendments in front of me, and I should have, so maybe we will get that and I can then put them in two parts for you, as requested. Your amendment, Senator Xenophon, is seeking simply to amend the date on Senator Fifield's amendment. That does not need to be put in two parts. That can just simply be done. Your amended amendment will then be put, Senator Fifield.

Senator Xenophon's amendment amending the date on Senator Fifield's amendment is the question before us. The question is that Senator Xenophon's amendment be agreed to.

Question agreed to.

The DEPUTY PRESIDENT: Senator Xenophon, do you need another part?

Senator XENOPHON: It is the issue of which committee it goes to and whether that be a separate question. We have dealt with the issue of the date, so there is some consensus in respect of that.
The DEPUTY PRESIDENT: That has amended Senator Fifield's amendment. The other part of Senator Fifield's amendment, as I am reading it now, is effectively that it be referred to the economics committee, and that is in opposition to Senator Moore's amendment. Is everyone clear on that?

Senator Siewert: We are trying to achieve what we have and, I think, we have reached agreement of a sort in the chamber. Now, as I understand it, if we vote on Senator Fifield's motion, we vote it down, therefore we vote down the amended date. That is the problem. We actually then will have to amend Senator Moore's amendment.

The DEPUTY PRESIDENT: This is part of the problem when senators simply get up and move amendments verbally without having them circulated. It does make it difficult for the chair. We are all trying to keep up, and we all know what we are trying to achieve. I am sure that will be the final outcome.

The part of Senator Fifield's amendment relating to the committee is the question before the chair. So everyone is clear on that. The question is that that motion be agreed to.

The problem we are facing is that we are trying to sort out an amendment, which everyone agrees to, as an amendment to an amendment that may not succeed. So the way through this I suggest—and this might be a first for the Senate—is why don't we see if Senator Moore will accept the change to the date as part of her amendment, and then Senator Fifield's amendment simply deals with the committee. Is everyone happy with that course of action? Senator Moore, could you indicate for the record that you would be happy with that.

Senator MOORE (Queensland) (13:28): I support that, Mr Deputy President. I seek leave to amend the amendment as follows:

Omit "the first sitting day of 2016", substitute "12 October 2015".

Leave granted.

The DEPUTY PRESIDENT: Thank you. Now let us put Senator Fifield's amendment to the chamber. Thank you, Clerk.

The Clerk: The question is that amendment (1) moved by Senator Fifield proposing that Senator Moore's amendment referring the Shipping Legislation Amendment Bill 2015 to the Rural and Regional Affairs and Transport Legislation Committee be amended to send the bill to the Economics Legislation Committee.

Senator Ian Macdonald: Mr Deputy President, on a point of order: Senator Moore's motion went to more than that. It said that it report by an October date. She has reframed her motion, as I understand it, to say it goes to the transport committee by 10 October. Senator Fifield is moving an amendment to say it goes to a different committee. That is the motion. That is what I was asking be read out to make sure it is absolutely clear. Perhaps I could ask again whether Senator Moore's motion, which she has accepted an amendment to, be read, and then Senator Fifield's motion be read.

The Clerk: The amendment as moved by Senator Moore and amended by leave by Senator Moore says: 'At the end of the motion to adopt the Selection of Bills Committee add: "But in respect of the Shipping Legislation Amendment Bill 2015, the provisions of the bill be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 12 October 2015". Senator Fifield's amendment is "to
ommit Rural and Regional Affairs and Transport Legislation Committee and replace it with Economics Legislation Committee”.

The DEPUTY PRESIDENT: That is where I thought we were. The question is that Senator Fifield’s amendment (1) be agreed to.

The Senate divided. [13:35]

(The Deputy President—Senator Marshall)

Ayes .....................31
Noes .....................35
Majority ..................4

AYES

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Day, R.J.
Fawcett, DJ
Fifield, MP
Leyonhjelm, DE
Macdonald, ID
McKenzie, B
O’Sullivan, B
Ronaldson, M
Ryan, SM
Seselja, Z
Smith, D
Xenophon, N

Bernardi, C
Bushby, DC (teller)
Cash, MC
Cormann, M
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Lindgren, JM
McGrath, J
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Sinodinos, A
Williams, JR

NOES

Bilyk, CL
Bullock, J.W.
Carr, KJ
Dastyari, S
Gallacher, AM
Ketter, CR
Lazarus, GP
Ludwig, JW
McAllister, J
McLucas, J
Moore, CM
O’Neill, DM
Polley, H
Rice, J
Singh, LM
Urquhart, AE
Waters, LJ
Wright, PL

Brown, CL
Cameron, DN
Conroy, SM
Di Natale, R
Hanson-Young, SC
Lambie, J
Ludlam, S
Madigan, JJ
McEwen, A (teller)
Milne, C
Muir, R
Peris, N
Rhiannon, L
Siewert, R
Sterle, G
Wang, Z
Whish-Wilson, PS
The DEPUTY PRESIDENT (13:38): I can advise the chamber, after all of that, that the question now is that Senator Moore's amendment, as amended by leave by Senator Moore, be agreed to. So that everyone is very clear: Senator Moore's amendment is the same, apart from the date. It has now been changed to October 2015.

Question agreed to.

The DEPUTY PRESIDENT: The question now is that Senator Bushby's motion, as amended, be agreed to.

Question agreed to.

Report adopted.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Xenophon for today, proposing a reference to the Rural and Regional Affairs and Transport References Committee, postponed till 12 August 2015.

Business of the Senate notice of motion no. 2 standing in the name of Senator Xenophon for today, proposing a reference to the Economics References Committee, postponed till 12 August 2015.

COMMITTEES

Environment and Communications References Committee

Foreign Affairs, Defence and Trade Legislation Committee

Reporting Date

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

Environment and Communications References Committee – stormwater management – extended from 25 June to 19 August 2015

Foreign Affairs, Defence and Trade Legislation Committee – International Aid (Promoting Gender Equality) Bill 2015 – extended from 17 August to 17 September 2015

The DEPUTY PRESIDENT (13:39): I remind senators that the question may be put on any proposal at the request of any senator. There being no such requests, I shall move on.

Economics References Committee

Reference

Senator LEYONHJELM (New South Wales) (13:40): I move:
That the following matter be referred to the Economics References Committee for inquiry and report by 13 June 2016:

The economic and social impact of legislation, policies or Commonwealth guidelines, with particular reference to:

(a) the sale and use of tobacco, tobacco products, nicotine products, and e-cigarettes, including any impact on the health, enjoyment and finances of users and non-users;
(b) the sale and service of alcohol, including any impact on crime and the health, enjoyment and finances of drinkers and non-drinkers;
(c) the sale and use of marijuana and associated products, including any impact on the health, enjoyment and finances of users and non-users;
(d) bicycle helmet laws, including any impact on the health, enjoyment and finances of cyclists and non-cyclists;
(e) the classification of publications, films and computer games; and
(f) any other measures introduced to restrict personal choice 'for the individual's own good'.

Question agreed to.

REGULATIONS AND DETERMINATIONS

Federal Courts Legislation Amendment (Fees) Regulation 2015

Disallowance

Senator WRIGHT (South Australia) (13:41): I move:


The DEPUTY PRESIDENT: The question is that business of the Senate notice of motion No. 4 be agreed to.

The Senate divided. [13:45]

AYES

Bilyk, CL
Carr, KJ
Carr, SM
Conroy, SM
Di Natale, R
Hanson-Young, SC
Ketter, CR
Lambie, J
Lazarus, GP
Leyonhjelm, DE
Lines, S
Ludlam, S
Ludwig, JW
Madigan, JJ
McAllister, J
McEwen, A (teller)
McLucas, J
Milne, C
Moore, CM
Muir, R
O'Neill, DM
Peris, N
Rhiannon, L
Rice, J
Singh, LM

AYES

Ayes ......................37
Noes ......................28
Majority ....................9
Question agreed to.

COMMITTEES

Legal and Constitutional Affairs References Committee

Reference

Senator LAZARUS (Queensland) (13:48): I ask that business of the Senator notice of motion No. 6 standing in my name, which refers a matter to a committee, be taken as a formal motion.

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

Senator Ian Macdonald: I rise on a point of order. This motion refers a matter to the Senate Legal and Constitutional Affairs References Committee, namely the use of smoke alarms to prevent smoke and fire related deaths—

The DEPUTY PRESIDENT: Senator, what is your point of order?

Senator Ian Macdonald: I am saying to you that this motion has absolutely nothing—

The DEPUTY PRESIDENT: It is not a point of order. Sit down, Senator Macdonald. Formality has not been refused. I now call on you to move your motion, Senator Lazarus.

Senator Ian Macdonald interjecting—
The DEPUTY PRESIDENT: There is no point of order, Senator Macdonald. Resume your seat.

Senator Ian Macdonald: You did not even hear the point of order, Mr Deputy President.

The DEPUTY PRESIDENT: There was no point of order. Resume your seat, Senator Macdonald.

Senator LAZARUS: I move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 3 December 2015:

Use of smoke alarms to prevent smoke and fire related deaths, with particular reference to:

(a) the incidence of smoke and fire related injuries and deaths and associated damage to property;
(b) the immediate and long term effects of such injuries and deaths;
(c) how the use, type and installation set-ups of smoke alarms could affect such injuries and deaths;
(d) what smoke alarms are in use in owner-occupied and rented dwellings and the installation set-ups;
(e) how the provisions of the Australian Building Code relating to smoke alarm type, installation and use can be improved;
(f) whether there are any other legislative or regulatory measures which would minimise such injuries and deaths; and
(g) any related matter.

Question agreed to.

Senator Ian Macdonald: Mr Deputy President, I raise a point of order, which I tried to raise before. This motion has nothing whatsoever to do with the Legal and Constitutional Affairs—

The DEPUTY PRESIDENT: That is not a point of order.

Senator Ian Macdonald: It is. You have to rule it out because it is not relevant to the Legal and Constitutional Affairs—

The DEPUTY PRESIDENT: I have ruled that it is not a point of order. Resume your seat.

Senator Ian Macdonald: I take issue with your ruling—

The DEPUTY PRESIDENT: Take issue if you like. I have called the question.

Senator Ian Macdonald: I will give notice that your ruling be disagreed with. I will put it in writing as soon as I can.

The DEPUTY PRESIDENT: In accordance with the standing orders, you do so in writing and you do it immediately and it will be a decision for the next day of business. Thank you, Senator Macdonald.


Leave granted.

Changes to the National Construction Code relating to smoke alarms were only completed in 2014. The Building Code of Australia, Volume 1, pertaining to class 2 to class 9,
commercial buildings, and Volume 2, for class 1 and class 10 buildings, residential buildings, are being amended to require interconnected smoke alarms where more than one smoke alarm is required in class 1 dwellings, and in sole occupancy units of class 2, 3 and 4 parts of buildings. At the time the Australian Fire and Emergency Services Authorities Council said:

AFAC and member agencies have lobbied hard for these changes and we have successfully collaborated with the Australian Building Codes Board to achieve this outcome.

All of the other matters relating to the motion, as Senator Macdonald indicated, fall within the responsibilities of the states and territories.

PARLIAMENTARY ZONE

Approval of Works

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:51): I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the following proposals by the National Capital Authority for capital works within the Parliamentary Zone:

(a) John Gorton Building car park enhancement; and
(b) construction of a memorial to the victims of the MH17 disaster.

Question agreed to.

BILLS

Civil Law and Justice (Omnibus Amendments) Bill 2015

First Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:51): I move:

That the following bill be introduced: A Bill for an Act to amend various Acts relating to law and justice, and for related purposes. Civil Law and Justice (Omnibus Amendments) Bill 2015.

Question agreed to.

Senator FIFIELD: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (13:52): I table the explanatory memorandum and I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Introduction
The Civil Law and Justice (Omnibus Amendments) Bill 2015 is an omnibus bill which will primarily amend the Administrative Appeals Tribunal Act 1975, the Bankruptcy Act 1966, the Evidence Act 1995, the Federal Circuit Court of Australia Act 1999, the Federal Court of Australia Act 1976 and the International Arbitration Act 1974.

The Bill will make minor and technical amendments to provide more clarity to the legislation, correct legislative oversights and amend obsolete provisions. The Bill will also make a number of consequential amendments. The combined effect of these amendments will improve the efficiency and operation of the justice system administered by the Attorney-General's portfolio.

Summary of Bill

The Government aims to make all Commonwealth legislation coherent, readable and accessible to the widest possible audience. To this end, the Evidence Act will be amended to move the journalists' privilege provisions from Division 1A of Part 3.10 to new Division 1C of Part 3.10. This will provide consistency with the numbering of the NSW, ACT and Victorian Evidence Acts and is consistent with the Parliamentary Counsel's Committee Protocol on Drafting National Uniform Legislation, which provides that the numbering of uniform legislation should be consistent.

To provide clarity to legislation, the Federal Circuit Court of Australia Act will be amended to ensure that police officers and court sheriffs who are authorised by the Act, or a warrant issued under the Act or the Rules of Court, have the power to use such force as is reasonable and necessary in the circumstances to enter premises to execute an arrest warrant. Currently, there is uncertainty about whether reasonable force can be used to enter premises to execute an arrest warrant. This means that circumstances may arise where an arrest warrant is unable to be executed because an arrestee is inside premises. This can delay the Court process and burden the justice system.

Other amendments to the Federal Circuit Court of Australia Act will repeal an obsolete reference to improve the accuracy of the Act.

The Bill will also streamline and enhance the jury empanelling process under the Federal Court of Australia Act so that a person summoned for jury duty would not be summoned for a particular trial. Instead, they would be summoned to form part of a panel of potential jurors for a three month period. This will save the Court significant time and resources and ultimately lead to the more efficient resolution of disputes.

Other amendments to the Federal Court of Australia Act will ensure fairness in the pre-trial process and will improve the clarity of the Act.

The Bill will also make minor and technical changes to the Administrative Appeals Tribunal Act, further supporting amalgamation of four key Commonwealth merits review tribunals. The amendments will ensure all persons who are parties to a review receive notice that an application for review has been made. The Bill will clarify that the Tribunal may make orders that certain information is not to be disclosed to the parties. It will enable the President to authorise any member of the Tribunal to exercise existing powers to dismiss applications and ensure that in matters with more than one non-government party, other than the applicant, they may seek to have the application reinstated. The Bill will provide flexibility to the Tribunal to set out the manner for lodging or giving documents to the Tribunal, or a person, in a regulation, in a practice direction, or both.

Amendments to the Bankruptcy Act will remove unnecessary requirements to notify the Official Receiver of certain decisions and will streamline some application for review processes in bankruptcies. The amendments also insert a 60-day time limit for applications to the court to review certain decisions. This will avoid undue delay in challenging such decisions and is consistent with other provisions of the Bankruptcy Act. Additionally, the amendments will clarify how confidentiality requirements in bankruptcies interact with statutory requirements for disclosure. The amendments will also remove a reference to a repealed provision.
The amendments to the International Arbitration Act will simplify provisions governing the enforcement of foreign arbitral awards in Australia and improve compliance with the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. It will also apply confidentiality provisions to arbitral proceedings seated in Australia on an opt-out rather than opt-in basis. Finally, the amendments will make minor amendments in the interests of clearer laws.

Conclusion

In conclusion, the intention of this Bill is to make minor and technical amendments to a number of Acts in order to increase access to justice for all Australians by removing ambiguity in legislation and streamlining legal processes. The Bill will increase the currency, clarity and consistency of legislation administered by the Attorney-General's portfolio. Significantly, the amendments contained within the Bill will improve the justice system by making it easier for individuals to understand and comply with the law.

Ordered that further consideration of the second reading of this bill be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

COMMITTEES
Select Committee on Families
Appointment

Senator McEWEN (South Australia—Opposition Whip in the Senate) (13:52): At the request of Senator Gallagher, I move:

(1) That a select committee, to be known as the Select Committee on Families, be established to inquire into and report by 13 October 2015 on the following matters:

(a) the short- and long-term impact and potential impact on Australian families and children of decisions of the Abbott Government taken since its election, including:

(i) proposed changes to Family Tax Benefits contained in the 2014-15 and 2015-16 budgets,

(ii) proposed changes to income support payments, including Newstart Allowance and Youth Allowance contained in the 2014-15 and 2015-16 budgets,

(iii) proposed changes to child care contained in the 2014-15 and 2015-16 budgets,

(iv) proposed changes to Parental Leave Pay contained in the 2015-16 Budget,

(v) the abolition of the Schoolkids Bonus and the Income Support Bonus, and

(vi) any other changes by the Abbott Government to payments and/or concessions made directly by the Commonwealth Department of Social Services to Australian families; and

(b) the impact of these changes on particular groups of vulnerable families and children, including single parent families, single income families, families of people with disability, low-income families, Indigenous families and other vulnerable groups.

(2) That the committee consist of 5 senators, 2 nominated by the Leader of the Government in the Senate, 2 nominated by the Leader of the Opposition in the Senate, and 1 nominated by the Leader of the Australian Greens.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator; and
(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee.

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

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

(6) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate and as deputy chair the member nominated by the Leader of the Australian Greens.

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

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

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

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

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

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


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: This is a stunt by the opposition designed to frustrate the government's legislative agenda. There is a process in place whereby senators are able to scrutinise legislation by referring it to a committee for inquiry and report. This has happened for the three social services budget related bills that have come before the chamber this week. In addition to individual bills being referred to the Community Affairs Legislation Committee, a Senate select committee to inquire into the effect of changes in the Commonwealth budget has already been established. This is yet another example of the Australian Labor Party seeking to deal themselves out of constructive negotiations in this place.

Senator LEYONHJELM (New South Wales) (13:54): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator LEYONHJELM: I simply note in this motion that there is absolutely no provision for crossbench representation. The motion proposes five senators from the government, the opposition and the Greens but none from the crossbench. For that reason, I will be opposing it and I encourage my fellow crossbench senators to similarly oppose it.
Senator McEWEN (South Australia—Opposition Whip in the Senate) (13:54): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McEWEN: I note in relation to the comments made by Senator Leyonhjelm that of course all senators can be participating members of the select committee and contribute to proceedings in that way.

The PRESIDENT: The question is that general business notice of motion No. 772 be agreed to.

The Senate divided. [13:59]

(The President—Senator Parry)

Ayes .................33
Noes .................33
Majority .............0

AYES

Bilyk, CL  Brown, CL
Bullock, J.W.  Cameron, DN
Carr, KJ  Collins, JMA
Conroy, SM  Di Natale, R
Gallacher, AM  Hanson-Young, SC
Ketter, CR  Lambie, J
Lazarus, GP  Ludlam, S
Ludwig, JW  McAllister, J
McEwen, A (teller)  McLucas, J
Milne, C  Moore, CM
O’Neill, DM  Peris, N
Polley, H  Rhiannon, L
Rice, J  Stiwer, R
Singh, LM  Sterle, G
Urquahart, AE  Waters, LJ
Whish-Wilson, PS  Wright, PL
Xenophon, N

NOES

Back, CJ  Bernardi, C
Birmingham, SJ  Bushby, DC (teller)
Canavan, M.J.  Cash, MC
Colbeck, R  Cormann, M
Day, R.J.  Edwards, S
Fawcett, DJ  Fiehravanti-Wells, C
Fifield, MP  Heffernan, W
Leyonhjelm, DE  Lindgren, JM
Macdonald, ID  Madigan, JJ
McGrath, J  McKenzie, B
Muir, R  Nash, F
O’Sullivan, B  Payne, MA
Ronaldson, M  Ruston, A
Ryan, SM  Scullion, NG
Seselja, Z  Sinodinos, A
Smith, D  Wang, Z
Thursday, 25 June 2015

SENATE

NOES

Williams, JR

PAIRS

Dastyari, S  
Gallagher, KR  
Lines, S  
Wong, P  

Johnston, D  
Abetz, E  
Reynolds, L  
Brandis, GH

Question negatived.

QUESTIONS WITHOUT NOTICE

Attorney-General

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:02): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to an email from the Department of the Prime Minister and Cabinet on Monday, 1 June at 5:30 pm, which states that the secretary of the department, Mr Thawley, called to ask if the Attorney-General's Department had corrected the record on the provision of the Monis letter to the Martin Place siege review. Why did the Attorney-General ignore this request from the Prime Minister's departmental secretary, Mr Thawley, and fail to correct the record for a full parliamentary week?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:03): Senator Wong, the document to which you refer came to my attention about one minute ago, and I have it with me. It is the first time that I have seen it.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:04): Senator Brandis, the document to which you refer came to my attention about one minute ago, and I have it with me. It is the first time that I have seen it.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:05): Senator, I am not quite sure what matter you are referring to, but—

Senator Wong: Mr President—

Senator BRANDIS: Can I continue with my answer, please?

The PRESIDENT: Senator Wong, I cannot see a point of order arising out of this, but I will allow you to—

Senator Wong: Mr President, if he is going to use that fact to not answer the question, I am happy to clarify: it is his misleading of the Senate.

The PRESIDENT: There was no point of order, Senator Wong. The minister was in order.
Senator BRANDIS: I do not write Senator Wong's questions; it is a matter for Senator Wong to phrase her own questions, but it is not apparent to me what matter she is referring to. However, if this is an intended reference to the circumstances in which the letter from Monis to the Attorney-General was not provided to the Martin Place siege review, then there is, I understand, a large body of evidence about that to the Senate inquiries which are currently under way, and I would refer her to that. If she wants to ask me about some particular aspect of the matter, she should identify it.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:05): I seek leave to table the email from the Prime Minister's department which demonstrates that a telephone call was made from the Prime Minister's office in relation to this matter.

Leave granted.

Senator WONG: Mr President, I ask a further supplementary question. I refer to that email, which does confirm that Mr Thawley rang from the PMO, from the Prime Minister's office, and I ask the Attorney-General: did the Attorney discuss his request for a full internal review by his department and his delayed correction of the misleading evidence with the Prime Minister's office; and, if so, when?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:06): No, I do not believe I did discuss the matter with the Prime Minister's office, but I do dispute the characterisation of these events by Senator Wong, because I corrected the record immediately I was satisfied that an error had been made. Having been advised by my department early in the afternoon of Thursday, 4 June that an error had been made, I immediately corrected the record within a little over an hour.

Trade Unions

Senator BERNARDI (South Australia) (14:07): My question is to the acting Leader of the Government in the Senate and the Attorney-General, Senator Brandis. Can the Attorney-General please update—

Senator Cameron: You got the email too?

Senator BERNARDI: You will be hanging your head in shame in a moment, Senator Cameron. Can the Attorney-General update the Senate on recent penalties imposed by courts in relation to cases of union misbehaviour and thuggery?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:07): I can, and regrettably there have been more recent findings by courts, particularly the Federal Court, into union misbehaviour and thuggery than I can deal with in two minutes. For example, in April the Federal Court was dealing with a matter involving the CFMEU. Justice Tracey imposed a fine of $43,000 on CFMEU officials for unlawful and coercive behaviour, one instance of which was constituted by a CFMEU official abusing a person in the workplace in obscene language and threatening to blockade all of that company's sites. In another recent case, from Adelaide, there was footage of a CFMEU official berating a Fair Work Commission official who attended the site. Justice White of the Federal Court found—these are His Honour's words, not mine—that the CFMEU official's:
… stance and manner was provocative, bullying and intimidating. It is evident that he sought to belittle and humiliate …

As recently as last Friday, Justice Logan, in the Federal Court in Brisbane, penalised the CFMEU and CFMEU officials a total of $540,000 for unlawful behaviour at the construction site of housing for the long-term homeless in Queensland. Justice Logan called out the CFMEU's outrageous disregard of the law and reiterated the comments of other judges and Royal Commissioner Cole in condemning the union's attitude to the law. In May last year, Justice Tracey again, in separate Federal Court proceedings, found that the CFMEU had brazenly broken the law in trying to pressure Hazell Bros Group to sign its EBA. I could go on. I have pages and pages of instances. (Time expired)

Senator BERNARDI (South Australia) (14:09): Mr President, I ask a supplementary question. I thank the Attorney-General for that enlightenment, and I ask if he would inform the Senate of the maximum civil penalty that currently applies for unlawful industrial contraventions in the building industry and the maximum penalties that previously applied under the ABCC legislation, and how they compare to civil penalties for corporate wrongdoing.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): It is a very pertinent question, if I may say so, Senator Bernardi. When the Labor Party abolished the ABCC in 2012, it reduced the maximum penalty for breaking the law by more than two-thirds. The maximum for a corporation or union went from 1,000 penalty units down to 300 penalty units. At the time, this was a drop from $110,000 for contravention of the law to only $33,000. These lower penalties are now even less effective as a deterrent to stop rogue union officials—particularly but not only from the CFMEU—breaking the law. That is why our government is committed to reinstating the maximum penalties a court can impose for breaches back to a maximum of 1,000 penalty units—which is currently up to $170,000 in the case of a corporation, by the way.

Senator BERNARDI (South Australia) (14:11): Mr President, I ask a further supplementary question. I again thank the Attorney for that information. Given the extent of the intimidation, violence and unlawful coercion in the building and construction industry, can the Attorney-General advise the Senate what the government is actually doing to address this problem?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:11): Thank you, Senator Bernardi—again, a very relevant question. As I have just told you, we are committed to reinstating a penalty regime that has teeth. We are dealing with this problem, but we do not have a solution, because we cannot get our solution through the Senate. It is up to the Senate to pass legislation to re-establish the ABCC, to bring back an effective regulator which has appropriate powers to enforce laws, and to amend the act to reinstate the meaningful penalties—the penalties with some deterrent impact—which the Labor Party will not allow us to reinstate. We believe, Senator Bernardi, as I know you do, that union officials should advocate for their members, but we also believe that that should be done lawfully. We believe it should be done lawfully and, when there is a serial pattern of conduct of disregard and contempt for the law, it is up to this legislature to deal with it.
DISTINGUISHED VISITORS

The PRESIDENT (14:12): Before I call Senator Collins, I acknowledge the presence in the public gallery of former senator Russell Trood.

QUESTIONS WITHOUT NOTICE

Attorney-General

Minister for Foreign Affairs

Senator JACINTA COLLINS (Victoria) (14:12): My question is to the Attorney-General, Senator Brandis. I refer to Mr Thawley's request at 5.30 pm on Monday, 1 June that the misleading Monis evidence be corrected. If Mr Thawley had no doubt the evidence needed to be corrected, why did the Attorney-General express so-called doubts about the earlier evidence and take a full parliamentary week to correct the record?

Senator Ian Macdonald: Because the secretary of his department looked into it.

Senator Jacinta Collins: Well, that's a worry. So the agency's the patsy again, is it?

The PRESIDENT: On my left! You have asked your question, Senator Collins.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:13): I immediately corrected the record when I was satisfied—when it had been confirmed to me, as a result of the inquiry that I commissioned, that an error had been made.

Senator JACINTA COLLINS (Victoria) (14:13): Mr President, I ask a supplementary question. I refer to the Attorney-General's statement that the foreign minister was advised shortly before question time on Thursday, 4 June about the incorrect evidence provided by his department. I also refer to the foreign minister's statement that she was advised at 2.43 pm that day, well after question time had begun. Which minister got it right, and who should now correct the record again?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:14): I believe that the foreign minister was herself advised during the course of question time, which is what she said. Her office was advised shortly before question time.

Senator Wong: This is a point of order on relevance, Mr President. The question in relation to the Attorney-General's statement concerned a statement to the parliament he made that the foreign minister, not her office, was advised before question time. If he wants to clarify and correct the record now, he should do so.

The PRESIDENT: Thank you, Senator Wong. I believe the minister has concluded his answer. He has. There is no point of order.

Senator JACINTA COLLINS (Victoria) (14:15): Mr President, I ask a further supplementary question.

Senator Ian Macdonald interjecting—

Senator JACINTA COLLINS: You cannot bully senators in here, Senator Macdonald.

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

Senator JACINTA COLLINS: Thank you, Mr President.
Honourable senators interjecting—

The PRESIDENT: Order on both sides! We will start the clock again, Senator Collins.

Senator JACINTA COLLINS: My further supplementary question is: did the Attorney-General's office or the Prime Minister's office provide any indication to the foreign minister or her office—to be clear for Senator Brandis—that she had misled the parliament before the Attorney-General made his belated call on Thursday, 4 June?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:15): I do not believe so, Senator, but I will check.

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Trans-Pacific Partnership Agreement

Senator WHISH-WILSON (Tasmania) (14:16): My question is to the Minister representing the Minister for Trade, Senator Payne. The Productivity Commission released their annual trade and assistance review this week. In this review, the commission stated that investor-state dispute settlement protections are not needed to encourage investment flows between developed countries. They are risky and they are not necessary in well-functioning legal systems. They also stated that inclusion of an ISDS mechanism in the Trans-Pacific Partnership Agreement could similarly allow investors to bring claims for private arbitration directly against governments and could potentially undermine the role of domestic courts and the freedom of governments to regulate in the public interest. Can the minister advice the Senate whether the government is seeking the Productivity Commission's advice on the inclusion of ISDS clauses in the Trans-Pacific Partnership Agreement?

Senator PAYNE (New South Wales—Minister for Human Services) (14:17): I thank Senator Whish-Wilson for the question. I did see the reporting of the Productivity Commission's inquiry this week. The government is considering the inclusion of ISDS clauses in trade agreements on a case-by-case basis, and I think it is very important for us to remember that ISDS is not a new concept for Australia. In fact, we currently have ISDS clauses with 29 economies through five free trade agreements and 21 bilateral investment treaties. What investor-state dispute settlement does is provide protection for those who choose to pursue new opportunities for Australia by investing abroad. The government is of the view that there is little to fear from ISDS as long as government policy is non-discriminatory, developed consultatively and consistent with our national obligations. We have said that we are willing to consider the inclusion of ISDS provisions in the Trans-Pacific Partnership Agreement. In relation to Senator Whish-Wilson's specific question about seeking advice of the Productivity Commission, I am not aware of whether or not the minister has done so, and I will take that on notice.

Senator WHISH-WILSON (Tasmania) (14:18): Mr President, I ask a supplementary question. I thank the senator for her answer. The Productivity Commission also concluded that investor-state dispute settlement clauses are a very high-risk strategy to achieve market access, given the potential size of compensation claims involved and the unfunded nature of those claims. Can the minister advise the Senate whether the government is assessing the
financial risk to Australia of the inclusion of ISDS clauses in the Trans-Pacific Partnership Agreement?

Senator PAYNE (New South Wales—Minister for Human Services) (14:19): I thank the senator for his supplementary question. The government always takes into account the positives and potential negatives when making decisions such as this, and I think I said before that we are willing to consider the inclusion of ISDS provisions in the TPP if the balance of the package is in Australia's best interest and there are safeguards in ISDS for public welfare measures. It is important to note on the record that ISDS does not protect an investor from a mere loss of profits. An investor must establish that the government has breached an investment obligation. The ISDS does not prevent a government from changing its policies or from regulating in the public interest. It is not enough that an investor does not agree with the new policy or that a policy adversely affects its profits. What an investor must establish is that the government has breached an investment obligation.

Senator WHISH-WILSON (Tasmania) (14:19): Mr President, I ask a further supplementary question. I thank the senator for her second answer. The Chief Justice of the High Court, Robert French, has raised concern about the potential of ISDS and its impact on nation states. Justice French said that he was not aware of the judiciary having been consulted on Australia's use of ISDS clauses. Can the minister advise the Senate whether the government is seeking the judiciary's input on trading away our sovereignty by including ISDS clauses in the Trans-Pacific Partnership Agreement?

Senator PAYNE (New South Wales—Minister for Human Services) (14:20): I think I have advised the Senate before that there have been in the order of 1,000 consultations in the process towards the TPP. But, in relation to the implications for ISDS and domestic judicial matters, it is possible, I believe, that an ISDS tribunal could examine the same facts and circumstances as a domestic court. However, it does not mean that the ISDS tribunal is accepting or rejecting a domestic court's decision on a question of domestic law. What the tribunal is assessing is whether there has been a breach of an investment commitment made by the government. I do not have any further information—

Senator Whish-Wilson: I raise a point of order, Mr President. I simply asked the minister to advise the Senate whether the government is seeking the judiciary's input. Chief Justice French was specifically relating his comments towards Philip Morris suing our government for plain packaging of tobacco.

The PRESIDENT: Thank you, Senator Whish-Wilson. I will remind the minister of the question. Minister, you have 18 seconds in which to answer the question.

Senator PAYNE: I believe that I was being directly relevant in relation to whether or not the decisions by domestic courts, which, of course, His Honour would have a significant interest in, were in any way influenced or impacted by the operation of an ISDS. But if it is appropriate, I will take the further question on notice. *(Time expired)*

National Security

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:21): My question is to the Attorney-General, Senator Brandis. I refer to ASIO's confirmation that the information on display during yesterday's photo opportunity at ASIO headquarters was for official use only and that ASIO requested that it not be published. Can the minister confirm
that intelligence material was on display during yesterday's photo opportunity; and can he explain why he and the Prime Minister staged this event at the expense of Australia's 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) (14:22): If I may say so, Senator Conroy, even by your standards that is an extraordinarily foolish question. I attended, along with the Prime Minister, the Minister for Immigration and Border Protection and the Minister for Justice, a briefing at ASIO headquarters yesterday. We attended as guests of ASIO and were hosted by the Director-General of Security, Duncan Lewis.

In relation to the reports, I have seen in this morning's media and on the television last night that maps were displayed. They were—I was there, as you may have seen from the television pictures. I can do no better than to acquaint you with what the Director-General of Security has said about the matter today. This is what General Lewis has said:

There has been reporting in some quarters of the media regarding the sensitivity of documents used in briefing the Prime Minister yesterday. The Director-General of Security confirms the documents used in the briefing were not the subject of a national security classification. The documents were carefully edited and were unclassified. The content of the documents did not compromise national security.

Those are not my words; they are the words of the director-general, General Lewis.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:23): Mr President, I ask a supplementary question. Can the minister confirm that he and all other representatives of the government, including staff, complied with ASIO's security requirements and surrendered all electronic and telecommunication devices, just like we do when we go over there for the committee, prior to entering the sensitive areas? Can he confirm that all staff and representatives complied?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:24): I can confirm that I did and I can confirm that the Prime Minister did, because I was in company with the Prime Minister when we surrendered our mobile phones. I know, because I was present, that that request was made of all present and I have no reason to believe that it was not complied with.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:24): Mr President, I ask a further supplementary question. Will the minister take it on notice to find out about the rest? No, he will not even take it on notice.

The PRESIDENT: Order! Senator Brandis, you do not have to respond to that part of the question. Senator Conroy, do you have a question?

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:24): Does the minister concede that his and the Prime Minister's use of ASIO headquarters as a media prop led to a potential breach of national security and politicised the work of ASIO? This is on top of leaking ASIS material last week and on top of politicising the use of Defence bases. Is there nothing this government will not stoop to?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:25): Senator Conroy, every assertion you have made in that question is false—every single assertion. I
attended the briefing at the invitation of ASIO, who hosted the briefing. There was a media opportunity at the start of the briefing. The media were then excluded from the room and a detailed briefing, which touched on very sensitive national security information, was then conducted. I have read to you what the Director-General of Security himself has said. Let me read it again:

… The documents were carefully edited and were unclassified. The content of the documents did not compromise national security.

**Shipbuilding Industry**

**Senator MADIGAN** (Victoria) (14:26): My question is to the Minister representing the Minister for Defence, the Attorney-General, Senator Brandis. Over recent months there has been a lot of speculation about our shipbuilding industry, and where and how many submarines will be built to replace our Collins class fleet. Andrew Bellamy of Austal was recently quoted as saying the problems with the AWD program lie in the workforce and that he fundamentally believed that skilled Australian labour building ships with the right infrastructure, management and incentives can be as productive as anywhere else in the world. Do you and the government agree with that statement?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:27): Thank you very much indeed for the advance notice you gave me of this question, Senator Madigan, and I want to acknowledge your longstanding interest in this issue. The government is committed to supporting a productive and cost-effective naval shipbuilding industry in Australia. We are prepared to invest in the skills and knowledge base of the Australian naval shipbuilding industry. We have a very high regard for the workforce. We are prepared to commit to a long-term investment to ensure the industry enjoys a solid future in Australia.

The government recently received the RAND report that provides a solid evidence base to inform the development of the naval shipbuilding plan which will accompany the 2015 Defence white paper, which is to be released later this year. RAND's analysis found that Australia could sustain a surface shipbuilding industry by carefully managing a continuous shipbuilding strategy. However, RAND also found that the cost of building naval ships in Australia is 30 to 40 per cent greater than United States benchmarks and even greater than that against some other naval shipbuilding nations.

This premium can be reduced by improved productivity through a consistent production-build demand; a mature design at the start of build with minimal changes once production begins; and a well-integrated designer, builder and supplier team; matching the industrial base structure to demand and visionary leadership and management.

The 2015 Defence white paper and naval shipbuilding plan will provide increased certainty to the shipbuilding industry by outlining Australia's future naval requirements. Those plans will ensure that Australia does have a sustainable naval shipbuilding industry that delivers the right capability at the right time and for the right price, and supports shipbuilding jobs in Australia.

**Senator MADIGAN** (Victoria) (14:29): Mr President, I ask a supplementary question. Government procurement has great potential to assist a wide range of industries across
Australia, including shipbuilding. What are the benefits for Australia of a fully local build for the 12 new submarines?

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): There are great opportunities, in particular for South Australia, in the Future Submarine program. The government expects that significant work will be undertaken in Australia during the build phase of Future Submarine, including combat system integration, design assurance and land based testing. This will result in the creation of at least 500 new, high-skilled jobs in Australia, the majority of which will be based in South Australia.

The Department of Defence has advised the government that, for Australian industry to have the best opportunity to maximise its involvement in the Future Submarine program, it needs to work with an international business partner. Based on work completed by Defence, France, Germany and Japan have emerged as potential international partners. All three countries have proven submarine design and build capabilities. (Time expired)

Senator MADIGAN (Victoria) (14:30): Mr President, I ask a further supplementary question. Minister, two of the things I believe in are that a country is what a country makes and that submarines are spaceships for the ocean. Will the minister commit to purchasing this Australian-made T-shirt I am holding in support of Australian manufacturing, jobs and charities?

The PRESIDENT: That is disorderly, Senator Madigan, but I will let the question stand.

Senator Fifield: Do they have your size!

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:31): Senator Fifield took the words out of my mouth. I might need a slightly bigger size in that T-shirt, Senator Madigan! But, of course, I would proudly advocate for Australian industry, including by wearing such a fetching garment.

Building and Construction Industry

Senator EDWARDS (South Australia) (14:31): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Employment. Will the minister update the Senate on recent evidence of the culture of lawlessness in parts of the construction industry?

Senator Cameron interjecting—

Senator Edwards interjecting—

The PRESIDENT: Senator Edwards, you have asked your question. Senator Cameron, we do not need to hear from you either.

Senator PAYNE (New South Wales—Minister for Human Services) (14:32): I thank Senator Edwards for his question. The Heydon royal commission has exposed what can only be described as intimate connections between the militant CFMEU and underworld figure George Alex. The royal commission's interim report found Mr Alex was a phoenix operator. He repeatedly sent companies broke, owing hundreds of thousands of dollars to workers. Yet the CFMEU continually entered enterprise agreements with his companies, effectively giving
them a ticket to work in the industry. It is also alleged that certain officials received kickbacks in return.

Mr Alex is currently serving a sentence for threats to kill. Yesterday he advised the royal commission that underworld figure Mick Gatto and Comanchero bikie Bilal Fatrouni are his 'good friends'. Alex also revealed that Khaled Sharrouf and Mohamed Elomar regularly trained in his backyard gym. They are, of course, the individuals convicted for plots to blow up the MCG and Lucas Heights nuclear reactor in 2005 and who fled Australia last year to fight with IS in Syria.

However, when some brave whistleblowers within the CFMEU raised their own concerns about Alex's companies, they were subjected to abuse and death threats. When questioned about this at a Senate committee hearing, the national secretary of the union, Mr Dave Noonan, completely abdicated responsibility and said the allegations 'have not so far been borne out by evidence in the royal commission'.

It is very concerning that this sort of lawlessness prevails within the national construction union and that its senior leadership remains complicit. It is one reason why the government continues to support the important work of the royal commission in exposing—

Senator EDWARDS (South Australia) (14:34): Mr President, I ask a supplementary question.

Senator Cameron: You have a chance to ask about jobs in South Australia, you wimp.

The PRESIDENT: Senator Cameron, withdraw that remark.

Senator EDWARDS: Stand up and withdraw it.

The PRESIDENT: Senator Edwards, I do not need assistance from you.

Senator Cameron: I do think the senator is a wimp, but I will withdraw it, if it helps the Senate.

Senator Ian Macdonald: You are just a thug, just another union thug.

Honourable senators interjecting—

The PRESIDENT: There will be order on both sides.

Senator Ian Macdonald: Just another union thug.

Senator EDWARDS: Mr President, I ask a supplementary question. Can the minister inform the Senate what steps this government is taking to ensure lawful and fair workplaces?

The PRESIDENT: Just before I call on the minister, Senator Macdonald, in the interests of fairness, I think you should also withdraw that remark.

Senator Ian Macdonald: I do think he is a thug, but I will withdraw.

Honourable senators interjecting—

The PRESIDENT: I know it is the last day for a while, but let's have a bit of order.

Senator PAYNE (New South Wales—Minister for Human Services) (14:36): I think I remember the question! The government intend to restore the rule of law on building and construction sites. We intend to do that through the re-establishment of the Australian Building and Construction Commission. It is only through having a tough cop on the beat,
with proper penalties available, that we can force the militant construction union to desist from its unlawful activities and ensure that employers, contractors and workers do the right thing on construction sites.

As identified by the Cole royal commission over a decade ago, this is an industry in need of specific attention. The Heydon royal commission has already identified similar cases of unlawfulness in this industry. Just as the police routinely assist the community by dealing with threats to community safety and of rule of law, the ABCC will assist the industry by dealing with threats to safety and the rule of law in the construction industry. The Labor Party claim to have zero tolerance for union corruption. They should prove it by voting to support the reintroduction of the ABCC.

Senator EDWARDS (South Australia) (14:37): Mr President, I ask a further supplementary question.

Senator Cameron interjecting—

Senator EDWARDS: You're a rabble! Will the minister inform the Senate of the impediments to the reforms needed to ensure lawful conduct across the construction industry?

Senator PAYNE (New South Wales—Minister for Human Services) (14:37): Despite the royal commission interim report finding a culture of wilful defiance of the law, which appears to lie at the core of the CFMEU, reinforced by the evidence revealed this week, it seems to me that those opposite do not even flinch in support for their major donor, the CFMEU. They are much more interested in accepting millions of dollars in tainted CFMEU donations than they are in protecting genuine whistleblowers and ensuring lawfulness within an industry that needs urgent attention.

Since 2007 the records indicate that the CFMEU has donated more than $6 million to the Australian Labor Party and $200,000 to the Greens political party. If the Labor Party and the Greens were serious about the rule of law, about the rights of workers and about safe and fair workplaces, then they would support the reintroduction of the Australian building and construction commission, and they would immediately stop accepting funds from the tainted, militant CFMEU. (Time expired)

National Security: Citizenship

Senator WRIGHT (South Australia) (14:39): My question is to the Attorney-General, regarding the dramatically named 'allegiance to Australia' citizenship laws. Legal experts today have said that the laws are so broadly drafted that people may lose their citizenship for actions that do not in any way suggest they are disloyal to Australia. Was it the intention of the Abbott government that the laws would allow a person guilty of a minor property crime, with no connection to terrorism, to be exiled from Australia, or is this merely a result of poor drafting by your government?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:39): Senator Wright, I do not find anything odd about entitling a bill 'allegiance to Australia', and I am surprised that you do. The purpose of the law is to deal with terrorism. That is what this government is committed to doing. We are committed to doing everything we need to do to keep Australians safe.
I am aware of the commentary to which you refer. Might I point out, Senator Wright, that the relevant provision of the Criminal Code which is referenced in the bill also applies to the destruction of Commonwealth buildings. Of course we are not interested in minor or trivial crime. But you should be aware, Senator Wright, because the Prime Minister has said so many times, that this very building, Commonwealth property, has been the subject of threats from terrorism. One of the most important terrorism raids that resulted in several arrests some years ago was a plot directed to the Holsworthy Army Barracks, other Commonwealth premises. So of course the legislation is going to deal with the protection of the targets of terrorism, which include Commonwealth places.

The legislation, which has received the approval, by the way, of the Solicitor-General, whose opinion I have with me, has been already referred by me to the Parliamentary Joint Committee on Intelligence and Security. On each occasion when the government has introduced national security legislation, we have referred it to the Parliamentary Joint Committee on Intelligence and Security for review. The reason we have done so is that we believe that the parliament, not just the government, has a role in looking at this legislation carefully, and if review of some particular clauses and their breadth is required, no doubt the committee will so observe. (Time expired)

Senator WRIGHT (South Australia) (14:41): Mr President, I ask a supplementary question. The Abbott government's original plan gave the immigration minister sole power to revoke citizenship of dual nationals. Instead, the current bill makes loss of citizenship essentially a bureaucratic decision and gives the immigration minister the sole power to overturn that decision in a process in which the rules of natural justice do not apply. Is the Attorney-General able to deliver a tortuous explanation of how these two plans differ?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:42): Well, Senator Wright, you are quite wrong, if I may say so, in your suggestion that, under the terms of the bill, citizenship is lost by a bureaucratic process. In fact, the whole point of the bill is the notion that citizenship may be renounced by conduct, by the very act of the person themself, or revoked by conviction by a court of a prescribed serious terrorism related crime. Neither renunciation by conduct nor revocation by a court of law could appropriately be described as a bureaucratic process.

Senator WRIGHT (South Australia) (14:43): Mr President, I ask a further supplementary question. The Attorney-General, much to the chagrin of his colleagues, is famous for his defence of free speech and the right to be a bigot. However, the allegiance to Australia bill allows a person to be deprived of citizenship merely because of their speech. Can the Attorney justify this extraordinary penalty?
if you think advocating terrorism has anything to do with freedom of speech, I do not share that view.

**Health Funding**

**Senator McLUCAS** (Queensland) (14:44): My question is to the Assistant Minister for Health, Senator Nash. I refer to the minister's answer in question time yesterday, when she said:

… there have been no cuts to the flexible funds as announced in the budget.

I also refer to the minister to page 110 of Budget Paper No. 2, which states:

The Government will achieve savings … over five years from 2014-15 by rationalising and streamlining funding … including:

- the Health Portfolio Flexible Funds …

Will the minister now correct the record?

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:44): I assume I would be correct in taking the senator's comment as referring to my saying, 'It is not a cut to the flexible funds.' I was indeed referring to the CO-OPS program that the senator did raise yesterday. It was a direct reference. The senator asked me specifically about the CO-OPS program—

**Senator Wong**: Mr President, I rise on a point of order. I think the minister is misstating what she said yesterday. She said, 'It is not a cut to the flexible funds.'

**The PRESIDENT**: That is a debating point, Senator Wong. The minister is in order.

**Senator NASH**: I am a little confused because the senator clearly asked me yesterday about the CO-OPS program. The *Hansard*, which I indeed have in front of me, says, as Senator Wong, the Leader of the Opposition in the Senate has just quoted herself, 'It is not a cut to the flexible funds.' I was referring to the CO-OPS program.

**Senator McLUCAS** (Queensland) (14:46): Mr President, I ask a supplementary question. I again refer to the minister's answer in question time yesterday, which stated that the figure of an $800 million cut to the flexible funds is incorrect. Given that evidence from her department at the recent budget estimates confirmed a $596 million cut from the health flexible funds in this year's budget, as well as a $197 million cut in the 2014 budget, will the minister now correct the record? *(Time expired)*

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:47): My comment yesterday about the $590 million was relating to this year's budget. If that was not clear in *Hansard*, that was indeed my intent. I was looking at the context of this year's budget; I was not referring to last year's budget. It is very clear that we have said there will be some cuts to the flexible funds as a result of this year's budget—the $590 million. Can I add that it is of funds to the value of $12 billion—it is a 2.8 per cent increase over the next three years that will determine those cuts. It is very important that we focus on the facts.

**Senator McLUCAS** (Queensland) (14:48): Mr President, I ask a further supplementary question. I ask again, as I did yesterday: will the minister guarantee that all organisations funded through the flexible funds will have their funding extended?
Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:48): As I said yesterday, there have been no decisions taken yet about any changes to the funding arrangements for the flexible funds. I was very clear about that. The government has also been very clear that we do need to fix the economic mess that the previous Labor government left us. Even the shadow foreign minister, Catherine King, said:

… the opposition would be kidding itself if it didn't recognise there were challenges in the budget and that savings needed to be found … There is no area that is going to be exempt …

Senator Moore: Mr President, I rise on a point of order on relevance. It was a very clear question about continuing funding extensions for all organisations under the flexible funds. I ask you to direct the minister to that question.

The PRESIDENT: I did hear the minister say that no decision had yet been made and I took that to be directly relevant to the question.

Senator NASH: As I was saying, Catherine King, the shadow minister, said:

There is no area that is going to be exempt … We have to look across the board.

The question is, what would Labor be cutting?

Construction, Forestry, Mining and Energy Union

Senator McKENZIE (Victoria) (14:50): My question is to the Minister Assisting the Prime Minister for Women, Senator Cash. Can the minister inform the Senate of any recent incidents involving CFMEU officials treating women in a degrading or aggressive manner?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:50): I thank Senator McKenzie for her question. I am disappointed to say that, yes, I can. There is a growing list of senior CFMEU officials who have treated women with absolute contempt and subjected them to abuse, intimidation and violence. The concerning circumstances of acts of brutish thuggery should, quite frankly, be of great concern to the CFMEU and to all senators. In May The Sydney Morning Herald reported that CFMEU official Luke Collier had been in court charged with assault for a violent attack on a woman in which he broke her arm. He had already been convicted for assault for another attack on a woman earlier this year. Then there was the recent announcement that police had arrested and charged CFMEU member Justin Steele with common assault on a 58-year-old female construction site owner in Brisbane.

In June a Senate committee heard evidence of a string of incidents of harassing conduct towards a female workplace inspector by CFMEU officials, including Victorian secretary John Setka and his assistant secretary Shaun Reardon. Conduct has included repeatedly swearing at a woman, calling her a dog, making sexually derogatory remarks towards her, throwing a firecracker at her feet and attacking a car she was driving with a 1.5 metre tree branch. It also included the distribution of a flyer showing her phone number and address. Shortly afterwards, she received a phone call in which the caller said, 'Me and my seven mates are going to come and eff you.' Mr Setka called this inspector and left a sexually derogatory message. Mr Reardon also repeatedly called her late at night. The CFMEU also, as we know, continues to deal with George Alex— (Time expired)
Senator McKENZIE (Victoria) (14:52): Mr President, I ask a supplementary question. Will the minister inform the Senate whether the CFMEU has provided a satisfactory response to these incidents of the mistreatment of women?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:52): Again, I am disappointed to say that, far from acting definitively to end these outrageous acts of violence against women, the CFMEU—aided, of course, by the Labor Party, and Senator Cameron in particular, who continues to defend them—has pulled out every stop in order to defend these violent officials. When Luke Collier was reprimanded publicly for abusing a workplace inspector in expletive-laden—

Government senators interjecting—

The PRESIDENT: On my right.

Senator CASH: and sexually intimidating terms, CFMEU secretary Dave Noonan issued a press release defending the behaviour and saying: Swearing on building sites is nothing new …

When evidence of Shaun Reardon's late-night harassing calls was revealed and White Ribbon Australia stripped him of his anti-domestic-violence ambassadorship, the CFMEU pushed White Ribbon to reinstate him. And, despite this, the CFMEU and the Labor Party—

The PRESIDENT: Pause the clock.

Government senators interjecting—

The PRESIDENT: Order on my right! Senator Wong, I also have Senator Cameron on his feet, but if—

Honourable senators interjecting—

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

Senator Wong: I would ask the acting Leader of the Government in the Senate to withdraw that interjection.

The PRESIDENT: I did not hear it.

Senator Wong: I will not put it on Hansard, but as the acting leader he should do the decent thing.

Senator Brandis interjecting—

Senator Wong: About Senator Cameron—you made a very disparaging remark about him.

Senator Brandis: I meant it, too.

Senator Ian Macdonald: It's probably truthful.

The PRESIDENT: Order on my right!

Honourable senators interjecting—

The PRESIDENT: It does not help to have senators interjecting from both sides. Senator Wong?
Senator Wong: I have given him the opportunity. The acting Leader of the Government in the Senate stated that Senator Cameron was a defender of violence against women, and I ask him to withdraw.

Honourable senators interjecting—

The PRESIDENT: Order on my right and my left!

Senator Ian Macdonald: Like the member for Cook that Senator McLucas used to employ.

The PRESIDENT: Order! Senator Macdonald!

Honourable senators interjecting—

The PRESIDENT: This is not helping, Senators.

Senator Conroy: Time for some stress leave, Macca.

The PRESIDENT: And you're not helping either, Senator Conroy. Senator Brandis, I did not hear the comment. Senator Wong has made that allegation. I will invite you to withdraw that comment if that comment was indeed made.

Senator Brandis: Well, if you wish me to withdraw it, Mr President, I will.

The PRESIDENT: Thank you, Senator Brandis.

Senator Cameron: Mr President, I raise a point of order. I am being accused of supporting and defending actions that I have never supported or ever defended.

The PRESIDENT: Senator Cameron—

Honourable senators interjecting—

The PRESIDENT: Order!

Senator Cameron: So those allegations are disorderly and should be withdrawn.

The PRESIDENT: Senator Cameron—

Government senators interjecting—

The PRESIDENT: On my right—you are not assisting. Senator Cameron, there is an opportunity, if you feel as though you have been misrepresented, to raise that at another juncture. So that was not a point of order for question time, Senator Cameron. The minister has five seconds in which to conclude her answer unless she has concluded her answer.

Senator CASH: I would ask Senator Cameron, then, to stand up and denounce each and every action and personally name all CFMEU members involved. (Time expired)

Government senators interjecting—

The PRESIDENT: On my right!

Senator Cameron: Mr President, I raise a point of order. I have been asked to stand up and denounce violence against women. I totally denounce any violence, in any shape or form, and any violence against women.

Government senators interjecting—

The PRESIDENT: Order on my right!

Honourable senators interjecting—
The PRESIDENT: Order! Senator Cameron, I understand the pressure that you were placed under then, but that is not the right place to make that remark and there are other places where that can be addressed, Senator Cameron.

Senator Jacinta Collins: She made the invitation!

The PRESIDENT: Order! I will take Senator Bernardi next.

Senator Bernardi: Mr President, I do take a point of order on the fact that Senator Cameron is clearly trying to disrupt question time. I am really interested in the question, and I would like to hear—

The PRESIDENT: There is no point of order, Senator Bernardi. And, Senator Collins, your interjection invites a response from me also. There is no cause for a minister or anyone for that matter to have to respond or withdraw a question asked of another senator during the answer.

Senator McKENZIE (Victoria) (14:57): Mr President, I ask a further supplementary question. Will the minister advise the Senate what more needs to be done to protect women from the derogatory and thuggish behaviour of union officials?

Opposition senators interjecting—

The PRESIDENT: On my left!

Honourable senators interjecting—

The PRESIDENT: Order on both sides!

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:58): Well, if the CFMEU fails to bring its own officials to account and condemn their actions then it falls to others to take action to ensure the protection of women. And that is why this government and those on this side of the chamber have proposed vital reforms to clean up the behaviour within the trade union movement. We have repeatedly brought legislation before the Senate to ensure the proper and transparent governance of unions and to increase the penalties that apply for breaches of those rules. Union bosses need to be held accountable for the actions of their members, and the bad behaviour that they indulge in needs to be addressed. It is a fact that the only people who need to fear these reforms are corrupt union officials. And, on that basis, each and every member of those opposite, if they truly condemn the corrupt actions of unions, should support our legislation. (Time expired)

Ayers Rock Resort

Senator PERIS (Northern Territory) (14:59): My question is to the Minister for Finance, Senator Cormann. Has the minister written to the Minister for Indigenous Affairs seeking an urgent investigation into the Indigenous Land Corporation's purchase of Ayers Rock Resort; and, if so, what was Senator Scullion's response?

Senator CORMANN (Western Australia—Minister for Finance) (14:59): I wrote to Senator Scullion in relation to this matter some time ago and was satisfied that all the necessary investigations had been conducted and that no new information had been put forward that warranted a further investigation.

Senator PERIS (Northern Territory) (15:00): Mr President, I ask a supplementary question. What further action has the Minister for Finance taken in response to allegations
Senator CORMANN (Western Australia—Minister for Finance) (15:00): I am satisfied that all necessary investigations have taken place and that no new information has been brought forward.

Senator PERIS (Northern Territory) (15:00): Mr President, I ask a further supplementary question. Has the chair of the Indigenous Land Corporation suggested to the minister that he obtain a formal assurance from Minister Scullion that he was not privy to information related to the proposed transaction or personally involved in discussions related to the financing? Has the minister sought this assurance from Senator Scullion?

Senator CORMANN (Western Australia—Minister for Finance) (15:00): I have had a lot of correspondence from the chair of that organisation. I am satisfied that Senator Scullion has conducted all the appropriate inquiries.

Budget

Senator CANAVAN (Queensland) (15:01): My question is to Senator Cormann, the Minister for Finance and Minister representing the Treasurer. Can the minister update the Senate on progress on implementing the government's plan for stronger growth, more jobs and repair to the budget?

Senator CORMANN (Western Australia—Minister for Finance) (15:01): I am pleased to inform the Senate that the government are making good progress now, heading in the right direction, when it comes to implementing our plan for stronger growth, more jobs and repairing the budget. When we came into government, we inherited a weakening economy, rising unemployment and a budget position which was rapidly deteriorating on the back of unsustainable and unaffordable spending growth. Over the last 22 months or so, the government have been working very hard to turn that situation around. We have been implementing our plan for stronger growth by getting rid of the carbon tax and the mining tax, getting rid of red-tape costs for small business to the tune of $2 billion a year, rolling out record investment in productivity-enhancing infrastructure and improving access to key markets in our region—in China, South Korea and Japan.

In the past fortnight, we have been particularly successful in making progress on our economic and fiscal reform agenda. We were able to legislate the Jobs and Small Business package. As late as today, we have been able to legislate to reverse the disastrous decision the previous government made in relation to employee share schemes. The Senate today supported our efforts to again ensure that employee share schemes are able to provide a real incentive for people to help the businesses that employ them to be as successful as they can be.

Over the last fortnight, the government has been able to pass, through the parliament, through the Senate, more than $14 billion worth of budget improvement measures, which means that, since last year's budget, we have been able to legislate budget improvements to the tune of more than $50 billion over the current forward estimates. The government are getting on with the job. We are getting things done.
Senator CANAVAN (Queensland) (15:03): Mr President, I ask a supplementary question. Will the minister further advise the Senate what the government is doing to further strengthen the economy and repair the budget?

Senator CORMANN (Western Australia—Minister for Finance) (15:03): While we have made progress, while we are heading in the right direction, we are the first to acknowledge that there is still much more work to be done. When we come back after the winter recess, we look forward to working with the Senate to legislate our jobs for families package—our package providing better access to simpler, more affordable, more flexible childcare arrangements to help families get into work, be in work and stay in work. We look forward to Labor's support of our proposal to help families access better child care and, also, to Labor helping us to legislate the savings required to pay for it.

There are still some outstanding matters from Labor's last budget on which we would like to think that Labor, on reflection, will support the government, because we are still doing the hard yards in implementing some of the measures out of Labor's last budget.

Senator CANAVAN (Queensland) (15:04): Mr President, I ask a further supplementary question. Can the minister please inform the Senate if there are any alternative approaches to strengthening the economy and repairing the budget?

Senator CORMANN (Western Australia—Minister for Finance) (15:04): Well, no, we cannot say that there is an alternative plan, but I am pleased to inform the Senate that, bit by bit, the Labor Party are backing our plan. This time last year, everything was bad, according to the Labor Party; this year, the Labor Party, bit by bit, are supporting one measure after the other that we are putting forward to strengthen growth, create more jobs and repair the budget. I say to the Labor Party: we are very grateful for your support for some of the key important structural reforms over the past fortnight; but, when we come back in August, there are still some outstanding measures out of your last budget, the 2013-14 budget, to deal with. Because we have not had any alternative spending reduction proposals since the last election, we should go back to the spending reduction proposals in Labor's last budget. We have their proposal to save $2.1 billion from Student Start-Up Scholarships, a $2.1 billion saving which Labor initiated which we would like to legislate. (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Attorney-General

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:05): Earlier today in question time, I was asked questions by Senator Wong concerning a letter which was given in evidence before a Senate committee yesterday concerning the Monis letter. The author of the email refers to Mr Michael Thawley ringing him from the PMO. I am advised that the email is not accurate in describing Mr Thawley as ringing from the PMO. Mr Thawley has an office in the cabinet suite of Parliament House, as have successive secretaries of the Department of the Prime Minister and Cabinet. The cabinet suite is not part of the PMO.
Health Funding

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:06): In answer to a question Senator McLucas asked in question time earlier today, I inadvertently used the word 'increase' instead of 'decrease'.

MOTIONS

Dissent from Ruling

The PRESIDENT (15:07): At 2 pm, during the last division and before question time, Senator Macdonald handed in at the table a written objection to the ruling of the Deputy President that there was no point of order in relation to business of the Senate notice of motion No. 6 moved by Senator Lazarus and agreed to then by the Senate. Standing order 198 states:

(1) If an objection is taken to a ruling or decision of the President, such objection must be taken at once and in writing, and a motion moved that the Senate dissent from the President’s ruling.

(2) Debate on that motion shall be adjourned to the next sitting day, unless the Senate decides on motion, without debate, that the question requires immediate determination.

The pressure of business right that juncture of the change from the housekeeping matters into question time, and with the Deputy President and I changing the chair, did not give opportunity for Senator Macdonald to have that matter determined. I propose that, if it is the wish of the Senate, we can determine that matter now by motion or, if Senator Macdonald wishes, that matter can be listed on the Notice Paper for the next day of business.

Senator Jacinta Collins: He is not even here.

The PRESIDENT: I know Senator Macdonald was advised that I was going to be giving this statement. We will just move on.

Honourable senators interjecting—

The PRESIDENT: Order! I think it is only fair that we give Senator Macdonald—

Senator Jacinta Collins: Not after his behaviour this morning.

The PRESIDENT: That is a matter for me to judge, Senator Collins. He is here now. Senator Macdonald, I am not going to go through what I just said a moment ago. If you indicate that you would like your motion of dissent to go onto the Notice Paper for the next day of sitting, that can occur. Or, if another motion is moved by any senator that it requires immediate determination, that can occur.

Senator IAN MACDONALD (Queensland) (15:09): Thank you, Mr President. I was outside and half heard what you were saying on the TV monitors, but not all of it. I did take objection at the time and I gave notice in writing of my dissent. I move:

That the Senate dissents from the decision of the Deputy President to dismiss Senator Macdonald's point of order.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:11): Mr President, does the dissent motion being postponed have any effect on the operation of the substantive motion and the committee?

The PRESIDENT: No, there is no effect on the committee.
Ordered that the debate be adjourned till the next day of sitting, pursuant to standing order 198.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Attorney-General

National Security

Senator JACINTA COLLINS (Victoria) (15:11): I move:

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

This government has a serious problem with scrutiny. We have seen, in the most recent incidents and in recent times, through Senator Brandis's pattern of behaviour, senior public servants and agency heads used to cover their actions. Indeed, the additional information that Senator Brandis provided us with today about the email we were discussing in question time highlights the fact that Mr Thawley, who we have been referring to, is not only a very senior public servant; he is the most senior public servant. Indeed, he does have an office in the cabinet rooms, very close to the Prime Minister's office; but I am really not sure what the point is there.

The real point is: how can we trust the Attorney-General with very serious national security matters when he hides behind a second tab to mislead parliament? The Attorney-General's Department has been forced to reveal that both they and the Department of the Prime Minister and Cabinet allowed four sitting days before correcting the record. We heard from Senator Brandis today that he does not have much more that he can add.

The opposition has obtained this email, which is evidence that Senator Brandis and Ms Bishop were told that they had misled parliament on the evening of Monday 1 June. At 5.30 pm on Monday 1 June the secretary of the Prime Minister's department, Mr Michael Thawley, called Senator Brandis's department from the cabinet office to instruct Senator Brandis's department to correct the record of misleading evidence during Senate estimates and in the house. Mr Thawley also instructed Senator Brandis's department—

Senator Brandis: Mr Deputy President, a point of order: that is not what the document says. If Senator Collins proposes to refer to a document, she should quote from it without misstating what it says.

The DEPUTY PRESIDENT: That is not a point of order, Senator Brandis. That is a debating point.

Senator JACINTA COLLINS: Senator Brandis knows full well that he has an opportunity to debate this point. Unfortunately, in question time, he cannot answer questions. That is the problem. The most extraordinary thing about this saga is the extraordinary lengths that the government, from the Prime Minister's office down, have gone to to avoid this issue: failed answers during question time; the behaviour of Senator Ian Macdonald with the Legal and Constitutional Affairs Legislation and References Committees; the appalling behaviour that occurred in the committee today; and countless other examples of how this government has sought to avoid dealing with this matter. The simple issue here is that there is an important matter of public scrutiny when a government goes out and refers to myself and the shadow Attorney-General as asking contemptuous questions, and when it turns out that the
very basis of those questions was, indeed, accurate. And this government avoids four question
times to hide their contemptuous behaviour!

I am not surprised that Senator Brandis is trying to avoid exposing how outraged Ms
Bishop must have been when she discovered what had occurred here. I had asked very simple
straightforward questions in Senate estimates about the handling of this letter. She went way
overboard in, firstly, suggesting that anyone was claiming there would have been a different
outcome to the Sydney siege and, secondly, in suggesting that we were claiming that this
letter might have changed that outcome. There were no contemptuous questions on this
matter. Indeed, Senator Brandis himself, during estimates, did not even imply that there was
anything inappropriate in those questions. But the information provided to Ms Bishop
obviously ramped up this issue so far that she thought she could claim in question time in the
House of Representatives that there had been contemptuous behaviour from the opposition in
this matter. Well, there had not been. And now we know, courtesy of Mr Thawley, that the
only contemptuous behaviour here was this government's failure to correct the record when it
became very clear on that Monday that the information that Ms Bishop and, indeed, Senator
Brandis had was false. This lies with the government. This lies with their problems with
scrutiny and their use of public servants to cover their actions. (Time expired)

Senator SESELJA (Australian Capital Territory) (15:16): I want to refer to a couple of
lines of questioning of the opposition to the Attorney-General today. It goes to their absolute
desperation when it comes to the issue of national security and their desperation to try and
show their credentials by trying to tear down the government through this false line of
questioning. We can understand why there is that desperation given Mark Dreyfus's
articulation of their national security credentials, their 'Bring the terrorists to Australia' policy,
last week. With the horror fortnight that Bill Shorten has had, we can understand why they are
looking for a distraction. But let's actually go to the facts rather than this attempt to try and
create something where no issue exists. Let's go to the facts rather than the spin that Senator
Collins has tried to put on it in a desperate attempt to cover up for the lack of national security
credentials of those opposite.

We know that a departmental officer, at estimates on 27 May, advised that the letter of 9
October was provided to the review. The officer thought she recalled seeing that letter among
the documents considered by the review. She did not consult with PM&C before providing
this evidence. On 29 May that officer discussed her recollections with a fellow officer from
the review at the Department of the Prime Minister and Cabinet and determined that her
recollections related to a separate document. On Monday, 1 June, at 12.15, PM&C advised
the department, via email, that the letter had not been received through the formal processes.
There was a range of informal and less formal arrangements underway during the Martin
Place Siege Commonwealth-New South Wales Joint Review for the provision of information.
The department was not certain on 1 June that the letter had not been provided in some other
way and advised the Attorney-General accordingly. On the same day, the secretary advised
the Attorney-General that he would provide authoritative advice to the Attorney-General on
this matter in that week.

The secretary subsequently instructed the department to undertake a thorough internal
review to determine authoritatively that the document was not provided. This process
concluded on 4 June. So on 2 June the department advised the Department of the Prime
Minister and Cabinet that it was conducting an internal review and the department also asked for PM&C's advice on whether it would have made any difference to the siege review if the documents had been provided. On 4 June, once the department had concluded from its internal review that the documents had definitely not been provided, the secretary advised the Attorney-General, by letter, of what had occurred confirming there had been an administrative error and that the Monis letter and response had not been provided. The departmental officer wrote to the chair of the Senate Standing Committee on Legal and Constitutional Affairs to correct the Hansard of the proceedings of 27 May. That was sent at 2.55 pm and it was sent to the AGO at 2.57 pm. The Minister for Foreign Affairs then corrected the record at 3.09 pm on 4 June in the House of Representatives and the Attorney-General corrected the record, by letter to the chair of the committee, at 3.15 pm on 4 June.

That is the process that has been outlined. As soon as there was definitive advice, that advice was advised in various ways to both the Senate and the House of Representatives by the relevant ministers. This is nothing but a tawdry attempt to try and distract from where the Labor Party is on national security and a whole range of other issues, not least of which is Bill Shorten's credibility when it comes to the AWU and telling the truth to Neil Mitchell and a whole range of other issues and questions of judgement. Another example of that, which played out in question time today, was in relation to documents in relation to ASIO that were discussed today. I again quote from Duncan Lewis in relation to the claims made by the opposition in relation to those documents:

There has been reporting in some quarters of the media regarding the sensitivity of documents used in briefing the Prime Minister yesterday. The Director-General of Security confirms the documents used in the briefing were not the subject of a national security classification. The documents were carefully edited and were unclassified. The content of the documents did not compromise national security

Again, this is another pathetic attempt to try and score points on national security which has been thoroughly refuted by Duncan Lewis. I think the Labor Party should apologise to him and I think they should stop playing ridiculous politics on this issue. (Time expired)

Senator DASTYARI (New South Wales) (15:21): I want to add my voice to concerns that have already been raised in this chamber today about what was effectively a media opportunity for the Prime Minister and the Attorney-General at the ASIO headquarters yesterday. We can have a debate about the comments by Mr Duncan Lewis regarding what was or was not the information that was presented. What I am concerned about, and what I believe the Senate should be concerned about, is this trend towards the politicisation of these kinds of issues. There is nothing wrong with the Prime Minister of Australia going to the headquarters of ASIO for a briefing. I am sure that it is something that has happened with many Prime Ministers and many attorneys-general on a regular basis. I imagine that, on many occasions, the senior figures within ASIO will come to government—but the use of cameras and taking in photographers, and the photos that were taken? From a Sydney perspective, it concerns me when you have maps that highlight 'hot spots'. That is the term that has been used in the media to cover suburbs like Lidcombe and Greenacre, Punchbowl, Bankstown, Alburn and Lakemba. It reeks of the fact that not only are these props being used as part of a media opportunity but these communities have been slurred. These communities get impacted upon. The reputations of these kinds of communities get tarnished. This idea that it is somehow appropriate or right for the Prime Minister to be taking media cameras into ASIO
headquarters to take photos of a briefing of that kind, frankly, concerns me because it reeks of politicisation.

It is the same trend that we saw and heard when the Attorney-General answered questions to this effect today. It is the same trend that we have seen regarding the most recent bill that was introduced into the House yesterday, and, as the Attorney-General pointed out, it has been appropriately referred to the Parliamentary Joint Committee on Intelligence and Security. Again, the fact that this bill was being debated and was out there in the public domain, yet the legal advice and the legislation itself was not shown to the opposition for such a long period of time, is concerning.

I feel there has been a very good, bipartisan approach towards national security issues over the past few years. What is worrying is that there is an increasing trend and, dare I say it, a desire, at times, from the government to try and break that consensus by their actions and by their behaviour. I feel that the politicisation of these kinds of issues—the use of ASIO headquarters as a media opportunity—is not something we should support and not something we should endorse.

In the brief time that I have remaining, I also want to touch on the issue of naval shipbuilding that was in a question from Senator Madigan—

The DEPUTY PRESIDENT: Senator Dastyari, that is not the question before the Senate.

Senator DASTYARI: I thought it was questions answered by senator—

The DEPUTY PRESIDENT: It is questions asked by the opposition to Senator Brandis.

Senator DASTYARI: My apologies. I want to touch on this issue regarding the Monis letter—what had gone on and the steps that had been taken before that. The gap of time—the number of question times and the number of opportunities that the Attorney-General had to correct the record, and a decision was made not to is, I think, something that should be of concern to the Senate. I understand that there will be a committee process underway.

Senator Brandis: The record was corrected within an hour and a half.

The DEPUTY PRESIDENT: Order!

Senator DASTYARI: There will be a Senate committee and a Senate inquiry. I believe that the Attorney-General should have, on the Monday, corrected the record. I know that is not a view the Attorney-General shares, but I believe the first available opportunity would have been on that Monday. If, after that point, the Attorney-General wanted to conduct further inquiries, that would have been a matter for the Attorney-General, but I think it should have been corrected as soon as possible. I think it is alarming that that is a view that also appears to be shared in the email correspondence that has recently been released. That also seems to be the view of Michael Thawley, the head of the Prime Minister's department. The correspondence here from the deputy secretary can only be read in one way, and that is that the Secretary of the Department of the Prime Minister and Cabinet came out and made clear what his views were. (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (15:26): I too rise to take note of answers given by Senator Brandis to questions from the opposition, although, I might say, it probably would have been a more useful use of everybody's time if we had been taking note of the answers that were given to questions that were asked by the
government in relation to the thuggery and behaviour of the CFMEU. We might have actually got some more substantial comment than the fluff and fluff that we have about the issues that were raised by the questions we have proceeded to take note over—those questions that relate to the Man Monis letter and the questions that were asked in relation to the ASIO situation, particularly.

It is quite interesting when you are flicking through your Twitter feed over the last hour. Even Samantha Maiden has tweeted and referred to the pursuit of the issues raised in question time today by the opposition of the government on these two particular matters as 'a total pursuit of irrelevancy', which I thought was a very interesting comment. She referred to the Monis letter situation as clearly a muck up of some sort, which has been acknowledged as an administrative issue and not a conspiracy. We often find that we like to make things into conspiracies simply because they make for better reading, but the simple matter is that it has probably just been some sort of administrative error, an oversight or something that slipped through the cracks, which appears to be, possibly, what has happened here. In relation to the ASIO situation, she refers to the plotline as plainly silly. So here we have one of Australia's leading media commentators calling out the opposition's questions in question time today for exactly what they were.

It is really quite interesting that Senator Collins got up in taking note today and made the comment about this government having 'a serious problem with scrutiny'. I would have thought that was a little rich coming from those opposite who, in their six years in government, made an absolute art form of making sure nothing was scrutinised. Certainly, we only have to look at a number of the programs that were run by the government—your pink batts, home insulation, cash for clunkers or whatever. If ever there was an example of a government that had a serious problem with scrutiny, it was the previous Rudd-Gillard-Rudd governments.

But I do not think there is any issue here with scrutiny. If we are referring to the matters that were raised by questions asked today on the Man Monis letter, it is just not a matter of scrutiny. This has been quite publicly put out there. It has been explained I do not know how many times. With the number of times that the matter has been raised in question time subsequently, I do not think I would have needed a briefing note on the matter; I could explain it off the top of my head. It was a simple situation. As far as I am aware, a piece of information was given to a estimates hearing of the Senate. It was subsequently realised sometime later that that information was not actually correct. The true and accurate information was sought in relation to this matter, to make sure that no further false information was given in this place, and that information was subsequently obtained. One would have thought that would be the end of the matter. Talk about making a mountain out of a proverbial molehill—I have never seen anything quite like it.

Senator Dastyari in his contribution a few minutes ago referred to the politicisation of issues. Please—please, please, please—Senator Dastyari. There are some opposite who probably do not attempt with quite the same fervour or excitement to politicise issues in this place, but coming from Senator Dastyari that was really a bit rich. This is the man who was quite happy in The Killing Season to have himself re-photographed so that he could get his face on television. He was, sadly, brought somewhat unstuck by a little technological issue—namely, he did not realise there were no iPhone 6s in 2010. To come in here and suggest that,
in a matter of national security, this government, the government of which I am a member, would put anything apart from the greatest level of importance on national security, and to suggest that the Prime Minister or the Attorney-General or the foreign affairs minister—or whoever it may be—would politicise an issue as serious as national security for their own political gain, is an outrageous statement coming from somebody like Senator Dastyari. *(Time expired)*

**Senator LUDWIG** (Queensland) (15:32): I rise also to speak on the answers given by Senator Brandis to questions in question time today. I do not share the view of Senator Ruston that these are matters of 'fluff and fluff'. Quite frankly, I think they are far more serious than that. Quite frankly, I also do not share the view that the simple suggestion of administrative oversight is true. I do not believe, at the outset, in conspiracy theories either. What I do believe in is that, if there are circumstances where this government has the opportunity to be open and accountable, it does not choose that path. It chooses a path deliberately of trying to obfuscate, to block and to create a cover-up, rather than let the light shine in. This government has form on this. This government continues to not want to answer questions, and I think this instance is but one example of that.

You look at the facts of the matter; you go back to the original response from the government that this was a letter that was sent to the review—and the response at estimates was that. Quite clearly, I think, it was sent very soon after that. It was clear to the government that the letter did not arrive at PM&C. That is the administrative error, and that can be accepted as administrative error. What cannot be accepted are the actions that have been taken post that to cover up. We all know in this place that it is not the administrative error; it is not the issue itself that will kill you in this place; it is the cover-up that will kill you in this place. In that instance, the government had an opportunity to correct the record at the earliest possible time. For its own purposes, it chose not to do so, and I think there are some pretty clear examples of why it chose not to do so in this instance.

You had Ms Bishop from the other place quite outraged at Mr Dreyfus's question—she 'went him', in the proverbial, for daring to ask. I think this government was embarrassed about that display by Ms Bishop because Ms Bishop ultimately was wrong and would have to correct the record and bear the full brunt of the explanation during question time in the House. I do not think Ms Bishop wanted to feel that, and I do not think Senator Brandis wanted to feel it in here either. It is an easy mistake to make—you can decide that maybe the administrative error can be stretched out and cover the period to allow you to escape scrutiny in here, be out the door for another week and everyone can forget about it. It is not the place to do that, because what happens is that you will get caught, found out or coughed up by the Public Service, by your colleagues or by dint of circumstance.

In this instance, it is clear from the email that the PM&C chief mandarin coughed up Senator Brandis. He literally directed him by email at 5.30 on 1 June: 'You should correct the record.' Senator Brandis ignored that, for whatever reason he wants to spin on that, and did not do anything until after question time, at the end of the week, when Ms Bishop and he decided, 'This is a quiet period; we should correct the record at this point.' The duty in this place is to immediately correct the record. That is what the duty is here and for public servants as well—not to take comfort from the cover-up. *(Time expired)*

Question agreed to.
Trans-Pacific Partnership Agreement

Senator WHISH-WILSON (Tasmania) (15:37): I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Payne) to a question without notice asked by Senator Whish-Wilson today relating to investor-state dispute settlement clauses.

To use the words of my colleague Senator Ludlam, with all the high-pitched flag-based fear mongering that is going on in this building at the moment, I would like to talk about a real issue of threat to our sovereignty as a nation, and that is giving corporations special rights to sue governments when governments enact legislation in the public interest. These special rights are called investor-state dispute settlement clauses, with the acronym being ISDS. They are also known as Trojan Horse clauses.

When we started going into globalisation of trade 30 or 40 years ago, these clauses were introduced to prevent the expropriation of assets, which is when countries would nationalise assets or freeze remittances of corporations operating in certain areas. Modern trade deals now cover a whole range of laws and regulations that affect us in our everyday lives. In fact, in 29 chapters in the Trans-Pacific Partnership Agreement, only three of them relate to what we would classify as traditional trade. The rest of them are about synchronising laws and regulations between countries. One of the most sinister aspects of the Trans-Pacific Partnership Agreement is the investment chapter. One of those 29 chapters sets out the structure that allows corporations to challenge rules and regulations that we, as parliamentarians, implement through the democratic process of government.

I have been labelled by the trade minister—as I know a number of other people have who have raised concerns about what is actually being negotiated away in our name—as a fearmonger. It is good, once again, to see the Productivity Commission raise similar concerns to what the Greens and a number of other people in this parliament have raised around the secret trade agendas. I will not even call them trade, I will just call them secret deregulation agendas.

These investor-state dispute settlement clauses add absolutely nothing to trade deals. The Productivity Commission pretty much suggests that ISDS protections are not necessary or sufficient to foster investment flows between developed countries with transparent and well-functioning legal systems. It also says that they introduce risk. The proliferation of these ISDS clauses has occurred in the last five years. There are nearly 550 cases of governments around the world being sued by corporations.

Our own Australian government is being sued by Philip Morris, big tobacco, for enacting legislation in the public interest to protect the health of Australians, and that is plain-packaging tobacco. This legal case is now tied up in one of the shady International Court tribunals that are subject to no rules at a sovereign level. The court cannot be appealed against and there are all sorts of other reasons why the world is now questioning—and certainly in the US politics recently why we need to have these clauses inserted in trade deals. I asked Senator Payne at question time today where the government has sought its advice on the inclusion of these dangerous, Trojan Horse clauses in trade deals. Had she spoken to well-respected commentators such as the Productivity Commission. The answer was clearly no, although she will get back to me if there have been discussions. But she certainly did not know if the
government had been seeking the advice of commentators such as the Productivity Commission.

I also asked if the government had assessed the risks of including these dangerous clauses in deregulation agendas like the Trans-Pacific Partnership Agreement. There was no answer forthcoming on that. Lastly, I asked whether Chief Justice Robert French of the High Court whether the legal fraternity had been consulted about the dangers of these special ISDS clauses. Senator Payne was not sure of that either. She certainly did not answer yes or no. I know from a bill that I put to the Senate to ban these ISDS clauses that the answer actually is no to all of those questions. We have been through this with a fine toothed comb and hearing from hundreds of witnesses. These clauses are dangerous. The Australian public does not like them. The union movement does not like them for good reason. They have been soundly routed and rejected in the US. We need to actually discuss this now and have a national conversation on a corporate takeover of our democracy, selling out our sovereignty to corporations. *(Time expired)*

Question agreed to.

**DOCUMENTS**

**Parliament House**

**Tabling**


**DELEGATION REPORTS**

**Parliamentary Delegation to the 132nd Inter-Parliamentary Union Conference**

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:43): by leave—I present the report of the Australian parliamentary delegation to the 132nd Inter-Parliamentary Union Conference held at Hanoi, Vietnam, from 28 March to 1 April 2015.

**COMMITTEES**

**Constitutional Recognition of ATSIP**

Report

Senator PERIS (Northern Territory) (15:43): I present the final report of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator PERIS: I move:

That the Senate take note of the report.

I rise to present the final report of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. This report builds on the work of the Expert Panel on Constitutional Recognition, led by Professor Patrick Dodson and Mr Mark Leibler, which reported to government in January 2012. This report is unanimous and has multipartisan support from Labor, Liberal, National and the Greens members of the joint select committee. Importantly, there is no dissenting report. I congratulate my committee
colleagues because this is a testament to their commitment and support for change. I believe that the joint select committee has done an incredible job in achieving unity in a heavily-laden political landscape, so I would like to thank my fellow committee members for their vision.

The committee held 15 public hearings, consulted with constitutional law experts and held community forums. We received 139 submissions. The work of the expert panel was extensive. It conducted 250 consultations in 84 locations across Australia. So, between us, we have done a great body of work on this very important issue. The committee makes 10 recommendations and strongly endorses the position of the expert panel for real and substantive change to the Constitution. We recommend that a referendum be held on the matter of recognising Aboriginal and Torres Strait Islander peoples and that it be held at a time when it has the highest chance of success. The report notes the committee's concerns about a referendum happening at the optimum time given Australia's general reluctance to pass referenda. Only eight out of 44 have been successful. So we have a big and serious job ahead of us all to overcome our anxiety and fear on constitutional recognition of Aboriginal and Torres Strait Islander peoples.

To successfully change our Constitution, this referendum must be championed by our nation's leaders, otherwise it will fail. Our national leaders must show courage and leadership and get out there and talk it up—give the nation pride; give the nation some backbone; inspire us. But, equally, every one of us must also show leadership on this issue. It is up to every one of us. To change our Constitution, Aboriginal and Torres Strait Islander peoples must be major players in this endeavour. They, too, are critical to its success. The committee recommends a series of conventions be held, consisting of Aboriginal and Torres Strait Islander delegates as well as delegates from the broader Australian community. Changing our Constitution can only be a good thing because there are provisions in it that are just plain wrong. It has racist provisions that reflect an Australia that no longer exists, and this must change.

We recommend that section 25 be repealed. We recommend that section 51(26) be repealed and be replaced with the retention of a person's power so that the Commonwealth government may legislate for Aboriginal and Torres Strait Islander peoples as per the 1967 referendum result. The year of 1967 was a high water mark in recognition of the first owners of the land we now know as Australia. Our aim must be to achieve further changes to crown that success of half a century ago. The committee recommends a new section 116A—the prohibition of racial discrimination—that the Commonwealth, a state or a territory shall not discriminate on the grounds of race, colour or ethnic or national origin. Let me be clear on this: this is not about a single issue for a bill of rights. The High Court has found implied rights of freedom and of political communication. While we do not have a bill of rights in this country, as this report sets out, we certainly have rights protected expressly by the Constitution of this country: protection of property, freedom of trade and movement, trial by jury, freedom of religion, and the prohibition against discrimination on the basis of state residence. But we would all be lesser Australians if we did not right this wrong and make our Constitution stronger with such a provision.

I do not want to see another Northern Territory intervention, where in 2007 the Australian government suspended the Racial Discrimination Act so that it could enact the Northern Territory Emergency Response Act. Overnight, it ripped away the rights of Aboriginal people
and demonised them. These rights have not been restored to Aboriginal people in the Northern Territory, who are continually treated with contempt. This must change.

The committee heard from multicultural groups who have said, 'What about us? We want to be recognised too.' Changing the Constitution will do this. Section 116A will do this. It will reflect a modern society inclusive of our multicultural country, where discrimination should not be, at any time, accepted or tolerated. This time we must get it right, not just for us right now but for the sake of our future generations. For many of us, this is a once-in-a-lifetime opportunity to give our future generations a strong and proud country—a country that is inclusive of all its citizens.

One of the highlights of my hearings was in the Torres Strait when I asked an elder about the prohibition of racial discrimination. He said to me:

How beautiful is it that we can take the recognition of Australia's Aboriginal and Torres Strait Islander people and take Australian citizens to a referendum where a vote would be put to the people to eliminate discrimination for all people on the grounds of race, colour or ethnic or national origin.

To build a successful campaign for change, we must continue to engage at the grassroots level. We must engage with the mums and dads and with schools and sporting clubs. We must talk at the social clubs and pubs and at the local church or mosque. We must talk with all Australians, regardless of where they come from: England, China, India, Iraq, Syria, Vietnam, Ireland, New Zealand, Yuendumu, Galiwinku, Kalkarindji, Redfern and Fitzroy.

I have had people say to me, 'Why should I? Convince me. Why change the Constitution?' I say to all of you: convince me that this is not the right thing to do; convince me that this will be bad for our great country; convince me that it is okay to have racist provisions in our Constitution which we all uphold as the birth certificate of our nation; convince me that it is okay for Australia's birth certificate to enable successive governments to make oppressive laws that affect only Aboriginal and Torres Strait Islander peoples; convince me that it is okay to steal our children and to lock them away from their mothers, their fathers, their clan and their country; convince me that it is okay to be a bigot.

Our Constitution must change, but let's not get caught up in some arbitrary timeline for when the referendum should be held, as this will certainly spell doom for what the joint select committee is recommending and it would lead to failure. Let's make the time to educate and inform all Australians so that they will know that there is nothing to fear from recognising Aboriginal and Torres Strait Islander peoples, from acknowledging our continuing relationship with our traditional lands and waters and from respecting our continuing cultures, languages and heritage in the Constitution.

The recent survey by Celeste Liddle in The Guardian newspaper's IndigenousX column suggests that there are deep misgivings about the process and content of any proposals. All of these will be exploited by the naysayers of this world, but we must not let them continue to drag our nation down, and that is all that they will do. Prior to the birth of our nation, there were already global citizens who occupied this land we call Australia for thousands of years. Australia has a black history and it is time for us to stand up and say, 'Yes we have, and we should all be proud of it.'

I stand here as a proud Aboriginal woman and I say to everyone: I am not invisible; I am real. Our language, our cultural practices and our beliefs are all real and deserves to be in the Constitution. We need to celebrate and recognise Australia's real and entire history.
Aboriginal and Torres Strait Islander people deserve recognition. Like others who have endured and survived extreme racism and oppression in all other parts of the world, we deserve our place in the sun.

As Australia's first peoples, our culture and our heritage has been devalued for 227 years. We have a rightful place in Australia's history. And it is one, as I have already said many times, that all Australians should embrace. This constitutional change will not undo the wrongs of the past but allow Australia's Aboriginal and Torres Strait Islander people to be respected and valued as citizens in this country—equally. What this change will look like is up to us—you, me, our friends, our family, everyone. But let not the tides of history wash away any real and meaningful change for our people. So, again, I urge you to all inform yourselves and educate yourselves about these issues. Consider them and ask yourself not what you have got to lose; instead, focus on what this country stands to gain—and that is 40,000 years of rich, sustainable, resilient cultures and traditional practices of Australia's Aboriginal and Torres Strait Islander brothers and sisters. It is time to modernise Australia.

I am proud of what the joint select committee has achieved. I encourage all Australians to read our report, discuss it and debate it, but do not dismiss it. Read the Australian Constitution, and then let us move our country forward together. Once again, I congratulate my colleagues on the joint select committee, in particular our chair, Mr Ken Wyatt, the member for Hasluck. It was an honour and a privilege to be the deputy chair of the committee. I would like to thank the committee's secretariat for all their hard work. I would like to thank all those hardworking people who made submissions to this inquiry and gave us the opportunity to learn more from our fellow Australians. I commend the report to the Senate.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:54): As a member of this committee I would like to make a contribution in taking note of this report by the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. Firstly, I would like to express both my thanks and my congratulations to Ken Wyatt and Nova Peris, who both, as chair and co-chair of this committee, did a wonderful job. It is such a pleasure to stand here and talk to a report that did receive consensus support from the members of our committee. Each member of our committee worked really hard to participate in this process to bring their passion and their commitment, and an open mind to listening to the evidence. We all went out into the community and spoke to a wide range of community members. As Senator Peris just said, we spoke to constitutional experts. We understand what a con-con is now—having a wide range of legal expertise but never getting the same piece of legal advice from more than one lawyer! They all differ.

One thing that we are now committed to is an understanding of the need for constitutional recognition. It was really clear from all the evidence we received that recognition has to be substantive recognition—it has to be. The message was really clear to us. We outlined this in our report at paragraph 5.22, where we say:

During its inquiry, the committee heard the strong view that if constitutional recognition were to be pursued, substantive reform should be achieved. Many witnesses rejected the idea of mere recognition, considering it to be 'tokenistic'. The committee heard that for it to be supported, recognition had to be combined with a provision preventing discrimination on the basis of race.
I am absolutely convinced that the only way we can progress with constitutional reform is to acknowledge that recognition is essential. But recognition, as we just said, has to go hand in hand with provisions preventing discrimination. We heard that over and over again. I would find it very hard to look into the eyes of Aboriginal and Torres Strait Islander people and try to convince them that constitutional recognition without addressing issues of discrimination is worthy of support. This is why the committee has made a series of recommendations.

In terms of the wording for the recommendations, there are three options. Each of those options address not only recognition and largely the words of the expert panel but, in some form, the issue around discrimination. As a member of the expert panel, I am really proud that this committee also thought that the recognition words were largely worthy of support without much amendment, as did the community. That is reflected in the community voice. It is absolutely imperative that any words for constitutional recognition and reform have to have the support of Aboriginal and Torres Strait Islander people. That is why it is so important that the recommendation around the conventions is also taken up and that we make sure that the voices of Aboriginal and Torres Strait Islander people are heard.

It is quite clear from the consultation that people do support constitutional recognition. There are some who have some concerns, and that is acknowledged in the report. It is also quite clear that it is not the end of how we need to make sure that we are a reconciled nation. But it is very clear to me that it will substantially help us along the journey of reconciliation in this country.

While I am talking about the journey, I would also like to acknowledge the work that RECOGNISE has done over the last couple of years in raising awareness around constitutional recognition. They have set off on a journey of recognition. On that journey, 20,256 people have participated. I was part of the first kilometre—and, in fact, a bit more—of that journey. I am really pleased to see that so many people have participated in that. They have been on the road for 262 days. They have visited 211 communities, walked 32,490 kilometres and participated in 271 events. That is a lot of engagement. We need, though, to keep that work going. We need to redouble our efforts to make sure that we are talking to Australia around constitutional recognition.

I, for one, and I know am representing the voice of all Australian Greens here, believe that our Constitution is not finished until we make sure we recognise Aboriginal and Torres Strait Islander peoples in the Constitution. I know a lot of people want to speak, so I am going to cut my comments short. Please hear Senator Peris's call for people to read and understand this report and engage in this discussion. And be ready for a referendum. Talk to people about these recommendations. The recommendation in this report on timing is very important. We need to go ahead with a referendum when the nation is ready. Please help us enable the nation to be ready for a referendum.

Senator McKENZIE (Victoria) (16:01): I, too, rise to speak very briefly, because I am conscious that there are other senators who want to speak to other reports being tabled today. On the tabling today of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples final report, we have had an interim report and this has been a long debate and discussion in this country that was begun during the term of the last government. There has been extensive consultation through the work of the expert panel.
I have come to this debate from a certain perspective, not being as ingrained in the issues around Indigenous recognition as many of the other senators and members I had the privilege to work on this committee. I would also like to thank the chair, Mr Ken Wyatt, and Senator Nova Peris, for their leadership throughout this inquiry, and from the way they constructed our hearings and the type of consultation we conducted. It was not just about our typical Senate procedure, where, you know, we end up with the usual suspects in front of the senators as they asked questions. We actually took an approach that meant we were going right out to communities to hear what Indigenous Australia had to say about this issue and what the states had to say about this issue. We met with Attorneys from across our great federation, and indeed premiers, and we received a lot of advice on their perspectives from where they sit with this particular question. We know that for any referendum it is not only the majority of voting Australians who need to approve it but also a majority of the states. This is the key to a discussion and a debate like this.

Both the Prime Minister and the Leader of the Opposition have been very clear about their commitment to taking a referendum to the Australian people that will recognise Aboriginal and Torres Strait Islander peoples within our Constitution. I think some of the most compelling evidence we heard throughout the hearings was to do with the parameters of the question that was going to be put to the Australian people, and how we frame that question is going to have a big impact on its eventual success. I think it was George Williams who actually outlined to the committee steps that make a good referendum question and up the chances of success, and how we can frame the questions we take to the people to make it more likely it will go down. There is still a bit of work to do. The recommendations we have put forward as a committee highlight the fact that this is an ongoing conversation and we do not want to rush this process. We do not want to put before the Australian people a question that will not succeed.

We have addressed the issues of timing in this report—about when we think it will have the most chance of success. We have also committed to repealing section 25 of the Constitution. We have set out three options that would retain the persons power and leave that to others to ensure we get a form of words that will succeed.

One thing that I absolutely love about our Constitution is the fact that the Australian people are sovereign. I think we have held true to that value in the recommendations our committee has made, by committing to constitutional conventions being held in the wider public. But before the wider public of Australia comes together and debates this issue, we need to get a very clear and consistent message from Aboriginal and Torres Strait Islander Australia. We are looking forward to some conventions and public consultations being held with those communities. I know there are more senators to speak, so, I seek leave to continue my remarks on this report at a later stage.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade References Committee
Report

Senator GALLACHER (South Australia) (16:05): I present the report of the Foreign Affairs, Defence and Trade References Committee on the Commonwealth's treaty-making
Ordered that the reports be printed.

Senator GALLACHER: I move:

That the Senate take note of the report.

I am pleased to table this report of the Foreign Affairs, Defence and Trade References committee into Australia's treaty-making process. The timing of this report could not have been better. Only last week, the China-Australia Free Trade Agreement was signed, tabled in the Australian Parliament and referred to the Joint Standing Committee on Treaties, for inquiry and report within 20 joint-sitting days, consistent with the process that has been in place for two decades. The Trans-Pacific Partnership is also entering its final stages of negotiations, with parliamentarians told recently they could access the draft text, but only after signing a confidentiality agreement.

ChAFTA and the TPP have thrown into sharp relief evidence received by the committee from industry bodies, the union movement, academic experts and other stakeholders that the treaty-making process is in need of reform.

During the committee's hearing the Department of Foreign Affairs and Trade, DFAT, which is responsible for negotiating, consulting and finalising free trade agreements, was a lone voice in supporting the status quo. All of the 95 submissions received by the committee and every witness appearing before it over two days of hearings, with the exception of the department, argued that the current treaty-making process falls short on a number of counts.

First and foremost, all treaties, especially complex free trade agreements, are presented to the parliament and subject to scrutiny only after they are signed by the government. That parliament is faced with an all-or-nothing choice when considering legislation to bring an agreement into force prevents it from pursuing a key scrutiny and accountability responsibility. It is no longer satisfactory for parliamentarians and other stakeholders to be kept in the dark during negotiations when Australia's trading partners, including their industry stakeholders, have access under long-established and sensible arrangements.

Second, it is pointless for JSCOT to conduct its inquiries after the agreements are a done deal and signed by the government. This does not provide for an adequate level of oversight and scrutiny. Parliament should play a constructive role during negotiations and not merely rubber stamp agreements negotiated behind closed doors.

Third, the department's process of consultation is not working, contrary to what officers told the committee at a hearing. Meetings and briefings with stakeholders are plentiful but they are not as effective as they could be and fall way short of stakeholder expectations, adding to their frustration.

Finally, there is an insufficient amount of publicly available information about agreements under negotiation, and independently sourced economic analyses of their likely benefits are not mandatory. In relation to the TPP, this has fuelled media speculation on the content of the agreement when certainty based on fact is required. It is unsatisfactory for complex trade agreements, which are years in the making, to be negotiated in secret and subject to stakeholder and parliamentary scrutiny for a few short months with no realistic capacity for text to be changed, and then for implementation of the legislation to be rushed through
parliament unamended. This comes very close to making a mockery of the process and of parliament's involvement.

In addressing these problems, this report steers a middle course between doing nothing, which appears to be the entrenched position of the coalition government, and recommending that treaties be subject to parliamentary approval, which is unlikely to garner political support any time soon.

The opposition favours incremental change building on the package of sensible reforms introduced by the government in 1996. This is why the report makes practical recommendations aimed at improving the level of transparency in negotiating treaties and the quality of consultations between DFAT and stakeholders, and making parliament a real player in treaty making.

Specifically, the report's key recommendations are: that the Joint Standing Committee on Treaties engage more in the oversight of trade agreements under negotiation and not wait until the end of the process; that parliamentarians and stakeholders be given access to treaty texts on a confidential basis during negotiations and not a token look at the end, as with the TPP; that trade agreements be subject to an independent cost-benefit analysis prepared up-front at the commencement of negotiations; and that a model agreement be developed as a template for all future agreements that deal with complex issues such as investor-state dispute settlement, intellectual property and copyright.

These are practical measures that improve stakeholder engagement during treaty negotiations and entrench democratic accountability through effective parliamentary scrutiny using the existing committee system These measures also better serve Australia's national interest by providing a more strategic and less reactive approach to treaty making.

The report's recommendations are consistent with the bipartisan approach of successive Australian governments to trade liberalisation, including the pursuit of free trade agreements. They do not question the constitutional parameters of treaty making or undermine the executive's authority to sign treaties or hinder the ability of the Australian government to implement free trade agreements in a timely fashion. The recommendations can be introduced quickly and without the need for legislation.

Put bluntly, the government has nothing to fear in supporting these measures. This report will lead to a better treaty-making process and, ultimately, better treaty outcomes for Australia in the future. Doing nothing is no longer an option. Treaty making in Australia faces a number of challenges which cannot be met by continuing with the existing process unchanged. These challenges include the changing nature of Australia's international obligations and their intrusion into domestic law and regulation; new methods of consultation and negotiation adopted in overseas jurisdictions resulting in less secrecy; and ensuring that DFAT is adequately resourced with the knowledge and skills to negotiate, conclude and review complex free trade agreements.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:13): I seek leave to incorporate the tabling remarks of the deputy chair of the committee, Senator Back, in Hansard.

Leave granted.

Senator BACK (Western Australia) (16:13): The document read as follows—
DISSENTING REPORT BY COALITION SENATORS

1.1 Coalition members of the committee disagree with all of the findings and recommendations of the majority report. We do not believe that the evidence received by the committee during the inquiry leads to the argument that Australia's treaty-making process is in need of reform.

1.2 Australia's treaty-making system works well. Coalition senators are disappointed that a system that has been honoured by both major parties for nearly two decades is now being politicised by the Opposition as it struggles to find a coherent and united policy position on the pursuit of free trade agreements. Since its introduction by the Coalition government in 1996, Australia's treaty-making process has been subject to only minor alterations. Governments of either persuasion have made use of the system, accepting the balance between the respective role of parliament and the executive which is mandated by the Australian Constitution. Australia's recent success in concluding major free trade agreements with Korea, Japan and China shows that the system is robust and working well to support Australia's entry into high quality international agreements that will serve the national economic interest for many decades to come.

1.3 The majority report's suggestion that other countries have moved ahead of Australia in terms of parliamentary oversight and transparency is unconvincing and unsupported by the evidence. The report puts too much weight on events currently taking place in the United States despite the fact that a direct comparison between the two systems is unhelpful due to differences between our respective political systems. The process in place in Australia closely resembles that operating in countries with comparable political systems, such as Canada and New Zealand. There is nothing unusual or out of character in the way Australia enters into and negotiates free trade agreements.

1.4 The insinuation that Australia subjects international agreements to less parliamentary scrutiny is incorrect. The Joint Standing Committee on Treaties (JSCOT) performs excellent work in carrying out exhaustive public inquiries into all major agreements. This report's recommendations in respect of JSCOT, quite frankly, would add little value to the scrutiny work it currently performs and risk overloading an already demanding work schedule.

1.5 Moreover, the government's recent decision to allow parliamentarians access to the draft text of the TPP on a confidential basis is consistent with the process followed in the United States where members of Congress seeking to examine draft treaty text must also sign confidentiality agreements. This demonstrates that the current system in Australia already contains sufficient flexibility to allow access when it is desirable to do so.

1.6 The majority report also downplays the extent to which confidentiality is almost always a precondition which is binding on all the negotiating parties. As the Department of Foreign Affairs and Trade (DFAT) told the committee, confidentiality is necessary to achieve the best possible negotiated outcomes in the national interest. It would be irresponsible for Australia to unilaterally walk away from an accepted international practice. Calls from stakeholders to make the texts of agreements publicly available prior to signature are impractical and do not take into account the realities of negotiating international agreements.

1.7 The Coalition agrees that effective consultation is essential to getting the best outcomes from negotiations, but considers that Opposition criticism of DFAT's consultation process is overblown and borderline insulting. DFAT has convened over 1000 briefing sessions with stakeholders on the Trans-Pacific Partnership (TPP) alone since May 2011. Of the hundreds of stakeholders consulted by DFAT on the TPP and other trade agreements over the past few decades, the committee heard from only a small proportion. Opposition senators have made the mistake of concluding from the evidence that the process is not working. It was not surprising that stakeholders with grievances made submissions to an inquiry such as this one; but it is unhelpful to suggest that the consultation process is not working, as the majority report does. This is dismissive of the tireless effort put into stakeholder consultations by Australia's highly-skilled and hard-working treaty negotiators.
1.8 In short, the Coalition members of the committee see no reason to proceed with an extensive reform agenda when the current treaty-making system is working well. On this basis, Coalition senators do not support the majority report’s recommendations.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:13):
I seek leave to continue my remarks. Leave granted; debate adjourned.

Education and Employment Legislation Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:13):
Pursuant to order, I present the report of the Education Employment Legislation Committee on the 2015-16 budget estimates, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Publications Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:14):
On behalf of the Chair of the Publications Committee, I present the 15th report of the Publications Committee.

Ordered that the report be adopted.

BUDGET

Consideration by Estimates Committees

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:14):
I present additional information received by committees relating to estimates.

COMMITTEES

Finance and Public Administration Legislation Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:14):
At the request of Senator Bernardi, I present the second interim report of the Finance and Public Administration Legislation Committee on the Department of Parliamentary Services.

Ordered that the report be printed.

Senator FAWCETT: I move:
That the Senate take note of the report.

I seek leave to incorporate a tabling statement into Hansard.

Leave granted.

The document read as follows—

This is the second interim report of the Senate Finance and Public Administration Legislation Committee, for its inquiry into the Department of Parliamentary Services. The report deals with only one matter, whether the committee was misled by the former Secretary of DPS, Ms Carol Mills, when she gave evidence to the committee at the Budget Estimates Hearing on 26 May 2014.

As you may be aware, at that Estimates Hearing Ms Mills told the committee that a code of conduct investigation — which involved officers of DPS accessing CCTV footage of the DPS staff member
under investigation delivering an envelope to the office of the former Senator the Hon John Faulkner — had only come to her attention on the morning of the hearing.

Following Ms Mills' evidence to this committee at the Estimates Hearing, the matter was referred to the Senate's Committee of Privileges. The Privileges Committee drew this committee's attention to evidence it received in the course of its inquiry indicating that Ms Mills was not only aware of the code of conduct investigation prior to the Estimates Hearing in May 2014, but she in fact authorised both the preliminary and formal code of conduct investigations in February and March 2014 respectively.

The committee decided to consider the matter of whether Ms Mills had provided misleading evidence at the Estimates Hearing as part of its broader inquiry into DPS. Ms Mills has written to committee and appeared at a public hearing in an effort to answer the committee's questions about the contradictory evidence which was identified by the Privileges Committee. I note that Ms Mills continues to stridently deny that she misled the committee with her evidence at the Estimates Hearing.

By way of background, at the Estimates Hearing on 26 May 2014, Senator Faulkner asked questions of the Department of Senate regarding the CCTV policy. Ms Mills' evidence to the committee was that, on hearing Senator Faulkner's questions to the Department of the Senate on the morning of 26 May 2014, which she characterised as relating to an investigation of contact between a DPS staff member and parliamentarians, she was not able to make the connection with the code of conduct investigation which was in fact an investigation into the harassment of a DPS staff member by another staff member.

The committee does not accept Ms Mills’ assertion that she was unable to make the connection with the code of conduct investigation into a possible case of harassment by one DPS staff member of another staff member. In the committee’s view, the evidence that Ms Mills gave on the morning of 26 May 2014, suggests that she was, in fact, discussing a code of conduct investigation of a DPS staff member which had occurred some months ago.

Having considered Ms Mills’ correspondence and evidence at the public hearing, the committee still cannot reconcile those explanations with the evidence Ms Mills provided to the committee on 26 May 2014.

The committee has concluded that it was misled by Ms Mills during her evidence on 26 May 2014. The committee is also of the view that this misleading evidence had a substantive impact on the committee’s work. However, the committee is also cognisant of the fact that Ms Mills' employment with DPS has now been terminated.

The committee believes it has now pursued this matter as far as practicable and reports accordingly to the Senate.

Senator FAWCETT: I seek leave to continue my remarks.

Leave granted; debate adjourned.

Finance and Public Administration Legislation Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:14): I present the report of the Finance and Public Administration Legislation Committee on the proposed Parliament House security upgrade works together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator FAWCETT: I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement into Hansard.
Leave granted.

The document read as follows—

As chair of the Senate Finance and Public Administration Legislation Committee I am pleased to present this report on the committee's inquiry into the Proposed Parliament House security upgrade works.

As you will be aware, on 26 March 2015, both the House of Representatives and the Senate approved a proposal for perimeter security enhancements as part of the Parliament House security upgrade works. Those enhancements include:

- A steel security perimeter fence at the southern facade of the Ministerial wing;
- A gatehouse outside the entrance to the Ministerial wing;
- Vehicle bollards at the base of the Ministerial entrance stairs; and
- The replacement of existing glazing at the Ministerial ground floor entrance with ballistic proof material.

These works form part of what has been described as the 'Group One' works. In addition to the Group One works there are two further groups of work proposed:

- Group Two — Major enhancements to security infrastructure, including the access control and CCTV systems, and external glass facade; and
- Group Three — Further building infrastructure upgrades — subject to additional funding approvals.

As the parliament has approved the perimeter security enhancements, the committee did not see its role as supporting or opposing the proposed security upgrade works. The committee viewed its role as ensuring that proper processes are undertaken in implementing the security upgrade works. In this regard, the committee did have some comments.

Firstly, the committee recognises that in relation to the proposed Parliament House security upgrade works DPS has taken on board some of the concerns from both this committee and the Australian National Audit Office and tried to address some of the shortcomings which have previously been evident in DPS' project and contract management.

The committee finds the governance structure for the works somewhat convoluted, but understands that, ultimately, responsibility lies with the Presiding Officers. The committee appreciates the distinction between the role of the Parliament House Security Taskforce and the Security Management Board. The committee intends to monitor the work of the Taskforce, through its current inquiry into DPS and through the estimates process, to ensure that it does not usurp the statutory role of the Security Management Board.

Secondly, the committee is concerned that the Group One and Two elements of the security upgrade works are to be funded from a budget of $108.4 million, which has been allocated for a single financial year for projects which have a timeline for completion in December 2016. The committee accepts that this phasing was agreed by the Presiding Officers on advice and understands that the intention is for DPS to work with the Department of Finance to roll over the unspent funds and that the money will remain available for the completion of the works.

Thirdly, the committee is disappointed that the urgency of the timeframe for the Group One works has prevented the 'nice to have' consultations on the changes with the representative of Mr Romaldo Giurgola, the principal architect of Parliament House. The committee acknowledges that DPS has undertaken the required moral rights consultation and that DPS has acted on Mr Giurgola's representative's suggestions in relation to impact assessments. However, given that the external works are not due to start until 9 July 2015, the committee believes that DPS could have had more involvement with the architect and his representative in relation to the Group One works.
In conclusion, the committee notes that DPS has stated that it will provide updates to the committee in relation to the proposed security upgrade works and the committee intends to keep a watching brief on the works as part of its inquiry into DPS.

Senator FAWCETT: I seek leave to continue my remarks.

Leave granted; debate adjourned.

BILLS

Regulator of Medicinal Cannabis Bill 2014

Report of Legislation Committee

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (16:15): At the request of the Chair of the Legal and Constitutional Affairs Legislation Committee, Senator Macdonald, I present an interim report of the committee on the Regulator of Medical Cannabis Bill 2014.

Ordered that the report be printed.

Senator FAWCETT: I move:

That the time for the presentation of the final report of the Legal and Constitutional Affairs Legislation Committee be extended to 10 August 2015.

Question agreed to.

COMMITTEES

Senators' Interests Committee

Report

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (16:15): At the request of the Chair of the Standing Committee of Senators' Interests, Senator Bilyk, I present the Register of Senators' Interests incorporating statements of registerable interests and notifications of alterations lodged between 3 December 2014 and 24 June 2015.

Ordered that the report be printed.

Senator URQUHART: I move:

That the Senate take note of the report.

Senator MADIGAN (Victoria) (16:16): I am pleased to be able to speak to the final report on Australia's transport fuel security. On 3 September last year, Senators Muir, Lambie, Xenophon, Bullock, Canavan, Heffernan and I moved that this inquiry be established. From the outset, I thank them for their support to establish the inquiry. I thank Senator Sterle, who conducted this inquiry in an exemplary fashion. I also thank the secretariat and all those who provided submissions to this important inquiry—in particular those who appeared at the two public hearings.
This inquiry went to the heart of Australia's security—our fuel security. It has been said that it is the lifeblood of our society. What this inquiry found is that we have approximately two weeks to a month worth of fuel in storage. That is it—two weeks to a month. We do not even know that for sure, because we do not have a mandatory reporting regime in place. So what does that mean? Well, if something were to go terribly wrong—for example, in the South China Sea—and shipping out of Singapore were to be interrupted for a prolonged period, Australia would have between two weeks and a month worth of reserves. That is not to say that the fuel will be where it is needed, but we would have about a month's worth of LPG for our forklifts and around two weeks worth of diesel for everything else of significance. That is why this inquiry was so important. It did some groundbreaking research on the facts behind Australia's transport fuel supply chain. It exposed the realities that have been swept under the rug by current and previous governments.

This inquiry laid to rest the idea of, 'There's nothing to see here.' The report being tabled today outlines that any significant disruption to Australia's transport fuel supplies would have a significant impact on safety, national security, productivity and society as a whole. The committee recommended three significant points. The first was that the government undertake a comprehensive whole-of-government risk assessment of Australia's fuel availability and vulnerability. In doing so, we must look at potential disruptions resulting from military actions, terrorism, natural disasters, industrial accidents, financial issues and other structural dislocations. The second was mandatory reporting of fuel stocks to the Department of Industry and Science to allow the department to not feel the need to reverse-engineer their figures. The third was that the government develop and publish a comprehensive transport energy plan, directed at achieving a secure, affordable and sustainable transport energy supply chain.

The government must act immediately on these recommendations. It must not simply talk about action and then do nothing like it has on so many issues. The threat is immediate. Our national security is at stake. The Prime Minister says that he is committed to keeping Australians safe. If that is true, then he will move swiftly to ensure our nation's fuel security, because not to do so would put the entire country at risk. The opposition too must come to the table and make a bipartisan commitment to implement the committee's recommendations. From the outset of this inquiry, both major parties have worked very effectively together to produce this vital report. It is my sincere hope that this cooperation will continue and that all parties will put Australia's interests ahead of their own.

Once a crisis begins, we will have no way of rectifying the situation; we must begin preparing now. The recommendations of the committee are not a silver bullet by any means, but they are an important first step to ensuring our nation's fuel security and energy independence.

Senator RICE (Victoria) (16:20): I also rise to speak on the motion that the Senate take note of the report Australia's transport energy resilience and sustainability. We feel that the report was a very good summary of the varied issues at play with regard to securing Australia's transport energy supplies. The Greens are committed to ensuring reliable transport energy supplies that efficiently and effectively serve the needs of our community and industry, but which also, in addition to that, eliminate our dependence on fossil fuels and our greenhouse gas emissions. We in particular noted the submissions to the inquiry that
highlighted the energy resilience opportunities and the emissions reduction potential of reducing fossil fuel dependence in our transport sector. So, while we support the recommendations contained in the report, we feel that stronger emphasis was needed in order to take account of the issues associated with reducing our fossil fuel dependence.

We support the recommendation to develop and publish a comprehensive energy transport plan but feel that this plan should also set targets for a secure zero-carbon supply of Australia's transport energy and outline a transition to achieve this supply over the coming two decades so that we will achieve not only fuel security but also zero carbon emissions from our transport. We want to encourage and support the development of zero-carbon and potential zero-carbon transport energy sources and transport systems, which would include comprehensive public transport systems across all capital and regional cities; investment in infrastructure to support and facilitate greater use of walking and cycling, and so to reduce the use of fossil-fuel-dependent vehicles; and the rollout of electric vehicles and the production of biodiesel produced from genuine waste products.

We also feel that the other really important factor that needs to be considered with fuel security is energy efficiency, so our further recommendation was that the Senate should pass the Motor Vehicle Standards (Cheaper Transport) Bill 2014, which would reduce fuel demand across the economy by requiring the importation of new motor vehicles to comply with global standards. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade References Committee

Report

Senator GALLACHER (South Australia) (16:23): I present the report of the Foreign Affairs, Defence and Trade References Committee on Defence use of unmanned platforms, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator GALLACHER: I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

I am pleased to table this report of the Foreign Affairs, Defence and Trade References Committee into the use of unmanned platforms by the Australian Defence Force (ADF).

The inquiry was referred to the committee in October 2014. We received 25 submissions (two accepted as confidential) and held three public hearings in Canberra. Additional information was also received from the RAND Corporation and the Civil Aviation Safety Authority.

A broad range of interested individuals and organisations contributed to the inquiry including academics, researchers, civilian operators, defence industry companies, regulators and Defence force personnel. In particular, the committee was impressed by the considered approach of the ADF to the use of unmanned platforms.

Unmanned platforms, particularly unmanned aerial vehicles (UAVs), were described as well-suited to Australia's strategic and defence needs. The range and persistence of UAVs have provided new
capabilities to military forces including the ADF. There are many opportunities for unmanned platforms to also add to the ADF's contribution disaster relief and civil support operations. While much of the evidence focused on UAVs, maritime unmanned platforms were highlighted as important in the future for mine countermeasures and antisubmarine warfare.

This inquiry has been well-timed. The RAAF's Heron UAV, which was successfully operated by the ADF in Afghanistan, will commence flying in Australian civilian airspace next month as part of joint exercise Talisman Sabre 2015. Major acquisitions such as the Triton UAV will also be considered as part of the Defence White Paper 2015 and Force Structure Review in the coming months.

Recognising that this is an evolving area of technology, the committee has been pragmatic in its recommendations to the Australian Government, the Department of Defence and the Australian Defence Force in relation to the use of unmanned platforms.

These recommendations include:

- That Defence strengthen its communications in relation to the use of unmanned platforms to address public misconceptions;
- That additional resources be provided for innovation in unmanned platforms and that a Defence Unmanned Platform Centre be established as a cooperative research centre;
- That strategic engagement with the Australian unmanned platform industry be addressed in the forthcoming Defence Industry Policy Statement;
- That Australia support efforts to regulate autonomous weapons systems;
- That the ADF review its policies in relation to autonomous weapons systems;
- That additional support facilities for the announced Triton UAVs be established in the Northern Territory and future ADF use of unmanned platform in Australia's north be considered; and
- That Defence, CASA and Airservices Australia increase their cooperation to facilitate the safe use of unmanned platforms in civilian airspace.

Finally, the committee has recommended that the ADF should acquire unmanned platforms which are capable of being armed when the capability need arises. In the view of the committee armed unmanned platforms will enhance and extend the capacity of the ADF to perform its key role of protecting Australia and its national interests.

As an operator of armed unmanned platforms Australia will also have opportunities to contribute to the establishment of international practices and norms for this evolving technology. Accordingly, the committee has also recommended that the Australian Government make a clear policy statement in relation to the use of armed unmanned platforms. This policy statement would affirm that armed unmanned platforms will be used in accordance with Australia's international legal obligations, will only be operated by uniformed ADF personnel and outline appropriate transparency measures. Further, the committee has recommended that the ADF report on changes to its training and dissemination programs regarding the law of armed conflict and international humanitarian law when armed unmanned platforms are acquired.

The committee's report will facilitate the effective use of the unmanned platforms by the ADF. The committee thanks all those who contributed to the inquiry.

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

Leave granted; debate adjourned.
Australia Fund Establishment Committee

Report

Senator LAZARUS (Queensland) (16:23): I present the final report of the Joint Select Committee on the Australia Fund Establishment, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator LAZARUS: I move:

That the Senate take note of the report.

The purpose of this committee was to determine whether Australia needs to establish a fund—funded by taxpayers—to respond to disasters.

The committee concluded that a specific fund was not necessary.

A range of mechanisms and programs already exist across three tiers of government to address disasters.

I would like to add however that personally I do consider drought and the impact of CSG mining in Queensland to be a disaster, and I am currently working with representatives of the Queensland community to address current federal government programs of support which are not working effectively, to determine how they could be improved, and to develop tailored initiatives which will address the specific needs of impacted people across Queensland.

I will also be undertaking a Queensland Water Summit in September to bring together all sectors of the Queensland community to urgently address and develop solutions for the water crisis in Queensland.

I have written to the Premier of Queensland—Ms Palaszczuk—regarding this summit to seek her support and will be meeting with her in July to discuss this further.

In summary, while the committee found that the establishment of a new fund was not necessary, the committee did develop a range of recommendations to address a number of issues across the country.

I would just like to thank the secretary and all of his staff for all the work they did. I want to congratulate Andrew Laming MP, member for Bowman, as chair—he did a wonderful job—and, of course, all the other senators that contributed to the committee.

It is also my hope that these recommendations that the committee has put forward are embraced by government.

I commend this report to the Senate.

Question agreed to.

DOCUMENTS

Headspace

Order for the Production of Documents

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:26): I table a document relating to a proposed order for the production of documents concerning the governance arrangements of headspace.
BILLS

Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]
Social Services Legislation Amendment (Youth Employment and Other Measures) Bill 2015

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:27): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (16:27): Mr Acting Deputy President, the opposition will be asking that, in relation to the introduction of the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2], you put the question separately on the procedural element of that motion, 'that these bills may proceed without formalities'. I wish to speak briefly to that procedural motion.

I will just briefly explain why the opposition has moved that motion. I note that the opposition will support that part of the parliamentary secretary's motion that allows the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] and the Social Services Legislation Amendment (Youth Employment and Other Measures) Bill 2015 to be taken together and read a first time. However, the opposition does not support any prospect of these bills being debated prior to the tabling of the report of the Senate committee inquiring into the bills—that is, the Senate Education and Employment Legislation Committee. We note that that committee is due to report on 11 August 2015, and the opposition understands that debate rightly can proceed at any time after that committee reports.

The opposition wishes to ensure that debate in this chamber for the rest of today continues on the Migration Amendment (Regional Processing Arrangements) Bill 2015, and I note that it was agreed earlier in the Senate chamber that that would be the only bill to be debated or to be subject to any procedural matters or conclusion today. That was also agreed outside the chamber by discussions between the major parties. The opposition will not agree to any other procedural motion or motion that brings forward any other bill for debate or any other motion that has procedural impact today. With that, I note again that the opposition is asking you to put separately that part of the motion moved by the minister that the bills may be taken together and now read a first time, and that that part of the motion that says that the bills will proceed without formalities be put to the vote of the Senate.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:30): I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Back): Leave is granted. There is a question before the chair, but we have, in fact, moved ministerial statements, I think.

Senator COLBECK: I just wanted to assure the opposition that we are not proposing to debate this piece of legislation today. It is before a committee. We understand that. So I just put that assurance on the table. I understand the concern you have raised. But this is just the
presentation, and I will be moving that it be placed on the Notice Paper as several orders of the day at the conclusion of the process. But, understanding that it is before a committee, we are not looking to add anything else to the debate today, in accordance with the agreement that has been already reached with the opposition.

The ACTING DEPUTY PRESIDENT: Senator McEwen, armed with the information provided by the minister, do you still wish to separate the two matters?

Senator McEwen (South Australia—Opposition Whip in the Senate) (16:31): I appreciate the minister's assurances. But, just to be completely assured, the opposition would ask that the motion be put to the Senate.

Social Services Legislation Amendment (Youth Employment and Other Measures) Bill 2015

First Reading

The ACTING DEPUTY PRESIDENT (Senator Back) (16:31): In that case, we will deal with the Social Services Legislation Amendment (Youth Employment and Other Measures) Bill 2015 first, for clarity. Then, having dealt with it, we will then move to the second bill. The question is that this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]

First Reading

The ACTING DEPUTY PRESIDENT (Senator Back) (16:32): For clarity, colleagues, we now move to the Fair Work (Registered Organisations) Amendment Bill 2014 [No.2].

A division having been called and the bells being rung—

Senator Colbeck (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (16:38): by leave—Mr President, I rise to make a point of clarification in respect of this division for people who were not in the chamber when I spoke just prior to the division being called. The government has given an assurance that this piece of legislation will not be called on today, in accordance with agreement between the opposition and the government. We understand that this piece of legislation is before a committee, and that committee should report to the parliament prior to it being considered. The basis of this division right now is that there is some concern that we may bring this on for debate today. I have made a statement to the chamber that that is not the case. We respect the processes of the parliament and we will not be bringing the legislation on for debate today—it is purely and simply receiving a message from the House of Representatives so that the legislation is introduced. It is the Fair Work (Registered Organisations) Amendment Bill 2014. It is before a committee and it should go through that process before it comes to the chamber.

Senator Wong (South Australia—Leader of the Opposition in the Senate) (16:40): by leave—Mr President, the opposition is not denying this bill a first reading. The opposition is only responding to the motion that the bill 'may proceed without formalities'. That is what we wish to vote against. The effect of that, as the minister knows, is that this bill can then be debated in the next session. If the minister is so concerned about adhering to what he has put
to us, the opposition's position is entirely consistent with the procedure you have outlined, and I wonder why the government is opposing it.

The PRESIDENT: Order! We have had enough debate on this matter. The question is that these bills may proceed without formalities, be taken together and be now read a first time.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (16:41): by leave—Mr President, can I try and assist the chamber. I think what Senator McEwen asked was that that question be put separately only on the procedural element of the motion—so not the first reading. The only motion she sought to respond to was that these bills may proceed without formalities.

The PRESIDENT: Yes. That is the question—removing the automatic formality. The question is that these bills may proceed without formality.

The Senate divided. [16:42]

(The President—Senator Parry)

Ayes ....................31
Noes ....................36
Majority ...............5

AYES
Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC
Canavan, M.J.
Cash, MC
Colbeck, R
Day, R.J.
Edwards, S
Fawcett, DJ (teller)
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Johnston, D
Lindgren, J
Macdonald, ID
McGrath, J
McKenzie, B
Nash, F
O'Sullivan, B
Parry, S
Payne, MA
Ronaldson, M
Ruston, A
Ryan, SM
Seselja, Z
Sinodinos, A
Smith, D
Wang, Z
Williams, JR

NOES
Bilyk, CL
Bullock, J.W.
Cameron, DN
Carr, KJ
Collins, JMA
Conroy, SM
Dastyari, S
Di Natale, R
Gallacher, AM
Gallagher, KR
Hanson-Young, SC
Lambie, J
Lazarus, GP
Leyonhjelm, DE
Ludlam, S
Ludwig, JW
Madigan, JJ
Marshall, GM
McEwen, A
McLucas, J
Milne, C
Moore, CM
Muir, R
O’Neill, DM
Question negatived.

The PRESIDENT (16:46): The question now is that this bill be now read a first time.

Question agreed to.

Bill read a first time.

The PRESIDENT (16:48): In accordance with standing order 115(3), further consideration of this bill is now adjourned to 11 August 2015.

Migration Amendment (Regional Processing Arrangements) Bill 2015
In Committee

Debate resumed.

The CHAIRMAN (16:49): The question is that Australian Greens amendments (1) and (7) on sheet 7738 be agreed to.

Senator KIM CARR (Victoria) (16:49): Before question time I raised some issues with Senator Brandis and during question time I gave Senator Brandis a list of questions. I understand that the government has had an opportunity to consider those matters. If that is correct and the minister does have answers, would it be possible to have those questions dealt with at this time?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:50): I am happy to do that. I thank Senator Carr for his cooperation. Indeed, I thank the opposition for their cooperation in expediting the passage of this important bill. The way in which Senator Carr and I thought we might do this, if I can get through it in 15 minutes, is that I will read onto the record both the questions and the answers. So the questions come from Senator Carr and the answers come from the government.

Question 1: Can the minister confirm for the benefit of the Senate that this bill does not change or in any way expand the current situation in regional offshore processing?

Answer: Yes.

Question 2: In relation to proposed new sections 198AHA(2)(a) and 198AHA(2)(c) can the minister clarify exactly what is meant by the phrases 'any action' and 'do anything else'?

Answer: The provision is intended to ensure that all aspects of the Commonwealth’s actions in relation to regional processing arrangements are captured. In terms of arrangements with regional processing countries, the government has entered into MOUs with the governments of Nauru and PNG relating to the transfer to and assessment and settlement in these countries. The Commonwealth has also entered into administrative arrangements with Nauru and PNG. The administrative arrangements underpin the MOUs. The administrative arrangements set

CHAMBER
out, with some degree of particularity, the various arrangements in respect of expenditure and costs for the transfer process from Australia to regional processing centres, arrival in regional processing centres, arrangements at the regional processing centres themselves and refugee assessment processes et cetera. The intention of section 198AHA(2)(a) and 198AHA(2)(c), therefore, is to ensure that clear statutory authority is provided to cover the full gamut of the Commonwealth's conduct in connection with regional processing arrangements, and the actions which the regional processing centre countries themselves take in connection with their regional processing functions.

Question 3: In relation to proposed section 198AHA(5)(b), an action will include an 'action in a regional processing country or another country'. If the minister's previous answer is correct, and this bill makes no changes or expansions to offshore processing, why is the phrase 'or another country' in this clause?

Answer: The purpose of the provision is to ensure that clear statutory authority is provided in relation to all actions the Commonwealth takes in relation to regional processing arrangements in a regional processing country. The phrase contemplates that statutory authority is provided for any actions taken by the Commonwealth and its officers that happens not to take place in a regional processing country itself. For example, the Commonwealth entering into an arrangement with Transfield to provide services at the regional processing centres was conduct that occurred in Australia. The phrase is not intended to cover a situation where the Commonwealth enters into an arrangement with a country not designated as a regional processing country.

Question 4: Can I—that is me, Senator Brandis—as the minister, confirm the status of this bill with respect to the Cambodian arrangement?

Answer: The provision is not intended to provide any authority in respect of arrangements with third countries not designated as a regional processing country. It has no application to any arrangement with Cambodia.

Then there are a series of questions in relation to amendments circulated by Senator Leyonhjelm.

Question 5: Does this bill provide any legal immunity for any person acting on behalf of the Commonwealth for any breach of Australian or state or territory law?

Answer: The intention of the bill is to provide clear statutory authority for the Commonwealth and its officers acting within the ambit of their powers or duties to take certain action in relation to an arrangement with a regional processing country, or the regional processing functions of a country.

Question 6: Is the definition provided in section 198AHA(5) for regional processing functions a new definition, or does it replicate a definition used elsewhere in the legislation?

Answer: 'Regional processing functions' is a new definition.

Question 7: If new, how does the introduction of this definition interact with other provisions of the legislation?

Answer: This definition does not limit the initial process of designation provided for in the Migration Act—see section 198AC, or section 198AD—but the ongoing performance of the country's role as a regional processing country. The only condition for designating that
country as a regional processing country is that the minister must think that it is in the national interest to do so. Therefore, once the minister has designated the country as a regional processing country, the definition will work to give effect to the ongoing performance of the country as a regional processing country.

Question 8: Assuming the definition is a new definition—and I have said in answer to question 6 that it is—given the definition provided in the amending legislation for regional processing function seems to hinge on the role of the country in the regional processing country, is the role defined elsewhere in the legislation? If not, how would this definition work practically in defining the scope of action contemplated in subsection 198AHA(1).

Answer: The role of the regional processing country is not defined elsewhere in the legislation. The definition will work practically, as it gives effect to the ongoing performance of the regional processing country. Any action undertaken by the Commonwealth can only occur when the minister has designated a country as a regional processing country, and the Commonwealth has entered into an arrangement regarding the functions of the regional processing country.

Those answers were provided, I should say, by the Minister for Immigration and Border Protection, Mr Dutton, and I seek leave to have them incorporated into Hansard.

The CHAIRMAN: You have just read them into Hansard. Maybe it would be better to table them.

Senator BRANDIS: I will be guided by you, Mr Chairman.

The CHAIRMAN: Thank you. They are tabled.

Senator KIM CARR (Victoria) (16:57): I wish to thank the minister for that response and the government for providing that information.

Senator HANSON-YOUNG (South Australia) (16:57): Before we broke before question time, I had spoken to amendments (1) and (7) on sheet 7738 in relation to stopping the detention of children in the Nauru detention centre, and children who were born here in Australian being transferred from Australia to Nauru. I seek leave to have those two amendments moved together.

The CHAIRMAN: The question is that Greens amendments (1) and (7) on sheet 7738 be agreed to.

The committee divided. [17:02]

(The Chairman—Senator Marshall)

Ayes .....................13
Noes .....................34
Majority.................21

AYES

Di Natale, R
Lazarus, GP
Madigan, JJ
Muir, R
Rice, J
Waters, LJ
Wright, PL

Hanson-Young, SC
Ludlam, S
Milne, C
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS
Question negatived.

Senator HANSON-YOUNG (South Australia) (17:05): by leave—I move Greens amendments (8) and (2) on sheet 7738 together:

(8) Page 4 (after line 5), at the end of the Bill (after proposed Schedule 2), add:

Schedule 3—Mandatory reporting of abuse

Migration Act 1958

1 After section 197BA

Insert:

197BAA Mandatory reporting of reportable assaults

(1) If a designated person believes on reasonable grounds that a person has experienced, or is experiencing, a reportable assault, the designated person must, as soon as practicable, notify the relevant authorities of:

(a) the alleged assault; and
(b) the grounds on which the person has formed the belief that the alleged assault occurred.

Offence

(2) A person commits an offence if:

(a) the person is required to make a notification under subsection (1); and

(b) the person fails to comply with the requirement.

Penalty: 60 penalty units.

Geographical jurisdiction

(3) Section 15.3 of the Criminal Code (extended geographical jurisdiction—category C) applies to an offence against subsection (2).

Interpretation

(4) In this section:
designated person means:
(a) an authorised officer; and
(b) a person appointed or employed by, or for the performance of services for:
   (i) the Commonwealth, a State or a Territory; or
   (ii) an authority of the Commonwealth, a State or a Territory; and
(c) a person employed by another person or body that is contracted by the Commonwealth, or an authority of the Commonwealth, to perform services in relation to an immigration detention facility.

relevant authority means:
(a) in any case—the Department and the Australian Federal Police; and
(b) if:
   (i) the victim of an alleged reportable assault is a child; and
   (ii) the alleged assault occurs in a State or Territory;
       a relevant authority of the State or Territory that has functions relating to child safety; and
(c) if:
   (i) the victim of an alleged reportable assault is a child; and
   (ii) the alleged assault occurs in a foreign country;
       a police force of the foreign country.

reportable assault means any of the following, to the extent that they occur, or allegedly occur, in an immigration detention facility:
(a) unlawful sexual contact;
(b) sexual harassment;
(c) unreasonable use of force;
(d) any other assault.

(2) Clause 2, page 2, at the end of the table, after proposed table item 3, add:

4. Schedule 3 Immediately after the commencement of Schedule 1 to the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Act 2015.

These amendments provide that child abuse and assault inside detention facilities, when it occurs, would have to be reported to the police—both the Federal Police and the local police at the location of the facility—and, of course, to the department. They are basic mandatory reporting requirements. They mean that, for any staff member engaged in these facilities or any person who is contracted by the Commonwealth or subcontracted by another contractor, if you work inside the facility and you see child abuse, you must report it.

You would think that this type of mandatory reporting would go without saying, but it does not. We know it does not because months and months of evidence has come forward to show that the exact opposite is occurring inside Nauru. Children are suffering at the hands of child abusers; women are being raped and sexually assaulted and harassed; yet there is both underreporting of these incidents internally and no independent reporting as a matter of course.

The culture of secrecy inside these detention camps provides for a lack of reporting to an independent authority. That is wrong. It should not be the case that staff and asylum seekers are intimidated into staying quiet. They are not prepared to put their hand up and say what is
going on. It must be a requirement of people engaged by the Commonwealth to report when they see things happening that are wrong. There is nothing worse than seeing a child sexually abused and saying nothing about it. It is wrong.

This amendment puts the onus on the staff member, on those engaged at the centre, to report these incidents. If they do not, it is a fine of $10,000 and a criminal offence. Basic mandatory reporting requirements are expected and widely accepted across other institutions and agencies. It should not be a hard thing to introduce here. It should make sense. I would argue that everybody across all sides, regardless of your political stripes, would understand that mandatory reporting should happen. It does not now. This amendment will make sure it must occur and it will give staff, in particular, not just the signal that they must report it, but the encouragement that it is the right thing to do. They will be abiding by the law and ensuring that they report these awful and insidious incidents of abuse and sexual assault. They are the amendments, and they are pretty basic.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:09): Senator Hanson-Young, once again may I remind you that you do not have a monopoly on virtue. Every member of this Senate, every member of this chamber, is as horrified—

Senator Hanson-Young interjecting—

The TEMPORARY CHAIRMAN (Senator Back): Order, colleagues, the minister is on his feet.

Senator BRANDIS: Senator Hanson-Young, would you mind not screaming. You have raised a very important issue, and I am explaining why the government will not be supporting your amendment. I would appreciate the courtesy of being listened to in silence. Senator Hanson-Young, every senator feels as strongly about the issue of child abuse as you do—every single senator. The reason the government is not supporting this amendment is that it has nothing to do with the bill. This bill is a functional bill that is merely declaratory of existing arrangements. The amendment that you have moved bears no relationship to the topic of the bill.

Senator KIM CARR (Victoria) (17:10): The Labor Party have asked a series of detailed questions about the purposes of this bill and the government's intentions in regard to the bill, and we have indicated to the chamber that we thank the government for their responses. As a consequence of the statements made in the second reading speech, and the answers to the questions that have been asked today, we are satisfied with the government's assurances in regard to the operations and purpose of this particular piece of legislation.

It is well known, though, that we do not condone the way in which Manus Island and Nauru detention facilities have operated during the time of this government. As we have indicated, we do not in any way endorse abuses of people detained by the Commonwealth of Australia, either in this country or offshore. This bill, however, is not about the government's management of the offshore processing facilities. While we acknowledge the importance of what Senator Sarah Hanson-Young has said in terms of the issues themselves, this is not the time to prosecute those particular arguments.

I want to make this point clear to Senator Hanson-Young. We are prepared to consider carefully and with some sympathy the issues that you raised in regard to the maintaining good
order bill. We appreciate the spirit in which you have raised these matters, but we will not be supporting these measures in the consideration of this bill. We have made undertakings that we will support this bill unamended. I am satisfied that the assurance the government have given us meet our concerns, and that goes for other amendments that are being proposed today. I will not feel the need to repeat this proposition on every occasion. I indicate to the chamber that it is the opposition's position that we will not be voting for any amendments.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:13): Minister, does the government support the mandatory reporting of child abuse?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:13): Senator Marshall, I made clear the government's abhorrence—which is shared, as I said, by all members of this chamber. In relation to the mandatory reporting issue, that is something I would have to consult my colleague the Minister for Immigration and Border Protection about.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:13): Minister, do you accept that children in detention centres overseas are under Australia's care?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:14): Senator Marshall, I am not going to be offering observations about legal propositions, and what you have asked me, which strictly speaking is against standing orders, is to offer an opinion about the law. I have been asked to manage this particular bill, which, as I explained to Senator Hanson-Young, has no bearing on the issue of mandatory reporting of child abuse.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:14): I understand what the minister says in that respect, but, given the historical nature of child abuse that we have seen throughout our own history in Australia in many areas, there is the fact that, if mandatory reporting had been available to us during those times, I do not think we would be confronting some of the enormous upheavals that we are seeing in our institutions at the moment. Given that this is an area where there have been many, many allegations made and given some of the difficulties and some of the secrecy that surrounds some of the activities in detention centres, why is the government reluctant to include mandatory detention in this bill and, if not in this bill, some other bill?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:15): Senator Marshall, as I explained to Senator Hanson-Young, this bill has nothing to do with the issue of whether there should be an arrangement for mandatory reporting of child abuse. It has absolutely no bearing on the bill. The bill is a declaratory bill in relation to existing functional arrangements.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:15): Does the government have any plans to include mandatory reporting of child abuse in any other bill?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:15): That is a matter for the relevant minister to announce, if he were so minded.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:16): The difficulty I see with this is that you are asking the Senate to vote against a proposition that there should be mandatory reporting of child abuse. I see it that these children are in our care. In fact, I think everybody in a detention centre is vulnerable, but children are even more vulnerable. Again, given some of the historic problems that we have raised—covering things up and making it difficult for people to feel that they can report some of these things—and given the nature of the secrecy that surrounds these detention centres—why doesn't the government think that it is appropriate that, at the first opportunity, regardless of what you say about whether this is the appropriate bill or not, this bill could include those provisions. Why isn't the government moving to ensure that there should be mandatory reporting of child abuse?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:17): Senator, as you rightly say and as, in fact, your relevant shadow minister, Senator Carr, who has the opposition management of the bill, has indicated, we are of the view—which we understand we share with the Australian Labor Party—that this bill is not the appropriate vehicle to deal with that matter. In relation to the government's policy intention, that is a matter for the minister to say.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:17): Minister, you are here representing the government. Why can't you give an undertaking on behalf of the government that you will move to legislate, in whatever is the appropriate bill, the mandatory reporting of child abuse in detention centres?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:17): Senator Marshall, you have me at a disadvantage because I am here not representing the minister; I am here only to manage this bill, which bears no relationship to the issue that you have raised. However, out of courtesy to you, Senator Marshall, I will raise the question with the minister.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:18): Minister, is it possible to get someone who could actually speak on behalf of the government in relation to this matter?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:18): Senator Marshall, we are very close to being not relevant to the question before the chair. This bill has no relationship to the issue of the arrangements for mandatory reporting of child abuse. Senator Marshall, you may ask me about that policy matter, but all I would be able to do is convey to you my assurance, which I have already given, that I will raise the matter with the minister, whom I do not represent in this chamber.

Senator MARSHALL (Victoria—Deputy President of the Senate and Chair of Committees) (17:18): Part of the question before the chair is that amendment (2) be agreed
to. Amendment (2) clearly goes to mandatory reporting of child abuse. In some of your remarks you rightly said that every senator in this place would abhor the abuse of children. You said that on your own behalf too. If that is the case and if these are not just mere words, why cannot the government do something about it to ensure that there is mandatory reporting, so that we say more than words and actually do things, and do things by legislation, to ensure that there is mandatory reporting of these atrocities?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:19): Senator Marshall, you have asked me that question several times now and I have indicated that I am not in a position, for reasons you will well understand, to announce policy decisions on behalf of a minister whom I do not represent.

The TEMPORARY CHAIRMAN (Senator Seselja) (17:24): The question is that Greens amendments (2) and (8), moved by Senator Hanson-Young, be agreed to.

The committee divided. [17:24]

(Temporary Chairman—Senator Seselja)

Ayes .................16
Noes ....................31
Majority ...............15

AYES

Di Natale, R
Lazarus, GP
Ludlam, S
Milne, C
Rhiannon, L
Siewert, R (teller)
Waters, LJ
Wright, PL

Hanson-Young, SC
Leyonhjelm, DE
Madigan, JJ
Muir, R
Rice, J
Wang, Z
Whish-Wilson, PS
Xenophon, N

NOES

Back, CJ
Bilyk, CL (teller)
Bullock, J.W.
Canavan, M.J.
Colbeck, R
Fawcett, DJ
Gallagher, KR
Lindgren, JM
Ludwig, JW
McGrath, J
McLucas, J
O’Neill, DM
Peris, N
Seselja, Z
Smith, D
Williams, JR

Bernardi, C
Brandis, GH
Bushby, DC
Carr, KJ
Edwards, S
Gallacher, AM
Ketter, CR
Lines, S
Macdonald, ID
McKenzie, B
Moore, CM
O’Sullivan, B
Ruston, A
Singh, LM
Sterle, G
Question negatived.

Senator HANSON-YOUNG (South Australia) (17:26): by leave—I move Greens amendments (3) and (5) together:

(3) Schedule 1, page 3 (before line 4), before item 1, insert:

1A Subsection 198AB(2)

Repeal the subsection, substitute:

(2) The only conditions for the exercise of the power under subsection (1) are:

(a) that the Minister thinks that it is in the national interest to designate the country to be a regional processing country; and

(b) that subsection (4A) has been complied with.

1B After subsection 198AB(4)

Insert:

(4A) The Minister must not designate a country to be a regional processing country unless the country has given Australia assurances, in writing, to the effect that the country will allow the following persons or bodies reasonable access to unauthorised maritime arrivals who have been taken to the regional processing country under section 198AD:

(a) the Australian Human Rights Commission;

(b) the Commonwealth Ombudsman;

(c) journalists (within the meaning of the Evidence Act 1995).

Note: However, the Minister must revoke a designation if the country does not comply with those assurances, see subsection (5A).

1C After subsection 198AB(5)

Insert:

(5A) If:

(a) the Minister designates a country under subsection (1); and

(b) the country has given written assurances under subsection (4A); and

(c) the Minister becomes aware that the country has not complied, or is not complying, with those assurances;

the Minister must revoke the designation.

(5) Schedule 1, page 4 (after line 5), at the end of the Schedule, add:

2 Application—written assurances relating to access

The amendments made to the Migration Act 1958 by items 1A, 1B and 1C apply in relation to the designation of a country as a regional processing centre on or after the day on which this Act receives the Royal Assent.

3 Application and transitional—regional processing countries designated before Royal Assent

(1) This item applies if the Minister designated a country to be a regional processing country under subsection 198AB(1) of the Migration Act 1958 before the day on which this Act receives the Royal Assent.

(2) As soon as practicable, but no later than 3 months after the day on which this Act receives the Royal Assent, the Minister must revoke the designation unless the country has given assurances, in writing, to the effect that the country will allow the following persons or bodies reasonable access to
unauthorised maritime arrivals who have been taken to the regional processing country under section 198AD of that Act:

(a) the Australian Human Rights Commission;
(b) the Commonwealth Ombudsman;
(c) journalists (within the meaning of the Evidence Act 1995).

(3) If the assurances under subitem (2) are given, subsection 198AB(5A) of the Migration Act 1958, as amended by this Schedule, applies in relation to the designation on and after the day the assurances are received, as if the designation were made under section 198AB of that Act as amended by this Act.

These amendments go to the issue of access to the detention facilities. This bill is retrospective in nature. It allows for the funding of billions of dollars to run the Manus Island and Nauru detention centres and, of course, retrospectively allows for the government to detain individuals in these facilities. With the Australian taxpayer spending billions of dollars on contracts to private operators to run these facilities, we want to make sure that these facilities are actually being run properly, that they are being run humanely, in a decent way, with people being treated with dignity and respect, that the money being spent is worth it and that the facilities are, indeed, up to scratch.

If we are going to spend billions of dollars in running these facilities, you would want to make sure they are being run properly. All of the evidence that has come from the Moss review, the Human Rights Commission previously and, of course, the parliament's own Senate inquiry into the Nauru detention centre indicates that they are not being run properly. We have no idea what is going on inside except for when whistleblowers speak out or, indeed, things get so bad that the information leaks. It would be prudent for any government that wants to run these facilities and spend billions of dollars doing it, that they in fact have some element of transparency and that there is independent oversight of what goes on in these places.

These amendments allow for media access to these facilities, access for the Human Rights Commission and access by the Commonwealth Ombudsman. Both the Human Rights Commission and the Commonwealth Ombudsman have access to Australian based detention centres, and those on Christmas Island. This set of amendments gives those two bodies access to any other facility in relation to the offshore network. That, of course, means those on Manus Island and Nauru.

The element of allowing journalists to access these facilities is absolutely important. There is a reason that this government has kept journalists out. It is because the things that are going on inside are horrendous. The reason there is a media blackout on detention centres is that if the public knew how terrible things were inside and how awful it is for the children in there, the government knows that the Australian people would not accept it. Yet we have the Abbott government saying they are all big supporters of free speech and that they have nothing to hide. Well, if you have nothing to hide, open the gates and let the media in. Open the gates and allow the Human Rights Commission to investigate and inquire. Allow the Commonwealth Ombudsman the oversight of the cases in relation to these facilities.

This amendment specifically says that if we are going to spend billions of dollars of Australian taxpayers money we have to make sure we know what is going on inside. I look forward to hearing why the Labor Party and the government are prepared to keep the public in the dark, keep the gates locked and keep the independent watchdogs out.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:32): Without accepting any of the rhetorical flourish, Senator Hanson-Young, there is a reason and it is a very simple reason. It is really a point I ought to have made in relation to your earlier amendments, as well, because it applies to all of your amendments. The regional processing centres are run by the regional processing countries. The Australian Parliament cannot make laws for the Republic of Nauru and the Australian Parliament cannot make laws for Papua New Guinea. We cannot legislate for what goes on in another country.

Senator HANSON-YOUNG (South Australia) (17:32): Just to clarify, we are being asked in this place today to rush through legislation to approve the spending of Australian taxpayers money to fund these places. What this amendment says is that we will only fund these places if we allow the watchdogs in—if we allow media access in. It is absolutely within the responsibilities of this parliament to make sure we know where money is being spent, how it is being spent and how the people are being treated with the money that is being paid.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:33): Even if your point were right—and I do not accept it—there is no way in which it is possible for the Australian Parliament to pass a law that operates in a foreign country.

The TEMPORARY CHAIRMAN: The question is that amendments (3) and (5) on sheet 7738 moved by Senator Hanson-Young be agreed to.

The committee divided. [17:38]

(The Temporary Chairman—Senator Seselja)

Ayes ......................11
Noes ......................33
Majority .................22

AYES
Di Natale, R
Lazarus, GP
Milne, C
Rice, J
Waters, LJ
Wright, PL

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

NOES
Back, CJ
Bilyk, CL (teller)
Brown, CL
Bushby, DC
Canavan, M.J.
Collins, JMA
Fawcett, DJ
Gallagher, KR
Lindgren, JM
Ludwig, JW
McKenzie, B
Moore, CM

Bernardi, C
Brandis, GH
Bullock, J.W.
Cameron, DN
Carr, KJ
Edwards, S
Gallacher, AM
Ketter, CR
Lines, S
McGrath, J
McLucas, J
O'Neill, DM

CHAMBER
Senator HANSON-YOUNG (South Australia) (17:40): by leave—I move Greens amendments (4) and (6) on sheet 7738 together:
(4) Schedule 1, page 3 (after line 19), after subsection 198AHA(2), insert:

(2A) Despite subsection (2), the Commonwealth must not:

(a) take, or cause to be taken, any action; or

(b) make any payment, or cause any payment to be made; or

(c) do anything else that is incidental or conducive to the taking of such action or the making of such a payment;

to the extent that the action, payment or anything else will result in, or enable, the restraint over the liberty of an individual for longer than 3 months.

(6) Schedule 1, page 4 (after line 5), at the end of the Schedule, add (after proposed item 3):

4 Application—detention beyond 3 months

Subsection 198AHA(2) of the Migration Act 1958, as amended by this Act, applies in relation to an action, payment or anything else that is done by the Commonwealth on or after the day on which this Act receives the Royal Assent.

These amendments go to putting a three-month time limit on the detention of individuals inside our offshore detention centres. We keep being told that these facilities are processing centres—that they are for the purpose of processing people's claims for asylum, whether they are in Nauru or whether they are in Papua New Guinea. Billions of dollars are being spent detaining individuals for months and years on end, without any real progress on processing their applications for protection. It is time we stopped wasting that amount of money detaining all of these individuals for such long periods of time. We sent a signal to the bureaucrats that there must be a time frame that the processing needs to happen by.

We know that it is long-term detention and the indefinite nature of detention that is the most damaging to people's mental health while they are detained in these facilities. The facilities are harsh—the United Nations Committee Against Torture has described them as akin to inhumane and torturous conditions. Amnesty International has also described the facilities as akin to torture. And yet, we keep people locked up indefinitely for months and months and years and years on end.

It is a waste of Australian taxpayer money. It is a waste of people's lives. Keeping people indefinitely incarcerated is ruining our international reputation. It should be possible to process their claims much faster than this. If claimants are found to be refugees, we will resettle them. If they are not found to be refugees, we will send them home. We must get them out of this hellhole and this awful limbo that they are currently stuck in.
To be honest, I would be more than happy to negotiate and talk about what length of time would be most appropriate. I have gone with three months, because the previous decisions and recommendations from committee after committee in this place, and in joint committees, have settled on 90 days—three months—as the appropriate length of time to get through applications. I think it could be done much faster than that. Perhaps the government or the Labor Party thinks that it could be a bit longer, but we have to have some limit.

The indefinite incarceration of any individual is wrong. Just because they have sought asylum and protection does not mean they deserve to be indefinitely incarcerated and locked up. The bill before us today, brought into the House last night and rushed through to this place, gives the government the authority to remove people's liberty no matter what. I do not think that is good enough. I think there should be a limit on how long people are detained for.

There should be a limit on how much money the Australian government is allowed to spend detaining an individual. Currently, it costs half a million dollars per year per person detained in Nauru. It costs $500,000 per person—man, woman or child—detained for a year in Nauru. That is what the government's own budget papers show—half a million to keep somebody locked up for 12 months on Nauru. It is a waste of money. It does not need to be that expensive. It does not need to be for 12 months. Of course, we know that the hundreds of people detained on Nauru and the hundreds more detained on Manus Island have been in detention for over two years—$1 million per person to keep these people locked up indefinitely. There is currently no end point.

We have to put some restrictions and limits on how far we are prepared to push people's humanity. These people deserve some hope. The worst part about mandatory detention, particularly in offshore facilities, is the indefinite nature and the lack of hope. That is why people turn to self-harm. That is why the attempted suicide rates in detention centres at the moment are higher than they have ever been before. That is why we have children witnessing for themselves and then acting out self-harm. That is why we see dozens and dozens of antidepressant pills handed out every morning, every afternoon and every night in the Manus Island and Nauru detention centres. People have gone mad. These places drive people crazy. The lack of hope kills their souls. Let us put some limits on how long these people have to live in these places without any hope. Process their claims. If they are not refugees, send them home; if they are, get on with it. Stop killing them slowly. I look forward to the amendments being debated.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:47): The government does not support these amendments, essentially for the reason I explained before—they are a complete legal nonsense. Australia does not detain anyone on Manus Island or Nauru. The governments of those nations detain those people in their own centres conducted by them. Senator Hanson-Young, the management of a regional processing centre on Nauru or Papua New Guinea is entirely a matter for the government of Nauru and the government Papua New Guinea. We cannot legislate for the way in which they manage regional processing centres.

The TEMPORARY CHAIRMAN (Senator Seselja): The question is that amendments (4) and (6) on sheet 7738 moved by Senator Hanson-Young be agreed to.

The committee divided. [17:52]
(The Temporary Chairman—Senator Seselja)

Ayes .......................... 11
Noes .......................... 36
Majority ..................... 25

AYES
Di Natale, R
Lazarus, GP
Milne, C
Rice, J
Waters, LJ
Wright, PL

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

NOES
Back, CJ
Brandis, GH
Bushby, DC
Carr, KJ
Day, R.J.
Fawcett, DJ
Gallagher, KR
Leyonhjelm, DE
Lines, S
Macdonald, ID
McGrath, J
McLucas, J
Muir, R
Peris, N
Seselja, Z
Sinodinos, A
Sterle, G
Wang, Z

Bilyk, CL
Bullock, J.W.
Canavan, M.J.
Dastyari, S
Edwards, S
Gallacher, AM
Ketter, CR
Lindgren, JM
Ludwig, JW
Madigan, JJ
McKenzie, B
Moore, CM
O'Neill, DM
Ruston, A (teller)
Singh, LM
Smith, D
Urquhart, AE
Xenophon, N

Question negatived.

Senator LEYONHJELM (New South Wales) (17:54): I move amendment (1) on sheet 7740 standing in my name:

(1) Schedule 1, page 3 (lines 20 to 22), omit subsection 198AHA(3), substitute:

(3A) To avoid doubt, subsection (2):

(a) is intended to ensure that the Commonwealth has capacity and authority to take action, without otherwise affecting the lawfulness of that action; and

(b) does not authorise or empower an individual acting on behalf of the Commonwealth to take, or cause to be taken, any action outside Australia that, if the action was taken in Australia, would contravene a law of the Commonwealth, a State or a Territory.

Last year the government hastily drafted a national security bill which Labor supported. The bill provided an immunity to officers involved in special intelligence operations. I pointed out that the immunity would apply even if the officers engaged in torture. The government said it had no intention of authorising torture, but it nonetheless eventually amended the national security bill so that the immunity did not cover torture. This year, the government has hastily
drafted an immigration bill which Labor supports. The bill states that the Commonwealth may 'take, or cause to be taken, any action' in relation to a regional processing arrangement or the regional processing functions of a country. The bill fails to rule out action that would contravene a law of the Commonwealth, a state or a territory if the action were done in Australia. The government may have no intention for this bill to authorise action that would constitute an offence here, but the stated intentions of the current government and the law of the land are two different things. So my amendment, I propose, would ensure that the bill does not authorise action that would contravene Australian law if the action were done in Australia. The amendment is modest. It has no effect on the law of the land as it exists here and now; it only affects the new section to be enacted by the law, proposed section 198AHA.

My amendment states that the new section:

… does not authorise or empower an individual … to take … any action outside Australia that, if the action was taken in Australia, would contravene a law …

I acknowledge that the actions authorised by the bill must be actions in relation to a regional processing arrangement or regional processing functions, but this does not limit authorised actions to actions that would be legal in Australia. A regional processing arrangement is simply defined as:

… an arrangement, agreement, understanding, promise or undertaking, whether or not it is legally binding.

All that is said about regional processing functions is that they include:

… the implementation of any law or policy, or the taking of any action, by a country in connection with the role of the country as a regional processing country, whether the implementation or the taking of action occurs in that country or another country.

My amendment I consider to be necessary and prudent, and I seek the support of the minister and my colleagues.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (17:57): Senator Leyonhjelm, I can give you my assurance that your amendment is entirely unnecessary. The arrangements for regional processing centres provided for by the Migration Act are subject to that act. No law can authorise what is, independently of that law, still an illegality under Australian law. There can be an exemption from liability, which was the special operation provision that we discussed in this chamber last year, but that is not this case. This case merely clarifies that existing powers have sufficient amplitude, but the existing powers must always be exercised lawfully. So your amendment, Senator Leyonhjelm, is unnecessary. I understand and appreciate the spirit in which you move it but, for the reason I have explained, the government will not be supporting it.

Senator KIM CARR (Victoria) (17:58): I point out that the opposition accepts the assurance of the government that this amendment is unnecessary. I was particularly concerned about the issue that had been raised in terms of this amendment, and that is why I asked a direct question of the government:

Does this bill provide any legal immunity for any person acting on behalf of the Commonwealth for any breach of Australian or state or territory law?

The government has advised:
The intention of the bill is to provide clear statutory authority for the Commonwealth and its officers acting within the ambit of their powers or duties …

This is the operative point here: within their powers and duties. So this measure does not in any way provide a legal immunity for breaches of the law of this country. I might also point out that, in regard to the laws of another country, we do not have jurisdiction. There have been concerns regarding the behaviour of some staff working in the offshore processing facility, and these are matters that are currently the subject of another Senate inquiry and will be reported back to this chamber for consideration. But it will not change the substance of these measures before us today, and the opposition will not be supporting this amendment.

Senator HANSON-YOUNG (South Australia) (18:00): The Australian Greens support this amendment. While it seems quite straightforward to suggest that people should not be breaking the law, the fact is that the government's bill is so broad. We have seen the government today vote down requirements to report child abuse. We have seen the government vote down the ability of watchdogs to access the facility. We have seen the government vote down media access to these facilities. We have seen the government vote down the limits on detention. We know that there is abuse going on inside Nauru. We know that people were illegally beaten to death in Manus Island. Staff members did that. People employed on the taxpayer purse have done those things. People should not be breaking the law when they are employed or subcontracted by the Australian Commonwealth. Of course they should not. But they are, and this amendment simply says very clearly that if you are engaged in these operations offshore you must act within the law of Australia. I think it is a pertinent and important amendment, and the Australia Greens support it wholeheartedly.

Senator XENOPHON (South Australia) (18:01): I do support this amendment. I think that it goes beyond simply the spirit in which it has been put, in terms of the minister describing it. This is a good amendment because it puts beyond any doubt whatsoever what would happen if any individual acting on behalf of the Commonwealth takes any action, even if it occurs outside Australia, that would contravene a law of the Commonwealth, a state or a territory. Jurisdictionally, it puts beyond doubt that, if there is no reach, that conduct should not breach what would ordinarily be the laws of Australia. The minister says it is unnecessary. There is an argument that this particular bill is unnecessary insofar as the Commonwealth is confident that it would win the High Court case. The government is taking, I think—for want of a better word—a belt and braces approach to absolutely guarantee that there is no ambiguity and no doubt in terms of the government's approach to the payment of offshore processing centres.

What Senator Leyonhjelm is doing that the government is rejecting is effectively the same belt and braces approach, saying, 'Let us make sure that there can be no illegality and that we do not countenance, in terms of the funding of these centres, any illegality,' notwithstanding that it may be lawful, for instance, in another country. So I think that this is a belt and braces amendment that is very worthy, and I congratulate Senator Leyonhjelm for moving this. It puts beyond doubt, in the same way that the government is intending to put beyond doubt, the funding of these offshore processing centres. That is my position in respect of this.

If I can go back, with your indulgence, Mr Acting Chair, I asked questions of the Attorney earlier in the debate, about five or six hours ago, in terms of the issue of legal costs because it is something I have raised with the minister's office. I appreciate how busy Minister Dutton's
office has been in respect of this, and maybe they contacted us and I did not know about it. It seems that the goalposts have been shifted. I understand why. It is to remove any ambiguity. But insofar as legal costs have been incurred and insofar as those parties that have instituted this challenge could now be subject to quite significant cost orders against them, what is the attitude of the Commonwealth in respect of that? Will they now be pursuing, with the inevitable defeat of any action, those parties that have issued proceedings to date, which now, it seems, will have absolutely no chance of succeeding in the High Court once this bill is passed?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (18:04): Senator Xenophon, I follow your argument that Senator Leyonhjelm's amendment is out of abundant caution. But, Senator Xenophon, it is entirely unnecessary. There is all the difference in the world between a provision in a statute that creates an immunity and a provision in a statute that confers or, as in this case, declares a power. The bill that we are debating is a bill that declares a power. It does not create immunity. Immunity provisions are read down very narrowly by courts so that if the government wished to create an immunity it would be necessary to do so in clear and explicit terms. The fact that there is no immunity provision created here, because to do so effectively it would be necessary to express it in clear and explicit terms, is really the answer to your concern and to Senator Leyonhjelm's concern.

In relation to the question of costs, Senator Xenophon, I think we are getting ahead of ourselves. We do not know how the High Court will resolve the proceedings before it. We do not know, in the event that the Commonwealth were to be successful, on what ground the Commonwealth would succeed. Whether that success would depend upon this bill or depend upon the pre-existing state of the law we just do not know. So it is not appropriate for me to, and I am not in a position to, give you any assurances in relation to the question of costs if the Commonwealth is successful.

Senator XENOPHON (South Australia) (18:06): If I can go to the latter matter first, the whole reason for this piece of legislation is to put beyond doubt the legality of the funding arrangements for offshore processing, and, in terms of what Senator Hanson-Young said, it has been rushed through, and I understand it. I supported it being dealt with expeditiously because of the concerns of the Commonwealth. I understand that. But insofar as it now appears on the plain reading of this legislation that the challenge to the bill, in terms of the point that has been taken in the High Court decision in Williams, I would have thought that it is pretty much a lay-down misere that there will be cost consequences against those parties that have brought this action.

In terms of some intrinsic fairness, does the government acknowledge that the parameters of such a case have been shifted as a result of this piece of legislation? And will the government at least acknowledge that it will take that into account in terms of seeking, at the very least, cost orders against those parties who issued proceedings at a certain point in time when the law was as it was, but it now will be changed in a way that will make it fairly clear that such a challenge could well be futile as a result of this piece of legislation?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (18:07): Senator Xenophon, you are a braver man than I am—or perhaps a more reckless one—to say that any
proceeding in the High Court of Australia is a lay-down misere. It is the case that the Commonwealth believes that, under the pre-existing law, it is on strong legal grounds. It is also the view of the Commonwealth that this legislation will strengthen and further undergird the Commonwealth's legal position. But I really do not have anything more to say to you about the cost issue than I have already said in answer to your previous question.

Senator XENOPHON (South Australia) (18:08): My colleagues have unkindly said I am reckless, and that is probably right. In respect of that, will there be some transparency in terms of whatever the outcome of this case will be? Presumably the Commonwealth's chances of succeeding will be greater as a result of this legislation, but we will leave that to one side. Will there be some transparency in terms of whether recovery of costs will be sought against those parties? Is that something that as a matter of course we would get to know about, for instance, through the Senate's question time, questions on notice or indeed the estimates process?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (18:09): Where the Commonwealth is a party to a litigation, like any litigant, ordinarily costs follow the event. In the event that the Commonwealth were to be successful, ordinarily it would seek to recover its costs from the other party. There are exceptions to that: where a party is litigating to test a public interest issue, there are sometimes exceptions. This is not one of them. Of course you can ask at the appropriate time, whether through estimates or by question on notice or without notice but, for the reasons I explained before, I am not in a position to commit the Commonwealth to a position other than the normal position, nor would it be appropriate for me to do so.

Question negatived.  
Bill agreed to.

Bill reported without amendment; 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) (18:11): I move:

That this bill be now read a third time.

The PRESIDENT: The question is that the bill be read a third time.

The Senate divided. [18:15]

(The President—Senator Parry)

Ayes ....................41
Noes ....................15
Majority...............26

AYES

Back, CJ
Bilyk, CL
Brandis, GH
Bushby, DC
Carr, KJ
Bernardi, C
Birmingham, SJ
Bullock, J.W.
Canavan, M.J.
Cash, MC

CHAMBER
Question agreed to.
Bill read a third time.

COMMITTEES

Membership

The PRESIDENT (18:18): I have received letters from party leaders requesting changes in the membership of committees.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (18:18): by leave—I move:
That senators be discharged from and appointed to committees as follows:

Economics References Committee—
Appointed—
Substitute member: Senator Leyonhjelm to replace Senator McAllister for the committee’s inquiry into health legislation
Participating member: Senator McAllister

Environment and Communications References Committee—
Appointed—

CHAIRMAN
Substitute member: Senator Ludlam to replace Senator Waters for the committee’s inquiry into Australia’s video game industry
  Participating member: Senator Waters

Finance and Public Administration Legislation Committee—
  Appointed—
  Substitute member: Senator Waters to replace Senator Rice for the committee’s inquiry into the Australian Government Boards (Gender Balanced Representation) Bill 2015
  Participating member: Senator Rice

Health—Select Committee—
  Discharged—Di Natale
  Appointed—
  Senator Muir
  Participating member: Senator Di Natale

Legal and Constitutional Affairs Legislation Committee—
  Appointed—
  Substitute member: Senator Urquhart to replace Senator Collins for the committee’s inquiry into the Regulator of Medicinal Cannabis Bill 2014
  Participating member: Senator Collins

Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru—Select Committee—
  Appointed—Participating members: Senators Di Natale, Ludlam, Milne, Rhiannon, Rice, Siewert, Waters, Whish-Wilson and Wright

Rural and Regional Affairs and Transport Legislation Committee—
  Appointed—
  Substitute member: Senator Rhiannon to replace Senator Siewert for the committee’s inquiry into the Voice for Animals (Independent Office of Animal Welfare) Bill 2015
  Participating member: Senator Siewert

Question agreed to.

BILLS

Civil Law and Justice Legislation Amendment Bill 2014
  Returned from the House of Representatives
  Message received from the House of Representatives returning the bill without amendment.

COMMITTEES

Parliamentary Joint Committee on Intelligence and Security
  Joint Standing Committee on Foreign Affairs, Defence and Trade
  Membership
  Messages received from the House of Representatives notifying the Senate of the appointment of Mr Dreyfus and Mr Scott in place of Mr Clare and Mr Dreyfus to the Parliamentary Joint Committee on Intelligence and Security, and of the appointment of Ms
Parke in place of Ms Plibersek to the Joint Standing Committee on Foreign Affairs, Defence and Trade.

**ADJOURNMENT**

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (18:19): I move:

That the Senate, at its rising, adjourn until Monday 10 August 2015 at 10 am or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Question agreed to.

**BUSINESS**

**Leave of Absence**

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (18:20): I move:

That leave of absence be granted to every member of the Senate from the end of the sitting day to the day on which the Senate next meets.

Question agreed to.

**COMMITTEES**

**Constitutional Recognition of ATSIP Report**

**Senator McKENZIE** (Victoria) (18:20): I seek leave to make a one-minute statement.

**The PRESIDENT:** Leave is granted for one minute.

**Senator McKENZIE:** I just wanted to raise with the Senate an issue of concern to those senators who sat on the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander People on the tabling of our final report. Over the last 24 hours, we became aware that earlier iterations of the draft report had been made public in various media outlets. It is of deep concern to those of us who worked very, very hard on that committee to come to a bipartisan and unanimous report. I also wanted to inform the Senate that Senators Peris, Siewert and I have written to the President on this issue, as it raises concerns about the manner in which we choose to conduct ourselves as members of Senate committees and potentially on matters of privilege.

**ADJOURNMENT**

**The PRESIDENT** (18:21): I propose the question:

That the Senate do now adjourn.

**Northern Australia**

**Albany Community Care Centre**

**Senator SMITH** (Western Australia) (18:21): As we come to the end of this parliamentary session, tonight is an excellent opportunity to reflect on some of the very positive announcements over recent days for regional areas across my home state of Western Australia.
I have noted during previous contributions in this chamber that regional WA is not especially well understood by many people across this country. I do not offer that comment as a criticism. It is just that until you have actually been there and gained an appreciation of the vast distances involved, and just how isolated some communities are, it can be difficult to comprehend. Yet we also know, from many years if not decades of discussions inside and outside this chamber, that our nation's North has the potential to make a much larger contribution to our economic strength than it currently is doing. What that will require is a government with the commitment and drive to turn talk, which has been going on for too long, into action on this issue.

The release of the Abbott government's white paper, *Our North: our future* last week was the most concrete, holistic plan for developing Australia's North, including northern WA, that communities in that region have seen. Finally, after years of talk about the 'potential' of northern Australia, we at last have a federal government in this country that is taking real steps, real action, to see that potential finally realised. This not to downplay many of those things that have already been achieved by those in living in local communities to the north of the Tropic of Capricorn, which is home to just over one million Australians spread across Queensland, the Northern Territory and my home state of Western Australia.

In many respects, when it comes to its economic contribution, northern Australia is already punching well above its weight. This is certainly the case when it comes to the goods this country exports, some 50 per cent of which derive from northern Australia, despite the fact that the vast bulk of our population lives in the southern half of the continent. There is broad agreement that our North will play a much greater role in strengthening and diversifying the national economy in the decades to come. However, for that to happen, there will need to be large-scale infrastructure development. At its core, that is what the government's white paper is about.

Of course, the Abbott government's commitment to northern Australia is not restricted to the things set out in the white paper; this builds upon things the government has already announced. Those include significant announcements in last month's budget, including the $5 billion concessional loan facility for economic infrastructure projects across the North. This initiative will help state governments and private developers get concessional loans to build ports, power plants and dams in Australia's North. If we are serious about realising the full economic potential of the North, then common sense tells you that building more of this base-level infrastructure is a critical first step in making the North a more attractive place to live, and in reducing the costs of doing business there.

As all of us in this place should understand, an efficient road network is another crucial piece of the infrastructure puzzle. Producing high-quality agricultural goods for export does not matter much if producers are unable to get them to ports. The opportunity to showcase some of the outstanding natural beauty of the Kimberley will be limited if the region's roads are not of a standard that permits tourists to travel them safely. For me, among the most significant elements in the white paper is the importance it places on developing the North's roads—a commitment of $700 million over the next four years to building new roads and making significant improvements to the existing road network.

As a Western Australian senator, I am especially pleased by the white paper's commitment to finally upgrade Tanami Road, which will greatly enhance access to the Kimberley from the
south of Western Australia. I would like to put on record the enormous contribution that former senator for Western Australia Alan Eggleston made in driving that particular project. Tanami Road is 1,014 kilometres long, stretching from Great Northern Highway just south of Halls Creek in Western Australia to the Stuart Highway near Alice Springs in the Northern Territory. Some sections in the Northern Territory have been sealed, or are about to be sealed, leaving some 790 kilometres unsealed. The road, which is 311 kilometres long to the WA border, services Aboriginal communities, tourism, pastoral and mining industries as well as being a strategic road link within the state's road network.

Last month, I had an opportunity to visit Halls Creek, where I met with officials from the Halls Creek Shire, as well as members of the Tanami Road Action Group. All those I met with were keen to emphasise the critical importance of this road upgrade for the local community. In particular, the upgrade is urgent for the continued success of new agribusinesses in the Kimberley region of Western Australia. Sealing the road will provide primary producers in our north with much better access to markets in the south. It will create a direct freight corridor between the Kimberley and South Australia, shortening the journey by some 1,100 kilometres, or around 17 hours of driving time. The overall consensus from local representatives was that Tanami Road needed to be identified as a priority in the white paper, and I am pleased that the Abbott government has listened to and addressed their concerns on this matter.

Equally important for agribusinesses and those living in regional and remote parts of Western Australia are improved mobile telecommunications. As both a Western Australian senator and as Chair of the Coalition Backbench Committee on Communications, and given my own experience in telecommunications prior to coming to the Senate, I understand it is an area of policy that is inextricably linked with fostering the growth of our regional communities. That is why I was exceptionally pleased by the government's announcement today in relation to mobile telecommunications black spots.

Today's news that the government is committing a further $60 million for a second round of the very successful Mobile Black Spot Program will be welcomed by many regional and remote areas of Western Australia and indeed regional communities across the country. It follows on from the $100 million that the coalition government initially committed for the first round of the program, which was an election commitment in 2013. As a result of today's announcement, almost 500 new or upgraded mobile base stations will be built across regional and remote Australia, covering a total of 3,000 mobile black spots from the more than 6,000 black spots which have been nominated by local governments and by members of the public. This includes the building or upgrade of some 130 mobile base stations in Western Australia. This means that, in total, 363 of the 533 mobile black spots nominated in WA will now be addressed through hand-held or external antenna coverage. The total spend on these projects will be just over $118 million, which includes a contribution from the WA state government.

I am also pleased that today's announcement confirmed that the government has agreed to re-open the database for mobile black spots, which will permit members of the public to nominate further black spots in mobile coverage. This will continue to be an important part of equipping regional communities with the telecommunications facilities they will need if the North is to truly recognise the economic opportunities that now lie within its reach.
Finally, in the brief time remaining to me, I would like to shift my focus from the north of Western Australia to a community in its Great Southern region. Over the past couple of years, I have had some involvement with the Albany Community Care Centre, which is a community based provider of respite care services. Having this facility operating in the local community means patients and carers in Albany and surrounding communities can access respite services when needed, without the added burden of having to travel long distances, which is often expensive and impractical. Naturally, these services are expensive to operate, particularly in regional communities across WA.

When the centre found itself facing funding challenges last year, I was pleased to help facilitate a $370,000 grant from the federal government to keep respite services running. I am even more pleased that the Abbott government has now agreed to meet the centre's operating costs for a further three years, meaning local respite services across Albany and the Great Southern region will now continue until at least 30 June 2018. I congratulate the centre's Chief Executive, Colleen Tombleson, and her team for their efforts in pursuing this outcome, and also my Liberal colleague the member for O'Connor, Mr Rick Wilson, for his effective advocacy on behalf of this vital local facility in regional WA.

Education

Senator McKENZIE (Victoria) (18:30): Tonight I want to talk about barriers to access to excellent higher education for regional students. As a former teacher and university lecturer, I understand the importance of higher education. Graduates earn more over the life of their careers, more doors open up in the workforce and they grow our nation's skill base, learning the jobs of tomorrow. But for many students from regional Australia and their families, the costs associated with securing a tertiary degree are prohibitive.

What are the results of these prohibitive costs? We know that they mean young people miss out on higher education, families suffer an incredible cost burden in an attempt to send their children to university or young people are forced to defer their degree for years to claim independence under the Youth Allowance scheme or save up enough to fund it. Even worse, some students are being forced to cheat the welfare system to attend university—something that should not happen but which many are forced to do. Many are silent about the fact that they make certain choices about what they do post-school as a result of their situation. Forcing them to work for 18 months ultimately means many of these students are held back from a higher education course for two years before they are able to receive any government support.

I recently met with a number of students at Charles Sturt University in Wangaratta and the message was loud and clear—the 18-month work period to qualify for Youth Allowance independence is not working. These students told me stories of their friends, family, even their own experiences, where two years in the workforce gave them a taste for money, however meagre, which they were not willing to give up to return to study. For others circumstances may change—they lose interest in studying, their motivation wanes or they build a new life, new relationships, friendships and community associations they choose not to give up in order to pursue their dream of higher education. Having a young person remain in the local community keeps communities intact; however, we know that a university degree provides lifelong opportunities. Some may say the system is not broken and their parents should pay if they want to attend university straight after school. But the reality is for many...
this is not an option. The simple fact is the cost of higher education is becoming more and more prohibitive for students from rural and regional communities.

In the communities I represent, young people just cannot live at home and still receive a higher education. There needs to be a suite of opportunities for students from across the nation—online opportunities, opportunities to attend physical campuses and indeed support to move to where those courses that they want to do actually exist. To earn a degree students from regional communities in the most part have to pack their bags and head off to Melbourne, Sydney, Canberra or one of our other major cities. Having to pack up and move away from your home town when you are 17 or 18 may seem like an exciting adventure, but the reality is it poses many challenges for students and their families—none bigger than the financial challenge. For regional students the costs can range from $15,000 and $20,000 a year to study away from home. There is also the added cost of getting home for the weekend or during semester breaks. Students have to pay for petrol or train, bus or plane tickets home as well as for phone calls. For families with multiple children wanting to access higher education in successive years, these cost burdens are heavy, they are unrealistic, and they act as a significant barrier that numerous reports have outlined over recent years.

A postcode should not be a barrier to higher education—but it is and this is a clear failure and a key flaw in our system. It is a flaw that so many rural and regional senators and members over the years have fought hard to overcome. The 2011 ABS census found that, while 27 per cent of Australians aged 15-64 live in regional Australia, they make up only 21 per cent of undergraduate enrolments. Regional students should make up 27 per cent or more of the university population. As I have outlined earlier, financial barriers are a significant hurdle for regional students and their families. Regional students experience cultural barriers as well, as the community often is loud in their angst about the youth of their region moving away and not returning. At an individual level, many regional students may prefer to relocate to attend a university in a metropolitan area that will provide them better work or course options, but we know at a community level there are concerns about depleting populations as younger members move away from regional areas—and this pressure forces some of them to stay.

While we must accept some of our successful students may remain in metropolitan areas where career prospects are higher—and I do not think there is anything wrong with having more and more of that country-mindedness on the boards of our national and international organisations and amongst business leaders, because that tenacity and resilience that you get from growing up in the country is always useful—we do hope that many of them will choose to return home or to another regional area, bringing with them significant skills which regional communities desperately need such as doctors, dentists, lawyers, teachers, accountants, engineers et cetera. To get this balance right, more needs to be done to support regional and rural students to access higher education. Governments of all persuasions must do more to assist regional students to participate in higher ed if and when they choose to participate. We must look at these issues and start to break them down.

Over the coming months I will be travelling the country hosting meetings and forums as part of an interdepartmental committee on access to higher education for regional and remote students to look at barriers to higher education. From Tasmania to Far North Queensland, from Tamworth to Port Augusta, over to Western
Australia—I am looking forward to spending time with three local members over there—up to the Northern Territory and even down to my home state of Victoria, meeting with students, parents, teachers and community members, stakeholders, to talk about how, together, we can better support regional and rural students and hence our communities and long-term regional economies. Thanks to support from ministers Pyne and Morrison we have recently completed an interim report which will form the basis for my conversations with local members and their community stakeholders over the coming months. I thank them both for their support.

The data contained in the interim advice backs up what those of us out in the regions already know about the inequity that exists, and we are committed as a group to doing something about that. There are six interim findings. The first was that regional and remote students remain underrepresented in higher education, despite the Bradley reforms. So the rate of increase of students from metropolitan areas due to the implementation of the demand-driven system was significant. And, yes, there was an increase in rural and regional students in higher education, but at nowhere near the same rate, which remains a concern.

There are significant barriers, the report found, to regional and remote students, including cost, school experiences, attainment of their ATAR, aspiration, preparedness, distance et cetera. So this issue is multifaceted. The government provides some financial support to help overcome these barriers, but I know we can do more.

The report also found that the receipt of student income support for regional and remote students has grown following the Bradley and Lee Dow reviews, but not at the same rate as for metropolitan recipients. The explanation for this difference requires further investigation but may be linked to the higher likelihood of regional and remote students needing to move away from home in order to undertake study. That is a key finding. That is why we are heading out into the regions, right across the country, over the winter break, to actually have those conversations and put a little bit more flesh on the bones of the numbers and gain a little more understanding of what the numbers are telling us.

Another finding was that there are concerns around the adequacy of student assistance. The issue of adequacy has been highlighted by previous reviews, which have noted issues such as the costs of moving away from home to study and the pressure to supplement student payments with earnings, which can also have flow-on effects for academic achievement.

Also, inequalities in parental means tests create difficulties for some regional and remote families, and I do note that, in our budget, the Minister for Social Services made some significant changes to ensure that the family farm is no longer considered an asset, which means that thousands more young people from regional areas will be able to access youth allowance. As those who represent rural and regional parents, communities and, indeed, students, we know that this particular issue is much more than getting the parameters of the youth allowance right. It is an ongoing issue. We have got to come up with a new and creative way to solve the problem, and we are committed to doing that.

That is why I, along with my Coalition colleagues, want to hear from people on the ground in our communities who have been struggling with this issue for a long, long time. We want to hear their ideas and concerns and to hear about the issues, and that is what I will be doing, right across the country, over the winter break.
Our young people are our future. They are the keys to unlocking regional Australia's economic potential even further. This issue is too important not to get right, and I, along with my colleagues, will be working hard over the coming months to put forward a plan which will ensure our young are no longer disadvantaged when it comes to securing a degree simply because of where they were born and where they choose to live. And that fabulous tenacity and resilience of regional youth will be able to be harnessed and they will be able to choose, like their metropolitan cousins, the right course for them and their future, and to follow their dreams and aspirations as they should be able to.

The PRESIDENT: Thank you, Senator McKenzie. The Senate stands adjourned and will meet again on the sixth birthday of my grandson Remy, that being Monday, 10 August 2015, at 10 am.

Senate adjourned at 18:40

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

[Legislative 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.]


**Australian Transaction Reports and Analysis Centre Industry Contribution Act 2011**—Australian Transaction Reports and Analysis Centre Industry Contribution Census Day Determination 2015 (No. 2) [F2015L00864].

**Corporations Act 2001**—ASIC Corporations (Repeal) Instrument 2015/532 [F2015L00862].

**Environment Protection and Biodiversity Conservation Act 1999**—

Amendment to the list of migratory species under section 209 (18 June 2015) [F2015L00871].

Amendment to the list of migratory species under section 209 (18 June 2015) [F2015L00872].

**Federal Financial Relations Act 2009**—

Federal Financial Relations (General purpose financial assistance) Determination No. 71 (February 2015) [F2015L00882].

Federal Financial Relations (General purpose financial assistance) Determination No. 72 (March 2015) [F2015L00881].

Federal Financial Relations (General purpose financial assistance) Determination No. 73 (April 2015) [F2015L00880].


**Marriage Act 1961**—Marriage (Recognised Denominations) Amendment (Name Changes) Proclamation 2015 [F2015L00875].


Telecommunications (Interception and Access) Act 1979—


Telecommunications (Interception and Access) (Emergency Services Facilities — Western Australia) Instrument 2015 [F2015L00866].