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SITTING DAYS—2014

<table>
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<th>Month</th>
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<td>February</td>
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<td>August</td>
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<tr>
<td>December</td>
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FORTY-FOURTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

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

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

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
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<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
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<td>Back, Christopher John</td>
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<td>Bernardi, Cory</td>
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<tr>
<td>Bilyk, Catryna Louise</td>
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<tr>
<td>Birmingham, Hon. Simon John</td>
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<td>30.6.2020</td>
<td>LP</td>
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<tr>
<td>Brandis, Hon. George Henry, QC</td>
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<tr>
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<tr>
<td>Carr, Hon. Kim John</td>
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<td>Colbeck, Hon. Richard Mansell</td>
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<td>30.6.2020</td>
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</tr>
<tr>
<td>Collins, Hon. Jacinta Mary Ann</td>
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<td>Conroy, Hon. Stephen Michael</td>
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<td>Dastyari, Sam</td>
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<td>Fawcett, David Julian</td>
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<td>Fierravanti-Wells, Hon. Concetta Anna</td>
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<td>Lines, Susan</td>
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<td>Ludlam, Scott</td>
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<tr>
<td>Lundy, Kate Alexandra</td>
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<td>Macdonald, Hon. Ian Douglas</td>
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<td>Marshall, Gavin Mark</td>
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<td>McKenzie, Bridget</td>
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<tr>
<td>McLucas, Hon. Jan Elizabeth</td>
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<td>Milne, Christine Anne</td>
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<td>Moore, Claire Mary</td>
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<tr>
<td>Muir, Ricky Lee</td>
<td>VIC</td>
<td>30.6.2020</td>
<td>AMEP</td>
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<tr>
<td>Nash, Hon. Fiona Joy</td>
<td>NSW</td>
<td>30.6.2017</td>
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</table>
Pursuant to section 42 of the Commonwealth Electoral Act 1918, the terms of service of the following senators representing the Australian Capital Territory and the Northern Territory expire at the close of the day immediately before the polling day for the next general election of members of the House of Representatives:

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

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

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
DLP—Democratic Labour Party; FFP—Family First Party; IND—Independent,
LDP—Liberal Democratic Party; LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; PUP—Palmer United Party
Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
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<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Women</em></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td>The Hon Jamie Briggs MP</td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td><em>Parliamentary Secretary to the Minister for Foreign Affairs</em></td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>(Leader of the Government in the Senate)</td>
<td>The Hon Luke Hartsuyker MP</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td>Senator the Hon George Brandis QC</td>
</tr>
<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon Michael Keenan MP</td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td>The Hon Sussan Ley MP</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td>Senator the Hon Scott Ryan</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Bruce Billson MP</td>
</tr>
<tr>
<td>Acting Assistant Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
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<tr>
<td><em>Parliamentary Secretary to the Treasurer</em></td>
<td>The Hon Steven Ciobo MP</td>
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<tr>
<td><strong>Minister for Agriculture</strong></td>
<td>The Hon Barnaby Joyce MP</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Agriculture</em></td>
<td>Senator the Hon Richard Colbeck</td>
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<tr>
<td><strong>Minister for Education</strong></td>
<td>The Hon Ian Macfarlane MP</td>
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<tr>
<td>(Leader of the House)</td>
<td>The Hon Bob Baldwin MP</td>
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<tr>
<td><strong>Minister for Education</strong></td>
<td>The Hon Kevin Andrews MP</td>
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<tr>
<td>Assistant Minister for Education</td>
<td>Senator the Hon Mitch Fifield</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Education</em></td>
<td>Senator the Hon Marie Payne</td>
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<tr>
<td><strong>Minister for Industry</strong></td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Industry</em></td>
<td>The Hon Malcolm Turnbull MP</td>
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<tr>
<td><strong>Minister for Communications</strong></td>
<td>The Hon Paul Fletcher MP</td>
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<tr>
<td><em>Parliamentary Secretary to the Minister for Communications</em></td>
<td>The Hon Peter Dutton MP</td>
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<tr>
<td><strong>Minister for Health</strong></td>
<td>The Hon Peter Dutton MP</td>
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<tr>
<td><strong>Minister for Sport</strong></td>
<td>Senator the Hon Fiona Nash</td>
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<tr>
<td>Title</td>
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<tr>
<td>-------</td>
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</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
<td>Senator the Hon David Johnston</td>
</tr>
<tr>
<td>Minister for Veterans' Affairs</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Assistant Minister for Defence</td>
<td>The Hon Stuart Robert MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon Darren Chester MP</td>
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<tr>
<td><strong>Minister for the Environment</strong></td>
<td>The Hon Greg Hunt MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
<td>Senator the Hon Simon Birmingham</td>
</tr>
<tr>
<td><strong>Minister for Immigration and Border Protection</strong></td>
<td>The Hon Scott Morrison MP</td>
</tr>
<tr>
<td>Assistant Minister for Immigration and Border Protection</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Minister for Finance</strong></td>
<td>Senator the Hon Mathias Cormann</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance</td>
<td>The Hon Michael McCormack MP</td>
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</tbody>
</table>

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
<table>
<thead>
<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
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<tbody>
<tr>
<td><strong>Leader of the Opposition</strong></td>
<td>Hon Bill Shorten MP</td>
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<tr>
<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
</tr>
<tr>
<td>Shadow Cabinet Secretary</td>
<td>Senator the Hon Jacinta Collins</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Hon Michael Danby MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>Dr Jim Chalmers MP</td>
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<tr>
<td><strong>Deputy Leader of the Opposition</strong></td>
<td>Hon Tanya Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs and International Development</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Women</td>
<td>Senator Claire Moore</td>
</tr>
<tr>
<td>Manager of Opposition Business (Senate)</td>
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<tr>
<td>Shadow Minister for the Centenary of ANZAC</td>
<td>Hon David Feeney MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
<td>Hon Matt Thistlethwaite MP</td>
</tr>
<tr>
<td><strong>Leader of the Opposition in the Senate</strong></td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Shadow Minister for Trade and Investment</td>
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<tr>
<td>Shadow Parliamentary Secretary for Trade and Investment</td>
<td>Dr Jim Chalmers MP</td>
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<td>Senator the Hon Stephen Conroy</td>
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<td><strong>Shadow Minister for Infrastructure and Transport</strong></td>
<td>Hon Anthony Albanese MP</td>
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<td><strong>Shadow Minister for Cities</strong></td>
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<tr>
<td>Shadow Minister for Regional Development and Local Government</td>
<td>Hon Julie Collins MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for Regional Development and Infrastructure</td>
<td>Hon Alannah MacTiernan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Western Australia</td>
<td>Hon Warren Snowdon MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for External Territories</td>
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<tr>
<td><strong>Shadow Treasurer</strong></td>
<td>Hon Chris Bowen MP</td>
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<tr>
<td>Shadow Assistant Treasurer</td>
<td>Hon Dr Andrew Leigh MP</td>
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<tr>
<td>Shadow Minister for Competition</td>
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<tr>
<td>Shadow Minister for Financial Services and Superannuation</td>
<td>Hon Bernie Ripoll MP</td>
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<tr>
<td>Shadow Parliamentary Secretary to the Shadow Treasurer</td>
<td>Hon Ed Husie MP</td>
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<tr>
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<td>Hon Tony Burke MP</td>
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<tr>
<td>Manager of Opposition Business (House)</td>
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<tr>
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<td>Hon Mark Butler MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for the Environment, Climate Change and Water</td>
<td>Senator the Hon Lisa Singh</td>
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<tr>
<td><strong>Shadow Minister for Higher Education, Research, Innovation and Industry</strong></td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Shadow Minister for Vocational Education</td>
<td>Hon Sharon Bird MP</td>
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The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 09:30, read prayers and made an acknowledgement of country.

BUSINESS

Rearrangement

Senator MADIGAN (Victoria) (09:31): by leave—I move:

That general business orders of the day relating to the private senators' bills listed for today be called on and considered in the following order:

No. 2, the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 and no. 7 Fair Trade (Australian Standards) Bill 2013.

Senator MOORE (Queensland) (09:31): Mr President, we will support Senator Madigan's motion but we just want to put on record that we have had a Dynamic Red in circulation now for a couple of days, which has talked about the order in which these two private senators' bills will be considered this morning. It is just difficult at the last minute to change the program in such a way.

Of course, we will do it—private senators' business belongs to private senators and this is Senator Madigan's time. But it would just be useful in future to have discussion beforehand if we had a proposition to make such a change. I, myself, know much more about the trade policy than I needed to know at this time this morning! So in terms of process it would be very useful, where there is going to be a recommendation to change a publicly-acknowledged program, if we had some prior knowledge.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (09:32): I indicate that the government supports the rearrangement, and that we are doing so on the basis that the accepted convention is that private senators' business time is the time of the senator who has been allocated that. Senator Madigan has indicated that he wishes to alter the order of the bills that he had listed. Given that this is essentially his time this morning we thought that it was reasonable to accept the proposition of Senator Madigan.

Question agreed to.

BILLS

Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator BERNARDI (South Australia) (09:34): In keeping with my usual practice I will wade into matters that cause the most controversy in this place, that being the topic of abortion.
It is a heartfelt topic. It is one on which people hold passionate views on both sides of the debate. I do not propose to cover that, because this bill is not in itself a moral judgement on abortion per se but it does render a judgement, which this Senate has done previously, about the injustice that is done when a baby is killed on the basis of its gender.

Quite rightly, we condemn these practices when we hear about them internationally. It is a matter of fact that there is an international movement through the United Nations from 1994 at the Cairo Population Conference, where it committed those signatories involved:

… to take the necessary measures to prevent infanticide, prenatal sex selection, trafficking in girl children …

Make no mistake: this is a gender equality issue because, overwhelmingly, sex selection, as it is practised in other parts of the world, is about terminating the lives of female babies. I do not know how many take place in this country, but the mere notion—the idea; the concept—that we as a civilised nation think that this is an acceptable use of taxpayers money which can be justified by any measure whatsoever I think is quite abhorrent.

Under this Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013, the proposed new section—which I think is 17A schedule 1—Medicare benefits would not be payable if:

(a) the professional service involves a medical practitioner performing:

(i) a medically induced termination on a pregnant woman;

or

(ii) a service that relates to or is connected with performing a medically induced termination on a pregnant woman;

and

(b) the termination is carried out solely because of the gender of the foetus.

The explanatory memorandum of the bill makes it very clear that this would have a very modest—or limited, in government parlance—impact on the financial outcomes of our budget. So it is not about money, and it is not about abortion per se. It is about inequality. It is about gender equality and our affirmation that terminating a baby's life on the basis of gender is sickening and abhorrent. It is worth noting that the explanatory memorandum also states:

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

I state for the record that I agree wholeheartedly with the premise of this bill. If the opportunity comes to vote in favour of it, I will vote in favour of it. I also commend Senator Madigan for his efforts in bringing a legislative instrument into this chamber which reflects the will of the Senate and the motion that the Senate passed decrying these gender-selective abortions. We have to recognise that in the public domain we must be prepared to put ourselves forward to discuss issues that are intensely personal and moral and that people have very strong opinions on—emotive opinions—but we have to be prepared to discuss them in the context of what is overwhelmingly right. The Senate is a unique place. It is a place where we can take considered views on many things and where there can be a conversation between senators to reflect the great diversity of the Australian population. Senator Madigan has brought forward this bill with that in mind, and hence I support it.
It is worth noting that there is very little evidence, or maybe no evidence, available to the government that suggests that termination of pregnancy for sex selection purposes is widespread or exactly on how many occasions it is actually performed in Australia. We recognise that most abortions are conducted in the first trimester of pregnancy. The horrors of late-term abortion and things like that make people feel very desperately uncomfortable—and that is essentially what we are talking about. For those of us who have had children, the gender identity of your child is generally determinable at about 18 or 20 weeks, so it falls outside of that first trimester. So we are already outside of the area where most abortions are taking place. But a baby is viable outside of the womb from about 24 weeks, and even earlier in some instances with medical support. So what we are talking about here is a pregnancy where someone has been told that they are having, generally, a girl and they say, 'I don't want a girl.' That is just abhorrent no matter what you think about abortion.

I have to note that there are experts who say that there are very few of these instances, but also there are experts who say that no doctor would perform an abortion under these sorts of demands or circumstances. Michael Permezel, the President of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, said:

I don't think there is any doctor that would perform an abortion on those grounds.

The problem with that is that doctors in jurisdictions like Victoria, where you basically have abortion available on demand, can be taken to a tribunal or disciplined for failing to refer someone for an abortion under whatever circumstances. I reject that in its entirety too. I think conscientious objection and freedom of moral thought and action are absolutely important in this country.

This bill was examined by the Finance and Public Administration Legislation Committee when it was referred in March of last year. The report was presented on 27 June. Not surprisingly, the committee did not make a particular recommendation, but it has been examined by a committee. In the end, we have to make a determination for ourselves. That determination is whether we think it is acceptable for taxpayers' money to be used through the health system to allow even one abortion on the basis of gender. I do not think that is acceptable. It breaches what I would say are our international obligations. It breaches the premise that many people have been fighting for in our country and around the world, and that is gender equality. Quite rightly, we condemn these sorts of practices that happen in other nations. I refer the Senate to the speech that Senator Cash made on this subject some time ago, which approached and dealt with it from the perspective of international obligations and also from the perspective of gender equality. We should have no business condoning, even implicitly or less than implicitly, these sorts of actions, because they go against the fundamental basis that so many of us here believe in.

The 2011 UN interagency statement titled Preventing gender-biased sex selection was released by the United Nations Office of the High Commissioner for Human Rights, the United Nations Population Fund, the United Nations Children's Fund, the United Nations Entity for Gender Equality and the Empowerment of Women and the World Health Organisation. They all reaffirmed the commitment of the United Nations to:

... uphold the rights of girls and women and to address the multiple manifestations of gender discrimination including the problem of imbalanced sex ratios caused by sex selection.

Let me repeat that. The United Nations and these other associated organisations:
… uphold the rights of girls and women to address the multiple manifestations of gender discrimination including the problem of imbalanced sex ratios caused by sex selection.

That is the question before us today: are we prepared to uphold the rights of girls and women? Are we prepared to address the multiple manifestations of gender discrimination which are attributable to these sex-selection abortions? It is a question for all of us today. Ultimately, as with most matters relating to abortion, if this is brought to a vote it will be a conscience vote. There will be people who have very passionate and strong reasons to vote against this bill. But I cannot imagine that out there, in the broader Australian public, anyone really thinks it is okay to terminate the life of an unborn child on the basis of its gender.

It would be interesting to determine how this Senate resolves this issue. I put on the record that, should it come to the vote, I will support this bill—not simply because I have a vehement opposition to abortion but because this goes beyond the pale of even those people who support the right of women to choose, as they so blandly put it. This is not a choice based in anything except selfishness. The choice to terminate a child on the basis of gender is perhaps the most selfish decision that anyone could take. It is saying, 'I do not think a girl is worth the same as a boy.' When has this country thought that was going to be okay?

Unfortunately what happens with legislative instruments is that things sometimes slip through the net. There are unintended consequences; there are oversights. You do not think, when it passes, that people would exploit loopholes but they do. I had some experience with this much earlier in my time in this place when I discovered that there was a loophole in the baby bonus legislation as it was then. I had evidence from people who had actually done it themselves, and from medical practitioners, that people were having terminations after a certain gestation period and, because the child was over a certain weight, they were entitled to the baby bonus. That is abhorrent. We had instances where people suggested, and the evidence supported the fact, that people had done this on multiple occasions. That sort of stuff is sickening. I was told at the time that it was not possible; it could not happen and would not happen. But it did happen, and ultimately the government was forced to address it. There is still some suggestion that it has not been entirely redressed, but we cannot prevent fraud and the misuse of these sorts of opportunities if someone is prepared to lie and deceive. That will be the case in many instances, I suggest, in the arguments we might hear today. People may say someone who wants a termination on the basis of gender will not go to their doctor and say that is the reason; they will make up another reason. That may indeed be true, and I suggest that is the reason we need to have a broader, more wholesale look at whether abortion being available for any reason the right thing for a country. That is broader philosophical outlook.

But whether it has an impact on the level of terminations or the financial requirements of our budget is immaterial to me. What is material is that we have to send a message—a strong message that is consistent with our international obligations—that we as a country are not prepared to endorse or support these types of abortions taking place in this country. We are not prepared to financially support even one abortion on the basis of gender.

I commend Senator Madigan for bringing this bill into the parliament. If the opportunity comes to vote for it I will absolutely endorse it, and I hope my colleagues in this place will do the same—not, as I stress, because they are for or against abortion but because we should all
be horrified by the mere concept that even one baby girl or baby boy loses its life simply on
the basis of its gender.

Senator MOORE (Queensland) (09:50): Senator Madigan has brought this bill back to
our chamber so we can consider the issues he put forward at the last parliament. As I said at
that time in the debate we had, you will not find a single member of this chamber who would
in any way support the use of terminations for gender selection. It is important we raise that as
a standard and acknowledge this is a principle we do not accept.

However, when we had the finance and public administration process look at Senator
Madigan's bill in the last parliament, the many very impressive submissions we received
looked particularly at the issue of whether the bill that Senator Madigan has brought to us, the
suggestion that making a change to the Medicare legislation, the Health Insurance Act, is the
best way, or even an appropriate way, to look at the concerns he has raised about the issue—
the international issue—of gender selection. Indeed, as I said at the time, I commend the fact
that Senator Madigan talked about the Cairo program of action in this bill and in the
discussion paper he brought forward—about what we as a world were going to do about
human rights and, in particular, women's rights. That program was published in 1994. I
commend the use of this document. I wish more people would refer to this document in this
place. I talk about it regularly.

In this document it does say that we should do, among a number of other things, everything
we can do as a nation and as an international community to look at the very abhorrent issues
of gender selection. They are all listed there; I commend it. It also talks about the important
issues of women's reproductive health rights and the particular responses that women needed
to make to ensure that their own health is being looked after effectively and professionally so
that they can make appropriate choices about their health.

There are a number of points I want to make about using the Health Insurance Act to look
at the issue of gender selection in our nation. In the first place, there is no clear evidence that
this abhorrent practice of gender selection is a practice that is used in this nation. There have
been very isolated examples of people who have claimed that this has happened, and we did
hear about those during the introduction of Senator Madigan's bill. We have had people talk
anecdotally about how this could be used by some people.

However, the core aspect of this is that it is a medical issue. By using the Health Insurance
Act as the model for which any action would be taken in this legislation, we are looking at an
area that is particularly covered by issues of personal rights and privacy. If you look at our
Medicare statistics—the only basis on which you can have any understanding of or make any
statement about how terminations are used in this nation—you will not be able to clearly
identify where terminations have taken place or, in particular, any reason for these
terminations. On that basis, there is no evidence to say that the use of termination for gender
selection is an active issue in our nation. The Medicare item about which Senator Madigan is
moving his motion does not indicate the motivation for the decision to terminate. We have
very clear statistics that show it covers a wide range of medical processes.

This was clearly pointed out in the evidence provided to the finance and public
administration committee by the Royal Australian and New Zealand College of Obstetricians
and Gynaecologists, as well as the then Department of Health and Ageing. The department
gave an indication of how Medicare operates in this nation, so this bill will not be able to

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address the core issue that Senator Madigan has chosen, I think quite rightly, to bring to our attention. He is concerned about the prevalence, if any, the understanding, if any, of the issue of gender selection in medical practice in this country, but I am going to make an argument about what I think should be done on this important issue.

I just want to put on record some of the evidence that came forward from RANZCOG, which is the College of Obstetricians and Gynaecologists. It points out the very rare occasions where there could well be medical advice that looks at this issue, where this medical advice could be used in gender selection. I want to put this on record, because it is quite sensitive. I quote from the submission that was put by the then RANZCOG president Professor Michael Permezel:

There are rare but important reasons of gender selection on medical grounds. These include (but not exclusively):

(a) Rare serious genetic (X-linked) conditions where there is no other way of determining a possibly seriously affected child other than both gender [and]

(b) Other probable hereditary clinical disorders … that do not have a recognised genotype.

So when we are looking at changing the blunt instrument of legislation, we are actually intruding, I believe, upon a very sensitive, personal medical decision. I have always said this is a very important decision to be taken by a woman, her medical practitioner and any other person she chooses to engage in that discussion. So the professional advice of the college, of the people who are best trained to work in this area, is that it is important to understand that there are times when a gender selection process may be used. It is important to have that on the record so that there are not just blunt generalisations about this process.

However, in terms of what we need to know about what should operate in our nation, I absolutely take seriously the concerns that were raised originally by Senator Madigan. I know that it has been raised by many other senators in this discussion. The concern, the worry, is about whether there is indeed the use of gender selection in medical decisions and how to then take that on. As a community we should be engaging with medical practitioners, engaging with the people who work in the wider medical community, to ensure there is an understanding that this process is not legal in Australia. We should be very clear that we do not accept it and, as I said at the beginning of my contribution and which I imagine will be repeated by most speakers in this debate, that there is no support for this process in Australia—no support at all.

What we should be doing is raising our concerns about this and talking with the range of people who made contributions to our finance and public administration inquiry. We should be talking with them because they showed their interest by responding to the Senate's call to consider the issue. We should be clearly identifying if there should be some kind of process that looks at whether there is any indication that there is the use of termination for gender selection or the attempted use of termination for gender selection. We should be very clear that we as a nation do not support it. We should be very clear that there should be an education or awareness program that looks at wider community engagement, rather than just using what I have described before as this blunt instrument of legislation. We should also look at this bill, which I do not believe will be effective in responding to the needs that Senator Madigan has brought forward.
The idea of using medical legislation to address a wider social issue is not peculiar to the Madigan bill we have in front of us; similar legislation has been brought forward in a number of parliaments across the world, and there is a full record of that on the medical websites. There has been an assessment of whether bringing forward legislation alone is effective, and indeed there was some evidence provided to us that it is not effective. The WHO paper that came to us says:

It is clear that, while intending to effect a common good, restrictive laws and policies implemented in isolation from efforts to change social norms and structures can have unintended harsh consequences, and may violate the human rights of women.

It goes on to say:

… the causes of biased sex selection lie in gender-based discrimination, and that combating such discrimination requires changing social norms and empowering girls and women.

So taking a legal based process into medical legislation does not work in isolation. We need to ensure that the rights, independence and, most importantly, the education of women and girls are introduced in our country and the nations of world, which was the intent of the Cairo declaration. The intent of the declaration was to empower women and girls across the world so that they have equity and the strength to assess their own rights, make their own decisions and be able to operate in communities that give them that respect and independence. On that basis, I believe that the Madigan legislation serves a valuable purpose in raising before us the concerns and making us genuinely think about whether there is evidence in Australia that these issues occur. More importantly, it ensures that people across our country working in the professional areas that are concerned about the empowerment and rights of women, as well as the importance of the absolute privacy and rights of a medical interaction between any patient and any doctor, have the opportunity to engage in considering the issues.

One of the most interesting pieces of evidence we received in our inquiry was on gender bias in our country. The statement was made that, if there were any active interventions to change the birth rates in our nation, either by gender or in religious groups, that would be evident in a statistical review of what is occurring with birthing in Australia. The evidence we received was that there have not been anomalies—a greater number of male children born to the detriment of female children. I know Senator Madigan's main concern in this debate is discrimination against girl children. If there were an active process in the nation of using termination to stop female births, that would appear in the statistical evidence we have before us, and there is no problem in continuing to consider these issues into the future.

We could continue to use that methodology if Senator Madigan and other people who share his concerns are worried that there is an overfocus on selecting gender with decisions about birthing. If the birth rate changes over a period of time and more male children are being born, you would be able to see that there is an issue. There is no indication of such an issue now, but there is no problem in continuing to consider these issues into the future.

I think we have a responsibility in our own country to look at our own practices. In the body of evidence our committee had and in the wider discussion by the medical profession, the people who look at the social make-up of our nation and the women's groups who came forward in large numbers to raise concerns about how they felt this legislation was intruding on a woman's rights it was put forward that they do not believe that this is a real and active issue in Australia at the moment. We do know that in some nations it has been. There is an
international commitment to look at practices to ensure that across the world women and girls are effectively empowered and able to make their own informed decisions without being pressured or forced to be covered by various forms of legislation that is taking away their own choice and independence.

I urge people interested in this debate to look at what their major concerns are. If they are concerned about discrimination against women, they should be looking at the wider community and seeing whether there is any evidence in Australia that this is a real issue. If people are concerned about the issue of abortion in Australia—and many submissions received by the Senate Finance and Public Administration Legislation Committee were focused on the wider issue of abortion in Australia rather than on gender selection and the use of abortions for that purpose—if people are concerned about the rate of abortion in Australia and if people are concerned about abortion laws in Australia, which we all know are the state governments' responsibility, they should take up the debate on those issues. They should openly say that they are concerned about abortion in Australia. They should not hide behind putting a guilt trip on women about the choices they make and hide behind an argument that is based on the very document, the Cairo declaration, that has been developed to ensure that women are empowered and have their rights.

This issue, as we have heard and will continue to hear from many speakers, does cause people to take very strong positions, and they have personal experience on which to base their arguments. But I urge people in this debate to look at the evidence around current medical practice in Australia, to look at the processes we have in place and perhaps then look at what their real concerns are, and to re-engage and recommit to oppose the use of abortion or medical practice that represents gender selection, except for those exclusions, which I have mentioned, put forward by the royal college. I urge people to look at how we can ensure that any community that may still have lingering cultural concerns in this area understands what the Australian processes are and what the Australian law is. We need to ensure that people have a sense of their own power, their own independence and their own ability to seek as much support as they possibly can within the Australian system to make their own choices. We need to ensure that people get all the appropriate information and that they are able to make their own choices without fear of judgement, without fear of criticism and without fear of demonisation.

I would like to add briefly that a concern I have had with the contributions that have been made since Senator Madigan introduced this legislation is the inference that this practice is particularly prevalent in some ethnic community groups in Australia. I believe that we need to ensure that we do not gratuitously label a whole community group on the basis of a particular practice that someone may have heard had occurred in some cases. We have a responsibility to ensure that we build unity in Australia. As we all know, when people come to our country they swear allegiance to our laws. We believe that that is an important thing to do. But, if there is any concern that there is any lack of knowledge or understanding of this, it is our responsibility as legislators to look at what is in effect both here and internationally to ensure that in Australia our law is well known, that we work with the professionals—particularly those who work in the field of medicine or of examining legislation which pertains to medical
practice—and that we listen to them and do not let any concerns about something that we find offensive, which is gender selection, colour the other use of our tools as legislators.

I thank Senator Madigan again for bringing forward an important issue for us to consider. I am strongly opposed to this bill. I do not think it works. If you look at how the whole process works in Australia, I am not convinced that it is necessary in Australia. I do not believe that gender selection and the use of termination to that end is active in this nation. I think that we should take the messages from Cairo about the independence and empowerment of women and work collectively towards that aim, rather than try to divide the Senate on something that does not meet the needs that it purports to.

Senator DI NATALE (Victoria) (10:10): Too often in this place we have debates about issues and we circle the topic without actually naming it. Let us be clear about what we are talking about today. We are not talking about gender selection and abortion. We are talking about abortion. Gender selection is a non-existent issue in the Australian community. This is not an issue that those of us who have worked as medical practitioners face. It is just not a reality. In all my time in medical practice, there has never been one occasion when I was confronted with a situation where I was being asked to refer someone for a termination on the basis of the gender of that foetus.

I have spoken to my colleagues about this, many of whom have worked for many years in general practice. It is simply not an issue. None of them have ever been confronted with a situation where this exists. You only need to look through the medical literature to understand that it is not an issue in medical practice. It is just not. Senator Moore indicated that there are some limited circumstances where there may be some inherited genetic defect that is associated with a particular sex, but that is not about gender selection. That is about a decision to terminate based on the viability of the foetus. It has nothing at all to do with gender selection. So let us name what we are talking about here today. Let's name it. This is a bill that goes to the heart of the woman's right to choose. That is what this bill is about.

I have to say I am a little annoyed that, with so much division within the Australian community on so many issues, here we are debating an issue on which the Australian community has largely spoken. Of course, there is some disagreement at the margins, but, largely, this is an issue where the Australian community has made its opinion very clear. The Australian community supports a woman's right to choose. That is what the Australian community supports. People will raise all sorts of arguments through this debate. People will say that this is a decision in which the Australian parliament has no role—that this is a decision between a woman and her health professional. Some people will say that somebody's religious views have no place in determining the laws that shape issues like a woman's right to choose. Some people will bring in the issue of rape and incest, and what options are available to women in those circumstances. They are all legitimate arguments, so I absolutely support each and every one of those. But my position on this topic comes from a more pragmatic perspective.

The simple fact is that, when you prevent women from having a termination, you do not reduce the number of terminations; you just put women at risk. That is the consequence of any law that attempts to prevent a woman from accessing a safe and medically supervised termination. The numbers do not change when abortion goes from being legal to being illegal. The only thing that changes is that women die. Let us not forget that, every year around the
planet, tens of thousands of women die from unsafe abortions. That is what happens right now every year.

It is a confronting issue. When I was in my medical training, one of the rotations that we had through that training was to assist in a clinic that practised terminations. I suspect the rationale was that if you, as a medical practitioner, are going to be involved in referring women to have terminations then you should know what that involves. And it is confronting. I do not deny that for a moment. I have some very clear memories of that experience. I remember talking to some of the women beforehand. I remember the trauma and emotional turmoil that some of them were experiencing at that time; others approached it with a more matter-of-fact perspective. I remember talking to those women and acknowledging what a difficult time it was for many of them. I remember being in the theatre when the procedure was done, and I will not go into the detail, but it is a confronting procedure. It is a memory that stays with me.

I had to go away from that experience and reflect on my own views on the topic and how I would handle this as a medical practitioner. I came to the view quite easily when I understood that around the world every day denying women that option, as difficult as it is, was to actually accept that we would increase the number of unsafe abortions conducted every year. We have 20 million unsafe abortions going on every year around the planet. Not only do tens of thousands of women die; many are left with horrific complications from the 20 million unsafe abortions that are done because women cannot access medically supervised terminations.

If we are going to confront the reality of what an abortion means in a medically supervised environment, and those people who argue against a woman's right to choose are all too prepared to present us with the graphic illustration of that intervention, let us look at what denying that intervention means. It means that 20 million women around the world are going to be in an environment where a sharp object is inserted through the cervix in an effort to disrupt the amniotic sac. It means that some of those women will have their uterus perforated. It means that some of those women will end up with sepsis, infection and death. It means that some of those women will end up with uncontrolled bleeding. It means that we are inflicting serious damage on people where a safe and medically supervised alternative exists. Some women will take all sorts of cocktails and ingest all sorts of drugs that cause very serious damage in an effort to make a decision that is their right to make.

So let us be clear about what is going on here. Let us not cloak this argument in terms of a problem that does not exist. Gender selection is not a problem for the Australian community. As medical practitioners, we simply do not confront it. There is far too much division on too many topics of debate in this country, and we are experiencing some of those right now. It is with some pride that I see that the Australian community are united in their view. When you compare where the abortion debate in this country sits next to what is going on in the United States, it is with some pride that we have a much more developed and defendable position.

The Greens will not be supporting this bill. We will not be supporting any bill that restricts a woman's right to choose. We acknowledge that this is a decision that must be limited to a doctor or health professional and a woman who decides that she is going to make that decision. I do not believe that the deeply held religious views that are often at the heart of this debate have any place in the formation of public policy in this area and we should reject that.
Ultimately, we must know that if we are to support this piece of legislation, the consequences are that more women will be exposed to unsafe abortions and all of the horrendous complications that flow from that and that more women will die. It is for that reason that the Australian Greens will not support this bill.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (10:19): It is tremendously sad that we have to stand here today and debate a bill such as this, the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013. To think that anybody would make a decision about whether they were going to continue with their pregnancy on the basis of the gender of the child seems entirely abhorrent to me, as I am sure it would most Australians. Having only had a chance to have a quick read of this bill—and as the opposition noted this morning, we have not had a great deal of time to look at the details of it—it strikes me that the bill is not necessarily about abortion per se; it is more about access to a Medicare payment.

I have had a look at what currently occurs in Australia, though not with any great expertise, and I could find no evidence to suggest that the termination of pregnancies in Australia for sex selection purposes is actually occurring. If people were seeking to terminate a pregnancy on the basis that the child they were carrying was not the sex that they wished for, I am sure they would not put that down on the form as the reason for the termination.

In a global context, I am not sure that this bill is entirely contained to the matters that Senator Madigan has put forward in his explanatory memorandum. I think this is more about gender equality, if you look at it in the international space. In 2001, the United Nations Office of the High Commissioner for Human Rights, the United Nations Population Fund, the United Nations Children's Fund, the United Nations Entity for Gender Equality and the Empowerment of Women and the World Health Organization all issued an interagency statement calling on the world to prevent gender-based sex selection.

We need to remember when we are talking about this that in most instances in foreign countries this is not about the termination of pregnancies where the mother is carrying a boy child; it is normally directed at the mother carrying a girl child. From a gender equality perspective, I think this is a really important issue. Whilst I am sorry that we have to even be discussing this issue, like many of the issues that get brought before us in this place, it is probably best to get it out in the open and have a discussion about it. Actually airing issues and getting a public debate about them sometimes can provide the solution that otherwise would never be forthcoming if we kept these things hidden behind closed doors because people do not want to talk about them. Unfortunately, around the world in countries where the value of a female is considered to be less than the value of a male, the practice of gender-based terminations does occur.

The only information I could find at short notice related to the 1994 International Conference on Population and Development in Cairo. It identified a number of countries around the world where sex-based terminations were occurring. It listed countries such as China, India, Afghanistan, Pakistan, Taiwan, South Korea, Bangladesh, Azerbaijan and Armenia. We can only hope that in the 10 years since that conference we have seen a decline. Hopefully, some of those countries have seen the good sense of not continuing with this practice. But the cold, hard reality is the fact that in overwhelming numbers around the world pregnancies are being terminated because the family have not wanted to have a girl child.
We need to be very careful that we do not stand on our moral high ground in Australia where we have a wonderful standard of living. In a country where people are faced with a lack of access to contraception, where people are tremendously poor and where the girl child is possibly a greater burden on the family because of her incapacity to be able to go out and work, we end up with a situation where, through the cold, hard necessities forced upon people by poverty, the mother may choose not to continue with the pregnancy. Notwithstanding that, it is still a terrible thing for us to even be talking about here.

Everyone in Australia would probably have a lot of trouble accepting that someone would choose to terminate a pregnancy because they did not want a child of the sex that they were carrying. I think there would not be anybody in Australia who would not support the sentiments that Senator Madigan obviously intended in putting forward this particular bill. I would like to think that in bringing forward this discussion about this not occurring in Australia—and as I said, there is no evidence to suggest that it is happening in Australia—everybody in this place should condemn the practice of gender-biased sex selection and abortion, whether it is in Australia or overseas. It is almost impossible not to support the sentiment that Senator Madigan has behind the bill he is putting forward.

But I would be extremely disappointed if, in the process of the debate of this particular bill in the public space, the broader community and the media, there were some suggestion that in any way this government or previous governments would countenance allowing people to terminate a pregnancy on the basis of gender. I think that would be a very dangerous message to be putting out into the wider marketplace. It is also worth noting that already gender selection is prohibited in most states of Australia. My understanding is that three states have specifically enacted legislation in relation to this issue. In addition, the National Health and Medical Research Council guidelines state that:

Sex selection is an ethically controversial issue. The Australian Health Ethics Committee believes that admission to life should not be conditional upon a child being a particular sex. Therefore, pending further community discussion, sex selection (by whatever means) must not be undertaken except to reduce the risk of transmission of a serious genetic condition.

Like many of these debates that we have in this place that look on the surface to be very simple, there is often a reason for some sort of exception. As rightly pointed out here by the National Health and Medical Research Council, there are particular genetic conditions that only affect one sex.

It comes back to the debate more broadly, but we need to have a think about this. If we go along this gender-based argument that Senator Madigan has put forward, are there going to be the protections put in place if somebody knew that they were going to have a child and because of the sex of that child and the genetic condition that they carried that the child was going to have a terrible life? There is always a circumstance in which additional consideration needs to be given. In the absence of having all the facts of one of those situations in front of me, it is certainly not something that I am going to pass judgement on, because that would be particularly inappropriate.

Also, in listening to the earlier contribution by Senator Bernardi, I was quite horrified by his comments in relation to the suggestion that people were using the baby bonus and having terminations sufficiently late in the pregnancy when the unborn child was considered by law to be a person. As we know there is a time during gestation when the unborn child becomes
legally a person. I think everybody in this place would be equally horrified were somebody terminating at a time to enable them to collect the baby bonus.

In wrapping up my contribution, can I say that I support 100 per cent the sentiments expressed by Senator Xenophon on this bill. Senator Madigan is seeking for the government not to fund such an abhorrent activity, but I would think that the Australian public would be pretty distressed to think that such an activity, if it were not funded by the public purse, was still unacceptable.

In acknowledging the 2011 inter-agency statement about preventing gender-biased sex selection, I put on the record again that this is about upholding the rights of girls and women not just to address multiple manifestations of gender discrimination, including the imbalance in sex ratios caused by sex selection. I am very happy to say that I could not possibly support a situation where Australia would, as a matter of course, countenance the legislative approval for gender based abortions. However, looking at the information in front of me, it is my understanding—and I will stand to be correct if other people in this chamber are able to provide me with additional information—that currently this is not the case, where people are seeking to do this.

As I have said, there are states around Australia that have sought for this practice to be unlawful. I would ask that Senator Madigan, in his concluding remarks on this bill before it is put to the floor of the chamber, advise as whether he has any particular instances to suggest that this activity is occurring. I would not like the public to think that the reason this debate has been brought on is that it is occurring and therefore leave some suggestion out there in the wider community that there are Australians seeking to undertake this practice.

It has been very interesting to have a look at this matter and to investigate the activities around the world. It just makes us realise time and time again what a fantastic country we live in Australia, how fantastic the laws are in Australia in protecting or advising our community on the things that the majority of the population are prepared to accept or not accept. I do not think that the Australian population would accept in any way that people would seek to terminate a pregnancy on the basis of the sex of the child they were carrying.

Senator BULLOCK (Western Australia) (10:34): At 9.20 this morning, my office was contacted and I was directed to speak on the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 as part of the Labor Party’s plan to talk this matter out. It was a direction that I was prepared to resist but I spoke to Senator Madigan and he said he would welcome my contribution. For what it is worth, this is it. I have been put in a position where I am speaking unprepared. My colleagues in the Labor Party will need to consider whether they are prepared to run that risk again in future at the end of this contribution.

In my maiden speech I said at the end a few words about my wife which were probably inadequate for that brilliant, beautiful and courageous woman who took the remarkable decision to marry me. I do not know why she did it. At the time we met, I was old and ugly and approaching 40 and she was just delightful. But I put my mind to it and she ended up agreeing—I can be very determined when I put my mind to things. One of the things I put my mind to thereafter was having a family because it was something that Helen and I really wanted. By the time we worked out that that was not to be, the bureaucrats advised me that I was too old to adopt and that we would therefore have no children.
Like Noah, I responded to that by building. We built an extension on the house for the family we were not going to have and in 2003 my sister-in-law gave birth to my nephew Ethan and, when he was just shy of two, he came to live with us and formed a warm attachment to me that I am thrilled with, delighting in his company. He is a wonderful little boy. And after him came my parents-in-law to live with us, and my brother-in-law and my sister-in-law. Then the family that did not exist comprised seven and we all lived together happily.

One day, my sister-in-law, who is Chinese, did not come to dinner when we sat down for dinner. I thought, 'Oh well, she must be feeling ill.' The next day she was not there again. I said, 'What's up?'

'Oh,' said my wife, 'She's had to go back to China. There's a family matter that she's got to attend to.'

It did not sound right to me, and the next day I asked again. The fact was that my sister-in-law had again fallen pregnant, but because of the one-child policy in China and because of the uncertainty of her visa and whether she might need to go back to China, she had returned home in order to have an abortion. I thought a bit about this and I prayed a bit about it and I decided that I did not like it much.

For 37 years I have been engaged in negotiations. We have had some tough negotiations over the years with some of the largest employers in the country, and they tend not to take prisoners. Negotiations in the retail industry are tough. I had to engage in some negotiations in order to get here, and they were tough. The majority of the people who preselected me fully understand where I stand on issues, and do not support it. Yet I managed to negotiate my way through to get a seat here. But the hardest negotiations in my life took place over the next three days and nights—negotiating across half a world with people who did not speak English to convince my sister-in-law to come home and give birth to a baby.

That was six years ago, and my niece is Ella. Ella is not like Ethan, my nephew. Ella is very shy. She does not talk to me much. She runs and hides her head in her mother's skirts and is generally very remote. But sometimes she looks at me, and she opens her eyes up like saucers and gives me a big smile. And that just means the world to me. It means more to me than anything I could achieve here. And if anyone says to me that that lovely little girl does not deserve to live because she is a girl, or that that lovely little girl does not deserve to live because some petty bureaucrat in Beijing is committed to a plan of social engineering, then they are going to have to stop me. And when I make up my mind I am a bit hard to stop.

I said in my maiden speech that on issues like this, that were matters of life and death, I would always vote to support life. I support Senator Madigan's bill as a small step in the right direction, and I will consistently support the preservation of human life against all challengers.

Senator IAN MACDONALD (Queensland) (10:40): I will not take much of the time of the chamber on this debate. I cannot believe that there would be any senator—there would be few people out there in the wider public—who would not support the thrust of this bill or the sentiment underlying it. To suggest that a pregnancy should be terminated simply because of the sex of the child—because the parents wanted a child of the other sex—is just repugnant
and repulsive. As Senator Ruston said, it is almost a shame that we should have to debate this bill.

So, I indicate to Senator Madigan that I will be supporting his bill. If it were brought on for an earlier vote I would be supporting that, as well. I might say to Senator Madigan and to Senator Bullock that when it comes to other questions relating to the abortion debate we would, perhaps, part company—although, I do not say that definitively. But I cannot believe that there would be any senator who would oppose the sentiment of the bill and therefore what is written in this bill.

As others have said, whether this legislation is needed is questionable. Again, as Senator Ruston said, I understand that in three states there is specific legislation on this. I heard what Senator Moore said earlier—that there is no real evidence that this happens. If this bill were passed by the parliament and became law, you would hardly think that someone who did want to terminate a pregnancy—I cannot believe that there would be too many people who would do this—because they work out that that is not the gender they want for their child, then they would hardly walk into their doctor waving a red flag and say, 'Hey, Doc, I don't want a boy; I want a girl, so give me a termination.' So it is going to be difficult to police in any case, but in so far as this bill sends a message and indicates the will, I am sure, of all parliamentarians—and, I would venture to say, 99.9 per cent of the Australian public—then there would be no reason for anyone to vote against this bill.

There are a number of arguments that have been raised by other people in this debate. It does not serve a great deal of purpose to repeat them. I was interested in Senator Bullock's honesty and frankness when he said that the Labor Party has a strategy to talk this out. I am disappointed that that sort of thing happens. It rarely does happen—particularly on Thursday mornings—but it is interesting that the Labor Party have adopted that strategy. I would hope that the majority of the Senate will, at some time, have the opportunity to express their views on this. I am very confident that it would receive overwhelming support.

I conclude by saying that on a range of issues I have different views from some of my colleagues on this side of the chamber, but on this particular question before the chamber at the moment I think all senators, regardless of their party affiliation, would be united in support for the principles espoused in this bill. I will be supporting the bill.

Senator LINES (Western Australia) (10:45): I rise to oppose this bill, and I do so on the basis that I certainly do not support gender-selection abortion but do oppose this bill because I think it represents the thin edge of the wedge. I want to also put on the record that I am not speaking out on this matter. When this matter was raised in our caucus the other day, I went straight to Senator Moore, as manager of our business, and said, 'I want to speak on this bill.' The reason I want to speak on this bill is that I am a passionate advocate of women's rights. I have always been for as long as I can remember. I believe it is a woman's right to choose and have been a passionate advocate of that position for a very, very long time. I think what we heard from Senator Bullock today, despite us having quite contrary positions on a woman's right to choose abortion, was an illustration of what a difficult decision it is for a woman when she chooses to have an abortion. You heard him talk about an extremely distressing family matter. It is not about the lovely six-year-old niece he now has; it is about the choice women make at the time they discover they are pregnant. That is what the choice is, and I think Senator Bullock illustrated what a difficult choice that is for women.
So why am I opposed to this bill? One, there is no proof at all in Australia that abortions are taking place because of gender selection. I would have to say that I was very active in Western Australia many years ago when we had the very difficult fight when Labor was in government to decriminalise abortion in Western Australia. The catalyst for that was when two doctors in a clinic in Rivervale were charged for breaking the Western Australian law by the police under Western Australian laws for performing abortions in a clinic which was widely known and well used by women. That really did force all of us in Western Australia to confront the issue of what we did about a woman's right to choose. Those clinics—and there are a number of them in the Perth metropolitan area—had been running quite unhindered but contrary to the law for many years.

So a member of the WA Labor Party, Cheryl Davenport, put up a private member's bill. And we all know how divisive this type of legislation is in our community. It was extremely divisive. It brought out ugly protests, extreme positions and quite ridiculous statements—and I have to say a lot of them were led by men. I do not wish to offend anyone in this chamber, but I have to say it is always men who seem to lead the charge for somehow curtailing women's rights to abortion. That is why it was heartening to hear Senator Di Natale speak so passionately this morning as a former medical practitioner on why he supports abortion.

After a very long and emotional fight—and it certainly had an emotional impact on Cheryl Davenport—the law was changed in Western Australia. I do not want to revisit that law. I am up for the fight, make no mistake, but I think it is settled. It is a woman's right to choose. No-one is forcing women to go off and have an abortion. And it is not a decision taken lightly in any sense of anybody's imagination.

I read the report. Senator Madigan himself has no evidence to suggest that sex-selective abortions are systematically happening in Australia. We heard from Senator Ruston this morning that indeed three Australian states have outlawed such abortions, although they would be, as Senator Macdonald said, quite hard to police. So what is really the purpose of this legislation? When the bill was investigated, there were many organisations, including Reproductive Choice Australia, who agreed with Senator Madigan that indeed we do not have any evidence of this practice occurring in Australia.

Many submitters—people we should be mindful of when we make decisions about whether we support a bill, experts in this area—vehemently disagreed with the bill. They were groups such as Women's Health Victoria, the Public Health Association of Australia, the AMA and the Women's Centre for Health Matters. Then we get onto the civil liberties groups: the New South Wales Council for Civil Liberties, Children by Choice, Liberty Victoria, the Women's Abortion Action Campaign, Women's Legal Services, Women's Legal Services New South Wales and Reproductive Choice Australia. These are all groups that focus on this issue and have a very valid point of view. In fact, as I said, we do not have any evidence of this practice occurring in Australia.

Certainly, as I said at the outset, whilst I absolutely, fundamentally support a woman's right to choose, I do not support abortion on the basis of gender selection unless there are the circumstances Senator Moore pointed out in her speech earlier this morning. Sometimes there are specific gender related conditions that foetuses have, and parents may then make a choice to take an abortion on that basis.
Like other speakers on this bill have said this morning, I think that if this bill is passed it may well impact on the rights of women to have an abortion. I think it is the beginning of something much bigger and I really do agree with Senator Di Natale that this is not a bill about gender selection but about abortion. As Senator Moore reminded us, abortion is a state issue and that is really where it should remain. As I said, I was involved in the very long and emotional fight in Western Australia and, whilst I am up for that debate again, I really do think this is an issue we should not be revisiting.

Recently Anne Summers wrote in relation to this bill, and she also agreed that there was no evidence to suggest that such abortions were being performed in Australia. But Anne Summers warns us that this is a red-hot issue among the American right-to-lifers, and she believes this is clearly being imported to Australia to try to inflame the abortion politics in this country. That would certainly be a backwards step. So the question I ask is: is this bill really about gender selection? If it is, what is the evidence? By Senator Madigan's own admission, there isn't any. Or is it really about abortion? If we as a community have concerns about this issue, shouldn't we be putting our efforts into community education—about the value of children, the rights of women to choose and a whole range of things—rather than voting up a bill which would be almost impossible to police and which, by everyone's admission, has no bearing on what is happening here in Australia? If there are concerns, let's get some community education happening. Let's not put a bill in place which really does not have any bearing at all.

Given that there is no evidence of gender selection, I am inclined to think that this is about the broader issue of abortion. We know that where restrictions on abortion start to creep in they are often presented in a very rational way. Nobody has advocated this morning for a broad sweep of abortion on the basis of gender selection. We all think that is an abhorrent thing to do. But I think that this bill is really the thin edge of the wedge and that to present something as rational when it really is not begs a bigger question. Although the bill may sound reasonable enough, I think the issue is what the bill introduces and what follows on from that. These bills are often crafted so that over time abortions become more difficult to access. So let us have a look at a practical application of the bill. If the bill were passed, would there then be an additional set of questions a woman would have to answer before being granted the right to terminate her pregnancy? Would she have to undergo some kind of psychological testing? Would there be some criminal penalty if, at a later stage, it was found that indeed an abortion was performed on the basis of gender? What is the practical application here and how does that get extended to impact on a woman's right to choose? Nobody has thought that through and we do not know how it would work in practical terms. I think that it is simply something that sounds reasonable but over time it would start to impact and start to restrict how abortions are performed in this country.

I say that because I have looked at what is happening in the US. In the US the abortion debate seems to come up every few years and it is hotly contested. Twenty-two states have adopted much more restrictive practices. There are up to 70 different restrictions around abortion limits—on doctors, clinics, medication and coverage. That came from this kind of reasonable discussion and then it starts to really impact on the rights of women. I do not think that is something that people in this place support, and I would hope that in 2014 we are not going to be going down that track. As Senator Moore reminded us, the federal parliament
does not have the power to regulate in this area. This is a matter for the states and that is really where this matter should be best dealt with.

We already have some restrictions in Australia. In the US, in Texas, there is now an example of where abortion clinics, in order to operate, have to have access to hospitals, and many hospitals refuse that access. In my own state of Western Australia, a public hospital in a low-socioeconomic area of Perth was contracted out to be privatised and run by the Catholic Church. The Catholic Church made it very, very clear to the state government that it would not perform any type of reproductive technology—and it is the right of the Catholic Church to make that claim; I am not suggesting for one minute that they cannot make that claim. But the question then arises: should they be running our public hospital systems? What has now happened in Midland is that we had a public hospital run by the state which performed the whole range of reproductive and family planning matters—abortions, vasectomies and all sorts of reproductive and family matters were performed at that hospital—and now those matters will not be performed by the new Catholic hospital. That has created a dilemma for the state. If an abortion clinic needed to refer a patient to that Catholic hospital, that person would not be admitted. So we already have these types of unintended consequences happening in our country. They are not anybody's intention, but that is what happens when we are not clear about what our public health agenda is. So let's get some certainty here about what we are doing.

We cannot support this bill, because it does start to impinge on women's rights. We also have to look at cost issues. If this bill were passed and additional procedures had to be put in place—questionnaires, testing and psychological testing—would the costs start to increase? We need to ask what the practical implications of this bill are. We have not had a discussion about those sorts of things. That is where my concern starts to creep in—that is, that we start to discriminate against women.

I do not think anyone in this place would want to make it harder for low-income women, in particular, to make those choices about their family and to take the really tough decision to have a termination—of course, not on the basis of gender but to simply exercise her rights. We do not want to see a bill impinge on a women's right to choose—because she has to somehow convince a psychologist, a doctor or a nurse, that it is not a gender based abortion. There are certainly no protections around that in this bill.

I would hope that we can have a rational and respectful debate on this bill. As I said, as a feminist and a supporter of women's rights, I cannot support this bill, for the reasons I mentioned. I say again that I do not support the use of abortion on the basis of gender selection. But I think the bill before us today is really looking at a much bigger question. Let's leave the issue of abortion with the states, where it properly belongs. The government say—to use their rhetoric—'We don't run abortion clinics'. Therefore, the government should not be supporting a bill that puts some control over what is happening.

The decision whether to have an abortion is a very personal decision. It is decision between the woman and her family and the medical practitioner. We as politicians and parliaments should not be interfering in that fundamental right. So I would urge people today to not support this bill. It needs to be seen for what it is, and my view is that it is really about the whole issue of abortion; it is not just abortion on the basis of gender selection. Who is to say
that, if this bill were passed, we would not be here in a few months' time with another private members bill that looks to curtail some other aspect?

If abortions were happening in this country on the basis of gender selection, of course we would need to be doing something about it, but there is absolutely no proof, by Senator Madigan's own admission and by the admission of those who work in the area—the women's health groups and so on—that that is the case. In fact there was a study done—which is in the additional comments by the Australian Greens—of some 600 patients who had terminations. The study found that none of those patients had had an abortion because of gender selection. As Senator Macdonald said, it is very hard to get to the bottom of this. But we do have a clinical study before us that said that there is no proof, and I think we have to take it at face value.

So I would urge all of my colleagues in this place—no matter which political party you belong to—to not support this bill. But let's be vigilant about gender selection abortions, if we think they are going on—but there is no evidence of that. I would say that, if we have any concerns at all, the best way to combat that is through our women's health clinics, through our hospitals and through our medical practitioners—not through the blunt instrument of a bill in the federal parliament which would punish every single woman who desires to have an abortion. It is a women's right to choose, and I do not want to support any bill that I believe interferes with that right for women in this country to make what is a very difficult choice.

Senator XENOPHON (South Australia) (11:05): I would like to comment on Senator Lines' contribution on the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013. I too share a concern and revulsion at the thought of abortion for the purpose of gender selection—and that is something that Senator Lines made very clear. I will also not be supporting this bill, but I will make my position in relation to that fairly clear shortly. I also want to say that Senator John Madigan is someone I place enormous trust in. He is a man of great integrity. I do not think his motives are in any way sinister. These are long-held and sincere beliefs that he has, and he is entitled to have this matter brought before this place.

There are potentially two issues in respect of the bill before us today that must be addressed. The first is a procedural one, as I understand my colleague Senator Madigan may wish to bring this bill to a vote today. If that is the case, he will need to move a motion to that effect to bring about a vote on the second reading stage of this bill. This chamber knows my position on the use of procedural devices to truncate debate, to in effect use the guillotine. As a general rule, this is not a course I would favour, and it is something that should never be considered lightly. In my view, every senator who wishes to has the right to speak on every bill and, if that bill passes the second reading stage, the right to participate in the committee stage of that bill. However, in the case of private senators' business, I can see good reason for there to be an exception to the rule.

Firstly, the time allocated to private senators' business is severely limited, and a crossbench senator like Senator Madigan will have only two opportunities a year to put forward a private member's bill to be considered and brought to a vote. This is one of those times, and Senator Madigan is entitled to have an issue that he feels strongly about not only debated but voted on. Although I agree it is not good practice to truncate debate on an issue of conscience, if—as I think one of the other contributors in the debate this morning has said—as is often the
case with private senators' bills, you can talk them out so that a vote is not brought—I am not talking about this bill; I am not suggesting it is happening here—then that is a matter that we need to consider. The paradox is that, if you bring it to a vote now, it may mean that some who would have been inclined to support this bill may say, 'Because we have not had a chance to participate in the debate, we are inclined not to support it, because of the debate being truncated.'

So, while the word 'parliament' has in its roots the meaning of 'to debate and to discuss', it must axiomatically also provide an opportunity to vote on issues. Should Senator Madigan wish to bring this bill to a vote today, I will support his right to do so with some reservations, but the principle of having a matter dealt with one way or the other in the context of a private senators' bill seems to carry more weight.

The second issue goes to the merits of this bill. I acknowledge Senator Madigan's sincere and long-held beliefs on this issue, but I cannot support this bill for the following reasons. Firstly, on the issue of gender selection, the United Nations and other human rights and health organisations have identified this as a serious problem to the extent that it has skewed the sex ratios in some countries. So, as such, the issue of gender selection is important in a global context. Indeed, the Senate overwhelmingly passed Senator Madigan's motion in relation to this very issue last year. I was not in the chamber at the time, but I can indicate my support for that motion, but it does not follow that I support this bill. Secondly, the bill seeks to tackle this issue on what I consider to be a fundamentally flawed basis. Existing abortion laws would not permit an abortion on the basis of gender selection. No reasonable interpretation of current laws around Australia, which must involve consideration of the physical and mental health of the woman seeking a termination, would allow it. Seeking to remove Medicare payments for something that could not be allowed by law is, in my view, redundant. Thirdly, I am concerned that the bill could be misinterpreted by some as legitimising gender-selective abortion outside the Medicare system. As pointed out by the Australian Medical Association in their submission to the committee inquiry into this bill, the Office of the United Nations High Commissioner for Human Rights, the United Nations Population Fund, UNICEF, UN Women and the World Health Organization issued an interagency statement in 2011 regarding the prevention of gender biased sex selection. This excellent statement considers gender biased sex selection in a human rights context and evaluates past attempts at addressing this issue. As the statement points out:

It is clear that, while intending to effect a common good, restrictive laws and policies implemented in isolation from efforts to change social norms and structures can have unintended harsh consequences, and may violate the human rights of women. Prohibitive legal responses should be seen as a demonstrable attempt on the part of government to redress sex-ratio imbalances, based on the hypothesis that combating the use of technology for non-medical reasons will lead to a rapid halt in sex selection. Yet there is wide agreement that the causes of biased sex selection lie in gender-based discrimination, and that combating such discrimination requires changing social norms and empowering girls and women.

I strongly support this statement.

I agree that Senator Madigan states in the explanatory memorandum to this bill that gender selection is discriminatory and greatly prejudicial to women and female children in society, but I cannot agree with the measures proposed in the bill. I believe this bill would be unworkable and unenforceable. There are better ways to deal with the issue that Senator
Madigan seeks to address, and it is an important issue. If we want to address these issues, and we must, particularly on a worldwide scale, then we need to improve the status of girls and women in our society. When girls and women are valued as much as men, when they are no longer treated as property or less than human by some, we will see an end to this practice. I do not believe this legislation, no matter how genuine and how sincere Senator Madigan is in respect of this bill, will bring about the solution that he is seeking. As such, I will not be supporting this bill. Again, I emphasise: if Senator Madigan wants to bring this bill to a vote, we should respect his wishes to do so.

Senator BACK (Western Australia) (11:12): I thought Senator Day was ahead of me. I want to make a contribution to the debate on Senator Madigan's proposed bill. Let me put two issues on the table very clearly and quickly. The first is my complete and utter opposition to the concept of a termination being carried out solely because of the gender of the foetus. In that sense, I am strongly in support of the motivation of Senator Madigan in bringing this matter forward. I know how passionate he is. I probably echo the comments of almost every other speaker. I do not think there would be anybody in this parliament—and overwhelmingly in the Australian population—who would accept, concur with or agree with the notion of termination of pregnancy based solely on the selection of gender of the offspring.

The second point that I want to make is that the matter is of such importance and of such interest that I believe it deserves the opportunity for every senator in this place who wishes to speak on the matter to have the opportunity to speak on the matter. I take up Senator Xenophon's point a moment ago in relation to Senator Madigan's lack of opportunity under normal circumstances to be able to have this issue go to a vote. I am not in the leadership of the government and I am not in a position to give any indication or assurance to Senator Madigan as to what the outcome might be. It is unacceptable to me if this matter is talked out today. It is unacceptable to me if, the next time Senator Madigan has the chance to aerate this, it would be in 11 or 12 months time. I think that would be grossly discourteous to a colleague, to a fellow senator.

I want to put on record that I would not be supporting a gag motion today because I believe every senator has their right to speak on this matter. I want to give Senator Madigan my assurance that, whatever influence I might have—however great or however small that might be—in the event that, due to the inability of all of us who wish to speak to this today do not have that chance, I will be using whatever persuasion I can to make sure that the time is allocated for that matter to come to a vote. I hope that there would be respect from the mover of the motion to that effect. I have spoken to Senator Xenophon to explain to him my position, and I would urge that we end up with the best of all circumstances, and that is that we do have the opportunity to speak fully.

I now want to address a couple of points that have been raised by others, because it causes me the caution that I am expressing in terms of when we bring this to a vote. Senator Lines made the observation that she is not aware of evidence in the medical world of the number, if any, of terminations carried out solely because of the gender of the foetus. That is information that the Senate does need. If it is not an issue, then we need to know it is not an issue. If it is an issue, we need to know that it is an issue before we reasonably vote on it. The information available to me is that the records kept by health authorities actually do not provide a
breakdown on why a lady miscarries, for whatever reason, be it a pathological condition or some problem with the foetus itself.

A foetus, in all mammalian species, has the capacity to somehow understand that, in some circumstances, it might not survive postnatal life. We know that naturally-occurring miscarrying, as it is called in humans, or abortion in animals, does occur because of some innate capacity or ability of the foetus to understand that it is not going to survive postnatal life. Our medical records, I understand, do not give us the capacity to separate miscarriages of the type I have described and terminations as requested or arranged by the lady herself. If we do not have that data, then we cannot possibly at this moment have the information on the intention of the person seeking a termination of pregnancy. That is the first thing I would be keen to know—what the data is—before we exercise a final decision.

The second goes to a comment made a few moments ago by Senator Xenophon. As I understand from Senator Xenophon's contribution, the way the legislation is structured at the moment would not actually allow a person to avail themselves of Medicare provision of payment in the event of termination as a result of their decision based on gender selection. I think Senator Xenophon may have used the word 'redundant' in his contribution. I understood him to say that it is redundant because such a provision does not exist now. Again, I do not know the law and I certainly defer to Senator Xenophon and the fact that he is a lawyer. If he makes that statement, all I can do is accept that he has researched it and knows it. Again, I think the Senate should be appraised of the actual fact in relation to this matter.

Others have made a contribution in terms of whether this is a state issue or not. We are talking about a Medicare benefit, which I would have thought put it rightfully into the federal sphere. Once again, if this is purely a state matter, then I would like to have that point clarified. If, because of the provision of Medicare funding for such a termination, it is within our remit in the federal sphere, I would like to know that. I am an arch federalist, as would be obvious to anybody who hears my contributions, and I do not want to see the rights of the states being overridden by Canberra. If it is a Medicare issue, it is funding centrally from the Australian taxpayer, then clearly it is in our remit.

Before I go on, I want to correct or perhaps provide further information in an observation that Senator Lines made about a new hospital in the eastern suburbs of Perth at Midland. It is a public hospital to be run by the Catholic Church. Senator Lines was quite right, the Catholic health system has made it clear that they are not prepared to participate in procedures of a nature that will terminate pregnancy. However, there is no dilemma, as was outlined. There is no need for any greater expenditure of taxpayers' money because within a few hundred metres of that new hospital there is a facility in Midland which will undertake these procedures and it is there now. I am not suggesting for a moment that Senator Lines has been elevating this matter—and I know she has not been—but I am saying to the wider community, who might have been concerned by an apparent absence of a range of medical services available as a result of a decision of the Catholic health system in running the hospital, that they can be reassured that there is such a facility down the road.

We have made enormous advances in reproductive technology over the last 20 to 30 years. We have a very deep understanding now, for example, of endocrinology, of the hormonal balances and imbalances that regulate many of the bodily functions in animals and in humans, particularly in primates. Of course, we know that, when it comes to reproductive
management, it is a hormonal endocrine based system rather than a nervous system. Some people in the chamber—and, Mr Acting Deputy President, I suspect you are one of them—might be a little disturbed and distressed by the comment that I am about to make. From an endocrine point of view, in the early stages of embryonic and then foetal life it is the female hormones in the embryo and, in particular, the foetus that develop first and maleness is in fact suppressed femaleness. That is a point about which some of us may be interested at some time in the future. So as foetuses we have a predominance of female hormones and it is as the male develops that the development of the male hormones takes over and we end up with the characteristics of maleness. Oestrogen and testosterone are very similar biochemically, as indeed are other hormones replicated between males and females. Maleness is just suppressed femaleness.

I make that observation because the other great advance that has taken place in the last few years is the use of ultrasonography to determine that an animal is pregnant, the rate of growth and the normality or otherwise of the foetus or foetuses. It is incredible to see, as early as 15 or 16 days into the pregnancy, an image of the first cells of a heart beating when you are examining the patient using an ultrasound machine. I make these observations because ultrasonography has been of immeasurable benefit to us as humans, and in my own background as a veterinarian, to determine the stages of pregnancy and the normality or otherwise of the foetus or foetuses. But it is also largely ultrasonography that is used when making decisions about the gender of the foetus—which brings me back to the point at question.

These advancements will go on; and we hope they do and that they are for the betterment of the community. With regard to the concerns and reservations I have expressed, Senator Madigan is quite right to voice his concern about this issue. People have spoken today about gender imbalance. Senator Bullock spoke about China's one child policy. And only now, having actively selected boys in the past, is China coming to realise that boys are spectacularly bad at having babies. And therefore, as Bernard Salt has often commented, China is going to find itself in a degree of difficulty in the future in terms of population replacement.

Those advances will go on. But can you imagine a circumstance in which not only does someone make a decision whether they want a boy or a girl but also foetal skull size is used to medically determine what the intelligence of the child is likely to be. Skull size relates to brain size and brain size relates to intelligence. Decisions made along those lines would be abhorrent. The length of the femur at a certain stage of foetal development could be used to determine the eventual athletic ability of a child. People would regard these sorts of decisions as being absolutely abhorrent. I therefore concur with Senator Madigan in the spirit of the amendment he has put forward to the Health Insurance Act.

I will conclude where I started. I, like most others, philosophically support Senator Madigan in bringing this matter before the chamber. Secondly, it raises so many unanswered questions that we deserve to have answers on before we make a final decision. Thirdly, in my view it is the right of every senator who wishes to speak on this matter to have that opportunity. Having said that, if we do not go to a vote on this matter today, as a courtesy to Senator Madigan I want to see that opportunity for debate. I would support this legislation if it comes to a vote. I will not support a gag to bring it on this morning.
Senator McLucas (Queensland) (11:27): I rise to make my personal contribution to the debate on the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013. I concur with Senator Back. It is Senator Madigan's right to move an amendment on something he feels very strongly about. I also concur with Senator Back that it is the right of every senator to have their contribution recorded on an issue of this nature. It is an issue on which people have a right to vote on the basis of their conscience. Issues to do with life and the termination of pregnancy require a measured, balanced and sensible debate that allows everyone to have a part. Termination of pregnancy always brings strong views to any debate. I think it is incumbent on this chamber—and I think we do it rather well—to respect each other's point of view and allow the debate to occur but ensure that the will of the Senate is the result.

The bill amends the Health Insurance Act 1973 by inserting a proposed new section 17A. Proposed section 17A(1) provides that a Medicare benefit is not payable if:

(a) the professional service involves a medical practitioner performing:
   (i) a medically induced termination on a pregnant woman; or
   (ii) a service that relates to or is connected with performing a medically induced termination on a pregnant woman; and
(b) the termination is carried out solely because of the gender of the foetus.

Section 17 of the Health Insurance Act covers the funding of medical services performed outside hospitals.

I want to make it clear. I, like every single senator in this place, am strongly opposed to any termination which is based solely on gender selection. I do not think there would be a person who would concur that that is a good and proper thing and that we should allow it. Clearly, gender selection in Australia is not something that Australians agree with. However, let us move to why we are having this debate today.

I ask the question: what is the problem that this bill is trying to fix in Australia? We know that, internationally, there are circumstances where gender selection is a problem. But, quite rightly, the Senate Finance and Public Administration Legislation Committee undertook an inquiry and tried to answer that question. What is the problem that we are trying to solve in Australia? There is no evidence that says that terminations are systematically being performed in our country, based on gender selection. That is not the case here. It was made clear through submissions to the committee, which held its inquiry last year and reported in June, that that was the case. This is not an issue that needs an answer. We do not have systematic gender selection terminations being performed in our country. Liberty Victoria submitted to the inquiry, and said:

We believe that changing access to Medicare for abortions in Australia because of cultural biases and practices occurring in other countries is inexcusably bad public policy.

They said, very clearly, that this might be a problem in other nations. It is not in Australia and, therefore, does not need a fix. Reproductive Choice argued that gender selective terminations 'cannot be disguised' and cited evidence of skewed gender ratios in China and India.

Women's Health Victoria pointed out—and this is a really important point—that Australia's sex ratio at birth is 105.7 male births per 100 female births and, therefore, within the normal
range of 102 to 106. Let us not forget that women give birth to more boys than girls. We always have; we always will. The ratio of boys to girls in Australia is 105.7. The normal range in the world is 102 to 106. So we are well within the normal range. The facts do not support taking the action that this bill represents. The evidence is there and this Senate has made it a practice of ensuring that legislation passed by this place is based on evidence.

The bill, on implementation, also has unintended consequences and practical limitations. Practically, the bill may be easily circumvented because Medicare items cover more than one service. I quote from the submission from Children by Choice:

The Medicare Benefit Schedule Item Number that this Bill seeks to amend also subsidises the provision reproductive health procedures other than pregnancy termination, such as treatment of miscarriage. There is no recording of the reason for the provision of the procedure under that Item Number, and thus no solid evidence that Medicare funding is being used for termination of pregnancy for the purpose of sex selection.

There is a practical delivery problem that this bill does not address. It is practically impossible to deliver the outcome that Senator Madigan is actually trying to achieve.

The bill also has the potential to be discriminatory and unfairly targets certain groups of women. Evidence presented to the finance and public administration committee also stated that measures like this enacted in other countries have been found to be ineffective.

The Young Women's Christian Association noted that UN agencies and the WHO interagency statement indicated that restrictions had been ineffective. I quote from their submission:

Governments in affected countries have undertaken a number of measures in an attempt to halt increasing sex-ratio imbalances. Some have passed laws to restrict the use of technology for sex-selection purposes and in some cases for sex-selective abortion. These laws have largely had little effect in isolation from broader measures to address underlying social and gender inequalities.

So even where there is a problem—and Australia does not have a problem—laws such as this have been found to be ineffective. The Young Women's Christian Association also stated that the bill may encourage discrimination against women from some South Asian, East Asian and Central Asian communities when seeking access to reproductive health services. That is questioning the motivation for a woman seeking to terminate a pregnancy. I think the Young Women's Christian Association's submission has some very real validity in making that point.

Colleagues, any decision to terminate a pregnancy is ultimately a decision for a woman, on the advice of her clinician and on the advice from whomever she wishes to seek advice from. It is a fundamental right of a woman to be able to terminate a pregnancy. It is her decision. She can seek advice from her clinician—and she should—and from others whom she wants to receive advice from. This is not a decision for government; it is not a decision for the parliament. This is a decision for a woman alone. Any of us who have known women who have had to go through this process know that this is a very difficult decision that women make and they need to be supported in that decision-making.

It is also a matter for clinicians to be able to determine whether it is safe to perform a termination, and this bill inhibits the clinician's capacity to do this. We should not interfere with that relationship between a woman and her clinician.

This bill does impact on a woman's right to a termination.
The National Health and Medical Research Council’s *Ethical guidelines on the use of Assisted Reproductive Technology in clinical practice and research* constrains gender-selective terminations for non-medical purposes. The guidelines state:

Sex selection is an ethically controversial issue. The Australian Health Ethics Committee believes that admission to life should not be conditional upon a child being a particular sex. Therefore, pending further community discussion, sex selection (by whatever means) must not be undertaken except to reduce the risk of transmission of a serious genetic condition.

This is an issue that is complex and does need discussion.

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists in their submission made the following statement. Of course:

The College does not support termination of pregnancy for the reason of “family balancing” or “gender preference”.

But they go on to say—and this is important:

There are rare but important reasons for gender selection on medical grounds. These include (but not exclusively):

a) Rare serious genetic (X-linked) conditions where there is no other way of determining a possibly seriously affected child other than by gender

b) Other probably hereditary clinical disorders (phenotypes) that do not have a recognised genotype

and here they use language that I would probably not use myself, but I am quoting their submission and they say—

... e.g. parents—

... e.g. parents that have two severely intellectually handicapped sons may elect for a female child in order to reduce risk of a severely intellectually handicapped offspring in their next pregnancy.

These are really difficult questions—really hard questions—for families who want to have children. What is it for us to interfere in those difficult decisions?

I have met, over many years, with people from the fragile X syndrome foundation—people who have had to make very hard decisions. Now we know what fragile X is; now we know how it presents. And is it our business to interfere in the right of those families to have a child? Is it? Shall we let those people make good, sensible, thoughtful decisions, because they want to have children too? Let us let them have their decisions as well.

The National Association of Specialist Obstetricians and Gynaecologists made this comment:

The National Association of Specialist Obstetricians & Gynaecologists … has had a recent email survey of its councillors, with the result that no one was in favour of social gender selection.

A question was raised as to how this could be enforced, with the suggestion to require laboratories which perform MBS funded antenatal chromosome testing to not release the sex of the embryo except for specific medical indications eg Haemophilia, Duchene's muscular dystrophy etc until after 20 weeks, which is when they can find out by ultrasound anyway. It will be very unlikely anyone will terminate a pregnancy after that for a non medical indication.

Clinicians have very serious concerns about the bill. The Australian Medical Association has stated specifically that it does not support the passage of the bill and that:

... Medicare benefits … should not be used to address social issues.

They go on to say:
If the Australian Parliament is inclined to prevent gender-biased sex selection as per the interagency statement by the OHCHR, UNFPA, UNICEF, UN Women and WHO referred to in the explanatory memorandum for the Bill, it should do so in a more direct and specific way.

So, essentially, the AMA is saying, "If you want to do this, do not use the Medicare Benefits Schedule to achieve the outcome." They do not go to the question of whether or not there is a need for any action, but they are saying, "If you are going to try and remove a problem"—which, I contend, is not a problem and that is: sex selection using termination as the methodology—"do not use the Medicare Benefits Schedule to achieve that outcome." They say:

"The interagency statement states at page 7:

It is clear that, while intending to effect a common good, restrictive laws and policies implemented in isolation from efforts to change social norms and structures can have unintended harsh consequences, and may violate the human rights of women.

and

"...the causes of biased sex selection lie in gender-based discrimination, and that combating such discrimination requires changing social norms and empowering girls and women."

And I totally agree with the submission that the AMA is making. They conclude by saying:

The interagency statement provides a suite of recommendations about the many levels on which this social issue should be addressed. It does not recommend denying financial assistance for legal medical procedures.

There are alternatives to achieve the bill's aims—for instance, the previous example I talked about.

This bill is designed to solve a problem that Australia does not have; that is the first principle. But even if there were a problem, to use the Medicare Benefits Schedule to achieve the stated outcome would be the wrong method by which to do it. Do not start trying to curtail the use of the MBS, which is for a universal health service, provided to everyone on the basis of clinical need, to solve a medico-legal problem. And that is essentially what the submission from the AMA says.

This is not a problem in Australia. All the evidence points to the fact that there is not systemic gender selection through termination of pregnancy happening in our country. If there were, there would be a need for an answer. But there is not.

Senator Madigan, I respect your right to move a motion to deal with problems as you see them. But I say to you: this is not needed, because we do not have that problem, and the way that you are trying to solve the problem that you see is not going to work. I will not be supporting your legislation.

I thank the Senate for the opportunity to speak to this bill, and I concur again with Senator Back: every senator should have the right to speak on such an important piece of legislation.

Senator CAROL BROWN (Tasmania) (11:45): I rise to speak as an individual senator on the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 and also to touch on the discussion that has been happening in the course of this debate about talking this bill out. I certainly do not come in here to talk this bill out; I come in here to put my view forward, as each and every senator has a right to do. At 9.30 this morning, I thought we were going to be talking about the Fair Trade (Australian Standards) Bill 2013.
Then the *Order of Business* was changed to accommodate Senator Madigan's private senator's bill, which was supported by the Labor Party. I very strongly support senators having the opportunity to put their views forward, particularly on private senators' bills, because there is a lot of interest in those bills.

But, as we know in this place, our time is organised around Senate business. We have meetings, committee meetings and meetings with constituents who come here to talk to us. So we organise our time around Senate business. I believe that every senator should have the opportunity to speak to the bill if they want to take that up. Many senators would not have been aware that the *Order of Business* was going to change. I just wanted to put that on the record.

This bill seeks to amend the Health Insurance Act 1973 by inserting a new section to remove Medicare funding for abortions procured on the basis of gender. Like every senator whom I have heard speak in this debate this morning, I too want to make it clear that I strongly oppose terminations based solely on gender. However, I do not support this bill. This bill, I believe, is an attempt to erode the right of women to make choices about their own bodies and to reignite a debate about abortion. If those who support this bill are truly concerned about the occurrence of gender-based abortion in Australia—and I do not believe there is an issue about gender-based abortion in Australia—rather than seeking a solution through the law, they should challenge that stereotype or discrimination based on gender. This bill will not achieve it nor does it seek to achieve it. Instead, we need to continue to work to eradicate sex discrimination. We should support policies and programs that promote gender equality. This must include action to address violence against women. This must also include fair representation of women in all areas—in the boardroom, in the media and in the government. I believe that women have the right to make decisions about their own bodies and I believe that access to safe and legal abortion is a fundamental aspect of this right.

The Finance and Public Administration Committee conducted an inquiry into the bill in June last year. The inquiry was chaired by Senator Helen Polley. Unfortunately, I was not able to attend or participate in that inquiry. In evidence to that inquiry, the Australian Medical Association stated:

…the interagency statement offers a range of recommendations for addressing the issues and does not recommend denying financial assistance for legal medical procedures.

The AMA pointed to this interagency statement in its submission, in particular:

It is clear that, while intending to affect a common good, restrictive laws and policies implemented in isolation from efforts to change the social norms and structures can have unintended harsh consequences, and may violate the human rights of women.
The AMA went on to say: 'There is a wide agreement that the causes of biased sex selection lie in gender-based discrimination and that combating such discrimination requires changing social norms and empowering girls and women.'

We must take effective and necessary actions to promote equality and empower women and girls to bring an end to discrimination. But this bill will not achieve this; in fact, I believe that the bill will disempower women. This bill puts women's rights at risk and all for reasons based on ideology rather than the evidence of any real problem, which as I have said I do not believe exists in Australia and has also been mentioned many times in some of the contributions that have been given here this morning.

In bringing this bill to the Senate, Senator Madigan asserted that gender-based abortions are happening in Australia. However, I do not believe that there was evidence presented to prove this assertion in his second reading speech or throughout the Finance and Public Administration Legislation Committee inquiry into the bill. Put simply, as others have said in this debate, there is no evidence that terminations are being performed in Australia based on gender. In their evidence to the Finance and Public Administration Committee inquiry on the bill, Liberty Victoria stated:

We believe that changing access to Medicare for abortions in Australia because of cultural biases and practices occurring in other countries is inexcusably bad public policy.

I believe this bill acts as a blunt instrument. In evidence to the same inquiry, Reproductive Choice Australia argued that gender selective terminations cannot be disguised, and cited evidence of skewed gender ratios in China and India. On this point, Women's Health Victoria also pointed out that Australia's sex ratio at birth is 105.7 male births over 100 female births—(Time expired)

NOTICES
Presentation

Senator Milne to move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 3 December 2014:

(a) the manner in which electricity network companies have presented information to the Australian Energy Regulator (AER), and whether they have misled the AER in relation to:

(i) their weighted average costs of capital,
(ii) the necessity for the infrastructure proposed,
(iii) their regulated asset valuations, and
(iv) actual interest rates claimed against actual borrowing costs;

(b) to ascertain whether state-owned network companies have prioritised their focus on future privatisation proceeds above the interests of energy users;

(c) whether the arrangements for the regulation of the cost of capital are delivering allowed rates of return above the actual cost of capital;

(d) whether the AER has actively pursued lowest-cost outcomes for energy consumers;

(e) whether network monopolies should have the right to recover historic overspending that has delivered unwanted and unused infrastructure;

(f) how the regulatory structure and system could be improved;
(g) whether the arrangements for the connection and pricing of network services is discriminating against households and businesses that are involved in their own electricity production;

(h) whether the current system provides adequate oversight of electricity network companies; and

(i) any other related matter.

Senator Ludwig to move:

That there be laid on the table by the Ministers representing the Minister for Industry, the Minister for Infrastructure and Regional Development and the Treasurer, no later than Wednesday, 1 October 2014, any documents held in relation to:

(a) funding sought by the Queensland Government, and/or any assessment of the priority of the Toowoomba Bypass project; and

(b) a review of the project by the Federal Government, and/or any correspondence between the Federal Government and Queensland State Government relating to a review of the infrastructure project.

Senator Waters to move:

That the Senate—

(a) notes that:

(i) this week the Minister for Education, Mr Christopher Pyne, has won the most sexist politician for 2014 in the 22nd annual Ernie Awards, with his claim that his university loan interest hikes will not disproportionately impact women because ‘they will not be able to earn the high incomes that dentists and lawyers will earn’,

(ii) the Prime Minister, Mr Tony Abbott, has previously won the same award in 2002, 2010 and 2011,

(iii) 2014 saw the highest ever number of sitting federal parliamentarians nominated:

Tony Abbott MP (thrice)
Christopher Pyne MP
Clive Palmer MP (thrice)
Kevin Andrews MP
Senator Joe Bullock
Peter Dutton MP
Tony Burke MP
Barnaby Joyce MP
Andrew Laming MP
Senator Cory Bernardi
George Christensen MP
Senator Mathias Cormann
Senator Eric Abetz, and

(iv) sexism undermines efforts to achieve gender equality and as Ms Emma Watson said in her address to the United Nations recently, ‘Men—I would like to take this opportunity to extend your formal invitation. Gender equality is your issue too’; and

(b) calls on all federal members of Parliament who are nominated for the Ernie Awards to accept that we are not in the 1950s and to proactively work toward achieving gender equality.

Senator Waters to move:

That the Senate—
(a) notes that:
   (i) Mr George Christensen MP, on 24 September 2014, publicly referred to people who care about the Great Barrier Reef as ‘gutless green germs for the terrorists they are’,
   (ii) labelling people who care about the reef as terrorists is reprehensible, insensitive and utterly unacceptable, particularly at this stage of global events, and
   (iii) to speak of ordinary Australians who care about the reef using terms like ‘terrorists’ ‘butchered’, ‘kill off’ and ‘extremist’, risks elevating community disagreement to dangerous levels; and
(b) condemns Mr Christensen’s comments and calls on him to withdraw them.

**Senator Siewert** to move:
That the Senate—
(a) notes that:
   (i) Advent Energy intends to conduct 3D seismic testing to explore for gas within one of the most productive fishing grounds in New South Wales, only 3 kilometres off the coast of Newcastle in Commonwealth waters,
   (ii) seismic testing has impacted on our fisheries in the past, with local fishers describing affected areas as ‘like a desert’,
   (iii) the Federal Government has recently removed the requirement for offshore petroleum or greenhouse gas activities in Commonwealth waters to be assessed under the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act),
   (iv) an application by the Commonwealth Fisheries Association for seismic testing to be listed as a key threatening process under the EPBC Act in March 2013 was rejected in September 2013, and
   (v) if this exploration or gas drilling proceeds, the supply of locally-caught, fresh fish and prawns to Sydney and Newcastle will be directly affected; and
(b) calls on the Government to:
   (i) reinstate the requirement for all offshore petroleum or greenhouse gas activities in Commonwealth waters to be assessed under the EPBC Act,
   (ii) ensure comprehensive baseline studies and ongoing monitoring of marine life are a mandatory condition of any offshore petroleum activities,
   (iii) reject Advent Energy’s application to conduct seismic testing within important fishing grounds off the New South Wales coast, and
   (iv) reconsider whether seismic testing should be classified as a key threatening process under the EPBC Act.

**Senator Waters** to move:
That the Senate—
(a) notes that:
   (i) the Queensland Government has announced that it will use Queensland taxpayer funds to pay resource companies and port developers to dump dredge spoil in an area which would affect the nationally significant Caley Valley wetlands near Abbot Point,
   (ii) this proposal would shift the costs of building the world’s largest coal port in the middle of the Great Barrier Reef World Heritage Area from mining companies and port developers to Queensland taxpayers, and
   (iii) the Queensland Government has indicated that it will ask the Federal Government to contribute to the cost of paying resource companies and port developers; and
(b) calls on the Federal Government to rule out allowing federal taxpayer funds to be used to pay resource companies or port developers to meet their obligations under environmental approvals, including at Abbot Point.

COMMITTEES
Selection of Bills Committee
Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (11:54): I present the 12th report of the Selection of Bills Committee and seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 12 OF 2014
1. The committee met in private session on Wednesday, 24 September 2014 at 7.34 pm.
2. The committee resolved to recommend:

That—

(a) the provisions of the Automotive Transformation Scheme Amendment Bill 2014 be referred immediately to the Economics Legislation Committee for inquiry and report by 24 November 2014 (see appendix 1 for a statement of reasons for referral);

(b) the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 17 October 2014 (see appendix 2 for a statement of reasons for referral);

(c) the provisions of the Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 26 November 2014 (see appendix 3 for a statement of reasons for referral);

(d) the provisions of the Migration Amendment (Character and General Visa Cancellation) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 24 November 2014 (see appendices 4 and 5 for a statement of reasons for referral);

(e) contingent upon its introduction in the House of Representatives, the provisions of the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 27 November 2014 (see appendices 6 and 7 for a statement of reasons for referral);

(f) contingent upon its introduction in the Senate, the National Water Commission (Abolition) Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 24 November 2014 (see appendices 8 and 9 for a statement of reasons for referral);

(g) contingent upon its introduction in the House of Representatives, the provisions of the Rural Research and Development Legislation Amendment Bill 2014 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 24 November 2014 (see appendix 10 for a statement of reasons for referral); and

(h) the provisions of the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014 be referred immediately to the Economics Legislation Committee for inquiry and report by 28 October 2014 (see appendix 11 for a statement of reasons for referral).
3. The committee resolved to recommend—That the following bills not be referred to committees:
   • Aged Care and Other Legislation Amendment Bill 2014
   • Health and Other Services (Compensation) Care Charges (Amendment) Bill 2014
   • Private Health Insurance Amendment Bill (No. 1) 2014.

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:
   • Australian Education Amendment Bill 2014
   • Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Amendment Bill 2014
   • Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Amendment Bill 2014
   • Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014
   • Migration Amendment (Humanitarian Visa Intake) Bill 2014
   • Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014
   • Motor Vehicle Standards (Cheaper Transport) Bill 2014
   • Save Our Sharks Bill 2014
   • Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014.

(David Bushby)
Chair
25 September 2014

APPENDIX 1

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
   Automotive Transformation Scheme Amendment Bill 2014

Reasons for referral/principal issues for consideration:
   • To explore the impact of the proposed changes to the Automotive Transformation Scheme on the automotive industry, related industries, workers, local regions and the Australian innovation system.

Possible submissions or evidence from:
   Automotive industry companies, industry associations, workers, unions, local and state governments.

Committee to which bill is to be referred:
   Senate Economics Legislation Committee.

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

Possible reporting date:
   24 November 2014.
APPENDIX 2

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Counter Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

Reasons for referral/principal issues for consideration:
• Significant piece of national security legislation

Possible submissions or evidence from:
• Law Council of Australia
• Gilbert + Tobin Centre of Public Law
• Australian Human Rights Commission
• Civil Liberties Councils across Australia

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

Possible hearing date(s):
October 8 – 10, 2014
November 3 – 7, 2014

Possible reporting date:
Monday 24 November 2014.

(signed)
Senator Rachel Siewert
Whip/Selection of Bills Committee Member

APPENDIX 3

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Infrastructure Australia (Cost Benefit Analysis and Other Measures) Bill 2014

Reasons for referral/principal issues for consideration:
• Thoroughly assess the impact and consequences of this legislation.

Possible submissions or evidence from:
• Infrastructure Partnerships Australia, BCA and other business/infrastructure peaks
• Academics
• Regulators (ACCC, PC)
• Urban Development Institute of Australia and other urban advocates
• East West/Westconnex etc project process critics
• Public transport advocates
Committee to which bill is to be referred:
    Senate Rural and Regional Affairs and Transport Committee.

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

Possible reporting date:
    26 November 2014.

(signed)
Senator Anne McEwen
Whip/Selection of Bills Committee Member

APPENDIX 4

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
    Migration Amendment (Character and General Visa Cancellation) Bill 2014

Reasons for referral/principal issues for consideration:
    • To further investigate potential impacts and unintended consequences of the bill.

Possible submissions or evidence from:
    • Australian Customs and Border Protection Service
    • Department of Immigration and Border Protection
    • Mental health experts – eg. Professor Patrick McGorry
    • Law Council
    • State/Territory law enforcement agencies
    • Australian Federal Police

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

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

Possible reporting date:
    24 November 2014.

(signed)
Senator Anne McEwen
Whip/Selection of Bills Committee Member

APPENDIX 5

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
    Migration Amendment (Character and General Visa Cancellation) Bill 2014

Reasons for referral/principal issues for consideration:
    • Implications of the bill
• Rationale for changes
• Evidence that these changes aren't already covered in current law

Possible submissions or evidence from:
  Law Council of Australia
  Human Rights Law Centre

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

Possible hearing date(s):
  10 November 2014

Possible reporting date:
  29 November 2014.

(signed)
Senator Rachel Siewert
Whip/Selection of Bills Committee Member

APPENDIX 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
  Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014

Reasons for referral/principal issues for consideration:
• Implications of the bill for asylum seekers and refugees in Australia
• Compliance with human rights and international law

Possible submissions or evidence from:
  Asylum Seeker Resource Centre
  Refugee Council of Australia
  Law Council of Australia
  Human Rights Law Centre
  Department of Immigration and Border Protection.

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

Possible hearing date(s):
  24 – 26 February 2015

Possible reporting date:
  10 March 2015.
APPENDIX 7

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014

Reasons for referral/principal issues for consideration:
To consider the reintroduction of Temporary Protection Visas, introductions of Safe Haven Enterprise visa, reinforcing the government's powers to conduct maritime operations and introducing more rapid processing and streamlining review arrangements for illegal maritime arrivals.

Possible submissions or evidence from:
Department of Immigration and Border Protection.
Australian Customs and Border Protection Service
Joint Agency Taskforce

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

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

Possible reporting date:
27 October 2014.

(signed)
Senator the Hon Mitch Fifield
Whip/Selection of Bills Committee Member

APPENDIX 8

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
National Water Commission (Abolition) Bill 2014

Reasons for referral/principal issues for consideration:
For consideration of the impact of this Bill on the continuation of robust, independent and transparent monitoring and assessment of matters of national water reform and the management of Australia's water resources.

Possible submissions or evidence from:
Water Services Association of Australia
Australian Water Association
Murray Darling Basin Authority
National Irrigators Council
Committee to which bill is to be referred:
Senate Environment and Communications Legislation Committee.

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

Possible reporting date:
24 November 2014

Possible hearing date(s):
10, 14, 19, or 20 November

Possible reporting date:
First week of December
Senator Rachel Siewert  
Whip/Selection of Bills Committee Member  

APPENDIX 10  
SELECTION OF BILLS COMMITTEE  
Proposal to refer a bill to a committee:  

Name of bill:  
Rural Research and Development Legislation Amendment Bill 2014  

Reasons for referral/principal issues for consideration:  
To investigate the financial impact of the budget measure on the Fisheries Research and Development Corporation and to investigate what benefit membership to international commodity organisations has to research and development and to Australia generally.  

Possible submissions or evidence from:  
Department of Agriculture, Fisheries Research and Development Corporation and Rural Industries Research and Development Corporation.  

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

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

Possible reporting date:  
24 November 2014.  

(signed)  
Senator Anne McEwen  
Whip/Selection of Bills Committee Member  

APPENDIX 11  
SELECTION OF BILLS COMMITTEE  
Proposal to refer a bill to a committee:  

Name of bill:  
Tax and Superannuation Laws Amendment (2014 Measures No.5) Bill 2014  

Reasons for referral/principal issues for consideration:  
Seek key stakeholder feedback on the impact of the legislation on research and development.  

Possible submissions or evidence from:  
Firms affected by the proposed reduction in the R&D concession rate.  

Committee to which bill is to be referred:  
Senate Economics Legislation Committee.  

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

Possible reporting date:  
28 October 2014.
(signed)
Senator Anne McEwen
Whip/Selection of Bills Committee Member

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

Senator WRIGHT (South Australia) (11:54): I wish to make a brief statement in relation to the Selection of Bills Committee report. The government's Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill is a significant piece of legislation with serious implications for the rights and freedoms of Australians. I welcome the decision to hold a concurrent inquiry into this legislation through the Legal and Constitutional Affairs Legislation Committee. This way, the Greens and the crossbenchers, who represent a significant proportion of Australians, will have the opportunity to scrutinise this important bill.

I will, however, make it clear that the time frame for inquiry and report is simply inadequate. Submitters to the government's first tranche of national security legislation struggled to analyse and provide comment on the complex legislation in the short time frame provided. We must listen to the dispassionate, independent commentators in this space who are expert at understanding the implications of legislation like this. These include the Law Council of Australia, the Gilbert + Tobin Centre of Public Law and the civil liberties councils across Australia. Many have serious concerns about this bill and the previous national security legislation. The government must stop trying to rush this legislation through the parliament, whipping up fear in the community and making what are very significant changes to our national security legislation without adequate scrutiny. These organisations say we need two months to do justice to the complexity involved here. I urge the Senate to heed their advice.

Question agreed to.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:56): I move:
That:
(a) government business order of the day relating to the Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014 be considered from 12.45 pm today; and
(b) government business be called on after consideration of the bill listed in paragraph (a) and considered till not later than 2 pm today.

Question agreed to.

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:57): I move:
That the order of general business for consideration today be as follows:
(a) general business notice of motion no. 448 standing in the name of the Leader of the Australian Greens (Senator Milne) relating to the establishment of a National Independent Commission Against Corruption; and
(b) orders of the day relating to government documents.
Question agreed to.

Consideration
Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:57): I move—
That the following general business orders of the day be considered on Thursday, 2 October 2014 under the temporary order relating to the consideration of private senators’ bills:
Racial Discrimination Amendment Bill 2014, subject to introduction.
No. 29 Environment Protection and Biodiversity Conservation Amendment Bill 2014.
Question agreed to.

COMMITTEES
Legal and Constitutional Affairs Legislation Committee
Meeting
Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (11:57): At the request of Senator Macdonald, on behalf of the Legal and Constitutional Affairs Legislation Committee, I seek leave to move a motion relating to the committee meeting during the sitting of the Senate today.
Leave granted.
I move
That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 331 during the sitting of the Senate today from 3.45 pm
Question agreed to.

Legal and Constitutional Affairs References Committee
Meeting
Senator WRIGHT (South Australia) (11:58): As the Chair of the Legal and Constitutional Affairs Reference Committee I seek leave to move a motion to enable the committee to meet during the sitting of the Senate today.
Leave granted.
I move:
That the Legal and Constitutional Affairs References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 331 during the sitting of the Senate today from 3.55 pm
Question agreed to.

NOTICES
Postponement
The following items of business were postponed:
Business of the Senate notice of motion no. 2 standing in the name of Senator Dastyari for today, proposing the disallowance of items 1 to 27 inclusive and item 30 of the Corporations Amendment (Streamlining Future of Financial Advice) Regulation 2014, postponed till 30 September 2014.
General business notice of motion no. 450 standing in the name of the Leader of the Palmer United Party in the Senate (Senator Lazarus) for today, relating to Queensland electricity companies, postponed till 2 October 2014.

Withdrawal

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:59): On behalf of Senator Xenophon, I withdraw general business notice of motion No. 384 standing in his name for today.

REGULATIONS AND DETERMINATIONS

Migration Amendment (Repeal of Certain Visa Classes) Regulation 2014

Disallowance

Senator HANSON-YOUNG (South Australia) (12:00): I move:

That the Migration Amendment (Repeal of Certain Visa Classes) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 65 and made under the Migration Act 1958, be disallowed

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (12:00): by leave—The government made a decision to repeal the non-contributory parent visas and other family visas in the context of Labor's debt and deficit legacy and because of the critical need to prioritise sustainable migration pathways. Some of the visa options were simply impractical. For example, the waiting period for the aged dependant relatives and remaining relatives visa is 25 years. Given it is not possible to apply for the aged dependant relative visa until pension age, a 25-year wait means a number of applicants will never be granted the visa. We believe it is unfair to ask applicants to pay to lodge an application when in reality there is absolutely no prospect of them ever getting the visa.

There are also other options available for parents including generous visitor visa provisions. Additionally, there are extra allocations for carers and I note in this regard the waiting period for a carer visa is between four and six years. So Senator Hanson-Young's proposed disallowance motion would be a backward step for the fairness and sustainability of the family migration program and the coalition will not be supporting the disallowance motion.

Question agreed to.

BILLS

Racial Discrimination Amendment Bill 2014

First Reading

Senator DAY (South Australia) (12:02): I, and also on behalf of Senators Bernardi, Leyonhjelm and Smith, move:

That the following bill be introduced: A Bill for an Act to amend the Racial Discrimination Act 1975, and for related purposes.

Question agreed to.

Senator DAY: 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 DAY (South Australia) (12:03): I move:

That this bill be now read a second time.

I table an explanatory memorandum and I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

Today, I introduce this Bill so that the Senate may have the opportunity to consider this matter.

It is well known that freedom of thought, freedom of belief, freedom of opinion and expression and freedom of the press are fundamental to the rule of law. For the rule of law to function properly, a country's citizens must be able to observe, comment and critique the existence or non-existence of laws, the making of laws, and the application thereof in the courts system. These freedoms are so critical to the very existence of a strong democracy and an acceptable way of life, they are even recognised in international treaties and conventions to which Australia is both a party and adherent.

At the same time, these freedoms I refer to must be both well coupled, and well balanced with the protection against defamation, racial discrimination and vilification, blasphemy, sedition, obscenity, privacy and public interest.

When the Racial Discrimination Act 1975 was originally passed by Parliament, the intention of the legislation was the prohibition of racial discrimination and, in particular, to make provision for giving effect to the International Convention on the Elimination of All Forms of Racial Discrimination. However, subsequent amendments to the Act have in fact created a serious imbalance between freedom of speech and racial discrimination. In particular, section 18C of the Act restricts even objective and fair minded opinion and expression.

The amendment proposed by the Racial Discrimination Amendment Bill is very minor. It simply removes the words "offend" and "insult". The other words "humiliate" and "intimidate" remain. If this Bill is passed, the original intention of the Act will be restored, and both freedom of speech and the protection against racial discrimination will be able to co-exist in proper equilibrium. Reasonable Australian people do not support racial discrimination. However, reasonable Australian people do support and defend their very precious freedom of speech, expression and opinion.

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

Leave granted; debate adjourned.

MOTIONS

Alice Springs: Dialysis

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:04): I move:

That the Senate—

(a) notes:

(i) the dangerous spread of the Ebola virus in parts of West Africa, that has infected more than 5 500 people, and caused the deaths of more than 2 600, and

(ii) the major threat that this outbreak poses to international peace and security;

(b) applauds the efforts of countries, including the United States, the United Kingdom, China and Cuba, all of which have provided medical teams and aid to help combat the disease;
(c) raises concern That the Australian Government has ignored calls from Médecins Sans Frontières for countries, including Australia, to evaluate their emergency medical and logistics capacity and make a contribution beyond financial support; and
(d) urges the Australian Government to contribute to the fight against Ebola on the ground through the provision and support of scientific, medical and humanitarian personnel.

Question agreed to.

**Ebola Virus**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (12:04): I move:

That the Senate—

(a) notes:

(i) the dangerous spread of the Ebola virus in parts of West Africa, that has infected more than 5 500 people, and caused the deaths of more than 2 600, and

(ii) the major threat that this outbreak poses to international peace and security;

(b) applauds the efforts of countries, including the United States, the United Kingdom, China and Cuba, all of which have provided medical teams and aid to help combat the disease;

(c) raises concern That the Australian Government has ignored calls from Médecins Sans Frontières for countries, including Australia, to evaluate their emergency medical and logistics capacity and make a contribution beyond financial support; and

(d) urges the Australian Government to contribute to the fight against Ebola on the ground through the provision and support of scientific, medical and humanitarian personnel.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:04): by leave—The Australian government is concerned about the outbreak of the Ebola virus in West Africa. The government has committed $8 million to the international response effort to date. In addition, the Australian government is providing $40 million to the World Health Organisation in 2014 and 2015 to support their global work. The Australian government has assessed that at this stage financial contribution is the best way Australia can make a rapid contribution to the global response and support in-country, frontline health services. We understand the natural wish of people to assist. However, as has been outlined by the Minister for Foreign Affairs, Australia does not currently have the capacity to evacuate its nationals from the region at this time. It would be not responsible to send Australians to affected countries without being able to ensure their evacuation.

Question agreed to.

**COMMITTEES**

**Economics Legislation Committee**

**Meeting**

**Senator BUSHBY** (Tasmania—Chief Government Whip in the Senate) (12:06): At the request of Senator Edwards, I move:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 2 October 2014, from 9.30 am to noon, to take evidence for the committee’s inquiry into the Competition and Consumer Amendment (Misuse of Market Power) Bill 2014.

Question agreed to.
Foreign Affairs, Defence and Trade References Committee
Meeting

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:06): At the request of Senator Gallacher, I move:
That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 30 September 2014.
Question agreed to.

Economics References Committee
Meeting

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:06): At the request of Senator Dastyari, I move:
That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 30 September 2014, from 4 pm to 10 pm, to take evidence for the committee’s inquiry into Australia’s naval ship building industry.
Question agreed to.

Senate Select Committee on Health
Meeting

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:06): At the request of Senator O’Neill, I move:
That the Select Committee on Health be authorised to hold public meetings during the sittings of the Senate, as follows:
(a) Tuesday, 30 September 2014, from 4.30 pm to 6 pm;
(b) Wednesday, 1 October 2014, from 12.45 pm to 2 pm, and from 4.30 pm to 7 pm; and
(c) Thursday, 2 October 2014, from 9 am to 12.30 pm, and from 3 pm to 5.30 pm.
Question agreed to.

MOTIONS
Climate Change

Senator MILNE (Tasmania—Leader of the Australian Greens) (12:07): I move:
That the Senate—
(a) congratulates United Nations (UN) Secretary-General Ban Ki-Moon on inviting world leaders from government, business and civil society to the Climate Summit on 23 September 2014 to ensure a global response to our shared responsibility in limiting global warming to less than two degrees;
(b) acknowledges That the UN Climate Summit was another step in the right direction of transitioning away from fossil fuels towards a shared, low carbon future;
(c) recognises the 700 000 people around the world who took part in the People's Climate March rallies on the weekend of 20 September and 21 September 2014 to inspire parties to set ambitious greenhouse emission reduction targets for beyond 2020; and
(d) requests That the Government immediately outline its plan on how it will ensure Australia contributes its fair share to the global effort, based on the recommendations of the Climate Change Authority, well in advance of the Paris Conference of the Parties.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: This is a stunt from the Australian Greens. Like the Australian Labor Party, they are not interested in serious solutions. They are not interested in serious outcomes. The Minister for Foreign Affairs attended the United Nations climate summit in New York, given her responsibility for leading Australia's international climate change engagement. At the climate summit the foreign minister delivered a national statement noting that Australia is taking serious practical action to reduce emissions both at home and abroad while also stimulating economic growth; that the government will host an Asia-Pacific rainforest summit in Sydney in November 2014; that Australia has joined the declaration on phasing down climate potent hydrofluorocarbons on Australia's behalf, with around 30 other countries; and Australia will contribute to a new global climate change agreement that establishes a common playing field for all countries to take climate action from 2020.

The coalition is committed to reducing Australia's emissions by five per cent below 2000 levels by 2020. The direct action plan with the emissions reduction fund at its centre will help achieve our 2020 target.

Question agreed to.

Abbot Point

Senator WATERS (Queensland) (12:09): I ask that general business notice of motion No. 453 standing in my name for today, relating to taxpayer funds to dump dredge sludge at Abbot Point be taken as a formal motion.

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

Senator Lazarus: Yes.

The DEPUTY PRESIDENT: Formality has not been granted, Senator Waters.

East West Link

Senator RICE (Victoria) (12:09): I move:

That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development, no later than 4 pm on 2 October 2014, the following documents held or prepared by Infrastructure Australia:

(a) any business case presented by the Victorian Government for the East West Link project;

(b) any other documents in relation to the East West Link project provided to Infrastructure Australia by the Victorian Government; and

(c) any assessment of the proposed East West Link undertaken by Infrastructure Australia, including the priority of this project as compared to other projects.

The DEPUTY PRESIDENT (12:14): The question is that the motion moved by Senator Rice be agreed to.

The Senate divided. [12:14]

(The Deputy President—Senator Marshall)

Ayes ....................33

Noes ....................27
Majority ............6

**AYES**

Bilyk, CL
Bullock, J.W.
Conroy, SM
Di Natale, R
Gallacher, AM
Ketter, CR
Lazarus, GP
Lines, S
Ludwig, JW
McEwen, A
Milne, C
Muir, R
Rhiannon, L
Siewert, R
Urquhart, AE (teller)
Waters, LJ
Wright, PL

**NOES**

Back, CJ
Birmingham, SJ
Canavan, M.J.
Colbeck, R
Edwards, S
Fifield, MP
Mason, B
McKenzie, B
O'Sullivan, B
Reynolds, L
Ruston, A
Scullion, NG
Seselja, Z
Williams, JR

**PAIRS**

Cameron, DN
Carr, KJ
O'Neill, DM
Peris, N
Singh, LM
Wong, P

Bernardi, C
Bushby, DC (teller)
Cash, MC
Day, R.J.
Fawcett, DJ
Macdonald, ID
McGrath, J
Nash, F
Payne, MA
Ronaldson, M
Ryan, SM

**BILLS**

*National Water Commission (Abolition) Bill 2014*

*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) (12:17): I move:

That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:18): 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—

Since the Australian Government and all state and territory governments agreed to the National Water Initiative (NWI) in 2004, there has been considerable progress in national water reform, through enhancing the security of irrigation water entitlements, enabling water markets and trade, strengthening Australia's water resource information base and improving urban water security.

The Abbott Government is committed to continuing to progress national water reform and to supporting and promoting implementation of the NWI. However, this should be done as efficiently as possible. As such, we have determined it is no longer necessary to retain a separate body to undertake the functions of the National Water Commission (NWC). Instead, and in line with the Governments ongoing commitment to the NWI principles, key NWC functions will be retained and transferred to existing Commonwealth agencies.

- The purpose of this Bill is to repeal the National Water Commission Act 2004 in order to abolish the NWC with effect from 1 January 2015.

The Bill delivers on the Government's commitment announced in the 2014-15 Budget to cease the operations of the NWC by the end of 2014, while transferring key functions to existing Commonwealth agencies. The abolition of the NWC is expected to result in a saving of $20.9 million over the forward estimates, further improving the budget bottom line. The findings of the Commission of Audit were taken into account in making this decision, which recommended abolishing the NWC as a standalone agency.

The National Water Commission's roles are of a monitoring and reporting nature. It does not deliver programs or have any approval or regulatory functions.

The National Water Commission has reported to the Commonwealth and state and territory jurisdictions on the national benefits that result from the implementation by governments of the NWI, such as the creation of water entitlements as a tradeable asset, the development of water markets, improved environmental protection for our rivers and wetlands, and improved urban water security for our towns and cities.

I would like to thank all the staff of the National Water Commission for the contribution they have made to water reform over the last decade. Their role in reporting on the rate of reform has been significant and they all should be extremely proud of their work.

Given both the substantial progress already made in water reform and the current fiscal environment, there is no longer adequate justification for a stand-alone agency to monitor Australia's progress on water reform. In line with reform priorities to improve efficiencies across the Australian Government and to improve the budgetary outlook, the NWC will cease its functions following the release of its
assessment of national water reform in October this year. The budget does not provide funding beyond December and the winding up of the NWC is well advanced.

The key task going forward is to ensure that the principles of the NWI continue to be upheld across the water sector, from urban pricing principles to the management of rural and environmental water, and the effective implementation of the Murray-Darling Basin Plan (Basin Plan).

The Government reaffirms its commitment to the NWI and will ensure that the key audit and review functions required under the NWI and Water Act 2007 (Water Act) are continued, in a rigorous manner, and with appropriate independent oversight.

The triennial assessments of progress toward achieving the NWI objectives and outcomes by state and territory governments and the independent audit of implementation of the Basin Plan and associated water resource plans will continue as statutory functions, but will now be undertaken by the Productivity Commission (PC). The PC will also be responsible for the biennial National Water Planning Report Card which is produced under the Triennial Assessment.

The Productivity Commission will also undertake independent audits on implementation of the Murray-Darling Basin Plan, as required by the Water Act. Retention of this function is necessary to ensure continuing public confidence in the implementation of the Basin Plan.

As the Productivity Commission collates performance data for other National Agreements and National Partnership Agreements, it is well placed to take on the audit of progress in implementing the Basin Plan from 2018, the Triennial Assessment of NWI implementation and producing a biennial National Water Planning Report Card.

By allocating the assessment and audit functions to the PC, stakeholders will benefit from the PC’s reputation for independence, the confidence in which it is held by the Australian public and governments, as well as its performance and benchmarking expertise. The Government is confident that the PC will strengthen and improve the reporting and analysis of the progress of water reform across Australia.

In addition to the statutory functions that will be transferred to the PC, the Department of the Environment (the Department) will take on responsibility for assessing milestone payments to Murray-Darling Basin states against the performance milestones specified in the National Partnership Agreement on Implementing Murray-Darling Basin reform, and for providing ongoing advice on the status of relevant state and territory water resource plans to the Clean Energy Regulator, as required under the Carbon Credits (Carbon Farming Initiative) Regulations 2011.

The Department will also be responsible for monitoring water markets and producing an annual water markets report, which will be undertaken for the Department by the Australian Bureau of Agricultural and Resource Economics and Sciences.

The retention of these key functions by existing agencies was flagged in the 2014-15 Budget papers, including the transfer of appropriate funding to support these functions, and will ensure the commitment by all governments to deliver on agreed reforms is realised.

I will now turn to the details of the Bill.

The Bill provides that certain key assessment and audit functions of the NWC that are considered essential in the future will continue but be undertaken by different agencies. The Bill amends the Water Act 2007 to provide that the triennial assessments of NWI implementation by state and territory governments and the independent audit of the Murray-Darling Basin Plan Implementation will be undertaken as statutory functions by the PC.

The Bill makes consequential changes to the Water Act to reflect the fact that the NWC will cease to exist. To this end, references to the NWC in the Water Act will be removed, including references which allow for the sharing of information with the NWC or concerning its administration.

Lastly, the Bill provides for transitional arrangements for the closure of the NWC’s activities.
The Bill and other measures put in place by the Government will ensure continuation of all important functions of the NWC in a more efficient and effective manner.

Debate adjourned.

BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:19): I move:

That:

(a) if by 2 pm on Thursday, 25 September 2014, the National Security Legislation Amendment Bill (No. 1) 2014 has not been finally considered the Senate shall not adjourn, the routine of business from not later than 8 pm shall be government business only, and the Senate shall continue to sit until 10 pm; and

(b) divisions may take place after 4.30 pm.

Senator MOORE (Queensland) (12:19): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator MOORE: The ALP will be supporting this government motion. We are a little concerned that there was so little time for consultation on the process. We had read into the order of business several times now the ALP commitment to facilitating the movement of this bill, and it is within this fortnight, not within this week. But the government has felt the need to put forward an extra couple of hours to our business today. I know that will cause some disruption for some people, but we are also concerned that the government has moved this bill without allowing any dinner break time or in fact making it clear what will happen with the adjournment process at the end of the day.

It is not just about senators in this place; as we know, it is also for the staff who work in this area, and we thought that, as the hours of business will now be extended beyond 10, it would have been reasonable to have a break in the evening session.

Question agreed to.

BILLS

Migration Amendment (Humanitarian Visa Intake) Bill 2014

First Reading

Senator HANSON-YOUNG (South Australia) (12:21): I move:

That the following bill be introduced: A Bill for an Act to amend the Migration Act 1958 in relation to the annual humanitarian visa intake, and for related purposes.

Question agreed to.

Senator HANSON-YOUNG: 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 HANSON-YOUNG (South Australia) (12:21): I move:
That this bill be now read a second time.

I seek leave to table my explanatory memorandum relating to the bill.

Leave granted.

Senator HANSON-YOUNG: I table an explanatory memorandum and seek leave to have my second reading speech incorporated into Hansard and to continue my remarks.

Leave granted.

The speech read as follows—

As I introduce this Bill the world is responding to an urgent humanitarian crisis in the Middle East which has led to millions of people being displaced. Men, women and children have had to flee their homes in search of safety. Neighbouring countries are doing more than their fair share to support the desperate and vulnerable. It is now time for Australia to step up its efforts to assist asylum seekers and refugees fleeing the dangers of war and terror.

It is true that the sheer scale of the world's refugee crisis can feel confronting and often distant from our shores. However despite this distance, Australia must uphold its obligations under the Refugee Convention and provide sanctuary to those in need. Australia is a rich and prosperous country with the capacity to offer greater support in the form of humanitarian aid and increase our refugee intake and resettlement.

Following the federal election the government recklessly slashed Australia's refugee intake by more than 6,000 places. This was a short-sighted move which has left Australia lagging behind comparable countries who have sought to increase their support in light of the ongoing global humanitarian crisis.

This Bill, The Migration Amendment (Humanitarian Visa Intake) Bill 2014, will amend the Migration Act to ensure that the Minister of the day must grant no fewer than 20,000 humanitarian visas per year.

The Executive is currently responsible for determining the migration programme and the total number of visas to be issued under each subclass annually. The purpose of this Bill is to increase the total number of humanitarian visas issued each year by amending The Act to prevent the Government limiting the number of visas in a particular class or subclass that can be granted at any time when fewer than 20,000 humanitarian visas have been granted. The Bill also affords greater transparency and accountability by requiring the Minister to make quarterly statements to Parliament setting out how many humanitarian visas of each class have been granted.

It is clear that now, more than ever, Australia must join likeminded countries and increase our humanitarian intake in the wake of the crises in Syria and Iraq. In the past year over 1.8 million Iraqis and 9.5 million Syrians have been displaced by the fighting, and there is no sign of this slowing. In Syria alone, more than 100,000 people register as refugees every month. Only last month the UNHCR announced that the number of registered Syrian refugees reached 3 million. That is a figure more than two times the population of my home state of South Australia.

Despite this huge need, Australia has only offered 4500 existing places to Iraqi and Syrian refugees. We can do better than this, and we must. In the past we have taken the lead and offered refuge to those who have had to flee the horrors of war. In the 1970s and 1980s, under the leadership of former Prime Minister Malcolm Fraser, Australia resettled thousands of Vietnamese refugees, many of whom have gone on to make an incredible contribution to our country. It is now time to do it again.

It is not beyond Australia's remit to increase our commitment to refugees and asylum seekers fleeing war, torture and persecution. Germany alone has committed a total of 20,000 places to Syrian refugees; this is over two thirds of the total resettlement places offered across the whole of Europe. Similarly, the Swedish government announced that it would be granting permanent residency to any Syrian refugee seeking asylum that has already fled to Sweden. As I introduce this Bill there are hundreds of Iraqi and
Syrian refugees already in Australia that the government has locked up in detention. They too should be given refuge and protection.

Despite the Australian government committing troops and fighter jets to a new war in Iraq, they have refused to increase Australia's refugee intake. This step is irresponsible and ignores the realities of war and the desperate needs of those who are caught in the middle of the deadly conflict. The increasing humanitarian crisis in the Middle East demands a genuine and compassionate response. Australia must heed the calls from the United Nations and take urgent action by increasing Australia's humanitarian intake.

This Bill is more than a symbolic gesture, it will offer a practical response to the crisis and greatly help neighbouring countries who are providing lifesaving support to the people who are enduring these extreme circumstances.

I commend this Bill to the Senate.

Debate adjourned.

BUDGET
Consideration by Estimates Committees

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:22): I present additional information received by committees relating to estimates.

COMMITTEES

Education and Employment Legislation Committee

Legal and Constitutional Affairs Legislation Committee

Report

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (12:23): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation, as listed at item 9 on today’s Order of Business, together with the Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

BILLS

Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014

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) (12:23): I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:24): 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——

TAX AND SUPERANNUATION LAWS AMENDMENT (2014 MEASURES NO. 4) BILL 2014

This Bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.

This Bill delivers on the Government’s election commitment to introduce a tax receipt for individual taxpayers and continues the Government’s work in restoring the integrity of the Australian tax system.

Soon after the Government was elected, we were advised that 96 tax and superannuation measures, had not been legislated.

This backlog created significant operational uncertainty for businesses and consumers.

We acted swiftly to clean up Labor’s mess, and to provide certainty and reduce red tape for all taxpayers: investors, small business and corporate Australia.

This Bill furthers the Government’s commitment to eliminate uncertainty, and to restore simplicity and fairness to the Australian tax system.

Schedules 1 to 3 of this Bill implement measures announced but never developed or legislated by the previous government.

Schedule 1 will improve the integrity and the fairness of Australia’s taxation system by tightening and improving the thin capitalisation rules.

The thin capitalisation rules are designed to prevent multinationals from profit shifting by allocating a disproportionate amount of debt to their Australian operations, and claiming excessive debt deductions in Australia, thereby reducing their Australian taxable income. If the Australian operations are funded by excessive debt, they are said to be ‘thinly capitalised’.

The rules consist of a number of statutory debt limit tests which calculate the maximum debt deductions allowed to be claimed for a multinational’s Australian operations. The current limits were set in 2001.

This Bill amends the statutory debt limits to bring them more closely into line with commercial debt levels or to regulatory requirements in the case of banks and non-bank financial entities. Bringing the limits more closely into line with commercial debt levels reduces the incentive for multinational enterprises to allocate excessive levels of debt to their Australian operations, and claim excessive debt deductions in Australia, thereby reducing their Australian taxable income.

It also introduces a new test for inbound investors to restrict tax deductible gearing of the Australian operations to the level of gearing of the group worldwide.

We are assisting the small and medium enterprise sector that have overseas operations by reducing the cost of determining whether they comply with the thin capitalisation legislation. - The threshold for complying with the regime will be increased from $250,000 to $2 million of total debt deductions.

Schedule 2 will reform the tax exemption for foreign non-portfolio dividends paid to Australian corporate taxpayers. This exemption helps ensure that Australian investments in offshore subsidiaries are able to compete on an equal footing with other businesses located in that country. The reforms will both modernise the rules to provide broader access to the exemption and improve the integrity of the tax system by ensuring the exemption only applies to returns on instruments treated as ‘equity’ for tax purposes.

This removes a significant tax planning opportunity that has arisen from a flaw in the current tax law. This flaw has allowed multinational taxpayers to claim a tax exemption for interest income from loans to offshore subsidiaries, whereas this income should be assessable.
The Government believes that the reforms contained in Schedules 1 and 2 strike an appropriate balance between encouraging business investment to grow Australia's economy and protecting Australia's tax base.

Maintaining a secure and sustainable tax system is central to the Government's efforts to repair the Budget. The changes to the thin capitalisation rules and the exemption for foreign non-portfolio dividends are expected to provide an achievable increase in revenue of $755 million over the forward estimates period.

Schedule 3 to this Bill amends the income tax laws to improve the integrity of Australia's foreign resident capital gains tax (CGT) regime by preventing the double counting of certain assets under the regime's Principal Asset Test.

The Principal Asset Test applies to determine whether an entity's underlying value is principally derived from Australian real property.

Removing the double counting of certain assets will ensure that a foreign resident's interest in an entity that derives its value principally from Australian real property remains within Australia's tax net.

Under Australia's taxation laws a foreign resident is subject to CGT only where the CGT asset disposed of is either a direct or indirect interest in Australian real property or where the asset is used in carrying on a business through a permanent establishment (for example a branch) in Australia.

The amendments in this Bill extend the original 2013-14 Budget announcement to include interests in unconsolidated groups as well as in consolidated groups held by foreign residents to ensure the Principal Asset Test operates as intended.

Schedule 3 also makes a technical amendment to references to the permanent establishment definition to ensure the foreign resident CGT regime applies where assets are used in carrying on a business through a permanent establishment in Australia.

Schedule 4 to this Bill amends the tax law to require the Commissioner of Taxation to issue a tax receipt to individuals following their income tax assessment.

During the last Election, the Coalition committed to introducing a tax receipt for individual taxpayers.

In his Budget press release of 13 May 2014, the Treasurer announced how the Government would deliver on its commitment to the community.

From 1 July 2014, the Australian Taxation Office (ATO) started issuing tax receipts to individual taxpayers in Australia.

It is expected that around 10 million tax receipts will be issued. Up to 15 July 2014 the ATO had already issued over half a million receipts.

To make tax receipts a formal, ongoing feature of the system, the Government is now introducing legislative amendments to the taxation law, included in Schedule 4 to this Bill.

The tax receipt is a concise one-page personalised and itemised receipt which shows, in dollar terms, how much of a person's tax bill was spent on each area of the Budget. It will also show information about the level of gross government debt.

In most circumstances, the tax receipt will accompany the taxpayer's notice of assessment.

The Government understands that every dollar the Government has, it holds on trust for the taxpayer. We believe taxpayers deserve transparency so that they know how their tax is being spent, what the levels of debt the Government has incurred are, and what we are paying on that debt.

The previous government left $123 billion in deficits with debt projected to reach $667 billion in the medium term. This debt has to be paid back, and it is dead money the Government cannot use to help families or to cut taxes.
Government debt, if left unchecked and allowed to continue on the inherited trajectories of Government deficits and excessive spending would have been $667 billion at the end of the medium term.

Without action, the Budget outlook is deficits and rising debt for at least another 10 years. The budget would never get to surplus and the debt would never start to be repaid.

There is a strong economic and moral imperative to change course and put the budget back onto a secure and sustainable footing.

This Government is committed to living within its means. It is not sustainable for a Government to continue to borrow money to pay for consumption today, at the expense of generations of taxpayers into the future.

Our first Budget outlined a path to return the Budget to a more sustainable footing. Because of this plan, in our first four years to 2017-18, deficits are now estimated to total $60 billion.

Our policies aim to reduce debt by almost $300 billion over the next decade.

This improvement is built off a significant reduction in payments growth. At the 2013 Mid-Year Economic and Fiscal Outlook, average real growth in payments over the four years to 30 June 2017 was 2.6 per cent. The average over the four years to 30 June 2018 is now 0.8 per cent.

The Government will redirect spending to measures that will boost productivity and workforce participation, to build a stronger economy.

This includes the Infrastructure Growth Package — the Asset Recycling Initiative and other new investments in infrastructure — to which have committed nearly $11.6 billion in our first Budget. It includes building a new Medical Research Future Fund within the next six years. This will be the largest of its kind in the world.

We are also eliminating waste and targeting government assistance to those who need it most.

This accords with our plan to reduce the Government's share of the economy over time, which in turn will free up resources for private investment.

It will see payments as a percentage of GDP fall over time.

And it will allow us to start to pay down public debt.

We want to reduce the amount Australian taxpayers spend on interest repayments.

We want to ensure that more of their tax dollar is spent on the delivery of front line services.

The benefit of making these decisions now is that, in the years ahead, we will be able to afford a sustainable quality of life.

Every generation before us has helped to build the quality of life that we enjoy, and we can do no less for future generations.

Budget repair is about government living within its means and ensuring the sustainability of government services.

This measure enshrines the Government's election commitment to provide further transparency to taxpayers as we undertake this task to repair the Budget. This initiative will ensure that all governments are held accountable for spending tax revenue wisely and for the levels of government debt they maintain.

Costs for the issuance of the receipt will be met by the ATO.

Schedule 5 makes a number of amendments to ensure the law operates as intended by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes.
Full details of these measures are contained in the explanatory memorandum.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

**Australian Citizenship Amendment (Intercountry Adoption) Bill 2014**

**Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014**

**Migration Amendment (Protection and Other Measures) Bill 2014**

**First Reading**

Bills received from the House of Representatives.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:25): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

**Second Reading**

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:25): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**AUSTRALIAN CITIZENSHIP AMENDMENT (INTERCOUNTRY ADOPTION) BILL 2014**

The purpose of this bill is to facilitate the grant of Australian citizenship to children adopted by Australian citizens under bilateral adoption arrangements between Australia and countries that are not party to the Hague Convention on Intercountry Adoption. Under such bilateral arrangements, Australian citizens have, for several years, been able to adopt children from South Korea, Taiwan and Ethiopia. Although the intercountry adoption program with Ethiopia is now closed, there are a number of families who are awaiting the finalisation of their adoptions. At present, children adopted under bilateral arrangements require a passport from the home country and an Australian adoption visa to travel to Australia. This imposes additional complexity and cost on the adopting families. Under the amendments to be made by this bill, children will be able to be granted citizenship as soon as the adoption is finalised. They will then be able to travel to Australia on an Australian passport, with their new families, as Australian citizens.

The bill gives effect to a recommendation made in the Report of the Interdepartmental Committee on Intercountry Adoption published in April 2014. The Prime Minister announced the review in December last year, in response to strong interest from parents and others involved in intercountry adoption. As the report of the Committee shows, intercountry adoption can be a time consuming and frustrating process, and there is a strong case to be made for a more efficient and nationally consistent approach. The Government is examining options for comprehensive reform of intercountry adoption
arrangements, as recommended in the report and subsequently endorsed by the Council of Australian Governments.

This bill is one small step in the process of reform. It will place children adopted by Australian citizens under bilateral arrangements in the same position as children adopted by Australian citizens under Hague Convention arrangements. The overarching requirement from Australia’s perspective is that a potential partner country is, firstly, willing to participate in an intercountry adoption arrangement with Australia and, secondly, will meet the standards and safeguards equivalent to those required under the Hague Convention. Where a non-Convention country meets those standards, there is no reason why adoptions should not be recognised in the same way as adoptions in Convention countries. The government has recently given effect to this principle by amending the Family Law (Bilateral Arrangements-Intercountry Adoption) Regulations 1998 to provide for automatic recognition of adoptions in partner countries once the adoption is finalised and an adoption compliance certificate has been issued.

Children adopted from Hague Convention countries which issue adoption compliance certificates are already able to obtain Australian citizenship as soon as the adoption is finalised. This has been the case since the enactment of the Australian Citizenship Act 2007. The adoption compliance certificate provides assurance that the adoption has been carried out in accordance with the ethical and legal framework required by the Hague Convention. As the process for children adopted under bilateral arrangements, including automatic recognition under Australian law, is in substance identical, there is no reason why those children should be treated differently in the Australian Citizenship Act. This was recognised by the Interdepartmental Committee which identified this issue as suitable for immediate reform. The Government has moved quickly to act on that recommendation.

The key feature of the bill is an amendment to Subdivision AA of Division 2 of Part 2 of the Act. The amendment simply expands the scope of the existing Hague Convention provisions, so that they also cover adoptions in accordance with bilateral arrangements. The decision making framework remains the same. An application must be made to the Minister for the child to become an Australian citizen. The application can only be approved if the adoption has been finalised in the overseas country and an adoption compliance certificate issued by the authorities of that country. The adoption must also have the effect of terminating the legal relationship between the child and his or her previous parents. Importantly, the Minister retains a discretion to refuse an application which meets all of the statutory requirements. This would be relevant if fraud or some other irregularity came to light before citizenship was granted. Similarly, the Minister must not approve a child becoming a citizen if the Minister is not satisfied of the identity of the child.

The amendments made by the bill will apply for the benefit of all children adopted under bilateral arrangements, whether the adoption was finalised before or after the amendments come into force.

In conclusion, the Government acknowledges the hard work, dedication, and perseverance of our citizens who embark on the challenging journey of intercountry adoption. They have our admiration and respect.

I commend the bill to the chamber.

MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL) NATIONAL LAW AMENDMENT BILL 2014

The purpose of this Bill, the Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2014 (National Law Bill) is to amend the Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (National Law Act) to ensure that it operates as it was originally intended.
The National Law Act commenced on 1 July 2013, introducing nationally consistent law for the regulation of domestic commercial vessel safety and establishing the Australian Maritime Safety Authority (AMSA) as the National Regulator for the domestic commercial vessel fleet operating in Australian waters across all states and territories, including Christmas and Cocos (Keeling) Islands.

The amendments in the National Law Amendment Bill have been agreed by all Transport Ministers at the Standing Council of Transport and Infrastructure Ministers’ meeting in November last year.

The National Law Bill will ensure the National Regulator is able to exercise discretion when considering the suspension, revocation and variation of vessel certificates. This will provide greater flexibility to accommodate the variety of operational variables within Australia’s domestic commercial vessel fleet.

This Bill also provides minor amendments to ensure the definition of ‘defence vessel’ aligns with the Navigation Act 2012, which also deals with marine safety.

In addition to those amendments already mentioned, the National Law Bill provides amendments to ensure the National Law Act:
- clarifies one of the National Regulator’s functions as the function of surveying vessels;
- allows for the sub-delegation of powers to accommodate the range of organisational arrangements within each jurisdiction; and
- consistently and correctly uses legislative referencing, corrects minor grammatical errors and clarifies review rights within the Act.

I commend this Bill to the House.

MIGRATION AMENDMENT (PROTECTION AND OTHER MEASURES) BILL 2014

The Migration Amendment (Protection and Other Measures) Bill 2014 amends the Migration Act to make changes to the way asylum seekers are assessed, irrespective of their mode of arrival. These are necessary changes required to effectively respond to the evolving challenges in the asylum seeker caseload arising from recent judicial decisions and management of the backlog of illegal maritime arrivals (unauthorised maritime arrivals under the Migration Act). These changes will enable the Australian public to have confidence in the Australian Government’s capacity to assess all asylum seekers in Australia using enhanced integrity measures and increased processing efficiency.

These changes to the current protection determination system will improve the integrity of decision making. Australians need to be confident that those who are found to be refugees are in fact who they say they are. If asylum seekers do not cooperate with the Government to establish their identity they should not be given the benefit of a protection visa. These amendments will make it clearly the responsibility of a person who comes to this country seeking protection to establish their own claims to be a refugee and to do so at the beginning of the process. It is also time to stop compromising the overall integrity of the visa system by allowing exploitation of the merits review system by applicants who are not genuinely pursuing a protection claim but only interested in extending their time in Australia.

Schedule 1 of the Bill improves integrity within the protection status determination process, starting with an amendment which sends a clear message that the ultimate responsibility lies with the asylum seeker to establish their claims for protection and to provide sufficient evidence to support those claims. The Bill makes it clear that it is not the responsibility of the department or the Refugee Review Tribunal (the RRT) to make a case for protection on behalf of an asylum seeker. This change will put Australia on a par with like-minded countries including the United States, New Zealand and the United Kingdom. This responsibility will apply to any asylum seeker making claims for protection regardless of whether it is for the purposes of an application for a protection visa or for the purposes of an assessment.
undertaken as part of an administrative process such as a request for me to consider the exercise of my public interest powers.

Notwithstanding this amendment, the Government acknowledges that there will always be a small number of vulnerable individuals including unaccompanied minors who may not be able to clearly present their claims without assistance. The Government will continue to have arrangements in place in order to assist these specific individuals.

In tandem with this, the Government is introducing a provision to allow the RRT to draw an adverse inference about the credibility of a protection claim, where an asylum seeker raises a claim or provides evidence at the RRT for the first time, without having a reasonable explanation about why the claims or evidence were not raised before the primary protection visa decision was made. This provision makes it clear that asylum seekers must have a reasonable explanation for presenting claims and evidence during the review process which they could and should have provided earlier. The goal is for all claims to be presented at the earliest opportunity to enable timely, efficient and quality protection outcomes, and to limit any unnecessary delays in finalising assessments. This change will not prevent asylum seekers raising late claims where there were good reasons why they could not do so earlier. What this amendment seeks to prevent are those non-genuine asylum seekers who attempt to exploit the independent merits review process by presenting new claims or evidence to bolster their original unsuccessful claims only after they learn why they were not found to be refugees by the department. In the past, this behaviour has led to considerable delay while new claims are explored. To make it clear, the purpose of this amendment is to ensure that any claim that can be presented at the initial application stage is presented at that stage.

Establishing an applicant's identity is a keystone of making a decision to grant or refuse any visa. This is especially the case for protection visa applicants because their identity, nationality or citizenship can have a direct bearing on whether they engage Australia's protection obligations. Identity in the global age is increasingly complex to determine and many people hold dual or multiple nationalities or seek an advantage from not disclosing their genuine identity. This bill introduces amendments that enhance the process of establishing identity for protection visa applicants, and addresses the ways in which that process has been frustrated in the past. Changes to section 91W of the Migration Act, and the introduction of a new section 91WA, introduce a power to refuse the grant of a protection visa unless the applicant provides documentary evidence of their identity, nationality or citizenship when requested to do so, or has taken reasonable steps to do so. Presenting bogus documents for the purpose of establishing identity will result in refusal of a protection visa application unless the applicant has a reasonable explanation for presenting them and either provides documentary evidence of their identity, nationality or citizenship, or has taken reasonable steps to do so. The same applies to an applicant who has destroyed or discarded identity documents, or has caused that to happen at the hands of another person such as a people smuggler.

It is appropriate to refuse a protection visa where an applicant fails or refuses to comply with a request to establish their identity, where it is in fact possible for them to do this. These measures make it clear that Australians expect protection visa applications to be made in good faith, and with full disclosure of identity. However, the proposed changes also respect the fact that in some circumstances, including some cases where a person is stateless, it may not be possible for a protection visa applicant to provide documentary evidence of their identity, nationality or citizenship, even if they want to and have taken all reasonable steps to do so. Cooperation is the key in these cases.

This Bill also inserts section 91WB into the Migration Act. This section puts beyond doubt that an applicant for a protection visa, who is a member of the same family unit of an existing protection visa holder, cannot be granted a protection visa simply on the basis of being a member of the same family. It clarifies, for example, that a person who marries a protection visa holder years after the time they were granted their visa, will not, and should not, be granted that same visa. Family migration is the appropriate pathway in that case. The change also discourages family members of protection visa

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**CHAMBER**
holders from arriving in Australia, particularly illegally, expecting to be granted a protection visa on the basis of being a family member. This amendment does not change the definition of a "member of the same family unit". Nor does it affect the existing ability of a member of the same family unit to apply together with, or have their application combined with, the eventual holder of a protection visa when they are present in Australia at the same time. This amendment simply encourages members of the same family unit of a protection visa holder to use established pathways for family reunion.

This Government remains committed to ensuring it abides by its non-refoulement obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights (the ICCPR) and Schedule 2 of the Bill contains amendments to clarify the threshold for assessing Australia's non-refoulement obligations under these treaties. In Minister for Immigration and Citizenship v SZQRB [2013] FCAFC 33 the Full Federal Court found that the threshold for assessing complementary protection claims is whether there is a 'real chance' of significant harm, the same low threshold that applies to the assessment of claims under the Refugees Convention. A 'real chance' can be as low as a ten percent chance of harm occurring. It is the Government's position that the risk threshold applicable to the non-refoulement obligations under the Convention Against Torture and the ICCPR is 'more likely than not'. 'More likely than not' means that there would be a greater than fifty percent chance that a person would suffer significant harm in the country they are returned to.

Accordingly, this Bill inserts a new section 6A into the Migration Act which makes it clear that this higher threshold is required to engage Australia's non-refoulement obligations. This is an acceptable position which is open to Australia under international law and reflects the Government's interpretation of Australia's obligations. This new threshold applies to all assessments of complementary protection claims related to the Convention Against Torture and the ICCPR. The threshold will also be reflected in the complementary protection provisions under section 36(2)(a) of the Migration Act until such time as the Migration Amendment (Regaining Control Over Australia's Protection Obligations) Bill 2013 is passed by this Parliament. The Bill also ensures that all complementary protection assessments are made with regard to a country of return that is relevant to the person seeking protection.

Schedule 3 of the Bill will introduce amendments to streamline the operation of the current statutory bars placed on illegal maritime arrivals (unauthorised maritime arrivals under the Migration Act). It is inefficient and administratively complex for a person to be subject at different times to different provisions that prevent them from making a valid application for a visa when one would suffice. These amendments will significantly reduce complexity without impacting on the practical effect of the existing arrangements. Statutory bars are an essential mechanism which supports the orderly management of applications from illegal arrivals.

The amendments will broaden the statutory bar in section 46A of the Migration Act so it will apply to unauthorised maritime arrivals who hold bridging visas or other prescribed temporary visas in addition to unauthorised maritime arrivals who are unlawful. The amendments will also ensure that where section 46A of the Act applies to an unauthorised maritime arrival, section 91K of the Act will no longer apply.

Finally, the amendments in this Schedule make the statutory bar in section 46B of the Migration Act, which applies to transitory persons, consistent with the amended bar in section 46A, to ensure that transitory persons are treated consistently with unauthorised maritime arrivals.

Schedule 4 of the Bill contains amendments to improve processing and administration of both the RRT and the Migration Review Tribunal. The Principal Member will be able to issue practice directions to applicants at review and their representatives, including migration agents and legal practitioners, regarding the procedures and processing practices to be followed for reviews. The Principal Member will also be able to issue guidance decisions to tribunal members to reduce inconsistencies across decisions. The Tribunal must comply with the guidance decisions unless a Tribunal member is satisfied.
that the facts or circumstances of the decision under review are clearly distinguishable from the facts or circumstances in the guidance decision. The Tribunals will also have a discretionary power to make an oral statement of reasons where there is an oral decision without the need for a written statement of reasons. This change has the potential to significantly reduce the administrative burden on the Tribunals. However, a review applicant may, within a specified period, request a written statement of reasons to be provided to them.

The Tribunals will also be able to dismiss an application where an applicant fails to appear before the Tribunal after being invited to do so. This will stop applicants from using the merits review process to delay their departure from Australia. However, the Government recognises that a review applicant may have genuine reasons for not attending a hearing and the Tribunals will have the power to reinstate an application that has been dismissed for non-attendance where the Tribunal considers it appropriate to do so, in the circumstances where the applicant has applied to the Tribunal for reinstatement of the application within 7 days after receiving notice of the decision to dismiss the application.

This Bill deserves the support of all parties. We need the tools to ensure public confidence in Australia's capacity to assess claims for asylum in the interests of this country, and against the interests of those who show bad faith. These changes uphold the importance of integrity, the establishment of identity, and increased efficiency in our protection processing system.

I commend the Bill to the chamber.

Debate adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

Infrastructure Australia Amendment (Cost Benefit Analysis and Other Measures) Bill 2014

Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:27): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:27): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

INFRASTRUCTURE AUSTRALIA AMENDMENT (COST BENEFIT ANALYSIS AND OTHER MEASURES) BILL 2014
The Australian Government is committed to building the infrastructure of the 21st Century, to ensuring this nation has the productive infrastructure it needs to meet the challenges ahead.

The 2014-15 Budget laid out a historic $50 billion infrastructure plan to deliver vital transport infrastructure right across our cities, regional centres and rural communities. This commitment is part of the Government’s economic action strategy to build a strong, prosperous economy, boost productivity and create thousands of new jobs.

Building better road and rail infrastructure will make it easier for freight to move around our cities and to our rural and regional centres. Infrastructure investment helps cut fuel costs and reduces travel times so we can spend more time in productive activities or with our loved ones.

The Government is not just getting on with infrastructure delivery; we are also determined to reform the way decisions are made to prioritise new infrastructure projects. Therefore we are acting to reform.

The Government’s election commitment was for a strong independent, transparent and expert advisory body able to forge productive relationships with industry, states and territories and to deliver quality independent advice on infrastructure proposals.

We have delivered on that promise and on 1 September the new governance arrangements for Infrastructure Australia (IA) officially commenced.

On 1 September I also announced the new Board of IA under Mr Mark Birrell.
IA will now be able to better demonstrate transparency and rigour in its prioritisation of projects and its advice to Government.
IA is getting on with the key priorities this government has tasked it with:

- undertaking an audit of nationally significant infrastructure;
- developing a 15 year plan on infrastructure priorities; and
- assessing projects receiving Government funding of $100 million or more.

Let’s be clear. IA is already assessing projects which involve Commonwealth funding of at least $100 million and will make public the details of their evaluations. This was the Government’s election commitment and this is what we are delivering without the trigger being specified in legislation.

With the previous amendments provided for in the Infrastructure Australia Amendment Bill 2013, the Government had provided for this to be specified through a disallowable legislative instrument. However, the Bill as amended by the Senate no longer provided for such an instrument. We therefore made an undertaking during debate on the Land Transport Infrastructure Amendment Bill 2014 to ensure that the $100 million threshold would figure in this Act.

This Bill will amend the Infrastructure Australia Act 2008 (IA Act) to clarify the legislative and administrative arrangements for Infrastructure Australia. It will also rectify the currently incorrect placement of provisions pertaining to cost benefit analyses of infrastructure proposals in the Infrastructure Australia Act 2008. This will ensure that cost benefit analyses inform the evaluation of proposals under the IA Act.

The Bill will amend the Act to include in the functions provision the requirement that Infrastructure Australia undertake evaluations of proposals that involve Commonwealth funding of at least $100 million. This figure is to be established as a benchmark based on 2014 dollars and indexed at least every five years to ensure this figure maintains relativity into future years.

Australia’s future growth will be significantly influenced by our capacity to deliver more appropriate, efficient and effective infrastructure and transport. Investment in nationally significant infrastructure is central to growing Australia’s productivity and improving the living standards of Australians now and in the future.
To maximise productivity improvement through investment, funding must flow to projects that yield the highest benefits. Therefore, it is critical to base project selection on rigorous analysis and sound planning to avoid wasteful investment. The Government recognises that Australia needs improved planning – coordinated across jurisdictions – to underpin investment and regulatory reforms.

We are, therefore, focussed on long term planning based on robust, evidence based findings through a greater understanding of the critical issues facing Australia's infrastructure and land transport system.

Notwithstanding the significant reforms the Government has made to Infrastructure Australia, it remains an advisory body, a key advisory body with an independent view. It will not be the decision-maker in terms of funding allocation. That responsibility will remain with governments.

The Bill currently before Parliament builds on the IA reforms and corrects anomalies which arose from amendments made to the Bill during the parliamentary debate so as to enable the organisation to operate effectively now the new organisational structure has commenced.

The key elements of this Bill are to:

- Amend the provisions in the Act relating to the function to evaluate proposals for investment in, or enhancements to, nationally significant infrastructure, to include the requirement that Infrastructure Australia undertake evaluations of proposals that involve Commonwealth funding of at least $100 million. The Bill provides a mechanism for indexation of this amount in future years to ensure the relativity is maintained.
- Move provisions currently under 5B of the Act relating to cost benefit analysis to a new section 5AA. This is intended to rectify the current incorrect placement of these provisions in the Act pertaining to cost benefit analyses of infrastructure proposals. This amendment will ensure that cost benefit analyses inform the evaluation of proposals under the Act.
- Provide that a proposal must not be included in an Infrastructure Priority List unless a cost benefit analysis of the proposal has been prepared in accordance with the approved method.
- Insert a definition for 'proposal' to provide greater clarity.

During debate on the previous amendments to the Infrastructure Australia Act in June this year the member for Grayndler Mr Albanese indicated his support for the amendments we are now bringing.

He said:

'I put on the record here that if the minister wanted to have a minor amendment bill or what have you to fix up that little bit, if he thought it was important, there would be support from the opposition.'*

I thank Mr Albanese for his support in bringing forward these amendments to further strengthen Infrastructure Australia.

As these amendments only relate to clarification or are of an administrative nature by rectifying an anomaly there are no regulatory or financial impacts on business and the non-for-profit sectors. There is no net impact on the Government Budget flowing from the changes in this Bill.

The Government is committed to broadening the current infrastructure reform agenda in collaboration with jurisdictions and industry to improve productivity and drive economic growth.

*Hansard Thursday 26 June at page 39.

The reform to Infrastructure Australia is a key component of this broader reform package and is critical in better enabling it to deliver quality independent advice. The Government will consider this advice when selecting priority projects, which is important to improving productivity.

The Government will remain focussed on delivering critical infrastructure, ensuring we are getting value-for-money for our investments and will be dedicated to embracing and increasing innovation in project delivery.
The Government is committed to building the infrastructure of the 21st Century and these reforms to Infrastructure Australia are a further step in the achievement of this goal.

TAX AND SUPERANNUATION LAWS AMENDMENT (2014 MEASURES NO. 5) BILL 2014
Today I introduce a Bill to amend the Income Tax Assessment Act 1997 to implement a range of changes to Australia's tax laws.

The Government's Economic Action Strategy is not about undoing our strong safety net—it is about making it sustainable.

This Government's Economic Action Strategy is about setting up a stronger and more sustainable economy, which starts off with a stronger Budget.

We have already delivered on our promise to abolish the Carbon Tax and its associated savings will be passed onto households and businesses.

That means the average cost of living across all households will be around $550 lower than it would otherwise have been this year.

This Bill represents another chapter in the Government's Economic Action Strategy.

We inherited from Labor an unsustainable budget position.

The measures in this Bill will return around $1.4 billion to the Budget over the forward estimates.

Schedule 1: Abolish the Mature Age Worker Tax Offset
The Mature Age Worker Tax Offset, which merely reduces the amount of tax that might be payable for those who are already working by up to $500, simply does not work.

It doesn't work because it does not help older Australians enter the workforce.

It does not help reduce labour market disadvantage.

Many older Australians don't need to be encouraged to enter the workforce. They want to work. We need them to work.

That's why this Government is introducing a new wage subsidy for older job seekers called the Restart programme.

From 1 July 2014, an incentive of up to $10,000 will be available to employers who hire an older job seeker.

That means that job seekers aged 50 years or over and in receipt of income support for a minimum of six months can get back into work without some of the hurdles they might otherwise encounter due to age.

The Mature Age Worker Tax Offset achieved little and abolishing it will save the taxpayer $760 million over the forward estimates period.

Full details of this measure are contained in the explanatory memorandum.

Schedule 2: Abolish the Seafarer Tax Offset
The Seafarer Tax Offset is a refundable tax offset.

It is provided to companies for salaries, wages and allowances paid to Australian resident seafarers employed to undertake overseas voyages on certified vessels.

Australian companies are eligible for the Seafarer Tax Offset if they employ seafarers on overseas voyages for at least 91 days in the income year.

The current regulatory regime for shipping imposes a cost on shippers and their customers. Because it is a part of current shipping regulation, the Seafarer Tax Offset effectively imposes a cost on all Australian taxpayers.
The Seafarer Tax Offset's primary goal was to increase the employment of Australian seafarers. In fact, the seafarer tax offset was claimed by fewer than 20 shipping companies in respect of around just 250 employees.

With low take-up of all the tax concessions offered by the previous government's Stronger Shipping package, the Seafarer Tax has not achieved its goal.

Abolishing this offset is expected to save the Government $12 million over four years.

And that's another step towards repairing the budget.

Full details of the measure are contained in the explanatory memorandum.

**Schedule 3: Reducing the tax offset under the Research and Development Tax Incentive**

We are also reducing the tax offset available under the Research and Development Tax Incentive.

The rates will be reduced by 1.5 percentage points from 1 July 2014.

These changes are in line with the Government's commitment to cutting the company tax rate by 1.5 percentage points from 1 July 2015—which is the same amount as the reduction in the R&D offset rates.

Changing the offset will neither affect the eligibility of companies for the R&D tax incentive, nor the way companies claim the incentive.

Nor will the changes affect the administration of the R&D tax incentive more generally.

The R&D tax incentive will continue to provide generous, easy to access support for thousands of eligible companies in all sectors of the Australian economy.

If this measure were not enacted, the cut to the company tax rate would entail an increase in the benefit provided by the R&D tax incentive relative to the normal treatment of business expenses.

The gain to revenue and savings from this measure will be around $620 million over the forward estimates.

Full details of the measure are contained in the explanatory memorandum.

Australians are generous, choosing to donate over $2 billion every year to charity.

Donations made to organisations with DGR status are income tax deductible to the donor, so DGR status helps listed organisations attract public support for their activities.

Three organisations are being added to the DGR list.

Australian Schools Plus supports schools that face disadvantage to improve education outcomes.

The second DGR to be specifically listed is the East African Fund, which runs the School of St Jude in Tanzania.

Another organisation to be listed as a DGR is the Minderoo Foundation Trust, which supports three programmes: the Walk Free Foundation; GenerationOne; and Hope for Children Australia.

Full details of the changes to the DGR list are contained in the explanatory memorandum.

**Conclusion**

The measures in this Bill are responsible. They represent another instalment in our Economic Action Strategy towards a stronger, better and more compassionate Australia.

This Bill might seem like a small chapter in this story – but it's a significant element in reducing our debt.

As a Government we recognise that we cannot continue borrowing $1 billion every month to pay the interest on Labor's debt.

The measures in this Bill will return around $1.4 billion to the Budget over the forward estimates.

These measures represent a careful and measured approach to re-prioritising government revenue.
This Government will continue to make the right decisions to position Australia for future opportunities and challenges.

I commend the Bill to the House.

Ordered that further consideration of these bills be adjourned to 27 October 2014, in accordance with standing order 111.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Joint Select Committee on the Australia Fund Establishment
Joint Select Committee on Trade and Investment Growth

Appointment

The DEPUTY PRESIDENT (12:28): The President has received messages from the House of Representatives agreeing to the Senate resolutions relating to the appointment of the following committees:

Joint Select Committee on the Australia Fund Establishment
Joint Select Committee on Trade and Investment Growth

BILLS

National Security Legislation Amendment Bill (No. 1) 2014

Debate resumed.

The CHAIRMAN (12:29): The committee is considering the National Security Legislation Amendment Bill (No. 1) 2014 and amendments Nos (1) and (2) on sheet 7570, moved by Senator Macdonald.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:29): These are the amendments, as I understand, that are actually Greens amendments that Senator Macdonald chose to bring upon himself to move on our behalf, because he considered that the debate was not moving fast enough. This debate was in fact about extremely important issues that both Senator Xenophon and Senator Ludlam were raising and asking the Attorney-General, Senator Brandis, about because he had not been answering the questions—very relevant and important questions—that the senators had been asking about the Alert Digest from the Scrutiny of Bills Committee. That committee had circulated the issues that they had raised with the Attorney-General through the process and the Alert Digest had highlighted many of those issues. The Scrutiny of Bills Committee raised a large number of issues about this bill.

It is deeply concerning that Senator Macdonald took it on himself to move our amendments, when we were in the process of asking questions that go to the heart of this bill. It is extremely concerning. I just wanted to put on the record that we were deeply concerned that Senator Macdonald moved our amendments. I have made my contribution, and I encourage other people to engage in the debate.

Senator LUDLAM (Western Australia) (12:31): I thank Senator Siewert for her thoughtful contribution. One of the reasons that this debate has spilled over today is that the Attorney-General unnecessarily detained the chamber for well over an hour refusing to
provide a document—effectively, his response to the Scrutiny of Bills Committee, which raised 19 separate concerns. Having had the opportunity now to review some of the concerns that they raise, I might come back to some of those later in the debate.

We have, as Senator Siewert indicated, moved to debate on the first substantive amendment, which is the Australian Greens amendment relating to the definition of 'computer' and the fact that this bill mandates an extraordinary expansion to how the law henceforth will understand to be the definition of a computer by expanding it to include the definition of a network or networks.

A couple of days ago, on 24 September, there was a piece by Ben Grubb in the Sydney Morning Herald entitled 'Fears ASIO to monitor entire internet' that noted the fact that the Senate had begun debating this legislation. The fear that the article describes is—as many witnesses and submitters to the joint committee noted—that this deliberate expansive definition of 'computer' means that, effectively, with one single warrant ASIO could spy on any device connected to the internet anywhere in the world. I find it remarkable that, under the weight of this evidence, the Labor Party considers that that is okay.

Having, I guess, to my satisfaction found that this was not a drafting error and was in fact intentional, I put the question to Senator Brandis last night, and I think just before the debate adjourned, Senator Brandis confirmed to Senator Macdonald and to me that it is in fact the intention the Australian government that a single—

Senator Brandis: That is not what I said. I rise on a point of order, Madam Temporary Chair. That is an entire misrepresentation of what I said, and I cannot believe that any person could have misunderstood what I said and then represent what Senator Ludlam has just said to be what in fact I said. That was a lie, Madam Temporary Chair.

The TEMPORARY CHAIRMAN (Senator O'Neill): Senator Ludlam, it would assist the chamber if you would withdraw.

Senator LUDLAM: Withdraw what?

Senator Brandis: The lie.

Senator LUDLAM: I have just been accused of lying. That is unparliamentary. Senator Brandis has not indicated what he wants me to withdraw. You don't get to come in here and accuse people of lying. So I ask Senator Brandis to withdraw that immediately.

Senator Cameron: Madam Temporary Chair, I rise on the point of order. Senator Brandis is entitled to take a point of order but he is not entitled to accuse a senator of lying.

The TEMPORARY CHAIRMAN: Senator Brandis, your claim is unparliamentary and should be withdrawn.

Senator Brandis: I withdraw the word 'lie' and substitute the words 'deliberately mislead the chamber'.

The TEMPORARY CHAIRMAN: Senator Brandis, it would be unhelpful to leave it at that. Senator Brandis, you need to withdraw the word 'deliberately'.

Senator Brandis: If I have to I will, but the statement that has just come from the senator is misleading.

The TEMPORARY CHAIRMAN: Thank you, Senator Brandis, for assisting the chamber.

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CHAMBER
Senator LUDLAM: I had hoped that we could commence today's debate in a rather more parliamentary spirit than it was left off yesterday, but evidently that is not to be. What I will do is extend to Senator Brandis the opportunity to confirm for us—because I certainly have no wish to mislead this place or other senators or the public who are following this debate closely—the maximum number of devices that a warrant could capture under the government's drafting of this bill.

The TEMPORARY CHAIRMAN: The question is that the amendments be agreed to.

Senator LUDLAM: I would just note for those not familiar with Senate procedure that Senator Brandis is not willing to confirm what he said yesterday. I have asked you a direct—

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:36): I am not going to indulge Senator Ludlam's tactic of delaying this debate by this filibuster. My answer to his question is the same answer I gave to him yesterday. It has not changed overnight.

Senator LUDLAM (Western Australia) (12:36): So, Senator Brandis, my understanding of the answer that you provided to Senator Macdonald and then myself is that there is actually no upper limit, that there is no maximum number of devices or no cap, I suppose—which is what the Australian Greens amendment goes to directly. I think it is extraordinary that the government would draft an amendment that the Labor Party would then support—without criticism, as far as I can tell—that sets no upper limit on the number of devices that a single ASIO warrant could catch. So, not just in theory but practically, a single warrant could be sought and received to capture a single mobile phone handset or a local area network or an entire university campus or an entire township. I think you can see where this is going. There is no upper limit on the number of devices.

Senator Brandis has obviously responded fairly heatedly. I may be in error in my interpretation of the answer he provided to us yesterday. I would be delighted if my understanding is in error, because what the Greens have proposed and what this amendment seeks to do is to impose an upper limit. I get the argument as to why ASIO thinks it is reasonable that they should not need to apply for a warrant for every single device. Under the circumstances in which we operate today, in a particular residence there might be a dozen handsets, laptops, desktop computers, tablets and goodness knows what. So, understanding the purpose behind ASIO not wanting to have to apply for a warrant for every single device, we nonetheless have extremely serious concerns. It is not the Greens alone who are concerned about this. Leaving it uncapped, leaving it at the discretion of either ASIO or the minister to allow as many devices as ASIO sees fit, is extraordinary. It requires amendment. I hope I have government, opposition and crossbench support for that.
Senator LEYONHJELM (New South Wales) (12:38): I share the same concerns with respect to the open-ended nature of the bill as it is currently written. It is not just the Greens who are of the opinion that this could give access to the entire internet on a single warrant. I do too and so does the Institute of Public Affairs. They have raised this issue with me. There does need to be some sort of constraint on the scope of warrants issued under this section. It just cannot be allowed to stand. It is a licence to snoop on anybody at any time, anywhere.

Senator XENOPHON (South Australia) (12:39): I have a question. Senator Brandis unkindly suggested I was trying to filibuster the debate yesterday. I can assure him that that is something I do not want to do. I want to ask a very short question that may hopefully truncate this debate. I understand the answer given by the Attorney, that there is no upper limit in terms of the number of devices that can be accessed through a warrant. Will the Inspector-General of Intelligence and Security at least be able to ascertain how many devices are caught by such a warrant? In other words, with respect to a particular warrant, will we at least be able to ascertain how many devices that warrant relates to, even in broad terms—whether it is 100, 1,000 or one million? Can we establish that? Is that ascertainable? I will rephrase the question as succinctly as I can for the Attorney. Will this power provide some mechanism to establish how many devices have been caught by a particular warrant? Is that something that can be the subject of scrutiny by IGIS, for instance? It would assist me greatly if we could establish that.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:41): Senator Xenophon, the answer to your first question is that the warrant must describe that which can be accessed pursuant to the terms of the warrant. Will the Inspector-General of Intelligence and Security at least be able to ascertain how many devices are caught by such a warrant? In other words, with respect to a particular warrant, will we at least be able to ascertain how many devices that warrant relates to, even in broad terms—whether it is 100, 1,000 or one million? Can we establish that? Is that ascertainable? I will rephrase the question as succinctly as I can for the Attorney. Will this power provide some mechanism to establish how many devices have been caught by a particular warrant? Is that something that can be the subject of scrutiny by IGIS, for instance? It would assist me greatly if we could establish that.

Senator LUDLAM (Western Australia) (12:41): I will go into a little bit of detail as to why I am pursuing this concern and why the minister's dismissive attitude towards the concerns that the crossbenchers are raising is so profoundly irritating. This is not something that the Australian Greens have just plucked out of thin air; this is a profoundly important expansion of surveillance powers. I understand that the minister is taking advice at the moment. I am keen, perhaps for the benefit of those listening to this debate for whom these concepts might be somewhat new, to hear whether the minister could describe, as succinctly as he likes, what exactly ASIO would be empowered to do under a computer access warrant. What does applying for such a warrant allow ASIO to do, however we end up defining a computer or network of networks?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:42): What ASIO would be empowered to do would be that which is authorised by the warrant, which is in turn governed by the terms of the act.

Senator LUDLAM (Western Australia) (12:42): Thank you for your opaque and utterly unhelpful response. Would that include monitoring of the device and the traffic that passes over it?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:43): I do not have anything to add to my previous answer.
Senator LUDLAM (Western Australia) (12:43): And you wonder why the debate progresses so slowly, Senator Brandis. That is just treating people with utter contempt. Just provide us with a plain English answer. The Senate is here to do its job, as are you as the Attorney-General—

The TEMPORARY CHAIRMAN (Senator O'Neill): Senator Ludlam, please make your remarks through the chair.

Senator LUDLAM: I shall do so, Madam Chair. Senator Brandis, does the computer access warrant allow ASIO to monitor traffic that passes over a given device, however it is defined?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (12:43): I have got nothing to add to my previous answer.

Senator LUDLAM (Western Australia) (12:43): Does a computer access warrant allow ASIO to disrupt or install software on a targeted device?

Senator XENOPHON: Very briefly, I can indicate that I will not support the Greens amendments for these reasons. I think that the concerns raised are legitimate. I think that, from an operational point of view, simply limiting it to no more than 20 devices is problematic. If it were a higher number I would be more sympathetic. The fact that IGIS can ascertain the number of devices that have been caught under a particular warrant gives me some comfort, although I would like to see in the longer term greater transparency with respect to this so that IGIS is in a position to say that so many devices have been caught by a particular warrants after the event. I cannot see how that would in any way, from a security point of view, compromise an operation, but I think it is important for Australians to know how devices may be caught under particular warrants. I think 20 is simply too low from an operational point of view.

Senator LUDLAM (Western Australia) (12:44): I thank Senator Xenophon for that contribution. I am obviously very open to counterproposals. If you thought 50 was appropriate, if the Attorney-General through 200 was appropriate, the principle that I am after here is that it not simply be uncapped.

Progress reported.

Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014
Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (12:45): Labor is more than happy to provide support for sensible measures when we see them. We will provide our support to this measure, the Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014. At the outset I want to make it clear that this is a different bill from the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill 2014 about which many people have expressed concerns. The No. 5 bill is not being debated here today, but, when it is, we will be opposing measures including changes to research and development and to the seafarer tax offset.
The Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014 has five schedules. Schedule 1 tightens the debt limit settings and the thin capitalisation rules to ensure that multinationals do not allocate a disproportionate amount of debt to their Australian operations. Schedule 2 reforms the foreign non-portfolio dividends. Schedule 3 amends the Income Tax Assessment Act 1997, ITAA 1997, to ensure that the foreign residents capital gains tax regime operates as intended. Schedule 4 requires the Commissioner of Taxation to issue a tax receipt to individuals for the income tax assessed to them and for the proportional allocation to total government expenses. Schedule 5 makes a number of miscellaneous amendments to taxation and superannuation laws. These are all sensible measures because, as in the case of schedules 1 and 2, these are further examples of the Abbott government implementing the former Labor government's approach. We are more than happy to give credit where it is due and to commend the government for implementing Labor's proposals to reduce multinational tax avoidance.

I do want to say more things about multinational tax avoidance because it is a very important issue for Australia. When we were in office we laid out a very comprehensive plan to deal with multinational tax avoidance. It was at the end of the story and there was always more work to be done, but it was a very comprehensive plan indeed. There were measures that would have prevented $5 billion in revenue being moved offshore. We put all these measures in place because they are important principles. Labor or the coalition will always need to fund important government services, so there will always be a certain measure of tax which needs to be collected. If it is not collected from multinationals, then it is collected from somebody else. It will be collected from small Australian businesses which do not have the ability or the resources to engage in elaborate and complex tax avoidance schemes. It will be collected from Australian personal income tax payers or it will be collected from others through the tax system.

This is all about fairness. It is also about competitive neutrality because businesses that do not pay their fair share of tax should not be disadvantaged in their competition against these multinationals who seek not to pay their fair share of tax. This is a very important principle. We put in place comprehensive measures which the Treasurer, just last sitting week, referred to as being robust and world-class. These are the measures put in place by the previous Labor government—addressing aggressive tax structures that seek to shift profits by artificially loading debt in Australia; better targeting resource sector concessions for depreciating assets to support genuine exploration; improving the integrity of, and ensuring better compliance with, the foreign residents capital gains tax regime; closing loopholes in the offshore banking unit regime; preventing sophisticated investors from engaging in dividend washing; and, importantly, increasing ATO compliance checks on offshore marketing hubs and business restructures. As I said, the Treasurer himself referred to the robustness of this approach—a Labor approach.

I do want to take the opportunity to recognise the significant work put in by the former Assistant Treasurer in the previous government, David Bradbury. Mr Bradbury provided detailed leadership in implementing these changes. So good was his work that after leaving the parliament he was engaged by the OECD in the important role of advising the OECD on tax reform. He now resides in Paris advising the OECD on international tax. It is a long way from Penrith to Paris but Mr Bradbury has made that change very well. The Treasurer has
referred to the work of the OECD and to the Secretary General of the OECD, Angel Gurria, who was in Australia last week in Cairns. The Treasurer ought also recognise that, in very large part, the work of the OECD has been led by David Bradbury, the former Assistant Treasurer. It is testament to the work he did in his portfolio that he was recognised by this international organisation and was engaged by it.

Most of the previous Labor government's work has been retained by the current government. However, the current government wants to leave open tax loopholes which are worth over $1.1 billion. This to the government's great discredit. It is to the government's great discredit that it is reversing, or not implementing, changes that the previous government was putting in place which further minimised international tax evasion.

This was at a cost to the Australian taxpayer of $1.1 billion. This goes to priorities and values. This is a government that says in its budget: 'We have to make tough decisions'—that is, 'We have to change the way we index pensions and make it less fair. We have to make people wait half a year for important Newstart arrangements. We have to cut $80 billion out of health and education. We have to make all these unfair cuts. But, by the way, we can give $1.1 billion back to tax evaders.' That just shows the wrong priorities that this government has. The priorities should be pensioners, people who cannot look after themselves, young people in this country who are struggling to get a job and maintain food on their table. That is what we should be doing here, not providing a $1.1 billion scheme for international companies to evade tax in this country. That is the wrong priority. Our priority should be those who need help in Australia, not the multinationals.

If the Treasurer wants to recognise the error of his ways and reverse his reversal of the previous government's initiatives, he will have our bipartisan support. Our shadow Treasurer, Mr Bowen, has said on previous occasions that we fully accept and recognise that there can be implementation challenges in complex law changes; and, if the Treasurer has a different way of doing it, we are more than happy to look at that. If he takes advice about how it could be done better, we would be more than happy to look at that. But he does not because he does not want to provide the leadership necessary to ensure that these changes can be made. This just goes to show that this is a Treasurer who is strong when it comes to standing up to the weak but weak when it comes to standing up to the strong. He is not prepared to take on multinational companies who are engaging in tax fraud and tax evasion. He is not prepared to take them on. He is prepared to talk about it, he is prepared to beat his chest and he is prepared to say to other countries around the world that they should be doing more; but he is not prepared to show that leadership here in Australia, and that is to the discredit of the government and the Treasurer.

We think that more needs to be done when it comes to international tax avoidance. It is not good enough for the Treasurer to say time and again in the other place that he has instructed the tax commissioner to double his compliance efforts in this regard while at the same time reducing the tax office's resources. You cannot be serious when you say they should double their efforts but you are cutting back on their resources. The tax commissioner has the Labor Party's support in his endeavours. He is a very good tax commissioner. But how is he meant to double his compliance efforts at the same time as this government is reducing resourcing for the Australian Taxation Office? We have to be sure that any reduction in resources will not impact on compliance measures. But it will. You cannot demand a doubled effort with
fewer resources; it just does not work. Because of this government's cuts—let us be very clear—there will be tax avoidance. It will not be stopped because compliance is reduced because this government reduces resources. The tax office must be resourced effectively.

The Treasurer is good at rhetoric. He is good at beating his chest and saying that he has issued an instruction to the tax commissioner to double his compliance efforts. The Treasurer has spent a good deal of his time puffing out his chest about last weekend's G20 agreements but his actual record on multinational tax avoidance is much less impressive. Every time the Treasurer and the coalition had the chance to work with Labor to close tax loopholes in the past few years, they voted against this. For example, the new government voted against Labor's Countering Tax Avoidance and Multinational Profit Shifting Bill 2013. That bill would have plugged loopholes in Australia's transfer pricing rules and anti-avoidance provisions. You see, you cannot just have the rhetoric; you have to support the measures that will do the business. If you do not support the measures that are meant to deal with multinational tax avoiders and you just talk about it, you are being disingenuous. You are putting more pressure on Australian taxpayers and you are being totally unfair and totally against what is in the best interests of this nation—and that is to make sure multinationals pay their fair share of tax.

The coalition also attempted to block Labor's Cross-Border Transfer Pricing Bill 2012, which cracked down on companies overvaluing assets in international transactions. Since the coalition took government, the Treasurer has ditched five significant Labor tax measures which would have stopped more than $1.1 billion in profits being siphoned offshore. These include dumping reforms to the offshore banking unit and not proceeding with changes governing reporting for multiple entry consolidated groups. Before the Treasurer gives himself too much credit for tackling multinational tax, he should take a good look at his own record. His actions betray a total lack of interest in making major multinationals pay their fair share.

In relation to schedule 4, let me make clear that this is a stunt by the government. Labor is not opposing this schedule. Labor always welcomes genuine measures to improve transparency. But let us call a spade a spade. This measure is a stunt pure and simple. It is a stunt that is trying to distract from the government's unfair budget that is making severe cuts to services and increasing taxes for lower- and middle-income Australians.

We the opposition are prepared to give our support to the Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill 2014 on the basis that it is largely implementing measures that were contemplated and begun by the previous Labor government. We commend the government for proceeding with them. We condemn the government for handing back $1.1 billion to international tax avoiders by not proceeding with the previous Labor government's other important changes.

It is absolutely unacceptable for this government to claim that it is doing something about multinational tax avoidance when its history and record clearly indicate that it does not have the courage to deal with multinational tax avoidance. As we have seen with this budget, it is all about putting more pressure and more taxation issues back on the poorest people in this economy. The cost-of-living pressures arising from the budget will not greatly affect senators in this chamber, the multinational companies, the richest people in this country and the best paid executives with their $16 million salaries. But they will affect families which are trying
to send their kids to school and put food on the table, and they will affect pensioners, who battle day in and day out to get a decent standard of living. They will affect young people who are at a disadvantage and do not have a job. They are targeted at the poorest people in this country. While these changes are targeted at the poorest people in the country, the multinational tax avoiders are getting off scot-free under this government.

*Senator O'Sullivan interjecting—*

**Senator CAMERON:** It is always interesting when we get a National Party senator intervening in a debate about fairness and equity. The National Party are the absolute doormats of the government. The Liberal Party wipe their feet all over them day in and day out. National Party members have got more people in their electorates who are affected by this budget than Liberal Party members. The National Party are the party which have poor people, unemployed people and pensioners in their electorates. Yet what do they do? They just bow down to the coalition. When the coalition should be dealing with international tax avoidance, the National Party come in here and snipe at the Labor Party for standing up for the poor, the disadvantaged and young people in this country.

When the National Party have got the backbone to stand up for their own electorate, then they can come in and attack the Labor Party. But when you are a jellyback party, when you have no backbone, when you are weak at the knees in the coalition and will not stand up for your own electorate, do not come here lecturing the Labor Party about fairness, equity and jobs.

The National Party have no guts, no credibility in looking after the young people and the pensioners of this country. Why would the National Party agree to this budget? Why would the National Party not say: 'Let's get this $1.1 billion, the result of multinational companies avoiding their tax. Why would they attack their own electorate—the pensioners who are doing it tough, the young people who cannot get a job and the families who are battling to get school books and uniforms for their kids? Why do they do that? Why do they attack some of the poorest paid people in their communities and take away payments that they could have got for their superannuation into the future? The National Party have got an absolute gall by coming into this place and representing some of the poorest people in this country. When you grow a backbone, then come in here and actually put your point. But when you need a coathanger up your back to give you some stability, do not come in here arguing that we are doing the wrong thing. We are doing the wrong thing by saying to multinational companies in this country, 'You must pay $1.1 billion.' We are going to make sure that people who can afford to pay tax will do so.

We will not be sitting in the front seats of Bentleys, with supporters handing over brown paper bags so that they do not have to pay tax in this country. We will not be doing that. That is the style of the National Party and the Liberal Party. They look after the big donors and the multinational companies that put money in their pockets. The National Party look after the money, their donors and the tobacco companies that are killing Australians day in and day out. That is their style.

I am always happy for Senator O'Sullivan to raise issues with me when I am speaking, because I will go to the issues of their lack of confidence, the doormats that they are, the lack of guts, the lack of spine and the lack of backbone that they have. Stand up to for your community. Get $1.1 billion out of the multinationals and look after the people you should be
looking after. You are an absolute disgrace. The Liberals are all over the top of you and you
will not do anything about it.

Senator LEYONHJELM (New South Wales) (13:05): It is telling that Labor and the
coilition deem this dog of a bill to be non-controversial, to be waved into law over lunch with
no divisions. The Tax and Superannuation Laws Amendment (2014 Measures No. 4) bill is an
example of the unceasing churn in tax law, based on the forlorn hope of the ATO that they
can keep up with the tax-minimising taxpayer, causing ever greater complication of the
already impregnable tax law and causing a groundhog day of transition costs for business and
bureaucracy alike.

The bill seeks to dictate how businesses do business and is littered with retrospective and
adverse provisions. Schedule 1 ramps up the pressure on businesses to fund their activities
through foreign equity injections rather than through foreign borrowing. For instance, the
government in its wisdom is decreeing that—where, previously, 75 per cent of foreign
injections could come in the form of foreign borrowing without a tax penalty—now only 60
per cent of foreign injections can come in the form of foreign borrowing. The motivation for
these 'thin capitalisation' rules is that the government has decided to tax the returns on foreign
equity injections at a higher rate than the returns on foreign borrowing—that is, the
government taxes dividend payments flowing overseas more heavily than interest payments
flowing overseas.

The Henry tax review recognised the madness of differential tax rates, and the madness of
attempts to control the debt/equity decisions of businesses as a consequence. Stepping back,
the greater madness is the idea that income tax can and should continue to generate $250
billion each year. The costs of eking out the last drops of this tax revenue are extremely high
and far outstrip the benefits achieved when government spends these last drops. The costs
consist of administration costs, compliance costs, and the cost of people changing their
behaviour—which means giving up on what they most wanted to do. With income being an
increasingly mobile concept, every tax official in town would agree that the costs of income
tax are rising rapidly. Both the past and current governments have ignored the Henry tax
review recommendations in this area, have ignored that ongoing reliance on income tax is
delusional, and have chosen instead to re-arrange deckchairs on the Titanic. To top it off,
schedule 1 involves retrospective provisions that are adverse to taxpayers.

Schedule 2 contains fiddly provisions necessary to maintain the odd system where returns
on foreign equity investment are taxed differently depending on whether the investment is
made by one big investor or lots of little investors.

After reading schedule 3, I thought, 'Surely it wasn't Treasury that drafted this bill but
Franz Kafka.' Schedule 3 fiddles with the capital gains tax system. Part 1 of schedule 3
applies from 14 May 2013 for some taxpayers and from 13 May 2014 for other taxpayers.
When I read that, I thought that it must be a typo. The same provision starts on 14 May 2013
for some, and on 13 May 2014 for others. I ask the Assistant Treasurer, or perhaps the
parliamentary secretary, to please inquire as to whether some Treasury official is about to
succeed in getting a joke entered into tax law. The only thing consistent about these two dates
is that they occur in the past. Maybe this schedule wasn't inspired by Franz Kafka but by
Marty McFly.

The explanatory memorandum's explanation for this retrospectivity is as follows:
The retrospectivity … is warranted as the amendments correct a defect in the operation of the Principal Asset Test that would otherwise prevent it from operating as intended.

So: adverse retrospective legislation is warranted whenever the Treasury screws up. If they intended for people to pay more tax, it does not matter that it was not the law of the land; the tax shall be paid.

Another part of Schedule 3, which changes the definition of taxable Australian property, commences from 12 December 2006. The EM claims that this extreme retrospectivity does not adversely affect taxpayers. To do this, the EM seems to draw inspiration from either George Orwell or George Lucas, with a gall reminiscent of Obi-Wan Kenobi saying: 'These are not the droids you are looking for; move along.' The EM reads:

These changes … do not negatively affect any taxpayer because the scope of the definition of taxable Australian property aligns with the intention of the original provisions.

So: what was once your money under the law of the land will no longer be your money under the law of the land, but you are not negatively affected because it was never intended to be your money.

Schedule 4 of the bill will require the ATO to tell you a story about how your tax dollar is spent, which would be fine if it told low income earners that every tax dollar they paid miraculously came back as more than a dollar of welfare, and if it told high income earners that every tax dollar they paid went almost entirely to other people who consider them to be evil. However, that is not the story that the ATO will tell taxpayers.

Schedule 5 wraps up the bill with some incomprehensible 'miscellaneous' matters, which I am sure no-one, and I mean no-one, has read. So, as a pop quiz to our parliamentary secretary, could I ask him to educate us with a brief explanation of just one of these 'miscellaneous' matters when he speaks again on the bill, just to assure us that someone, somewhere, has opened the pages of that schedule.

All in all, what we have here is a standard tax and superannuation laws amendment bill. In fact, this bill is called 'No. 4' because we have already had three others this year. And yes, just like an episode of Thunderbirds, there is a No. 5 waiting in the wings. I can't wait.

To our Hansard colleagues: what I am about to say is not a typo.

I condemn this bill to the Senate.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:13): I cannot let the contribution by Senator Cameron go unremarked, given that today really is a special day for Senator Cameron and all those opposite, because earlier today the final budget outcome for Labor's last year in office was released, and of course the final budget outcomes showed that the Labor government left a $48 billion deficit for the 2013-14 financial year. Let us remind people that this was the year where we were originally about to have a $5 billion surplus—a $5 billion surplus under eight successive budget updates offered by the Labor Party. We were going to have a budget surplus, but, like every other promise about financial management, that just disappeared. It is always a mirage—the closer you get, the faster it disappears. They always had excuses: the excuses of massively inflated and soaped budget estimates, with forecasts of massive revenue growth. That was always the problem: those forecasts never came true. But Labor never talked about their spending problem The Labor
government never, ever talked about its spending problem and the rapid, unprecedented and record rate of increased government spending that occurred on their watch.

Let us look at the last 12 months. In May last year, in his last budget former Treasurer Swan forecast that this was going to be a year where there was only—and I know Labor say 'only' when there are small budget deficits—a $14 billion deficit. By the time Prime Minister Gillard had been replaced by Prime Minister Rudd and we had an economic update from the new Treasurer, former Treasurer Bowen, the $14 billion defect in about eight weeks had become a $25 billion deficit—a blow-out of nearly 50 per cent in only a matter of weeks since the budget was presented. What we see today is the final budget outcome—a $48 billion deficit. The budget deficit increased by a factor of three, because you can never trust what a Labor Treasurer says at the dispatch box about financial management. You can never trust their observations about this sort of legislation.

I turn now to some of Senator Cameron's observations. The Labor measures referred to by Senator Cameron that the government is not implementing are simply not able to be implemented. They would not deliver the revenue that Labor claimed or they would have caused severe disruption to legitimate Australian business activity and they would have imposed dramatic compliance costs. They were, again, one of these landmines that Labor leave in a budget.

The last 12 months of Labor in office was the most profoundly irresponsible period of financial budgeting this country has ever seen. They left financial cliffs for program after program. They kicked the can down the road and gave programs an extra year of funding. With the record budget deficits that were forecast, it is amazing to know the number of programs that were still left unfunded. They attempted to confect budget surpluses in the forward estimates, as they had for the previous six years since they went on their spendathon. When the GFC hit North America and Europe, Labor went straight back to base and found any excuse to just throw the money out and permanently increase government spending. Remember: government spending increased by more than $100 billion a year between 2007 and 2013. What the Labor Party did was propose measures they knew they would never have to implement, that they knew could never be implemented, merely to pad their misleading budget forecasts. This government has taken responsible action and not progressed with Labor’s proposals, particularly because of the costs they would have imposed.

Schedule 1 to this bill amends the income tax laws to protect Australia's tax base by tightening and improving the thin capitalisation rules. This bill amends the thin capitalisation statutory debt limits to bring them more closely into line with commercial debt levels or to regulatory requirements in the case of banks and non-bank financial entities. It provides additional flexibility with the introduction of a new test for inbound investors to allow gearing of the Australian operations up to the level of gearing of the worldwide group. In line with the government's commitment to reduce compliance costs for business, this bill increases the de minimis threshold from $250,000 to $2 million of debt deductions. Taxpayers below this threshold are not required to comply with the thin capitalisation regime.

Schedule 2 contains improvements to the tax exemption available to Australian companies for their foreign non-portfolio dividend income. The changes allow broader access to the exemption and allow it to flow through interposed trusts and partnerships. The changes also
improve the integrity of the tax system, in particular the thin capitalisation rules by ensuring the exemption only applies to returns on instruments treated as equity for tax purposes.

Schedule 3 to this bill amends the taxation laws to improve the integrity of the foreign resident capital gains tax regime by preventing the double counting of certain assets under the regime's principal asset test. Schedule 3 also makes a technical amendment to the regime's reference to a permanent establishment definition to ensure the regime applies where assets are used in carrying on a business through a permanent establishment in Australia.

Schedule 4 to this bill amends the income tax laws to require that the Australian Taxation Office send every eligible Australian taxpayer a tax receipt. This tax receipt will detail how the total amount of tax assessed to that taxpayer for that income year was notionally used to finance different categories of Commonwealth government expenditure.

Schedule 5 makes a number of minor amendments to ensure the law operates as intended by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes. Making periodic minor amendments to the tax and superannuation laws furthers the government's commitment to deregulation, reducing compliance costs for taxpayers.

I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Senator SMITH (Western Australia) (13:19): 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) (13:20):

I move:

That this bill be now read a third time.

Question agreed to.

Bill read a second time.

National Security Legislation Amendment Bill (No. 1) 2014

In Committee

Debate resumed.

The TEMPORARY CHAIRMAN (Senator Smith) (13:20): We are dealing with amendments (1) and (2) on sheet 7570 moved by Senator Macdonald.

Senator LUDLAM (Western Australia) (13:21): For those following at home, this debate has reached the stage where we are discussing the fact that the government appears to have allowed—and I will not call it a 'loophole' because that implies that it would have been accidental—the ability for a single ASIO warrant to encompass an unlimited number of devices, whether that be a single device, a handset, a room full of them, an entire university campus or an entire city. Obviously, the internet is a network of networks and it appears as though the government has deliberately allowed the drafting in this way, in such an open-ended way, as to allow ASIO to effectively intrude on an unlimited number of devices off the back of one single warrant. I am not clear at all about the reporting obligations as to whether
the IGIS, or the Attorney for that matter, would be obliged to report how many devices were covered in a single warrant. My understanding, and I am sure Senator Brandis will freely correct me if I am wrong, I am sure, is that there is no such reporting obligation to the public or to the parliament.

What the Australian Greens amendment seeks to do is to set—and I acknowledge it is arbitrary—a cap. The arbitrary cap that we have proposed would be 20 devices. I think Senator Xenophon has stated quite clearly he thinks that is a bit low. I am very, very open to discussion on how many we think it should be. But I am very firmly of the view that it should not be possible to access an arbitrary number of devices up to and including every device connected to every other device. I think it is extraordinary that the government would even propose that that occur.

This is not something that Australian Greens are alone in having concerns over. If you go back to the parliamentary joint committee—this bill did not go to a Senate committee; it went to the Parliamentary Joint Committee on Intelligence and Security—it proposed, not all but some of, these measures in the first place. The submitters to that very brief inquiry put numerous concerns on the table as to these provisions. There are a number of them, but I will begin with the Law Council, who I do not think anybody in here would characterise as having radical views on these matters. Because the amendments ignore key recommendations in the PJICS report, the Law Council highlighted concerns with this schedule, which enables ASIO to obtain intelligence from a number of computers, including a network, under a single computer access warrant. On page 16 of their submission, the Law council says the following:

…the Law Council is concerned that there is currently no definition of a ‘computer network’. In this respect, the Law Council notes that its own staff use computers on occasion through a remote access network which can be accessed from their homes. Using this example, it is unclear whether the information on staff’s home computers would be covered as part of the warrant in respect of a ‘computer network’.

The Law Council has raised a fairly specific question that has not been addressed in the government amendments that have been circulated. Maybe at this point I would ask Senator Brandis to identify for us, in that instance that the Law Council puts to us, where a warrant has been issued which covers a computer network of people who are in a particular workplace, does the warrant therefore include home computers of that same person? Would the definition of ‘computer network’ include devices at home or on other premises entirely?

The TEMPORARY CHAIRMAN (Senator Smith): The question is that the amendments be agreed to.

Senator LUDLAM (Western Australia) (13:25): For the record, I will note that is the third or fourth time—Hansard will be keeping track—that the Attorney-General has refused to answer a straightforward question on this matter. I suspect there will be others, so perhaps we should start keeping count. I will continue from the Law Council’s submission:

The Law Council understands the need to ensure that processes associated with computer access warrants are efficient.

As do the Australian Greens.

However, the Law Council considers that in order to protect privacy rights from undue intrusion, access to computers should be on the basis that there is a demonstrated sufficient nexus between the computers accessed and the nominated person of security interest.
I guess that is the rub. There is a nominated person of security interest. We have applied for a computer access warrant that surrounds that person. How many devices could such a warrant capture? I think it is an entirely reasonable question that I am putting. The Law Council continues:

Rule of law principles also demand that there is greater clarity as to the scope of conduct which will be permissible under the warrant.

Again, this is from page 16:

For example, ASIO should not be able to seek a warrant to access the computers on a particular network, or at a nominated location unless there are reasonable grounds to believe that the person in relation to whom intelligence is being sought had a direct connection with computers other than his/her own on the network.

I think what the Law Council is getting to there is the arbitrary nature of the fact that these devices are all connected either physically or via wireless networks, and that the drafting appears to allow entirely arbitrary traversals of networks onto computers which actually have no direct connection with the person of interest. Perhaps this exists and it is just that the Law Council is not aware of it. Senator Brandis, could you point us to any definition, either in this statute that we are amending or another, of the key term of 'computer network'? Is there any definition in law that you could point us to to assuage our concerns about the arbitrary nature of the amendment that you have put before us?

Senator Sterle: I think that is a no.

Senator XENOPHON (South Australia) (13:27): I do not purport ever to answer a question on behalf of Senator Brandis, but I imagine if there is not a statutory definition as to what a 'computer network' is there will be a common law definition as determined by the courts. I indicate that I will not be supporting the Australian Greens' amendment in relation to this. But, as a matter of some urgency, I am seeking to have an amendment drafted that I think would go some way to dealing with the concerns of Senators Leyonhjelm and Ludlam. That would be to require the annual report of Inspector-General of Intelligence and Security to give, in broad terms, the number of devices that may be captured by these warrants; something that would not affect an operational issue but would give a broad outline, from a disclosure point of view, as to how that would work. I am actually quite keen for this amendment to be dealt with. That is a matter for the Senate to deal with, but that is where I am at and I hope we can deal with.

Senator LUDLAM (Western Australia) (13:28): For those who might be following this debate who are not familiar with parliamentary procedure, the general course of events—and it has been this way for me in the six and a bit years I have been dealing with these bills—is that questions are put to the responsible minister and answers are provided. I do not have to like the answers but they are at least provided to the Senate so that we can make our own judgement about the way that the law will operate. What Senator Brandis is doing today is straightforward abuse of the Senate's powers of question and answer. I can do my bit, but if the Attorney-General is refusing to even provide simple answers about the operation of the law, then that confirms for me that we are being treated with contempt. This includes those on the government side, backbenchers and opposition senators who might, in their own private way as senators, be interested in the answers to some of the questions that I am putting.
The Law Council also noted—and I think this is very important, because Senator Brandis has made repeated references to the Parliamentary Joint Committee on Intelligence and Security as the one that came up with these proposals at the outset and has evaluated the government's bill and then, again, evaluated the government's amendments—that the definitions of 'computer' and 'network' in the bill are not in line with the joint committee's recommendations. In other words, the government has actually departed from the recommendations that the PJCIS made.

The Law Council recommended:

… that the proposed provisions relating to computer access warrants be amended, where the warrant will provide access to multiple computers, to require a more direct connection between the computer accessed and the nominated person of security interest, and to define key terms such as “computer network”.

That is a straightforward proposition that I am putting today. Specifically, the Law Council recommended the provisions of a surveillance device warrant be amended so that:

Where a single warrant is issued in respect of multiple devices, consideration should be given to ensuring that the use each different device is justified.

That is how the law has operated in the past. That principle of proportionality and having to justify why it is that it is a requirement, and an urgent requirement, in the security interest that people's privacy be invaded. I fully recognise that there are instances where that is entirely justified. But the way those powers are circumscribed and reported on, as I think as Senator Xenophon has foreshadowed, is absolutely essential. We know little enough as it is about the operation of these agencies.

The Law Council, obviously, is not the only one that made this very strong point about the definition of computer networks. As cited in the bill digest, Gilbert + Tobin Centre of Public Law pointed out:

… in the absence of a definition of ‘computer network’, the definition of computer could potentially capture every computer on a university or public service network, cloud or peer-to-peer network, home computers used to access work-related networks remotely, and, ‘taken to its logical extreme … any computer that is connected to the world wide web’.

That is the proposition that I put to the chamber this morning and Senator Brandis puffed himself up, objected and called me a liar. He did withdraw that under duress from the chair. However, this is obviously not a concern that the Greens are alone in bring into this chamber.

The Gilbert + Tobin Centre for Public Law in their submission pointed out:

Suggested improvements included a definition of ‘computer network’ that requires the individual computers in the network to be linked in a substantive way, such as having shared storage drives, or that is limited to local area networks.

Professor George Williams of the University of New South Wales was quoted in the Sydney Morning Herald yesterday:

… the laws and their amendments did not address concerns that they could enable agencies to tap, access and disrupt target and third-party computers and networks after getting just one warrant.

Professor Williams previously warned the parliamentary committee that the laws were too broad and could allow ASIO to monitor the entire Australian internet as a “‘computer network’.

It is that serious.

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CHAMBER
Professor Williams is no fool; he has been studying these issues for a lot longer than I have. The problem, of course, is that this applies to computer networks and the internet as a network of networks, that these systems are distributed globally and that putting no upper limit is what creates such a risk.

Electronic Frontiers Australia, it in their submission, have said:

A network can essentially be anything from three computers on a Wi-Fi modem to potentially an entire corporate network or an entire internet service provider network or at the extreme end the whole internet

EFA asserts that the amended definition of computer in sections 4 and 22 of the ASIO Act is too expensive, and may provide a single warrant holder with an enormous number of possible computers to target. EFA notes that by amending the definition of 'computer' and expanding it substantially to include multiple devices, systems or networks, this single amendment would expand the scope of ASIO's powers in a number of other places within the ASIO Act. This is the question that I will put to the Attorney-General shortly.

EFA also notes that this minor amendment relative to the entirety of the act, would have a wildly disproportionate effect on the scope of every single warrant involving a computer—'EFA cannot condone such a rash escalation of warranted power and recommends that a more carefully-defined definition be provided.'

You will notice that the Australian Greens have proposed that rather than falling back on descriptions or definitions of 'computer' and 'computer network' that do not actually exist—although, Senator Xenophon points out that there will be common law interpretations that are used by the courts—anywhere on the statute books, that rather than fooling around with the definition of computer, that we simply provide a cap on the number of devices that can be accessed.

When I have put this proposition to Senator Brandis he sits there dumbfounded and mute, rather than actually putting a view as to why this is not a sensible idea. Perhaps, as Senator Xenophon points out, 20 is too low. As I said before, I understand why ASIO would not want to submit these warrant applications for every single device. Perhaps it should be 50. I am very open to discussion on this, as I said.

Rather than trying to change the definition of a network, we will insert provisions around the number of computers that a single warrant can obtain to access data to disrupt—to install malware, for all we know—all of the various powers that can be contained or that can be exercised under one of these warrants.

Senator Brandis, this may foreshadow the comments Senator Xenophon made before, but I put to you now whether it is the government's intention—or whether you can provide us with where we could find out—that it be possible for the public to know, through the parliament, either through ASIO's reporting obligations, the aegis or perhaps the PJCIS or your own department, how many devices individual warrants ended up allowing lawful access to.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:36): Senator Ludlam: you have asked several times in your contributions today the same question that was asked and answered yesterday. I direct you to the answer I gave to the same question that you have asked several times today. It did not change overnight.
Senator Ludlam: I have not responded for another reason, because I will not facilitate your very obvious attempt to filibuster this legislation and abuse the processes of this place.

Temporary Chairman, I move:

That the question be now put.

The **CHAIRMAN**: The question is that the question now be put.

The committee divided [13:41]

(The Chairman—Senator Marshall)

Ayes ...................... 34
Noes ...................... 33
Majority ............... 1

**AYES**

Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC
Cash, MC
Colbeck, R
Day, R.J.
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Lambie, J
Lazarus, GP
Macdonald, ID
Mason, B
McGrath, J
McKenzie, B
Muir, R
Nash, F
O'Sullivan, B
Parry, S
Payne, MA
Reynolds, I
Ronaldson, M
Ruston, A (teller)
Ryan, SM
Scullion, NG
Seselja, Z
Sinodinos, A
Smith, D
Wang, Z
Williams, JR

**NOES**

Bilyk, CL (teller)
Brown, CL
Bullock, J.W.
Carr, KJ
Collins, JMA
Conroy, SM
Dastyari, S
Di Natale, R
Faulkner, J
Gallacher, AM
Hanson-Young, SC
Ketter, CR
Leyonhjelm, DE
Lines, S
Ludlam, S
Ludwig, JW
Lundy, KA
Marshall, GM
McEwen, A
McLucas, J
Mils, C
Moore, CM
O'Neil, DM
Polley, H
Rhiannon, L
Rice, J
Siewert, R
Sterle, G
Urquhart, AE
Waters, LJ
Whish-Wilson, PS
Wong, P
Wright, PL

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Thursday, 25 September 2014

SENATE

7145

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CHAMBER
Question agreed to.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:44): by leave—I want to place on record the Labor Party's position in relation to this bill and the way the bill is being managed. As senators would know, the Labor Party has indicated support for this legislation. The Labor Party also indicated yesterday and this morning to the government that we were willing to entertain—we were favourably disposed to—a time-management motion to ensure this legislation was passed next week in accordance with the government's publicly stated timetable. As yet we await the government's proposition in that regard, but we did indicate that because we want this legislation passed. What we are not favourably disposed to is gag motions moved with almost no notice on a bill which we already support. We disagree with the Greens on the substantive issue, but we think the way the chamber ought to be run is to give appropriate notice. As I reiterate, we gave a clear indication to the government we were favourably disposed to a time-management motion to ensure this bill passed in accordance with the government's timetable.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:45): by leave—Senator Wong, I do not want to lose the bipartisanship the Labor Party has commendably shown in relation to this bill. Frankly, if a mistake was made in the judgement of those who manage the opposition's business in this chamber, then a mistake was made. Nevertheless, this is not—

Opposition senators interjecting—

Senator BRANDIS: If I may finish, please. This is not a gag motion. This is a motion to close debate on a Greens amendment which has been debated now for almost three hours. Those of us who have been following the debate could not have the slightest doubt that what Senator Ludlam was engaged in was, in the most obvious way, a filibuster. As a consequence of Senator Ludlam's filibuster, and as a result of the time-management arrangements for next week which Senator Wong has foreshadowed, had the debate on Senator Ludlam's motion not been closed there would be insufficient opportunity for other parties and other senators to have their amendments considered in the committee stage. I thank the Senate for agreeing to terminate Senator Ludlam's filibuster.

Senator LUDLAM (Western Australia) (13:47): by leave—There is no filibuster underway here. The fact is that Senator Brandis has been, as he has so often shown himself to be, his own worst enemy in regard to chamber management. By obstructing debate in the chamber yesterday by refusing to provide a document he had in his possession, and by sitting mute instead of answering sensible questions that myself and crossbenchers have been putting to him for nearly 2½ hours, Senator Brandis once again has been own worst enemy. I understand we will now proceed to the vote, but let no-one be mistaken: Senator Macdonald moved this amendment. The government is now gagging a tremendously important amendment on a bill that will have consequences for all of us.

The CHAIRMAN: The question is that amendments (1) and (2) on sheet 7570 moved by Senator Macdonald be agreed to.

The committee divided. [13:53]
(The Chairman—Senator Marshall)

Ayes ...................... 11
Noes ...................... 52
Majority ............... 41

AYES

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

NOES

Back, CJ
Bilyk, CL (teller)
Brandis, GH
Bushby, DC
Carr, KJ
Colbeck, R
Conroy, SM
Day, R.J.
Faulkner, J
Fierravanti-Wells, C
Gallacher, AM
Lambie, J
Ludwig, JW
Macdonald, ID
Mason, B
McKenzie, B
Moore, CM
Muir, F
O’Sullivan, B
Payne, MA
Reynolds, L
Ruston, A
Seselja, Z
Smith, D
Wang, Z
Wong, P
Back, CJ
Bilyk, CL (teller)
Brandis, GH
Bushby, DC
Carr, KJ
Colbeck, R
Conroy, SM
Day, R.J.
Faulkner, J
Fierravanti-Wells, C
Gallacher, AM
Lambie, J
Ludwig, JW
Macdonald, ID
Mason, B
McKenzie, B
Moore, CM
Muir, F
O’Sullivan, B
Payne, MA
Reynolds, L
Ruston, A
Seselja, Z
Smith, D
Wang, Z
Wong, P
Bernardi, C
Birmingham, SJ
Bullock, J.W.
Cameron, DN
Cash, MC
Collins, JMA
Dastyari, S
Edwards, S
Fawcett, DJ
Fifield, MP
Ketter, CR
Lazarus, GP
Lundy, KA
Marshall, GM
McGrath, J
McLucas, J
Muir, R
O’Neill, DM
Parry, S
Polley, H
Ronaldson, M
Scullion, NG
Sinodinos, A
Sterle, G
Williams, JR
Xenophon, N

Question negatived.

Senator IAN MACDONALD (Queensland) (13:57): Mr Chairman, I wish to make a personal explanation of less than 60 seconds. Comment has been made about the fact that I actually voted against an amendment I moved. I want to explain to the Senate that in moving the amendment I indicated I was not absolutely convinced of the amendment that I was moving but that I did want there to be debate on it. It looked like there was never going to be debate. Having heard the minister address the amendment, I then indicated that the minister
had convinced me, which is what parliament is all about, that the amendment had no merit. You might recall, Mr Chairman, I then even sought leave to withdraw the amendment, but leave was not given. I just wanted to explain that to the chamber.

Senator LEYONHJELM (New South Wales) (13:57): I move Liberal Democratic Party amendment (1) on sheet 7579:

(1) Schedule 2, page 30 (after line 31), after item 28, insert:

28A After section 25A

Insert:

25B Collection of intelligence under computer access warrant

Despite anything in section 25A, a computer access warrant issued under that section may authorise access to a computer only to the extent necessary to collect intelligence in respect of the security matter specified in the warrant.

(2) Schedule 2, page 55 (before line 5), before item 46, insert:

46A Before section 32

Insert:

32A Notification requirements in relation to interference with computer use under warrant etc.

(1) This section applies if:

(a) a warrant was issued under section 25, 25A, 27A, 27C or 29; and

(b) a thing mentioned in subsection 25(5) or 25A(4), paragraph 27D(2)(h) to (k) or subsection 27E(2) was done under the warrant.

(2) The Director-General must cause the Minister and the Inspector-General of Intelligence and Security to be notified of any material interference with, or interruption or obstruction of, the lawful use by other persons of a computer or other electronic equipment, or a data storage device, that resulted from the thing being done.

(3) The notification must be given:

(a) in writing; and

(b) as soon as practicable after the thing was done.

(3) Schedule 3, item 3, page 63 (after line 22), after section 35C, insert:

35CA Sunsetting

A special intelligence operation authority must not be granted after the end of 30 June 2025.

(4) Schedule 3, item 3, page 69 (lines 30 and 31), omit "or prejudice the effective conduct of a special intelligence operation".

(5) Schedule 3, item 3, page 70 (lines 2 and 3), omit "or prejudice the effective conduct of a special intelligence operation".

(6) Schedule 3, item 3, page 70 (line 14), at the end of subsection 35P(3), add:

; or (e) of information that has already been disclosed by the Minister, Director-General or Deputy Director-General; or

(f) made reasonably and in good faith, and was in the public interest.

(7) Schedule 3, item 3, page 70 (after line 16), after subsection 35P(3), insert:

(3A) Subsections (1) and (2) do not apply if:
(a) the person informed the Organisation about the proposed disclosure at least 24 hours before making the disclosure; and

(b) the disclosure did not include information on the identities of participants of a special intelligence operation, or on a current special intelligence operation; and

(c) the information concerns corruption or misconduct in relation to a special intelligence operation.

Note: A defendant bears an evidential burden in relation to the matters in this subsection—see subsection 13.3(3) of the Criminal Code.

(8) Schedule 5, items 9 and 10, page 74 (lines 4 to 19), to be opposed.

(9) Schedule 5, item 14, page 79 (lines 1 and 2), omit subparagraph 1(1A)(a)(i).

My amendment is on the same issue as the previous amendment, which was just lost. It is on the issue of how many computers can be the subject of a warrant by ASIO. Senator Ludlam's motion was to limit that to 20, which some people said was impractical. My amendment does not seek to limit it by number; it seeks to limit it by intent. It puts into the bill words that the government itself has put into the revised explanatory memorandum. It states that a computer access warrant under section 25A authorises access to a computer only to the extent necessary to collect intelligence in respect of the security matter specified in the warrant.

Progress reported.

QUESTIONS WITHOUT NOTICE

Higher Education

Senator KIM CARR (Victoria) (14:00): My question without notice is to the Minister representing the Prime Minister, Senator Abetz. Yesterday I asked the minister a question about the following statement by the Prime Minister in parliament on Tuesday:

… the Commonwealth … will continue to cover 50 per cent of people's … education.

The minister responded by saying:

What the Prime Minister said is that the figure is an average.

Can he now confirm that the Prime Minister did not make that statement? Will the minister correct the record?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): The devastating point is this: I said 'average of 50 per cent'; the Prime Minister said 'to the tune of 50 per cent'. I stand corrected.

Senator KIM CARR (Victoria) (14:01): Mr President, I ask a supplementary question. Senator Abetz, that is not the quote. You have misled the Senate again. Given the minister's failure to answer my question yesterday, I ask again: at which universities will students have to pay more than 50 per cent of the costs of their education, contrary to the Prime Minister's assurance?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:01): I invite Senator Carr to have a look at the comments of the Prime Minister on 23 September 2014 in relation to that exact quote that I just read out for his benefit and for anybody who might be listening. Let us keep in mind that those Australians who are given the benefit of a tertiary education are likely, as a result of that tertiary education, to earn $1 million more over their
lifetime than those who are not blessed with a tertiary education. That tertiary education will nevertheless—we can talk 40, 50, 60—

Senator Moore: Mr President, I rise on a point of order on direct relevance. Senator Carr's question referred to which universities will students have to pay more than 50 per cent of their education. I have let it go. There are 16 seconds left.

The PRESIDENT: Thank you, Senator Moore. Senator Carr did indicate a further statement he was referring to about yesterday's answer as well. Senator Abetz, you have 16 seconds left.

Senator ABETZ: The question is: how much should our fellow Australian taxpayers contribute to the education of those students who will then have the benefit of earning so much more—

The PRESIDENT: Senator Moore, and there were four seconds when you—

Senator Moore: There was when I got to my feet. Mr President, I have a point of order specifically on the question, which was: at which universities will the cost be more than 50 per cent? That was the question.

The PRESIDENT: Thank you, Senator Moore. Senator Abetz, you have four seconds left to answer the question.

Senator ABETZ: Universities have not all set their fees as yet, and I answered that yesterday. (Time expired)

Senator KIM CARR (Victoria) (14:03): Mr President, I ask a further supplementary question. I refer to the University of Western Australia's undergraduate fee schedule for 2016, which shows that the unweighted average Commonwealth contribution across all courses will be 31 per cent. Isn't it clear that the government's claimed Commonwealth contribution, even to the 'tune of 50 per cent', is a lie?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:04): No.

Budget

Senator EDWARDS (South Australia) (14:04): My question is to the Minister for Finance, Senator Cormann, representing the Treasurer. Can the minister update the Senate on the final budget outcome for the 2013-14 budget released today, Labor's last budget?

Senator CORMANN (Western Australia—Minister for Finance) (14:04): I thank Senator Edwards for that question. The Treasurer and I have released the final budget outcome for Labor's last budget. It shows the extent to which the previous government lost complete control of the budget. It shows the extent to which the previous government made a complete mess of the budget and left behind a debt and deficit disaster. It also shows that on coming to government we were able to stabilise the budget position as a foundation from which to repair the budget mess that we inherited from our predecessors.

The previous government left behind $123 billion worth of projected deficits in their last budget. They left behind a debt growth trajectory taking the country to $667 billion and growing beyond that. They left behind a situation where the government right now has to pay $1 billion a month in net interest payments. We have about 10 million taxpayers across Australia. Every month every single taxpayer in Australia pays 100 bucks just on the interest
to service the debt that the Labor Party has left behind; every single taxpayer in Australia has to pay $1,200 a year on the debt that Labor left behind.

Of course, Labor said that 2013-14 was going to be a surplus budget—$2.2 billion they said. Then it became an $18 billion deficit. Then it became a $30 billion deficit. In the 11 short weeks between the 13 May budget and the election, the budget position deteriorated by more than $1 billion a week. So we inherited a deteriorating budget position, a weakening economy and rising unemployment. We have stabilised the situation. In the Mid-Year Economic and Fiscal Outlook we presented the true state of the budget. The final budget outcome shows that, unlike Labor, our estimates are realistic and accurate. *(Time expired)*

**The PRESIDENT:** Senator Edwards, do you have a supplementary question?

**Senator EDWARDS** (South Australia) *(14:06)*: There is silence from the other side.

**The PRESIDENT:** The question, Senator Edwards?

**Senator EDWARDS:** Can the minister advise the Senate what this final budget outcome tells us about the state of Australia's public finances and in particular the spending growth trajectory?

**Senator CORMANN** (Western Australia—Minister for Finance) *(14:06)*: The spending growth trajectory that Labor left behind was completely unsustainable. The previous finance minister, Senator Wong, who presided over a $107 billion deterioration in the budget bottom line in the three short years that she was the finance minister, kept lecturing us how Labor was keeping real growth in government spending below two per cent. Well, the truth is it was 3½ per cent over the forward estimates. And it actually gets worse. In the period beyond the forward estimates, the previous Labor government recklessly and irresponsibly locked in spending growth of about six per cent per annum. Labor put us on a trajectory of taking government spending as a share of GDP to 26.5 per cent by 23-24, when revenue on average over the last 20 years has been 22.4 per cent. Labor wanted us to keep borrowing, keep adding to the debt and keep adding burdens to future generations for them to pay off. *(Time expired)*

**Senator EDWARDS** (South Australia) *(14:08)*: Mr President, I ask a further supplementary question. Will the minister inform the Senate what the government is doing to repair this budget?

**Senator CORMANN** (Western Australia—Minister for Finance) *(14:08)*: The government is working in an orderly and methodical fashion to build a stronger and more prosperous economy where everyone has the opportunity to get ahead and to repair the budget mess that we have inherited from our predecessors—although, we are not getting any help from those opposite.

*Opposition senators interjecting—*

**The PRESIDENT:** Order on my left!

**Senator CORMANN:** Those opposite want us to continue to borrow from our children and grandchildren so that they can pay the costs for our consumption here today. Well, we think that is unfair. We think that we have a responsibility and a duty to our children and grandchildren to put government spending back on a sustainable growth trajectory. And, of course, that is exactly what we are doing. The Labor Party wants to continue to put our consumption on the national credit card and hand the credit card over to our children down...
the track. That is what the Labor Party wants to do. That is absolutely irresponsible. If we want to protect our living standards, if we want to build stronger opportunity for the future, we need to repair the budget. *(Time expired)*

**Financial Services**

**Senator DASTYARI** (New South Wales) (14:09): My question is to the still Acting Assistant Treasurer, Senator Cormann. Is the minister aware of comments by John Brogden of the Financial Services Council that:

The reality is that public trust is so low, public expectations are so low, yet public demand for advice is so high that we have to acknowledge that self regulation has failed and we need to go to government and independent regulation.

Minister, is Mr Brogden correct?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:09): Mr Brogden is a very good man. He is the CEO of the Financial Services Council, which represents, by and large, the banks and larger institutions. Mr Brogden, of course, is quite entitled—and, indeed, he has the responsibility—to present the views of the banks. My responsibility is to make judgements and decisions in the public interest. Now, in relation to the specific question that was asked, all of us—

**Senator Wong**: He does not agree with you, Mathias. Self-regulation has failed!

**Senator CORMANN**: This is an area that is highly regulated, Senator Wong. You might not be aware of this.

**The PRESIDENT**: Through the chair.

**Senator CORMANN**: It is a highly regulated area already. We need to ensure, as policymakers, that we have a robust but efficient regulatory system in place that is competitively neutral and, of course, ensures that people across Australia saving for their retirement and managing financial risks can access high-quality advice they can trust that is also affordable. Now, I disagree with Mr Brogden's call for more bureaucracy in this particular space, because more bureaucracy is not the answer. I think it is an absolute cop-out for Mr Brogden to throw his arms up in the air and say, 'We cannot do more to provide leadership to the industry to ensure that we ourselves continue to lift professional, educational and ethical standards.' Of course, we are all in favour of higher professional, ethical and educational standards. But guess what: regulation ain't going to be the answer to all of that. The industry itself has to do the heavy lifting, as well. To put up the white flag and say, 'Sorry, but we cannot do it; you do it for us,' is just wrong. The Financial Planning Association, the Association of Financial Advisers, the SMSF Professionals Association are all organisations that have shown great leadership in working hard to lift standards across the financial advice industry. I call on the Financial Services Council to do the same. I do not accept that the only alternative— *(Time expired)*

**Senator DASTYARI** (New South Wales) (14:12): I am keen to just keep giving him more time.

**Senator Cormann**: Please!

**Senator DASTYARI**: Mr President, I ask a supplementary question. Given that AMP, the Commonwealth Bank, NAB, Macquarie, ANZ and Westpac have now all said that standards
in financial services need to be higher and that the chair of the financial services inquiry, David Murray, says the sector needs to, and I quote:

...build trust with their own customers—

why is now the right time to bring back secret sales bonuses?

Senator CORMANN (Western Australia—Minister for Finance) (14:12): Firstly, we are not bringing back secret sales bonuses, so I reject that entirely. Secondly, all of us agree that we need to keep lifting professional, ethical and educational standards across the financial advice industry—of course. The question right now that is before us is on how best to keep going down that path. From my point of view I think we need to do it in a way that delivers genuine improvements in the most efficient way possible so that we do not keep pushing up the cost of advice for people across Australia that are saving for their retirement, because the costs of whatever regulation we put in place comes out of people's retirement savings, ultimately. Right now, as a result of our agreement with the Palmer United Party and Senator Muir from the Australian Motoring Enthusiast Party and supported by Family First and the Liberal Democrats, we are progressing an enhanced public register of financial advisers which will provide transparent information about financial advisers' credentials, education and status in the industry—(Time expired)

Senator DASTYARI (New South Wales) (14:13): Mr President, I ask a further supplementary question. Noting the minister's approach has lost the support of the Council on the Ageing, CHOICE, victims' groups, National Seniors, the banks and even the Financial Services Council, when will the good senator from New South Wales, Senator Arthur Sinodinos, be brought back to fix up this policy mess?

The PRESIDENT: Minister, you can answer any part of that question that fits within your portfolio responsibility.

Opposition senators interjecting—

The PRESIDENT: Order!

Senator Kim Carr: Has he got another appearance coming up? He has, hasn't he? You're a bit worried about it, aren't you?

Senator Cash: When will Stephen Conroy be brought back to be the leader?

The PRESIDENT: Order!

Senator CORMANN (Western Australia—Minister for Finance) (14:14): Of course, all of us on this side of the chamber are very much looking forward to our very good friend, valued colleague and the great senator for the great state of New South Wales, Senator Sinodinos, taking back responsibility for this portfolio. In the meantime, I will continue to work hard to implement the commitments we took to the last election, to improve the mess that Labor left behind. We know that Labor in government was driven by doing the bidding of the union movement, delivering benefits for the commercial interests of the union movement. We are focused on the public interest. We are focused on making sure that we have an efficient, competitive regulatory system in place where people across Australia managing financial risk can have access to high-quality advice they can trust which is also affordable. This is an area that is riddled with vested commercial interests. Indeed, the Labor Party may be said to have a political interest, where we will focus on the public interest. That is what I will continue to do in my remaining time.
Asylum Seekers

Senator HANSON-YOUNG (South Australia) (14:15): My question is to the Minister representing the Minister for Immigration and Border Protection, Senator Cash. Tomorrow, the minister for immigration will be visiting Cambodia and then will continue to Geneva. How will the minister explain to the UNHCR, when he goes to Geneva next week, that Australia is removing the refugee convention from the Australian law books?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:15): Given the minister for immigration is not removing the convention from the law books, I believe that question is irrelevant.

Senator HANSON-YOUNG (South Australia) (14:16): Mr President, I ask a supplementary question. For the record, I hope the assistant minister for immigration gets up to speed with the new bill which has been tabled in the house today. What has Australia offered the Cambodian government in exchange for becoming Australia's newest dumping ground for refugees?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:16): I have to say, Senator Hanson-Youn's comments in relation to the government of Cambodia and the people of Cambodia are quite frankly demeaning. Australia and Cambodia, as Senator Hanson-Young would well be aware, are both signatories to the refugee convention and they both share a common commitment to achieving humanitarian outcomes for their region. The minister will be visiting Cambodia tomorrow and, on completion of the minister's meeting, the details of any arrangement will be announced. But I do reiterate for the Senate that Cambodia is a signatory to the refugee convention and at all times shares a strong commitment to ensuring that the rights of refugees are upheld.

Senator HANSON-YOUNG (South Australia) (14:17): Mr President, I ask a further supplementary question. Can the minister explain how the government will keep safe young women and unaccompanied children from sexual exploitation and rape, which are currently on the rise in Cambodia?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:18): Again, perhaps Senator Hanson-Young has not listened to the explanations which have been given in relation to the details which have been release. The arrangements to go to Cambodia will be completely voluntary. If a person volunteers to be resettled in Cambodia they will be. If they do not ask to be resettled in Cambodia they will not be. But I have to say, given that Senator Hanson-Young and the Australian Greens supported policies which saw women and children die at sea, which saw women and children in their thousands put behind bars in detention centres, yet again Senator Hanson-Young and her hypocrisy are on display in the Senate.

Defence Procurement

Senator MADIGAN (Victoria) (14:19): My question is to the Minister representing the Minister for Defence, Senator Brandis. On August 28 this year, the Minister for Defence issued a press release regarding a $170 million upgrade to the soldiers' kit, known as LAND 125 phase 3B. The media release said that under the terms of the five-year contract the first of
the contracts had been awarded to Bendigo based Australian Defence Apparel for the supply of load carriage equipment, including ballistic plate carriers, packs, basic pouches and equipment bags. My question is: how much of the $170 million contract has been or will be spent on Australian manufactured product?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:19): Thank you Senator Madigan, for the courtesy of advance notice to the minister's office of this question. Project LAND 125 phase 3B will deliver modernised individual soldier survivability equipment including enhancements to body armour and helmets, individual load carriage high protection and hearing protection. You are correct, Senator, in saying that the first contract, worth approximately $60 million, has been awarded to Australian Defence Apparel Pty Ltd, a company based in Victoria. The complete soldier combat ensemble capability will be delivered to the Australian Defence Force as three tranches of about 7,500 sets of equipment each over the period 2015 to 2017. The initial material release of approximately 1,000 sets of soldier combat ensembles will be delivered in May 2015.

Other than the contract with ADA, additional equipment is currently being sourced through a number of Australian distributors. Those include Frontline Safety Australia, a Queensland based business, for ballistic eye protection, J Blackwood and Son, who are providing combat the hearing protection, and Spearpoint Solutions, a Queanbeyan company, for combat helmets. The remaining element, body armour, is currently the subject of contract negotiations.

Senator MADIGAN (Victoria) (14:21): Mr President, I ask a supplementary question. On 18 September, the Bendigo Advertiser reported claims that the defence department had deliberately misled the Australian public with no real benefit to local jobs and no product made in Australia. Minister, has the defence department since confirmed that about $60 million worth of product under this contract would be manufactured in Vietnam?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:21): Senator Madigan, the claims reported by the Bendigo Advertiser were wrong. The contract winner, ADA Pty Limited, competed against four other tenderers for the load carriage requirement. They all offered overseas manufactured solutions. ADA offered an alternative tender for Australian manufacture in Bendigo. This offer was 67 per cent more expensive than the equivalent offshore offer and did not represent value for money. Defence seeks to provide the best capability to our service men and women, while taking into account value-for-money considerations, to provide a proper use of taxpayer funds.

The Australian option provided by ADA did not represent value-for-money for that particular contract. The contract has awarded $60 million of revenue to a Bendigo based company—a Victorian company. That is good news for local manufacturing.

Senator MADIGAN (Victoria) (14:22): I have a further supplementary question. In the same report, ADA chief executive Matt Graham said that specialised equipment, including vests and backpacks, would be designed and distributed by his company but manufactured by a Vietnamese company, which ADA would hire as a subcontractor. Why did the minister's press release not communicate the full picture on this important contract and state that this
contract would do little, if anything, for Australian manufacturing, Australian workers or Australian jobs? (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:23): Defence always seeks to acquire quality products that meet the required performance standards at a price that represents overall value for money and is in accordance with the Commonwealth procurement rules. The offered Australian manufactured tender did not represent value for money. The press release issued by the minister states that support services, including ongoing design and development will be provided by ADA in Australia, which is consistent with the comments made by the chief executive of ADA. ADA is a trusted supplier of defence equipment, providing the soldier combat uniform currently worn, which is, as you would know, manufactured here in Australia.

Agriculture

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (14:24): My question is to the minister representing the Minister for Agriculture Senator Abetz. Just over a year ago the government promised, as part of their election campaign, that they would provide an additional $100 million to agricultural research and development. Since then we have seen very little government action on their promises. Will the government clarify their commitment to agricultural research and development instead of putting the system under pressure through constant reviews and parliamentary inquiries?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:25): Before answering the question I congratulate Senator Wang on his first speech, delivered on Tuesday night. I think all of his colleagues right around the chamber enjoyed it.

Senator Wang is right to ask about the government's commitment of an additional $100 million to agricultural research and development because that was part of our promise to the agricultural sector at the last election. I can confirm for Senator Wang and the Senate that, in fact, that $100 million extra was in this year's coalition budget. In other words, in the very first budget that we have delivered we have, yet again, delivered on another election promise. That commits, hopefully, for Senator Wang, that we as a government are genuinely concerned to assist one of the great pillars of the Australian economy—namely agriculture—with research and development funding. We believe that putting it in our very first budget highlights our commitment to that vitally important sector.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (14:26): I have a supplementary question. When will the $100 million funding start flowing to agricultural research?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:26): It will start flowing as a result of this year's budget. I am not sure whether that part of it has already found its way through the chamber or not.

These projects for research and development are by way of a competitive process. Applications will be open very shortly and we then expect, once the decisions are made over the four years, for these projects to start being funded. Unlike those opposite, we do not just
throw money at a proposal or because we have announced extra funding. We ensure that everything is done in a purposeful manner to ensure that we get possible value for the Australian taxpayer and the actual purpose for which it was designed. That is why it will be a competitive process and applications will open very shortly.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (14:27): I have a further supplementary question. How much from the $100 million is being diverted to fund the Department of Agriculture's administration of the program?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:27): I can inform Senator Wang that, on my advice from Mr Joyce's office, $3.2 million will be used for the administration of the program. My maths is not very good, but given that it is $100 million I can therefore assert that 3.2 per cent of the fund will be used for administration. That is, if I might say, in contrast to previous administration in this area, as I understand it—under previous Labor and coalition governments—of about 15 per cent.

So we are seeking to minimise the administrative cost of this program as much as possible to ensure that the vast bulk of it—nearly 97 per cent—can actually go to program delivery of research and development so that we can grow the agricultural sector even further.

East Arnhem

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:28): My question is to the Assistant Minister for Health Senator Nash. Can the minister inform the Senate of the focus of her recent visit to East Arnhem?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:29): Senators and others would be aware that last week the Prime Minister and a number of ministers visited East Arnhem to talk with local people in the community about many issues that were important to them

Firstly, can I congratulate the Prime Minister and Minister Scullion for their ongoing commitment in this area.

For many of us it was the first time we had been to East Arnhem. I note that Senator Scullion has had a 30-year-relationship with the region and I think his understanding and leadership contribute enormously in this area.

Over the week, we had some great discussions and meetings with local people. To see the response of those local people to the fact that, as government, we had selected a number of ministers to be on the ground for a considerable period of time, it was very much appreciated.

There has been a lot of improvement, but there are still challenges and there is still a lot more to do. Particularly with regard to health, there are very challenging circumstances with regard to chronic conditions and complex health conditions.

The need for effective prevention and clinical intervention was evident. What we have seen is that health outcomes are so closely linked to good housing, education and employment. We cannot look at these things in silos; we must look at all of these things together to move toward improving outcomes for Indigenous communities.
We met with a range of groups throughout the week, as I indicated, culminating in health forum at the end of the week with Minister Dutton, Minister Scullion and me, which provided a significant benefit to our understanding and to those who attended on the way forward.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:31): Mr President, I ask a supplementary question. I thank the minister for that cracker of an answer. Can the minister provide the Senate with some specific examples of the positive gains being made by Aboriginal Community Controlled Health Services in East Arnhem such as Miwatj Health?

Opposition senators interjecting—

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:31): Thank you very much. I would expect from those opposite, given the gravity of this issue, that indeed they might respond with some quiet. Miwatj Health Aboriginal Corporation in the regional area of East Arnhem is the Aboriginal Community Controlled Health Service in the area.

What was particularly of note was the high standard that they were setting in clinical and preventative health focus. I met with a number of those on the board and what became very clear was their ability to have turned around what were some very difficult circumstances seven years ago to a well-functioning and forward-thinking organisation that is delivering better health outcomes to those on the ground through transparency, accountability and taking into account the very importance of culture.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (14:32): Mr President, I ask a further supplementary question. Can the minister provide more details of the health outcomes achieved through Miwatj Health and share any other insights she gained whilst in East Arnhem?

Opposition senators interjecting—

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:32): It is certainly disappointing to see the lack of respect from those opposite on what is a very important issue. Miwatj Health has four health clinics in East Arnhem based in Yirrkala, Gunyangara, Nhulunbuy and Galiwin’ku. There is a range of outreach programs that they run as well, delivering high-quality and effective primary health care.

What was indeed very impressive was the significant improvements above the Northern Territory average rate for immunisation in all age brackets at 89 per cent—100 per cent at Gunyangara; 95 per cent immunisation for babies up to one year—these are tremendous statistics. Babies born in communities served by Miwatj Health have an overall better birth weight, about eight per cent better than the national average, and a significant increase in providing care, a 408 per cent increase since they took over.

Medicinal Marijuana

Senator DI NATALE (Victoria) (14:34): My question is for the minister representing the Prime Minister, Minister Abetz: I refer to comments made by the Prime Minister to the broadcaster Alan Jones on 17 September this year where he stated his support for the medicinal use of cannabis. The Prime Minister wrote:
I have no problem with the medical use of cannabis, just as I have no problem with the medical use of opiates.

If a drug is needed for a valid medicinal purpose though and is being administrated safely, there should be no question of its legality.

Given the Prime Minister's support for medicinal cannabis, will the government be introducing or will it support legislation that allows for its safe administration?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:34): I am aware of the Prime Minister's statement in relation to that issue. As I said, the Prime Minister did say words to the effect—and I am more than happy to stand corrected and I will seek further information from the Prime Minister's Office—and he couched the terms: if it is good for medicinal purposes, then he would be willing to consider and support. I think the question therefore is: has the medical community coming to a landing in relation to this issue? If the Prime Minister has anything further that he might want to add to the answer I have just given, I will come back to the senator with that further information.

Senator DI NATALE (Victoria) (14:35): Mr President, I ask a supplementary question. The Prime Minister also told Alan Jones:

My basic contention is that something that has been found to be safe in a reliable jurisdiction shouldn't need to be tested again here.

Given that there are many clinical trials that demonstrate the benefits of medicinal cannabis in a specific number of medical conditions, do you agree that there are no reasons to delay making medicinal cannabis available?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:36): Can I say that I am absolutely delighted to learn that Senator Di Natale is such an avid listener to the Jones radio program and I would commend it to other senators too. I hope Senator Di Natale's interest is maintained.

Whether or not there may be other reasons that mitigate against its use, I don't know. I will not seek to, without any briefing on this matter, provide an answer in relation to that. I will give the Prime Minister the benefit of Senator Di Natale's question and see if there is anything further that the Prime Minister might seek to add.

Senator DI NATALE (Victoria) (14:37): Mr President, I ask a further supplementary question. Thank you, Minister, I appreciate the answer. I would just say that there are many people like Lucy Haslam and her desperately ill son, Dan, along with many thousands of others who use medicinal cannabis where other treatments have failed. The Prime Minister did say to Ms Haslam, 'I doubt the Haslams need a meeting; they need their problem addressed.' How long will they have to wait to have their problem addressed?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): As the senator would realise, standing orders do provide that one should not refer to specific cases if it can be avoided at all. I think this is a clear example why. That is, in the standing orders of the Senate in relation to questions, commenting on individual cases is always fraught with
great difficulty without knowing all the background. Therefore, I will not be giving any prognosis or commentary in relation to the particular matter to which the senator refers.

**Ukraine**

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:38): My question is to the Minister representing the Treasurer, Senator Cormann. I refer to the Treasurer's media conference on 19 September in which he undertook to raise the matter of Russia's conduct in the Ukraine with a senior Russian minister present at the G20 finance ministers meeting held in Cairns. Can the minister update the Senate on the outcome of those discussions involving the Treasurer and his Russian counterpart?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:39): I am pleased that finally I get a question from the Leader of the Opposition, although it is still not a question about the budget. I wonder why she is not asking me any questions about the budget. In relation to the question she has asked me, I am not aware of the conversations that the Treasurer has had in his bilateral engagements but I will take that question on notice and, if I can assist Senator Wong with any information about the specifics of what was discussed, I will—bearing in mind that these conversations, in the ordinary course of events, are actually private conversations. You would not expect me to be aware of the specifics of the conversations that my good friend and valued colleague the Treasurer, Joe Hockey had through that weekend.

Let me just say that the Treasurer did an outstanding job in leading efforts around the world to boost economic growth by an additional two per cent on top of business as usual. The meeting in Cairns was a great success, following on from the great work that was done in Sydney earlier this year. We had finance ministers and central bank governors from right around the world meeting in Cairns following on from the efforts in Sydney earlier this year.

It is quite extraordinary that Senator Wong has not asked me a single question about the budget since we came into government in September last year, but here she is asking me a question about a private conversation at an international level, that I clearly cannot possibly have any idea about, and she would expect me to actually be able to share it on the spot. Senator Wong does not seem to be focused on the issues that she should be focusing on.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:40): Mr President, I ask a supplementary question. I thank the minister for taking the question on notice. As I said, the undertaking to raise the issue of the Ukraine—an important issue, I would have thought—was made by the Treasurer, as I said, on 19 September. I also ask the minister—and if he is not aware, could he take it on notice—whether the Treasurer's discussions with his Russian counterpart canvassed the Prime Minister's proposal to send ADF personnel to Ukraine to train and advise the Ukraine military?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:41): I would say to Senator Wong that, unlike those opposite, the Treasurer keeps all of his undertakings. In relation to the other part of the question, I refer to my answer to the primary question.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:41): Mr President, I ask a further supplementary question. I again refer to the Treasurer's media conference on 19 September. Is the Treasurer correct when he says, 'It is not Australia's decision who travels to Australia to participate in the G20 leaders meeting in Brisbane'?
Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:42): Yes, the Treasurer is correct if he says that.

Higher Education

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:42): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Education. Can the minister inform the Senate of the opportunities that the government's higher education reforms will provide for higher education students?

Senator PAYNE (New South Wales—Minister for Human Services) (14:42): I thank Senator Ruston for her question. I think the most important thing to emphasise about the government's higher education package is the way—in fact, several ways—in which it will make higher education more accessible. For example, by 2018, over 80,000 students will be receiving Commonwealth support for the first time in higher education diploma and similar courses, and in whatever registered higher education institution they choose to study. Many of those students will be coming from low-socioeconomic backgrounds. Each year, another 80,000 students will benefit, on average by $1,600 a year, from the abolition of the 20 per cent loan fee on VET FEE-HELP loans. As well as that, another 50,000 students will benefit from the abolition of the 25 per cent loan on FEE-HELP itself.

Then there is the Commonwealth scholarship scheme. It will be the largest scholarship scheme in Australia's history. It will provide support, including with living costs, for many students from disadvantaged backgrounds around Australia. These are reforms that promote accessibility for students. They will also ensure that Australian students have access to high-quality education in this country. As Belinda Robinson, who is the Chief Executive of Universities Australia, wrote this week:

It is simply not possible to maintain the standards that students expect or the international reputation that Australia's university system enjoys without full fee deregulation.

The higher education reforms that Senator Ruston asks about will give Australian students access to high-quality education and it will be affordable. (Time expired)

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:44): Mr President, I have a supplementary question. Can the minister further inform the Senate of any recent responses to the government's proposals?

Senator PAYNE (New South Wales—Minister for Human Services) (14:44): That is actually a very interesting question from Senator Ruston. While we have been working very hard to promote access to high-quality higher education for tens of thousands more students, the Labor Party, the Greens and the NTEU are continuing to try to run their pathetic scare campaign. Do you ever hear them remind anyone that no-one needs to pay a cent upfront? No. Do you ever hear them seriously discuss the need for reform of the higher education industry in Australia? No. What they do is they roll out absurdly inflated fee levels as part of their scare campaign. But the facts put the lie to that.

Senator Kim Carr: They are based on fact.

The PRESIDENT: Order on my left!

Senator PAYNE: The NTEU's modelling, for example, had undergraduate fees well over $32,000 a year, as I recall. But, as we have seen at UWA, the undergraduate fees will be less than half what the NTEU projected—less than half. (Time expired)
Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (14:46): Mr President, I have a further supplementary question. Can the minister advise the Senate of further developments in relation to the proposed higher education reforms?

Senator PAYNE (New South Wales—Minister for Human Services) (14:46): On the question of what else is occurring in this particular policy area, we have some other classic modelling which has been rolled out by the rather hysterical scaremongers.


The PRESIDENT: Senator Carr!

Senator PAYNE: There is one particular set that assumes domestic students would pay the same fees as international students. But, again, as the UWA fees show, they will be about half the typical fees for international students. In terms of further commentary, this week member institutions of the Council of Private Higher Education, known as COPHE, have said, 'Whatever we receive in Commonwealth support for students we pass on to students through reduced tuition fees.' As the Australian reported yesterday, 'Fees for courses in private colleges may fall by even half.' Certainly the indicative fee levels that have been published by COPHE show that the total cost of degrees will be significantly below what the alarmists and the scaremongers have been claiming. (Time expired)

Anti-Discrimination

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:47): My question is to the Attorney-General, Senator Brandis. I refer to the report that the Attorney-General has joined the Melbourne Savage Club, which declared on its website: Membership is offered to gentlemen only, based upon the criteria of good fellowship and shared interests.

Will the Attorney sing the club song and demonstrate the club initiation ceremony to the chamber? As the Attorney is responsible for federal anti-discrimination laws, can the Attorney-General explain why his new club does not accept women as members—or is it because he believes sexists have rights too?

The PRESIDENT: Attorney-General, you can answer—

Opposition senators interjecting—

The PRESIDENT: Order!

Government senators interjecting—

The PRESIDENT: Order on my right as well.

Senator Cameron: What goes on behind the scarlet doors, George?

The PRESIDENT: Order, Senator Cameron! Attorney-General, you can answer the part of the question that you feel fits within your portfolio.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:49): I think it is a very entertaining question, but I am a little surprised that the shadow minister for defence would choose to pursue a flippant question like that—at any time, frankly, but particularly at the moment. Nevertheless, I will answer him.
Senator Conroy: Sing the song.

The PRESIDENT: Senator Conroy, order!

Honourable senators interjecting—

Senator BRANDIS: Mr President, do I have the call? I want to answer the question.

Opposition senators interjecting—

The PRESIDENT: I am not going to call the Attorney-General until there is quiet and we can hear the answer. Attorney-General, you have more than one minute and 11 seconds left. Attorney-General, you have the call.

Senator BRANDIS: Thank you, Mr President. I assume I am asked this rather flippant question in my capacity as Minister for Arts. I can confirm to the honourable senator that I was recently elected a member of the Melbourne Savage Club, which is a very illustrious organisation operating in Melbourne. I think that, to the best of my recollection, I am a member of three clubs—two of which are mixed and one of which, the Savage Club, has only male members.

There is nothing against the law of Australia for there to be gender-only clubs. There is nothing against the law of Australia for there to be, for example, women-only golf clubs. There is nothing against the law of Australia for there to be men-only clubs and there is nothing against the law of Australia for there to be mixed clubs—not should there; nor is that sexist.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:52): Mr President, I ask a supplementary question. Why has the Attorney-General failed to disclose his membership of the Savage Club to the Senate given the potential for conflict of interest with his ministerial responsibilities relating to antidiscrimination legislation?

The PRESIDENT: Attorney-General, again you can answer the part of the question that fits within your portfolio.

Honourable senators interjecting—

The PRESIDENT: Pause the clock.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:52): I am glad the opposition is having such fun. The answer to the honourable senator's question is: first, club memberships are not a disclosable interest, as he well knows; and, second, there is no respect in which gender-specific clubs are in breach of discrimination law.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:53): Mr President, I ask a further supplementary question. Which institution is harder for a woman to get into in 2014: the Savage Club or the Abbott cabinet?

Senator Heffernan: Mr President, I rise on a point of order. Senator Conroy should have declared that he was rejected by the Junee Country Women's Association.

The PRESIDENT: That is not a point of order, Senator Heffernan. Attorney-General, again answer the part of the question that fits within your portfolio.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:54): I have
nothing to add to my previous answer, but, may I say, after 20 years in this place, Senator Conroy, I think it is about time you grew up.

**Agriculture**

**Senator McKENZIE** (Victoria) (14:54): My question is to the Minister for Employment, Senator Abetz, representing the Minister for Agriculture. Can the minister outline how the coalition government's policies are contributing to the growth of employment in Australian agriculture?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:55): I thank Senator McKenzie for her interest in matters employment and in matters agriculture. I am pleased to inform the Senate that the latest ABS employment data has revealed the biggest annual gain in agriculture jobs on record—might I add, at a time when the Leader of the Opposition is going around the country demeaning agriculture jobs. We are absolutely delighted as a government to see this growth—some 39,800 positions in the year to August 2014. That, Senator McKenzie, represents 15 per cent out of the total 253,000 new jobs added across all sectors. This is a most remarkable outcome because it goes against the longer term historic trend of gradual decline in agriculture employment levels compared to the growth of output, from a peak of up to 400,000 employed in the 1980s down to around 245,000 by August 2013. But now there has been a welcome resurgence that has seen agriculture employment up to over 280,000 again, and of course that coincides with the coalition coming to government.

We as a government are delighted to see the resurgence in one very important pillar of the Australian economy, namely agriculture. It stands to reason that somebody with Senator McKenzie's interest and coming from the National Party should be expressing such a real interest. In the five seconds remaining, what a contrast between Senator McKenzie and Senator Conroy. *(Time expired)*

**Senator McKENZIE** (Victoria) (14:57): Mr President, I ask a supplementary question. Given that the Hume region in my home state of Victoria is home to some 14 per cent of all Victorian farm businesses, can the minister inform the Senate how these farming operations are benefiting from a coalition government?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:57): As I understand it, the region from which Senator McKenzie comes—namely, the Hume region in north-eastern Victoria—is a region that excels in the production of a wide variety of agricultural produce. We have seen some standout sectoral performances: beef and veal up 28.6 per cent, sheep meat up 42 per cent, dairy up 22 per cent, horticulture up 28 per cent. We are seeing exceptionally good figures in agriculture Australia wide. Of course, it stands to reason that, therefore, the home area of Senator McKenzie is also a beneficiary. Why this upturn? Because there is new confidence. There is an understanding that this is a government that will remove the carbon taxes, that will engage in free trade agreements, that will seek to grow the agricultural sector— *(Time expired)*
Senator McKENZIE (Victoria) (14:58): Mr President, I ask a further supplementary question. Can the minister inform the Senate of any threats that may exist to jobs in agriculture in my home state of Victoria and in Australia more broadly?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:58): I thank Senator McKenzie for that final supplementary question. The biggest threats to jobs in agriculture in Victoria and, indeed, elsewhere in Australia, include: excessive regulation imposing unnecessary costs on agricultural businesses and, thereby, hobbling their opportunities for improving profitability; a lack of adequate flexibility in employment options which discourages agricultural and other businesses from increasing their workforce; inadequate water and other agricultural infrastructure to enable growth in agricultural production and expansion of agricultural businesses; and, of course, Australia's budget deficit burden, born of a legacy of waste and mismanagement under the previous government and presided over by the failed finance minister sitting opposite me. Despite these difficulties, we are committed to growing the agricultural sector. (Time expired)

Arts Funding

Senator JACINTA COLLINS (Victoria) (14:59): My question is to the Minister for the Arts, Senator Brandis. Can the minister confirm he directly awarded $275,000 to the classical music organisation Melba Recordings? Can he further confirm that this decision was not subject to peer review by the Australia Council and was not subject to a funding round or an open application process?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:00): Yes, Senator Collins, I can confirm that I made a grant to Melba Recordings. I think the figure was $250,000, but I will have that checked. I am sorry, it has just been drawn to my attention,—so let me give you a fuller answer, Senator Collins—the funding was for $275,000. The proposal was assessed by my department on the basis of a demonstrated capacity to promote Australian classical musicians, its orchestras and composers. I might tell you, Senator Collins, that a grant of a similar quantum was provided to the same organisation by the previous arts minister, Mr Garrett.

Senator Abetz interjecting—

Senator JACINTA COLLINS (Victoria) (15:01): Thank you to Senator Abetz for his assistance in this matter, but I do still have a supplementary question. Can the minister confirm that he met with Melba Recordings following his appointment as the arts minister? Was the funding proposal discussed at this meeting and was the minister's friend and former Liberal minister Rod Kemp present at the meeting?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:01): Senator Collins, I did meet with Maria Vamdamme, the lady who is the principal of Melba Recordings, both before and since the election. The purpose of the meeting was to discuss the funding application that she was lodging on behalf of Melba. Not only did I, and not only did Mr Peter Garrett, make decisions to fund this extremely worthy Australian classical music recording company, but so did Senator Kemp when he was minister for the arts, and former Senator
Kemp takes a great interest in Melba. I attended a function to support Melba in Melbourne last year at which Senator Kemp was present.

Senator JACINTA COLLINS (Victoria) (15:02): Mr President, I ask a further supplementary question. Minister, the question is with respect to the application process. I ask further to that question: has the minister directly awarded funding to any other arts outside of a peer review process by the Australia Council or an open application process?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:03): Senator, you do not know much about the way arts funding works in this country, do you?

Senator Brandis interjecting—

Senator BRANDIS: Well, then let me illuminate you, Senator. Most of the arts funding provided by the Australian government to various arts organisations and arts practitioners is provided through the Australia Council. But a very large proportion of the arts funding provided to arts companies and practitioners by the Australian government is not provided through the Australia Council, it is provided through a variety of programs, and in each of those cases the minister for the arts makes an assessment and ultimately a discretion is exercised by the minister for the arts. That is the way arts funding has always worked in this country.

Senator Abetz: Now that that is all cleared up, I asked that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CAMERON (New South Wales) (15:04): I move:

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

If ever there was an example of how out of touch the frontbench of the coalition are, it is the response that Senator Brandis gave to the questions about the male-only Savage Club. Senator Brandis joined a club where women are excluded. Senator Brandis has a responsibility as the Attorney-General to make sure that there is no discrimination, yet he joined a club that is based on discrimination. He joined a club that has some bizarre rituals that are unbelievable in a modern country. They are bizarre rituals that require members, when they are greeting a new member or when a new member is being initiated, to make guttural noises and to beat their chests.

Senator Heffernan interjecting—

The DEPUTY PRESIDENT: Order! Senator Cameron, resume your seat. Senator Heffernan!

Senator CAMERON: Thank you. There is also some bizarre behaviour on the other side of the chamber from time to time especially from Senator Heffernan. In relation to these bizarre rituals, they do chest beating and they make guttural noises when they are beating their chests. This is what the coalition frontbenchers are engaged in. It is like Tarzan calling on Jane. It is like the silverback gorilla dominating his territory. The only problem is that there are no women there. There are no women in the place. It is male only.
What a bizarre proposition this is for a senior member of a government which has presided over the lowest number of women ever on the cabinet frontbench of any government in recent history. This is just bizarre. To go to a club based on privilege, a club for the big end of town, and simply ignore the right of women to join clubs or to engage is absolutely bizarre. In 2011 there was a big controversy at the Savage Club. The handrail at the Savage Club had to be raised by four inches and there was a huge argument within the Savage Club about it. It was reported in the media that one of the members said: ‘Club president Jerry Ellis thinks raising a handrail by four inches to grind his personal axe will stop drunken imbeciles launching themselves over the railing. A drunken moron who is sufficiently sentient to climb over a balustrade is unlikely to find Jerry’s four inches of protection particularly daunting.’

The Savage Club has also said that it is ‘the more sozzled alternative to the genteel Melbourne Club’. That is why they have got to lift the handrails up! This is really bizarre. It is a club that is based on ‘bohemianism, free love, frugality and voluntary poverty’. I will not go into the first point in relation to Senator Brandis but I certainly know that frugality is not one of his main games. And they all have their own titles when they go to the club. Senator Brandis has picked ‘Lord Brandis of the Bookshelf’! That is his title when he goes to the club. He will be beating his chest and making guttural noises and making sure women have no place at the Savage Club. What an absolute disgrace from a frontbench minister in this government. (Time expired)

Honourable senators interjecting—

The DEPUTY PRESIDENT: I ask senators to come to order. I am quite distressed about some of the behaviour that has taken place at the commencement of this debate, and Senator Heffernan has indicated that he will return to the chamber to apologise to the Senate for that. I call Senator Birmingham.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (15:10): There are some other people who should be offering apologies, Mr Deputy President, starting with the Leader of the Opposition, Mr Bill Shorten, and all of those opposite who are acting in a disgraceful act of distraction from a contemptible record of government. Fancy coming in here and pretending the Australian Senate is some sort of comedy show. Fancy coming in here and thinking this is a place for gag after gag on a day when the final budget figures of the last year of the Labor government have been handed down demonstrating what a disgraceful mob of managers the Labor Party were. Fancy coming in here on a day when the United Nations Security Council is meeting with the leader of the United States, our Prime Minister and many other major leaders of the world to discuss security issues facing the world and running this foolish line of questioning. Fancy coming in here in a week when we have seen a tragedy occur in Victoria and thinking that this is a sensible thing to ask questions about. Never have I seen such an error of judgement. Never have I seen such an obvious attempt to distract from their failures and their track record with something that is completely foolish, completely silly and completely beneath debate in this chamber.

Today the final budget outcome for 2013-14 was delivered. Not one question on that was asked by those opposite.

Senator Abetz: I wonder why.
Senator BIRMINGHAM: Indeed Senator Abetz, well may you wonder why. The answer, of course, is that it revealed that Labor delivered six successive deficits in six successive years. Six out of six for their deficits, with their budgets racking up nearly a quarter of a trillion dollars in deficits—that is their track record. The final year came in with a deficit figure of $48.5 billion—the second largest deficit in modern Australian history. If I were a Labor senator, I too would be ashamed to ask any questions about that; I too would be ashamed to ask any questions about their budget record and the way they managed the Australian economy. But neither I nor anybody else on this side of the chamber would stoop so low as to play the silly games we have just seen from Senator Cameron and Senator Conroy, all of which, no doubt, is part of a coordinated attempt to distract the media from the serious issues facing this country, the serious challenge of rebuilding our budget, with some sort of silly little colourful side story that allows Senator Cameron to do a silly song and dance routine in this chamber.

There are far more important issues that this country faces and the world faces, and those opposite should hang their heads in shame for being part of this arrangement. Senator Conroy should be coming back into this chamber and giving his apology for asking such stupid, puerile and childish questions in the Senate chamber when there are far more important issues at stake. Senator Cameron should be coming back in here and giving his apology for performing a comic act that might go down well in the bars and clubs on a Friday night in Sydney or elsewhere around the country but is not a performance befitting a senator in the Australian Senate at a time when the nation has much bigger issues to worry about. Everyone in this country should be concerned about the security situations we are grappling with and the issues related to the nation's security and global security at present. Instead, what do we get from the Labor Party? Childish, puerile behaviour of which they should be ashamed. (Time expired)

The DEPUTY PRESIDENT: Just before I call Senator Dastyari, I think Senator Heffernan wishes to address the chamber.

Senator HEFFERNAN (New South Wales) (15:15): Thank you, Mr Deputy President. I am instructed that during Senator Cameron's beating of the chest—I thought he was choking on his haggis—it was improper for me to assist him. I thought he was choking, so I banged him on the chest, but it did not seem to work. I might note that the CWA, if Doug had been a member in Sydney, probably would not have sold their building in Kings Cross, but whether he could get admission to the club I do not know. So I sincerely apologise to Doug if I, in trying to clear his chest, offended him.

The DEPUTY PRESIDENT: Senator Heffernan, if you think that is a sincere apology to the Senate, you are very mistaken. I have never seen such a disorderly act as confronting physically a senator while they are on their feet making a contribution. I do accept that it was not malicious. If it had been, I would have taken other actions already. But I would expect a sincere apology.
Senator HEFFERNAN: I sincerely apologise if I have offended you and the chamber, but in the context of what has happened in the last—as Senator Birmingham has pointed out—it is complete rubbish.

The DEPUTY PRESIDENT: I think you should just make a sincere apology and leave it at that, Senator Heffernan.

Senator HEFFERNAN: All right.

The DEPUTY PRESIDENT: Thank you.

Senator DASTYARI (New South Wales) (15:17): Today I know there have been a lot of other events that seem to be taking people's attention at the moment, but I just want to draw people back to the response that was given by Senator Cormann to a question that I asked him regarding the Future of Financial Advice laws. What essentially has happened is that this is now a government that on a key part of policy, about how we deal with financial advice in this country, has been left stranded. Not only have the Council on the Ageing, Choice, victims' groups and National Seniors all in previous weeks and months come out to oppose the proposals and say frankly that what is being proposed by the government is not good enough and will take us backwards; you now, in recent weeks, have a situation where all four major banks and the Financial Services Council itself, who were previously the largest supporters of the government in this space and on this policy, have come out and said that they believe the approach by this government has failed and that we need to have some form of regulation.

I just want to draw everyone's attention to the words of Senator Cormann about the CEO of the Financial Services Council. He said that their actions are 'an absolute cop-out' and were 'putting up the white flag'. I never thought that I would be the person standing in this chamber defending the former leader of the New South Wales Liberal Party John Brogden, but I believe that the proposal he has put forward is one worthy of real consideration. I believe it is a step in the right direction. There has to be a higher level of standards and we have to look at how we regulate for that level of standards. Perhaps their ideas or other ideas are the right ideas.

But there is a real policy difference that is emerging here. Senator Cormann outlined the fact that there is a consensus that there needs to be a higher level of standards. I could not agree more. The difference that is emerging is how you actually create the higher level of standards. We on this side of the chamber believe you do that by making sure there are rules and regulations in place to protect people—consumers and those seeking financial advice—from exploitation. I reject the proposal put forward by Senator Cormann in his legislation that has been foreshadowed and certainly in the regulations that have been put forward and that we were, unfortunately, unable to disallow during that period, because this approach that saying, 'We'll let the market run free on this and remove regulations'—or what they see as regulations but we have argued are protections—will somehow increase the standard in an industry is simply not the case.

The financial services industry has been riddled with con men, crooks and criminals who have, unfortunately, given the industry as a whole a bad name. I do not want to besmirch all financial planners out there. I think there are a lot of incredibly good, hardworking financial planners who are trying to do the right thing. But there are a small group that are really
damaging the reputation of this industry. What John Brogden and others at the Financial Services Council are now saying is that, to tackle this issue, there has to be some form of regulation and some kind of body. But I think what is more important is that now you have a position that is still being held by this government but that even the Financial Services Council itself, the peak body responsible for the finance industry, does not support. So not only is the minister not able to point to a single consumer or advocate group who actually supports their position when it comes to financial planning; you now have a situation where the industry itself is saying something needs to happen here. We have seen AMP in the last week, and we saw CommBank come out after some of the scandals regarding Commonwealth Financial Planning. We have seen the NAB, Westpac, ANZ and others, all major institutions, come out and say there has to be a better and higher level of standard, and the Financial Services Council has come out as well. This idea that they are putting up the white flag just demonstrates the approach this government has, as if it is only about the fight and the battle. It should not be. It should be about protecting the consumers.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (15:22): I, too, rise today to speak to the motion to take note of answers given in today's question time—a very wide range of questions and a wide range of answers. There was not a great theme to today's questions, but there were perhaps a couple of themes that seemed to run through them today, and one of them was the constant regurgitation of the scaremongering around particular pieces of legislation that the government is seeking to put through this place to make changes in the community.

The first question related to higher education—and to this constant scaremongering about how if you make changes in the higher education space then that somehow has to be a bad thing. I know there are a lot of people out there in the community who perhaps do not like change—and obviously those opposite seem to have a bit of a problem with change, because they have not actually accepted the fact that the government changed on 7 September 2013. Notwithstanding that, there are, in this place, a myriad of very good pieces of legislation—legislation that has been put forward by a government that was elected by the people. In the space of higher education, we are starting to see a huge number of institutions coming out and saying that the changes to higher education are not only good but also absolutely necessary for the sustainability of a higher education operation in Australia into the next decade that is going to maintain its position as an education system that the world's students aspire to be part of, and ensure that our education system remains a world-class institution for Australian students as well. I think we need to stop focusing on scaremongering tactics—on blowing up small things to be totally out of proportion—and instead start focusing on the things that are positive.

As to Senator Dastyari, he is obviously very passionate about the financial advice area, but, once again, we have to be realistic about not penalising the majority of the sake of the minority. We need to realise that there has to be a balance between affordability, accessibility and protection. Senator Dastyari was obviously very focused on making sure that he found every single person who was ever going to say anything at all that could possibly support his argument. But, equally, there are people on the other side of the argument, and we never hear anything about them.
Once again we seem to be entering into a debate where we just focus on anything we can to make something negative, instead of focusing on the positive things. After all, we were elected to this place to actually deliver positive outcomes for the people of Australia. I do not question having a debate in this place. But, eventually, you have to accept the will of the people, and the will of the people was expressed on 7 September 2013.

I turn now to the comments that were made by Senator Birmingham in relation to the relative importance of activities that are happening in Australia at the moment and around the world, and I suppose I was particularly taken aback at the question from Senator Conroy in relation to the so-called discrimination issue that he raised, about male-only or female-only or gay-only or young-people-only or old-people only groups. I mean, there are a myriad of different groups in our society who choose to group together for common interests. We seem to be absolutely fixated on a group of men who want to meet together and only share the company of other men, but we never seem to have a problem if women want to meet together. As an example, our local CWA is full of women—no men are a part of my local CWA—but we do not get a question in this House to Senator Nash or Senator Payne about them being a member of a female-only organisation, even though Senator Nash would probably be a member of her local CWA. I think that was to trivialise the operations of this place. Then there was the brutal bluntness in the targeting of Senator Brandis today. The Attorney-General has the most extraordinarily important portfolio, yet the senator wasted a question to the Attorney-General on something absolutely frivolous—and something, I am sure, the public of Australia really could not care less about—when we could have been asking questions today on national security and what is happening around the rest of the world.

Senator LUDWIG (Queensland) (15:27): I rise to speak in this debate on the motion to take note of answers, in particular on Senator Cormann's answer to the question from Senator Dastyari in relation to the FoFA reforms. It is an area that I have come to lately, but, having now apprised myself of it, I am extraordinarily taken aback by the hoax that Senator Cormann is perpetrating on this industry.

Labor's FoFA reforms were introduced in the wake of the collapse of Storm Financial and others and the subsequent parliamentary inquiry into financial advice products. These were the most significant reforms in financial services in a generation and included measures designed to protect investors and help the industry to professionalise. They included things like the best-interests duty—requiring advisers to act in their clients' best interests. One would have thought that, logically, that would have been at the heart of any advice being given by financial planners. The reforms also required advisers to get their clients to opt in to receiving ongoing service every two years, which was about ensuring that people would recognise that they were paying for a service. There was annual disclosure: statements were to be sent to clients annually, disclosing fees and detailing services to be performed—quite frankly, a no-brainer, but something that this industry had lacked. There was the provision on conflicted remuneration—an extraordinary provision. You would have thought that that already would have been at the heart of financial planners, but in this instance Labor had to take this stance of banning conflicted remuneration—for example, things like commissions paid on financial products provided to financial advisers. The whole
basis of the FoFA reforms was to restore faith in a sector rocked by high-profile collapses, and an extraordinarily poor culture exhibited by a few rotten eggs in financial planning.

The other side have decided to junk all of this. They have junked it in a way as a milksop to that rotten core of financial advisers. They have looked at how they can ameliorate and wind back that financial planning legislation. They have also done it in an extraordinary way. You would have thought they would bring a bill before parliament and have it properly tested. But they did it by way of a huge hoax. They brought it in by regulation and then said: 'At some point in the future, we will bring a bill and the regulations will only be interim. We need it quickly. Thanks very much.' An extraordinary circumstance. In my years in parliament, I do not recall where a government have said: 'We'll legislate by regulation. We'll repeal the regulation and then bring forward a bill later.' They have done that, but it contains wind-backs of strong, necessary financial services legislation. But it did not stop there. They were caught out as well.

The Standing Committee on Regulations and Ordinances belled the cat on them. It came forward very recently and said this idea of bringing out a reg just does not stand up to scrutiny—and it did not stand up to their scrutiny. The committee said they wanted a bit more advice from the minister, and let's see what that will be. In addition, it is not clear to the committee which regulation-making powers are being relied on. There is even some doubt about how the regulations have been made. They want specific provisions to be made.

They also noted that the minister refers to legal advice obtained by the Australian Government Solicitor. On past occasions, the committee has sought and been provided with the legal advice. By the look of that, they do not think the regulations stack up and are made under the act. By the look of that, the committee therefore requests from the minister a copy of the legal advice obtained in relation to this matter. What a hoax that they have perpetrated.

(Time expired)

Question agreed to.

COMMITTEES
Public Accounts and Audit Committee

Government Response to Report

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (15:33): I present the government's response to the 441st report of the Joint Committee of Public Accounts and Audit. I congratulate them on so many reports. I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—


Inquiry into Public Governance, Performance and Accountability Act 2013 Rules development (No. 441 of 2014)

Recommendation 1
The Committee recommends that the Department of Finance review all *Public Governance, Performance and Accountability Act 2013* guidance material to improve consistency in:

- context provided
- document structure
  - distinguishing between mandatory requirements and good practice terminology.

**Response**

The Government agrees.

Since the JCPAA inquiry, Finance has revised all guidance material and engaged an independent technical expert whom has assessed the guidance for overall comprehensiveness, coverage and clarity. Finance has also engaged professional editors to check the guidance for consistency and clarity. Final guidance, which clarifies mandatory requirements and matters that can be considered as good practice, has been progressively released on the Finance Public Management Reform Agenda website.

** Recommendation 2**

The Committee recommends that the following additional guiding principle be included as one of the guiding principles for the Public Management Reform Agenda:

- The financial framework, including the rules and supporting policy and guidance, should support the legitimate requirements of the Government and the Parliament in discharging their respective responsibilities.

**Response**

The Government agrees.

The additional guiding principle has been adopted and will be reflected in future reforms. For example, the submission from the Department of Finance to the Senate Finance and Public Administration Legislation Committee inquiry into the *Public Governance, Performance and Accountability Amendment Bill 2014* (PGPA Amendment Bill), on 6 June 2014, adopted this additional guiding principle on page 3, as did the Government's second reading speeches in both chambers in relation to this Bill.

** Recommendation 3**

The Committee recommends that the Department of Finance work to ensure that any necessary amendments are made to the *Auditor-General's Act 1997* such that the Australian National Audit Office has the power to audit the full planning, performance and accountability framework under the *Public Governance, Performance and Accountability Act 2013*.

**Response**

The Government agrees.

The *PGPA Amendment Act 2014* modified the PGPA Act to add a note to Section 40 to put beyond doubt the continuing powers of the Auditor-General to conduct a performance audit of a Commonwealth entity at any time.

** Recommendation 4**

The Committee does not recommend a change to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) at this time, to address the potential confusion from dual coverage with the *Public Service Act 1999* (PS Act). Instead, the Committee recommends that the Department of Finance and the Australian Public Service Commission work together to draft the necessary amendments to the PGPA Act and/or the PS Act to remove overlaps and reduce potential confusion from dual coverage, and that amendment proposals be put to the Parliament.

**Response**
The Government agrees.
Finance has worked with the APSC and the Department of Parliamentary Services to draft amendments to the PGPA Act, PS Act and *Parliamentary Service Act 1999* to achieve greater alignment in the duties of officials and to reduce the potential for confusion.

The PGPA *Amendment Act 2014* made the necessary changes to the PGPA Act. Reciprocal changes to the PS Act and the Parliamentary Services Act were made through the *PGPA Consequential and Transitional Provisions Act 2014*. This suite of changes, taken together, brings about closer alignment between these pieces of legislation.

Finance will continue to work with the APSC and the parliamentary departments to consider the need for any future changes or guidance to address the JCPAA's concerns.

**Recommendation 5**

The Committee recommends that the Department of Finance (Finance) amend the draft guidance to s17 and s28 of the draft *Public Governance, Performance and Accountability Rule 2014* to emphasise that nothing in the draft rule precludes the chair, chief executive officer and chief financial officer of a Commonwealth body from attending audit committee meetings as an observer. Finance should also widely communicate this point.

**Response**

The Government agrees.

Finance has amended the guidance for audit committees (*RMG 202—Audit Committees for Commonwealth entities and Commonwealth companies*) to emphasise that the chair, CEO and CFO of a Commonwealth entity can attend audit committee meetings as an observer (for example, see paragraph 14 of that guidance).

The final guidance is available from the Finance website.

**Recommendation 6**

The Committee recommends that draft rule s18 (Approving commitments of relevant money) of the *Public Governance, Performance and Accountability Rule 2014* be amended to explicitly place an obligation on all individual officials to consider proper use and management of public resources before approving commitments of relevant money.

**Response**

The Government agrees in part.

Both Section 18 of the PGPA Rule and the guide to the section have been amended in response to this recommendation.

Section 18(2) of the Rule now reads that an "official must approve ...[a] commitment [of relevant money], and record the approval, consistently with any written requirements (including any requirements relating to the proposer use of that money and spending limits) specified by the accountable authority ...".

The accountable authority can impose conditions, give directions or give instructions to officials about proper use, and may, by written instrument, issue instructions under section 20A that in and of themselves becomes part of "finance law" (as defined in section 8).

All officials must act in accordance with instructions pertaining to finance law, by virtue of their general duties under the PGPA Act—section 25 requires officials to act with care and diligence and section 26 requires that they act honestly, in good faith and for a proper purpose.

**Recommendation 7**

The Committee recommends that the issue of commitments of relevant money, and the appropriateness of spending limits and associated documentation requirements set by accountable authorities, be
included by the Department of Finance in the first independent review of the *Public Governance, Performance and Accountability Act 2013*.

**Response**
The Government agrees.

The PGPA Act requires the Finance Minister, in consultation with the JCPAA, to undertake an independent review of the operation of the Act and the Rules (section 112). This issue will be considered as part of that review.

**Recommendation 8**
The Committee recommends that the draft guidance material supporting s18 (Approving commitments of relevant money) of the Public Governance, Performance and Accountability Rule 2014 be amended to include discussion of the reasonable use of, and the risks involved in, officials approving aggregate expenditure proposals.

**Response**
The Government agrees.

Finance has amended its resource management guidance RMG 400: Approving commitments of relevant money. The guidance now includes discussion of the reasonable use of, and the risks involved in, officials approving aggregate expenditure proposals (refer to part 3).

**Recommendation 9**
The Committee recommends that the Department of Finance continue its consultation process with stakeholders on the Public Governance, Performance and Accountability Act 2013 rules development for the post July 2014 rules and the broader Public Management Reform Agenda, based on the comprehensive consultation approach taken to date.

**Response**
The Government agrees.

Finance will continue its consultation process with stakeholders post July 2014. To give one example, since the JCPAA hearings in April 2014, the cross-agency Planning and Reporting steering committee met on 17 June 2014 to consider the Commonwealth Performance Framework project and the Rules for Financial Reporting project.

**Recommendation 10**
The Committee recommends that the Department of Finance prepare and communicate a plan clearly outlining the anticipated dates for development and consultation of all future rules and guidance materials under the Public Governance, Performance and Accountability Act 2013, and the broader Public Management Reform Agenda.

**Response**
The Government agrees.

Finance will communicate the plan relating to future elements of the Public Management Reform Agenda.

For example, a plan on the development of the Commonwealth Performance Framework was circulated on 19 June 2014—it is available through the PMRA website.
DOCUMENTS

Responses to Senate Resolutions

Tabling

The DEPUTY PRESIDENT (15:33): I present the response from the Minister for the Environment (Mr Hunt) to a resolution of the Senate of 3 September 2014 concerning World Ranger Day and the death of Mr Glen Turner.

AUDITOR-GENERAL’S REPORTS

Report No. 2 of 2014-15


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.

Indexed Lists of Departmental and Agency Files

Tabling

The Clerk: Documents are tabled in accordance with the Senate order on departmental and agency files.

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

COMMITTEES

Finance and Public Administration Legislation Committee

Joint Select Committee on Trade and Investment Growth

Membership

The DEPUTY PRESIDENT (15:35): The President has received letters from a party leader requesting changes in the membership of committees.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (15:35): by leave—I move:

That Senators Macdonald and Smith be appointed to the Joint Select Committee on Trade and Investment Growth, and that Senators Back, Bernardi, Bushby, Canavan, Edwards, Fawcett, Heffernan, McGrath, McKenzie, O’Sullivan, Reynolds, Ruston, Seselja and Williams be appointed as participating members.

Question agreed to.

(Quorum formed)
MOTIONS

National Independent Commission Against Corruption

Senator RHIANNON (New South Wales) (15:38): At the request of Senator Milne, I move:

That the Senate calls on the Government to establish a National Independent Commission Against Corruption, delivered through an integrity commissioner, to ensure Australia is equipped with a national framework for the comprehensive prevention of corruption and misconduct, and to restore faith of the Australian people in the integrity of our democracy.

A national ICAC, a corruption watchdog, is well overdue. Evidence is mounting for this around the country, particularly in New South Wales. It is a time where we need leadership from the Liberals, Nationals and Labor on this. For too long these parties have worked together to thwart this happening. The leader of the Australian Greens, Senator Christine Milne, has taken this up on many occasions and has a bill before this parliament that would very quickly put this body in place. I put it to the senators in this chamber that it is time for leadership. It is a time for leadership rather than avoidance. That is because if there is not leadership from the Prime Minister, Tony Abbott, and the Leader of the Opposition, Bill Shorten, sooner or later a scandal will push this onto the front pages and it will be clear to everyone. Then the need for a national ICAC will be unstoppable. That is why I put it to those from the coalition parties and the Labor Party that now is the time.

The backroom deals, the lobbying, the money trails that have been exposed at the New South Wales ICAC do not stop at the border. People often joke with me that things look pretty bad in New South Wales. Yes they do. But we know about them because we have a corruption watchdog. That corruption watchdog, with the work that it is doing, has already laid an important foundation and sent an important message to people in public life in New South Wales about how they should act and about standards. The public will not have any confidence in our federal parliament and Commonwealth institutions until we have this body in place.

I certainly acknowledge a lot more is needed, particularly around electoral funding reform. But more and more, the need for a national ICAC is going at the top of the agenda with regard to the need to protect our democracy. This is an issue that we have taken up many times. I would like to share with my colleagues in this place some of the evidence that is coming out before New South Wales ICAC that further underlines the need for this body at a national level. What we have seen as the hearings at ICAC have proceeded is that more and more the federal Liberals have been drawn into the orbit of this investigation.

On 7 August this year, The Sydney Morning Herald reported that Federal Director of Liberal Party, Brian Loughmane:

…knew federal channels were being used to subvert NSW laws banning political donations from property developers.

That report goes on to say:

'Brian Loughnane has agreed that for the time being the Fed Sec will operate on the policy … in effect, there is no benefit for a NSW donor to donate via the Fed Sec, unless they are a property developer,' said federal Liberal executive Colin Gracie in a 2010 email to Simon McInnes, the finance director of the NSW Liberal Party.
This inquiry heard allegations that were very relevant to this issue. They set out that there was clear work undertaken, collusion, to divert money that could not be taken as donations in New South Wales. I acknowledge it is a grey area. But when money is consciously redirected through a national body, usually the Free Enterprise Foundation, that then goes back to New South Wales where it could not be accepted as a donation. That has been done by elected officials in a political party, in this case the Liberal Party. It certainly highlights some very serious behaviour, possibly breaking the law. I would certainly argue it is not of the standards we require in any political party.

*The Sydney Morning Herald* editorial on 7 August this year said:

Revelations last week at hearings of the Independent Commission Against Corruption have gone much further than merely highlighting that political graft runs across party divides in NSW. The highest levels of the state and federal divisions of the Liberal Party are being examined over how much they knew about what counsel assisting the ICAC, Geoffrey Watson, QC, called the use of a Liberal-linked federal fund-raising body as a ‘means of washing and re-channelling donations made by prohibited donors’ to the 2011 state election campaign.

This is very serious. Some excellent work has been done in New South Wales to reform the electoral funding laws there. That came about after a decade of work by the community groups, by the Greens and by many independent voices. To their credit, Labor eventually heard that message and reformed the laws in 2009. That is when the ban came in on developer donations.

And then we have the 2011 state election. Everybody thought the Liberals were going to win because Labor were caught up in various scandals, but they got themselves involved in these very murky arrangements, which are now coming to light thanks to ICAC—again highlighting why we need these bodies to do the investigation but, most importantly, to lift the standards so that hopefully this sort of behaviour does not continue. To share with you some more reports, on 9 August, *The Sydney Morning Herald* stated:

This week ICAC’s hearings produced a telling email between NSW Liberal Party finance director Simon McInnes and his federal colleague Colin Gracie—

That is the one I have just described. It goes on to say, because there was more information:

In it, McInnes raises the matter of a potential donor ‘will who want [sic] to donate towards the NSW campaign (Banks) for this federal election but don’t want to be disclosed in detail under NSW disclosure laws’.

That is another example of the same issue that I have raised, that there is a style of fundraising which developed in the lead-up to the 2011 election where we have collusion, where developers have given millions of dollars to Labor, Liberal and Nationals, when you add it up over about the last 12 years. So big money has come in.

Interestingly in that time in New South Wales you also saw a weakening of the planning laws, which made it much easier for developers to undertake everything from coal mines to shopping centres et cetera, with such little public involvement or scrutiny. So certainly some interesting trends have been going on there, but there has been a way of running election campaigns which has largely relied on a lot of money from a certain sector, in this case the developers. Then that is banned and we have this collusion at high levels within the Liberals and within the federal Liberals for this to be avoided. So that is one aspect of where the federal Liberals have been drawn into the New South Wales ICAC.
We also have some interesting examples on the New South Wales Central Coast. For a bit of background, we all would obviously remember the 2010 election, when then opposition leader Tony Abbott thought he was going to win. He did not win it and became quite furious with his own party, with the New South Wales Liberals, and particularly blames them because of the loss of the seats on the Central Coast—there were a couple of marginal seats there. So come to 2013 and he really wants to parachute his people into those seats. So here we have Karen McNamara and Louise Wiest, MPs from those marginal seats, who have been given the nod—however that works in the Liberal Party—who were parachuted in with the support of the Prime Minister. Where this becomes interesting is that some of these MPs have been very closely associated with a number of MPs and with some former Liberal state MPs who have got caught up in the New South Wales ICAC hearings.

Those hearings have covered a range of activities—I think it is up to 12 between state and federal Liberal MPs who have either resigned or stepped aside while these hearings are going on. In the case of the MPs on the Central Coast, what we see is that some of the candidates that the Prime Minister was very keen should run and did successfully run were closely linked with the campaigns of some of the MPs on the New South Wales Central Coast—either illegal or highly questionable with regard to raising political donations and then the campaign manager linked with that. I find it hard to believe that a campaign manager would not know that the donations being raised for a campaign she was linked with were problematic. We do not know whether that is the case. I am not suggesting that the Prime Minister knows about any of this but the problem we have is that, because of the lack of investigation and the lack of standards, people's reputations become tarnished and rightly or wrongly the public do not know. Then a great deal of cynicism develops and that takes us back to the issue of why we need a federal ICAC.

With regard to the federal ICAC, as I mentioned, Senator Christine Milne has brought a bill before the parliament about this issue. Back in May we tried to get that up but what we are seeing too often is that it is just not taken seriously. It seems as though Labor and the coalition are at one on this. Too often there is a revolving door between people who are one minute MPs and the next minute lobbyists, that there is a very unhealthy way these relationships play out. At the moment they can avoid scrutiny. When you have a corruption watchdog in place, it helps put the spotlight on and, I think, focuses people's attention on the fact that they are accountable, that when you are in public life you have been elected to serve, that you are being paid by the public, you are accountable to the public and surely there are certain standards which should be followed. That is why we say that we need to be serious about cleaning up politics.

The Greens proposal in our private member's bill calls for three new integrity officers: a national integrity commissioner, a law enforcement integrity commissioner and an independent parliamentary advisor. We are hoping to advance that private member's bill; for the moment, we are able to discuss the issue in this motion.

Surely it is time to hear, from Labor, the Nationals and the Liberals, not just excuses about why it is not needed and excuses—sadly, I have heard such the excuses from some Liberals—that all ICAC does is ruin people's reputations. That is not a good starting point. This needs to be taken seriously. What will work best at a federal level needs to be worked out.
I would argue that the New South Wales model is a very good one, because they can investigate and it has many more teeth than the Victorian model. Something like that is warranted. But if it is not going to be like that, at least come into the debate and say what form it should take rather than just rejecting it. I put it to senators that if you are going to say in this debate that a national ICAC is not needed—that it is not warranted and that the New South Wales ICAC is out of control, that it is just ruining reputations—that is not just damaging to yourselves and your party but is betraying our responsibility to strengthen the very democratic fabric that is so important to the running of our country.

We do need to restore confidence. Public confidence in the political process has been hit hard. That has been going on for many years, now. On a one-to-one basis—I say this across parties—a lot of us work very hard. When people get to know you they might have respect, but across the board there is a deep cynicism about the political process.

One of the things that makes me most sad—it is why I am so pleased that ICAC got into all these investigations—is that people often say to me, 'Why should I bother trying to influence and say my piece that I do not want this huge box of a shopping centre plonked in my little heritage township?' or 'Why should I even bother to try and resist this new coalmine application? Who is going to listen to me? They won't listen to me or pick up my phone call because I don't give lots of money.' Or people say, 'They're all corrupt.'

I am sure you have all had something similar said to you. This damage to the democratic fabric has been going on for years. I would say that that impacts on all of us. Again that brings us back to why we need a national corruption watch dog.

Let's get into the detail. It is time we started talking about what form that should take rather than just saying no. This very much goes to our accountability, our integrity and how we are perceived in the work that we undertake extensively throughout our communities.

I would also say that this is very urgent. We are now into the second half of the year. In a few months time we will be enjoying the lovely time of Christmas and the New Year, which is so wonderful in Australia. But for another year to go by—to get into 2015—when at a federal level we are still dragging the chain on this most important area is just not acceptable.

I also wanted to note that former Australian Greens leader, former senator Bob Brown raised the issue of a need for a national corruption watchdog when he was here. So the Greens have brought it up in the 42nd Parliament, the 43rd Parliament and, now, the 44th Parliament. To continue with these delaying tactics or a negative attitude to it will be a real setback. I hope that we can have some debate. I seek some indication that we can sit down and progress this issue.

It is important for the standards, not just of ourselves but of the Commonwealth agency and of public officials. It needs to have that broad brush-stroke that we see in the New South Wales ICAC in terms of people who are associated with public institutions. And I would argue that it needs full investigative powers, including the ability to conduct public and private hearings and the ability to summon any person or agency to produce documents and appear before the commissioner. It should be able to conduct investigations, apply for and execute search warrants, and hold public inquiries. That is the type of federal ICAC we need. We need to ensure that the commissioner has the capacity to investigate cases where corrupt conduct is foreseeable, making the officer's role proactive in addressing corruption. We do not
have that in the New South Wales ICAC but the experience at the state level shows that this is needed.

Sometimes you can anticipate where possible corruption could occur. For a national ICAC to have that proactive aspect to its work would be outstanding. It would give a lead across the country in improving the standards under which we all operate. I believe it would help change the culture so that people do not just think, 'I can get away with it. I can come up with this scheme where we funnel money. It's illegal to take it in one state but we will take it somewhere else—this time at a federal level—and send it back to the state.' It seems as though that is the culture in the federal Liberals and how they operated in the last state election. That is not good.

I congratulate the New South Wales ICAC for bringing it to light. It is a reminder why we need a national ICAC and why we need to raise our standards so that we change the culture and that we understand. We need to ensure that there is a widespread commitment to ensuring that our democratic process is protected and if there is a breakdown it can be investigated and we can restore the standards as quickly as possible.

Senator CANAVAN (Queensland) (15:59): Before we seek to establish new bureaucracies and before we seek to make substantial changes to our law enforcement structure we should have a problem that we need to act upon. We should have evidence that there is an issue before we go about spending lots of money, before we go about replicating processes that are already in place and, most importantly, before we go about reducing the normal law enforcement practices that exist in this country and the restrictions that are placed around them.

I did not catch all of Senator Rhiannon's contribution but I just do not see that kind of corruption problem in this country at a federal level. Yes, there have been high-profile issues at the state government level and, yes, those issues have involved people and members from all political parties; however, we have not had that evidence presented at a federal level and we should have that in view, if we are going to make a decision of this significance. We should take some pride in this country that we are ranked very highly in the world for our lack of corruption.

Transparency International, I believe, is one of the more renowned bodies in this field that assesses these issues, and Australia is ranked ninth out of 177 countries on corruption issues. So we are very, very highly ranked throughout the world on these issues. We are equal with Canada on that table. We are above many advanced economies such as Germany, the United Kingdom, France and the United States. So, again, there is no evidence that there is a great problem with corruption in our government or bureaucracies.

There is more evidence in the World Economic Forum Global Competitiveness Report 2013-14. That report asked businesses that do business in Australia what limits them from acting or conducting their business in a free and open way. Corruption was listed by those businesses as equal last in terms of the issues that they face with crime and theft, and corruption was mentioned by only just half a per cent of those surveyed.

Some of the other issues, which are quite interesting here in this regard, that are much more significant include restrictive labour regulations—that was mentioned by 17.3 per cent of
businesses in this World Economic Forum survey—as a barrier to doing business; and 13.4 per cent suggested inefficient government bureaucracy.

I think the proposal here from the Greens is about creating more bureaucracy and, to the extent that our current bureaucracies are not living up to best practice or best standards, we should surely be focused on making sure that happens first before we go about creating new bureaucracies.

I note for interest that 13.3 per cent of businesses mentioned tax rates, which fortunately this government has helped to get down.—although I know my colleague Senator McGrath wants to increase some of those tax rates but to reduce other taxes.

Senator McGrath interjecting—

Senator CANAVAN: Sorry, that is true. Sorry, Senator McGrath is going to get rid of other taxes—and regulations were mentioned by 11.4 per cent of people. I spoke yesterday in the chamber about the government's focus on reducing red tape and regulation. So we are going about tackling those issues first which are most keenly felt by businesses, and that should be our approach.

In saying all of that, we do not get that result without taking the issue of corruption very seriously. There is no doubt there is still a risk of that occurring wherever there are funds spent, people are looking after other people's moneys and decisions are made which help people make money. It is a very high risk that we must always be wary of, and the government has a zero tolerance approach to corruption. We have bodies in place already to try to root that out.

The primary body at the federal level is the Australian Commission for Law Enforcement Integrity. It works with the Australian Crime Commission, the Australian Customs and Border Protection Service and the Australian Federal Police to make sure that corruption does not exist in those organisations. Most importantly, that multiagency approach has helped keep our governance relatively clean and at those high standards across the world.

It is important to note that the Australian government is strengthening those protections, and decisions made by this government and the previous government have helped to do that. Last year we expanded the jurisdiction of the Australian Commission for Law Enforcement Integrity to cover Austrac, CrimTrac and certain aspects of the Department of Agriculture. The government is also investing a further $1 million into the Australian Commission for Law Enforcement Integrity to help it stamp out corruption at Australia's borders—and there have been some incidents on our borders with regard to corruption.

Last year there was an arrest of an AFP officer in July following a 15-month investigation by the AFP and the Australian Commission for Law Enforcement Integrity. That particular officer has been charged with corruption related offences, so there is that ability to enforce the law and the law is being enforced right now with actual charges—I might come back to that later, if I have time. One of the key things is that people are actually brought before a court of law and charged, which does not always happen at the state level with their various bodies.

The government on 31 July this year added to the strength of this structure by formally establishing the Fraud and Anti-Corruption Centre to be located in the AFP headquarters. The FAC centre will deliver a whole-of-government fraud investigations training process to the AFP and it brings together various government organisations in this area that are exposed to
these issues, including the Australian Taxation Office, the Australian Securities and
Investments Commission, the Australian Crime Commission, the Department of Human
Services, the Department of Foreign Affairs and Trade, the Australian Customs and Border
Protection Service and the Department of Immigration and Citizenship. All of those bodies
will be covered by this training at the new centre.

The centre will maintain a coordinated specialist cell that will collect, analyse and
disseminate data from Commonwealth partners; engage with existing local intelligence
initiatives; and work with financial intelligence agencies to assess, prioritise and respond to
serious fraud and corruption matters.

Further to all of those announcements, the Commonwealth recently announced Task Force
Pharos—I think it was the previous government—which will target corruption in the
Australian Customs and Border Protection Service. This government has also established the
Royal Commission into Trade Union Governance and Corruption, which is currently
underway, so all of these matters are being dealt with at the federal level.

As I said at the beginning of my remarks, there does not seem to be evidence at the federal
level of a problem. We need that evidence before we would have a response—or that should
at least be the logical way we make policy the evidence based way.

I did note that Senator Rhiannon said that we needed more teeth in our law enforcement
agencies to tackle corruption. Of course, more teeth in this case does mean that we would be
weakening certain liberties and rights that people have when they are faced with a charge or
when they appear before a law enforcement body. The way it works with ICAC and the
Crime and Corruption Commission in Queensland, where I am from, is that those bodies have
additional powers granted to them from their state parliaments to enforce the law and to try to
expose corruption. I do note, though, that we as a parliament should be very careful before we
would seek to weaken those protections for people from investigation from state officials. It is
very serious to do such things. Right now this parliament is considering, in the various
national security bills that are before this parliament, strengthening the arm of the law to
investigate very serious offences relating to terrorism. That is a matter that we should
consider very carefully, and we are doing that. These reforms have come out of various
inquiries conducted by parliamentary committees. I note the Labor Party's bipartisan support
for these processes, and we are also sending the bills to joint committees to make sure that
those extra teeth, so to speak, for the law enforcement bodies relating to terrorism are
justified.

I would like to note that the one party here that are not supporting those particular changes
are the Greens. They have the major concerns about the changed. It is fair and reasonable for
them to have those concerns and they should be considered. But they seem to be haphazardly
wanting to increase the teeth, increase the power of the state over the individual and make it
so that they have coercive powers. But on the other front, they reject out of hand the approach
to deal with terrorism. I think that is quite ironic. If their approach to terrorism were applied
in the same manner as their approach to corruption, they may not have such concern about
these police powers as they currently have. I never thought I would see the day when the
Greens would be the ones pushing for stronger powers for police, because that is effectively
what this proposal advocates.
I am concerned about that because the powers that exist in those state bodies do a number of things. The most important power that ICAC and the CCC in Queensland, which was formerly the Crimes and Misconduct Commission—I know less about the Victorian body that has recently been established—have is to compel a witness to appear before their tribunal and to make them answer questions. A witness cannot, in the American vernacular or in our popular cultural vernacular, take the fifth. They cannot refuse to answer questions under oath. They are put under oath as a witness and they must answer questions truthfully. They do not have the right to not answer the questions. That is a particularly severe power. If you are in a position to incriminate yourself and you instead mislead such bodies, you will then be guilty of the offence of perjury. So people are put in a corner. They are not given the normal rights that we provide to witnesses, which have been an established fact of our common law since the Middle Ages in England.

These powers are akin to the star chambers that were set up by various kings of England at different times—at times to expose the great crime of being a Catholic, of being a papist and supporting the Pope in Rome. Those powers were enforced there to make sure that people had to answer questions on their various religious beliefs. Fortunately, over time, as parliamentary democracy emerged in England, those powers were removed and it became enshrined as part of our common law that you would not be compelled to incriminate yourself in a court of law under oath. But these state government bodies do away with those principles. As I say, sometimes that can be justified, but we must be very careful before we would so such a thing.

I would note that both those state government bodies, ICAC and the Crime and Corruption Commission in Queensland, emerged from specific and very serious examples of corruption in New South Wales and Queensland. In Queensland, the CMC—the precursor to the CCC—was created in response to the Fitzgerald inquiry in the 1980s. There were serious issues of corruption involved there regarding a political party that I am now a member of. That particular party, the National Party, or the coalition government at the time, established the CMC in response to the Fitzgerald inquiry. It sort of gets lost in history, but it should be noted that the Fitzgerald inquiry did not actually recommend the establishment of the CMC. While it was of course a hard-hitting inquiry into allegations of corruption in the then Queensland government, the inquiry itself did not recommend the establishment of a standing body to look into corruption. It did look at that matter but it concluded that it would be an abuse of the state's power to establish an ongoing body and that instead the state should set up bodies in response to specific issues—which is always the right of parliaments—through various royal commissions or other corruption inquiries. But, notwithstanding that recommendation, that body was created and it has lasted the test of time. The Queensland government has made various reforms to it recently in response to, in the first case, some very serious lapses of protocol on behalf of the CMC where certain evidence was released publicly inadvertently and also in response to, in my view, the vexatious and frivolous use of that body to air politically inspired charges.

Likewise, ICAC was created by a coalition government in the late 1980s, around the same time—I am not sure which was first. It was an election promise by then Liberal Leader of the Opposition in New South Wales, Nick Greiner. When he became Premier and established this body he said:
In recent years, in New South Wales we have seen: a Minister of the Crown gaoled for bribery; an inquiry into a second, and indeed a third, former Minister for alleged corruption; the former Chief Stipendiary Magistrate gaoled for perverting the course of justice; a former Commissioner of Police in the courts on a criminal charge; the former Deputy Commissioner of Police charged with bribery; a series of investigations and court cases involving judicial figures including a High Court Judge; and a disturbing number of dismissals, retirements and convictions of senior police officers …

I read that out to remind everyone that what we have seen in the last couple of years in New South Wales is not necessarily unprecedented. It has happened before; it is regrettable; and it must be dealt with appropriately. But these things do happen from time, even in a relatively clean country—with respect to corruption—like Australia, and there are various bodies at state level to deal with these issues.

Of course, the former Premier of New South Wales, Nick Greiner, eventually fell foul of an ICAC investigation, and there are various opinions on whether that was right or wrong. I was a little bit young to comment on it and do not know enough, but I think there is a lot of opinion out there that he was a very good Premier of New South Wales. He was subsequently cleared of any wrongdoing. Notwithstanding that fact, the political damage caused by the ICAC inquiry caused him to stand down for New South Wales to lose a very good Premier.

That brings me back to the point that I made at the start of this contribution—that is, that there are always risks in establishing new investigative bodies like this. We should not pretend that such bodies themselves cannot ever make mistakes or be subject to their own errors or particular biases and lapse into practices which perhaps are not maintaining the best standards. So I would be concerned if we were to jump to the establishment of such a body, particularly in an environment such as we are in at the moment, which is a charged environment—following the particular instances in New South Wales—and also in an environment where there has not been any detailed allegations of serious wrongdoing at a federal level.

I do note that in 2011—before I was here—we looked at this as a parliament. The Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity looked at whether or not such a body should be established federally. They recommended that the government should look at it. The then Labor government responded to that inquiry's recommendation and said:

The Government's approach to preventing corruption is based on the premise that no single body should be responsible. Instead, a strong constitutional foundation (the separation of powers and the rule of law) is enhanced by a range of bodies and government initiatives that promote accountability and transparency.

... ... ...

This distribution of responsibility creates a strong system of checks and balances.

I support that statement from the former Labor government. I believe that we do have a strong system of checks and balances federally. Part of those checks and balances, of course, is this place here which I stand in right now.

This chamber is a check and a balance on the executive government. This chamber is not run or dominated by government members. We have a record number of crossbenchers. This chamber is its own ruler and it always has the power to investigate any issue that relates to government—and, of course, any of those that may relate to serious offences of corruption. I
believe that this chamber over time has done a good job at playing its role with respect to checks and balances. I do not see any major limitation on the powers of this body, the Senate, to carry out that role. I do not see the need at this time for an additional bureaucracy at the federal government level. But we should of course seek to improve and maintain the anti-corruption bodies and agencies that we have here in Canberra.

Senator JACINTA COLLINS (Victoria) (16:18): In addressing this motion, I have been listening to Senator Canavan's comments and I do concur that there are risks in addressing this issue—and I will come to covering some aspects of those during my contribution. In my contribution today I intend to look at some of the more recent history since this matter was last addressed and indicate that Labor is open to considering a federal ICAC. That said, we think that addressing it here today in this way is a tad premature and that there are potentially problems with the Greens' preferred position—if I read the motion correctly—in terms of what is alluded to in it.

Firstly, let me reflect on one point. As we address this issue, I think it is important to go to the bone of the matter. In our system of government, particularly here in Australia, there are checks and balances between the executive, the parliament and the courts, and those checks and balances are indeed critical. They exist to guard against one overwhelming the other. But when one is found to be influenced by outside interests it can be labelled as corruption and, in a parliamentary democracy of Australia's calibre, it is an important issue to address.

Labor feels that there is new cause for concern about corruption in Australian politics and that that concern goes to the New South Wales branch of the Liberal Party. Coincidentally, our Treasurer and Prime Minister call the New South Wales branch of the Liberal Party home. Another individual also calls the New South Wales branch of the Liberal Party home, and that person is former Assistant Treasurer Senator Sinodinos—who, since I first addressed some issues in the Senate back in March last year, has had cause to answer many questions that are relevant to this discussion.

I say 'former', as Senator Sinodinos accepted standing aside while the ICAC inquiry investigation occurred. But that was 10 months ago and his frontbench position remains vacant. I think that is a statement about our parliamentary democracy in itself. I have listened to debates in this chamber about Assistant Treasurer matters and FoFA matters, where concerns have been raised about how competently government is addressing issues in this critical portfolio and, indeed, the support that is needed for the Treasurer—and this position still remains vacant. From my most recent reading of press reports on this matter, it seems as though it is likely to remain vacant until after January next year, which in itself is quite an incredible situation. The Australian federal government continues to operate one short for more than 12 months whilst ICAC investigators very serious issues.

Senator Sinodinos has appeared at the New South Wales ICAC on two occasions and has heard allegations of illegal political donations being funnelled through various slush funds to the New South Wales Liberal Party. Senator Sinodinos said he was not aware of more than $70,000 in donations to the Liberal Party while he chaired Australian Water Holdings and was Liberal Party Treasurer at the same time. Ten million dollars to $20 million was the figure put to Senator Sinodinos that he stood to make from the dealings between Australian Water Holdings and Sydney Water. I think 'dealings' is a very generous way of describing what occurred with respect to Sydney Water. The treatment that occurred to what is an
Australian public utility was incredible and very difficult to justify. I look forward to the New South Wales ICAC report on how that public utility—I am tempted to use a word which I will not—was dealt with.

Senator Sinodinos also said that he was not aware Australian Water Holdings paid $183,000 to the alleged slush fund Eight by Five while he chaired Australian Water Holdings. Senator Sinodinos, we know from press reports assessing this point, gave in total 68 'don't recall', 'don't recollect' and 'do not remember' answers—an extraordinary achievement, even for the good senator. Senator Sinodinos made an extraordinary comment in an opinion piece in *The Australian* on 18 October 2012 which I will repeat now. It said:

Labor's defence of Peter Slipper did not pass the pub test. The true test of leadership is to uphold a standard even if it is at a cost to your own side. Anything else is rank hypocrisy.

Such strong opinions back in October 2012.

Given the recent history of Senator Sinodinos, I would have thought he would feel that what has happened subsequently is a bit hypocritical. We heard about a Liberal staffer confessing to ICAC that enormous sums of money, including from property developers banned from making political donations under New South Wales law, were laundered through the organisations Eight by Five and the Free Enterprise Foundation before being passed on to the New South Wales Liberal Party. As Neil Chenoweth wrote in the *Financial Review* on 7 May:

Any investigation of NSW state finances inevitably involves some scrutiny of federal fund-raising. It’s done by the same people, the same structures, there are constant crossovers.

We have in just the past few months seen resignations from former New South Wales Liberal Premier Barry O’Farrell, two New South Wales Liberal cabinet ministers and several others. But New South Wales Liberal police minister, Mike Gallagher, the man tasked with fighting corruption and crime, was forced to resign due to revelations made to ICAC.

As I said previously, January is when ICAC reports. It will be interesting to see at that stage how the government deals with Senator Sinodinos’s position. But it has caused me to reflect on the time when I first addressed, as a matter of public interest, the statement that Senator Sinodinos made in relation to his statement of private interests. I remember on that occasion attempting, before any of these issues had been addressed and canvassed at ICAC, to ask further questions about the statement that Senator Sinodinos had made and the information that was lacking in that statement. Time and time again, Senator Brandis interrupted, called empty points of order and became quite agitated to the extent that it was impossible for me to proceed with asking some of the very valid questions at that point in time. I would remind senators of that contribution. It was on 13 March last year. In reflecting on this issue, I would encourage you to go back, look at that and think: ‘Today, our Attorney is the person who took these issues in the way that he did on that occasion.’ To me, it was quite incredible, but I encourage senators to reach their own conclusions on reviewing his behaviour on that occasion. I commend Senator Fierravanti-Wells, who is in the chamber on this occasion, as she has not conducted herself in anywhere near a similar fashion.

We believe that the current scandal calls into question the integrity of federal Liberal politicians and political finance laws. This is why we say that recent history indicates that it is time to revisit some of these issues. Labor is open to considering a federal ICAC. During our time in government, there was not such clear evidence of the nature, extent and sources of
corruption at a Commonwealth level which would justify the establishment of a federal ICAC. The opposition has never objected in principle to a federal independent commission against corruption. The concern for Labor was whether there was a clear case for such an organisation to be set up. The Labor government supported improving Commonwealth anticorruption efforts which would make it easier to prevent, detect and respond to corruption. Labor strongly supported existing anticorruption agencies, such as the Australian Crime Commission and the Australian Commission for Law Enforcement Integrity, and took a national anticorruption plan to the last election. It is now clear that stronger steps may need to be taken and therefore Labor is open to considering a federal ICAC body as one aspect of a federal anticorruption policy. But let's remember: it is one aspect and we need to consider a broader plan and an appropriate plan to our federal circumstances.

A very clear case needs to be made that corruption at a Commonwealth level is of a type and of an extent which justifies a serious change of policy. Even if such a case were made out, we need to think carefully about whether simply adopting the ICAC model, now familiar in various states, is the appropriate way to proceed at a Commonwealth level. As I said before, Labor took a national anticorruption plan to the last election, a plan which the Abbott government has taken no action on. Indeed, from their end, there is no plan.

If there is any serious question of significant corruption in the federal sphere we are, of course, open to the full suite of measures which might be necessary to restore public trust. That is what is clearly required in the Australian political environment. It affects all of us, regardless of party political perspective. I must say, if I reflect on my time in federal parliament, which spans around 18 years, it is the one issue in which I can observe a serious decline in public trust. The public standing of our members of parliament is a very critical element to our parliamentary democracy, and it is something that we need to guard fiercely, to protect and, indeed, to uphold. This is why I have said previously that this debate is now critical because upholding that public standing has become something that is very much at the fore today. A federal anticorruption body deserves consideration as one of the broader measures to uphold the public standing of members of parliament.

As I said at the outset, the Greens' motion is premature. It is appropriate to consider this motion by the Greens in the context of their previous attempts to introduce similar legislation. The current motion by the Australian Greens alludes to the National Integrity Commission Bill, the NIC Bill, that the Australian Greens previously introduced into the parliament. Other attempts by the Greens to move such legislation include the National Integrity Commissioner Bill 2010 introduced by Senator Bob Brown in June that year and reintroduced when parliament reconvened after the August 2010 election. In 2012 Adam Bandt MP introduced the National Integrity Commissioner Bill 2012 into the other place. These bills lapsed without having been debated when the 43rd Parliament was prorogued.

The House Selection Committee concluded that the 2012 bill moved by Adam Bandt MP was an appropriation bill and could not proceed in its current form. The House of Representatives Standing Committee on Social Policy and Legal Affairs recommended that the 2012 bill not proceed prior to the establishment of a joint select committee to investigate the feasibility and cost of a national integrity commission to consider, among other things, the threshold issue of whether such a body was needed. Despite all of this history, the
implications of a national integrity commission has yet to have the careful consideration it requires. This is why I say it is premature to have the Senate endorse today's motion today.

There are potentially other problems with the Greens' preferred policy, if I take the motion correctly. The National Integrity Commission Bill, to which this motion refers, provides for an integrity commission which has three components: a federal ICAC body based on the New South Wales model; the Australian Commission for Law Enforcement and Integrity, ACLEI, in its present form; and an independent parliamentary adviser to advise MPs on ethics and entitlements and to develop a parliamentary code of conduct. The creation of an independent parliamentary adviser is not necessarily good policy in general. In any case, it is open to question whether such an office should be housed within a watchdog-type body; there may be better ways to perform that role. There are open questions about how a number of federal integrity bodies, such as the Australian Commission for Law Enforcement and Integrity, ought to be integrated with or situated alongside any federal ICAC body.

Labor have a longstanding commitment to a full suite of anticorruption measures at a federal level. When we think of integrity measures we need to think about how we can manage the investigation of questionable practices, and it is in this context that we believe we need to think very seriously about a federal ICAC. So, as I indicated at the outset, recent history has indicated that this is a matter that we should look at afresh. Labor are open to considering a federal ICAC, but we believe it should be considered within a broader suite of anticorruption matters. In doing so we think this motion as it stands is premature and that a better way would be to work further through a joint select committee-type process to reach an agreed understanding of what such a full suite of measures should be.

Despite me indicating that there are some potential problems, I think the intention behind the suggestion that we have an independent parliamentary adviser to advise MPs on ethics and entitlements and to develop a parliamentary code of conduct is a good intention. It is one issue where the standing of federal members of parliament and, indeed, state members as well, has continued to be challenged by story, after story, after story around these types of issues. But whether such an adviser—and I must say that, in the current political environment, I would not envy that role—is the best way to tackle the provision to members and senators of competent advice on such things as entitlements or, more critically I suspect, broader ethical issues is a good question. It has obviously been a significant challenge for the parliamentary process in the current political environment and one which MaPS staff within Finance find a daily challenge. Again, I think we do need a process to look more carefully at all of those issues.

I commend the Greens for moving this motion and raising this issue—as indeed we did in the lead-up to the last election. I have indicated that Labor is open to considering a federal ICAC among a broader suite of anti-corruption measures. I have highlighted that the standing of, in particular, federal members of parliament is a critical issue for parliamentary democracy and, given recent history, one we should look at carefully and address. In doing so, I think we should move on from the discussion today to look at a process where addressing those issues might occur in a fuller or broader fashion to ensure that the issues that we are all concerned about from the discussion I have heard today can be considered more carefully. *(Time expired)*
Senator WHISH-WILSON (Tasmania) (16:39): Senator Collins, thank you for making my speech easier. You have spent the last seven or eight minutes outlining the history of the Greens' very important engagement on this issue here in this chamber. Actually, we have raised this issue prior to 2010. Senator Bob Brown, my predecessor, has raised this previously. It has been a long crusade for us to try and get a federal ICAC and better scrutiny of parliamentary processes—and I will get to those processes in a minute. I am encouraged to hear Senator Collins say that this is potentially a fork in the road for this chamber and we may get some support from the Labor Party to put in place a process now. It is really about priorities. As Senator Collins has highlighted, this matter has been brought to this chamber twice in the form of legislation and it has been referred to a committee. And yet, nearly five years later, there has not been any significant movement at all on the establishment of a federal body. Of course, it has to be done in the right way. All of the concerns raised by Senator Collins are justified and valid. But we have been debating this for a long time and it is time that we actually did set up this body, along with a suite of other measures which I also agree with—and I will touch on those in a minute.

One of my favourite Australian authors, David Gregory Roberts, said: 'The only thing more ruthless and cynical than the business of big politics is the politics of big business, and when the two come together you have the perfect storm.' What he means by the business of big politics is quite simple: it is about getting political parties elected; it is about putting your interests and those of your party first and making sure that, at polling day, you hold onto power or seize power. The politics of big businesses is also pretty simple: it is about getting what they want and getting deliverables and outcomes for their shareholders. Nobody would dispute that. We are visited by lobbyists in this building all day every day. They are unashamedly here to look after the interests of their shareholders, their stakeholders. And it is not just business lobbyists. There are also unions and environment groups. In pretty well established theory these groups are often referred to as special interests—and sometimes they are also called vested interests.

I have spoken on this at least four or five times in speeches since I have been in the Senate, which has only been two years. I was quite chuffed when I got an email from an American couple who had been travelling in Australia. They were driving their RV and they must have had parliament on the radio—probably for want of knowing what a better station might be! Nevertheless, they heard the speech I was giving on this matter and they contacted me when they got back to Florida. This gentleman said that their local church had been talking about this issue recently. He pointed me to a couple of reports which I have since read with great interest.

One of those reports talked about the illusion of participatory democracy. It said individual voters who turn up to vote in elections—which of course they should do in this country, unlike in the USA—are assumed to be the best informed they can possibly be on critical issues. Of course, most voters go to elections with a huge array of issues in their minds—some of which may stick out more than others. Sadly, many also go to polling booths with very little understanding of or real interest in what is going on around them and how they are going vote. However, within that same democracy we have special interest groups that are highly organised, highly resourced and highly motivated, and they have a whole set of tools in their tool kit that they can employ to get the outcomes that they want. The illusion of
participatory democracy is that we think we run this country when we vote governments in. But what goes on behind the scenes in terms of lobbying—whether it be the lobbying of ministers, senators or individual MPs—is actually what determines parliamentary outcomes, legislation and government decisions.

This gentleman—I will not name him because I have not asked for his permission—referred me to a report published just last year by Harvard University. The report—and it is now a book—was written by Professor William English. The title is *Institutional Corruption and the Crisis of Liberal Democracy*. The author has two key recommendations. He basically says democracy is the best system we have got but, unfortunately, it is subject to corrupting influences, the key one being that is easily corrupted by rent-seeking interests. Rent-seeking interests, just for the record, are the same thing as special interests and vested interests, but in the case specifically of rent seeking we are dealing with businesses who are looking to protect their profits or grow their businesses. He comes to two conclusions: in a liberal democracy like ours, there are only two ways that we can prevent this corruption of our democracy, and the first and foremost is to put in place substantial investigative efforts that uncover and communicate abuses of democracy. Of course, he goes on to talk a lot more about these special interests and the fact that really our democracies are easily hijacked by rent-seeking interests.

When you look at corporate donations—I am talking specifically here of rent-seeking interests and businesses—it raises a question. It would be questionable for any corporation to act against the interests of shareholders and put out money in political donations if it did not think it was going to get a good return on that investment. So it is a simple question: why do corporations give money to political parties? Sometimes they give money to both the major parties; it is not just the current government, the Liberal Party, here. Why do they give money to governments and to political parties? You have to draw the fairly obvious conclusion that they want something in return: they want influence in return.

This issue has been very near and dear to my heart, because in Tasmania my path to standing here in the Senate today has come through a very large decade-long campaign against a polluting pulp mill in my backyard in the Tamar Valley, near the ocean where I surf and recreate. It is way too much to fit into 20 minutes, and I talked a lot about it in my opening speech to the Senate, but the issue of political donations to the federal government during this campaign was a very hot topic in Tasmania. It was covered extensively by the media. There has been a lot of literature written on it. There have been entire books written about the corruption, or perceived corruption, around the Gunns pulp mill, which took years to assess; went through all sorts of processes, including a corrupted process; was pulled out of the state government assessment; was rammed through parliament, with parliament becoming the planning body; and then, of course, went to federal parliament for approval.

I just want to go through some information here on an example of what a federal ICAC could look at. It is a very real example. Senator Canavan talked earlier about how there is no evidence that he can see that we need a federal ICAC. I would ask him to have a look at the history and the background in the last decade surrounding the Gunns Limited pulp mill and the processes around that. This is an article from *The Australian* dated 10 October 2007 by Matthew Denholm, who is a very good journalist:
Gunns's donations to the major parties have long been contentious in Tasmania. The company gave $70,000 to the state division of the Liberal Party and the Liberal-linked Free Enterprise Foundation between November 2004 and April 2005.

I just note that I have read today that the Free Enterprise Foundation—and Senator Brandis, one of the greatest legal minds in the country, would be able to point out to me if this is incorrect—is currently the subject of an investigation by the New South Wales ICAC over payments to the New South Wales Liberal Party relating to property developments. It is the same foundation that received funds from Gunns federally in 2004-05. This followed the 2004 federal election, in which Mr Howard announced the continuation of old-growth logging and a far more modest forest protection policy than was put forward by the then Labor leader, Mark Latham. It was a fascinating time in history; once again, there is no time to cover it today, but for anyone who is interested I would thoroughly recommend reading about Mr Latham's lightning trip down to Tasmania, his visit with Bob Brown to the old-growth forests and what followed afterwards.

Former state Liberal leader Bob Cheek outlines this accusation in his book *Cheeky: Confessions of a Ferret Salesman*, which Senator Bushby has very possibly read. In the lead-up to the 2002 state election, he was the leader of the Liberal Party in Tasmania. Do not ask me about the ferrets, but he actually was a ferret salesman before he went into politics.

**Senator Brandis:** You're making this up.

**Senator WHISH-WILSON:** That is the truth. He claims, Senator Brandis, that Gunns executive John Gay showed him two cheques, one a guaranteed donation of $10,000 and another for $20,000, 'to come if I locked in the right answer to the question'. The question was, 'Will you continue to support the existing forestry policy?' which of course was about access to old-growth forests.

It has gone down in infamy that Mark Latham wanted to shut down old-growth logging and in the end John Howard was quite happy to keep open the idea that potentially—and certainly at the time—a world-class pulp mill would be built in the Tamar Valley and four million to five million tonnes of native forest per annum would be fed into that pulp mill. Over the life of the project, 20 to 30 years, we are talking about most of the old-growth forests left in the state being fed into this monster if it had gone ahead.

Further down the track, where we had the federal approval of this project—the Liberal Party were in government at that time as well—*The Australian* reported:

TIMBER company Gunns donated $56,000 to the Liberal Party in the weeks after the Howard government gave conditional approval for the company's $2.2billion Tasmanian pulp mill.

Annual political donation returns released by the Australian Electoral Commission yesterday reveal Gunns donated $64,750 to the national and Tasmanian divisions of the Liberal Party in the 2007-08 financial year.

Of this, $56,700 was donated to the Liberals in the time between then-environment minister Malcolm Turnbull’s conditional approval for the mill on October 4, 2007, and the federal election on November 24 of that year.

This is the interesting part:

The donations were made in six payments ranging, from $900 on October 12—prior to the approval—
to $25,000 on November 13.

So these payments were staged, they trickled in and they increased in value after the approval going into the election. My predecessor Senator Brown raised this in the chamber. *The Australian* reported:

... Bob Brown said the funds raised serious concerns and questions about "the influence of political donations". "You have to wonder why Gunns gave not just one lump-sum donation to the federal Liberal Party between the announcement of the go-ahead for the pulp mill and the election, but a series of donations ... Couldn't Gunns make up their minds? Or was there some flow of information between the party and the company?"

Anyway, that year—you may also be interested to know, Mr Acting Deputy President Sterle—Labor received only $1,986 from Gunns, and that was donated on 8 August 2007.

So this issue is an example of the type of transparency that people would like to see. They would like to see these types of things investigated. It may be that there are no findings of corruption made in instances like this—

*Senator Brandis interjecting—*

**Senator WHISH-WILSON:** But my point is an important one, Senator Brandis, through you, Chair: this is what the public expect from us. They want to see increased transparency, and they do not understand why a chamber full of politicians, who could potentially all be investigated in the future, are dragging their heels on trying to institute a body like a federal ICAC. They see that as a conflict of interest. It is quite an irony that we are not happy to be put under further scrutiny ourselves and to have the actions of our parties scrutinised. And that is not acceptable. Remember this illusion of participatory democracy? A lot of people in this country and around the world are talking about the problems with our democracy, in the sense that it is so easily hijacked.

I do want to talk a little about Tasmania. All states have a version of an ICAC. In Tasmania, unfortunately, we have an integrity commission which has very limited powers. One of the first things our new Integrity Commission did—and it was only established in 2010—was to investigate corruption around the Gunns pulp mill. In a 2012 leaked report, the commission reported—and this is about the construction of the Tamar Valley pulp mill—that: 'The Commission presently lacks the legislative capacity to adequately investigate whether the government's support for the proposed pulp mill was improper.' It received confidential submissions—hundreds of confidential submissions, and I do not know the detail of those submissions—but it lacked the ability to actually do this investigation. There is a whole series of recommendations that the Tasmanian Greens, currently led by Kim Booth, have made, to try to get much stronger teeth for this Tasmanian Integrity Commission. But it really raises these questions about whether we have a role for a federal body that could also look at instances like the ones I have just discussed.

Such a body has been mentioned in the chamber already today by Senator Collins, around FoFA. And there is a difference between personal corruption and institutional corruption. Sometimes the line is blurred. The ICAC in New South Wales is looking at examples of personal corruption where individual politicians or public servants may have received inducements for favours. Institutional corruption is a lot harder to define. It is about these things like special interest theory. How beholden are governments and politicians to the big end of town or to special interests? But I am convinced from the FoFA inquiry—which I was
on with Senator Bushby, who is here in the chamber—that the Australian Bankers' Association made a very clear statement that they had expected the government to deliver a watering down—and 'watering down' are my words; that is not what they said, but they had expected it to deliver changes to the FoFA regulations. It is all in Hansard. Ms Tate gave that evidence at the Senate inquiry. I asked why they had not changed their compliance systems in time for 30 June, and she said:

We do have an expectation, because we had bipartisan support prior to the last election that these things would happen.

They are the exact words she used. What sort of deal was done between the government and the Australian Bankers' Association—the big banks—I do not know. But when I look at—

Senator Bushby interjecting—

Senator WHISH-WILSON: Senator Bushby, through you, Chair: this is all about perception. This is about what the public think when they look at this. Following that, you rammed through, tried to get through, legislation. When that failed, you changed, and you brought in regulations before 30 June. You rushed them through on a Sunday afternoon so that they could not be scrutinised. You did a dirty deal with the Palmer party to get your regulations up. Now you are trying to get your legislation through the parliament, prior to the release of the financial services inquiry report, and prior to the release of a sensitive report by ASIC very shortly on the inquiry, that it is because not only does it impact the sales-driven business models of the big financial services companies but also it is going to cost them hundreds of millions of dollars in compliance to meet the FoFA regulations by 30 June. To me, that is a very clear example of where your government has chosen to side with big business, with the big end of town, over Seniors Australia, over Choice, and over other groups, because—let us call it a deal—that is a deal that you did with the banks, to get that done. And, coincidentally, you were the beneficiaries of large donations from the banks, going into the federal election, which occurred after these discussions with the Australian Bankers' Association about delivering these outcomes on FoFA. You could say that was a coincidence, but most average Australians, who expect higher levels of transparency from their government, would look at it and go: 'You delivered for the banks.' That is a choice you have made. That is rent-seeking, by anyone's books, if it is true, and I think it is. And it could also be viewed as institutional corruption.

So these are the types of things that I think Australian voters, Australian citizens, expect to be addressed by such a body. I will not go into the details, but Senator Rhiannon has talked about the Canadian model. And I agree with Senator Collins on what was said earlier: these things need to be done properly; they need to be thoroughly investigated. But let us get on with it. We seem to have agreement from the Labor Party that we should now enter into this process to have a federal body. There are other things we can do around lobbyists' registers and a whole suite of other things we could do to tighten this up. Let us not do it for ourselves; let us do it for the Australian people. It is what they expect, and it will certainly increase the confidence that they have in us as decision-makers in this parliament which they voted us into. (Time expired)
The ACTING DEPUTY PRESIDENT (Senator Sterle): I had Senator Macdonald down to speak next; have you mob changed the batting order?

Senator McGrath: Yes.

The ACTING DEPUTY PRESIDENT: I wasn't informed! I call Senator McGrath.

Senator McGrath (Queensland) (16:59): I am very proud to be a member of the B team! I am very happy to bat for the B team!

I am very happy to speak here today. I do not think the Australian people are calling out for another bureaucratic institution to be established. I just do not think that the Australian people are going to march down the highways and byways of Australian towns and cities saying, 'Let's set up a federal anticorruption body.' I think that the Australian people are pretty good judges of character and I think they always make the right decisions when it comes to elections, even when they do not vote for my mob and they vote for other people. I think that what the Australian people think about us as federal politicians is that they may not particularly like us. Let's be honest: Australians are very earthy people and they really do not like politicians. They would probably cross the road sometimes to avoid politicians. In fact, especially when it comes around to pay-rise time, Australian people would probably like to give us all a poke in the eye rather than any pay rises!

However, whatever the views of the Australian people are I do not think that they think we are corrupt. I sometimes think the Australian people may think that we could not be trusted to operate a toaster, but they do not think we are corrupt. Sometimes they may think we are incompetent and so forth, and that we should not be trusted with machinery or anything like that. But when it comes to corruption, I do not think Australians think that we are corrupt.

This motion of the Greens, however well meaning it is—and I think it is well meaning—is addressing a problem that does not exist, and it will then, in effect, create a problem by having another level of bureaucracy put upon us as federal politicians. Transparency International, a body that ranks countries in terms of their openness and corruption regards Australia as one of the least-corrupt countries in the world. So if our good friends at Transparency International believe we are not corrupt then I am unsure why we would want to establish a federal anticorruption body.

I might read out for you what Transparency International says about corruption:

Corruption is one of the greatest challenges of the contemporary world. It undermines good government, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector and private sector development and particularly hurts the poor. Controlling it is only possible with the cooperation of a wide range of stakeholders in the integrity system, including most importantly the state, civil society, and the private sector. There is also a crucial role to be played by international institutions.

That is what Transparency International says about corruption.

But this is the body that says Australia is not corrupt; that we are such an open and transparent country. It is interesting that other open and transparent countries, like the United States of American and like the United Kingdom, do not have federal anticorruption bodies. I do not think that our creating this body and employing extra public servants—as much as some of my best friends are public servants—is going to improve the level of governance in
this country or the openness and transparency of governance in this country because we are a pretty open and transparent country as we stand.

The Australian government—and I think this is on both sides, with the opposition and the coalition here—at a federal level have, since Federation, been very open and honest governments. I do not think there has been much corruption. Or, if there has been any corruption it has been on such a minor scale that it is of a parking-ticket level rather than anything that is more of a serious misdemeanour. So I just want to put on the record that this government—the government that I am proud to be a member of—does have a zero tolerance approach to corruption. It is committed to stamping out corruption in all its forms.

I think this is where the Australian people come in again. The Australian people will talk about a fair go and a fair deal. If the Australian people see something they think is a little bit dodgy then my experience of the Australian people is that they will speak up for the underdog; they will speak up when something is wrong. The Australian people will go to the local police in their state, or to the Australian Federal Police or even go to politicians to raise concerns about other politicians. I think that sometimes having that veneer of sunlight—no, 'veneer' is the wrong word: having that opus of sunlight that shines on what politicians do is better than establishing this institution.

While we should never be complacent about corruption, it is important to consider the issue in a very proportionate and measured way. We do not want to have some Salem witch-hunts, which do happen in some parts of Australia where state bodies have been established. Sometimes people are dragged before these bodies and have their names dragged through the mud. I do not want to talk about anywhere that is happening at the moment, but sometimes these bodies probably actually end up doing more damage to individual reputations than achieving their aim of cleaning out corruption.

At the moment the government here has a multiagency approach that is effective, and it is working. It consists of the Australian Commission for Law Enforcement Integrity—and this body is responsible for preventing, detecting and investigating serious and systemic corruption issues; the Australian Crime Commission; the Australian Customs and Border Protection Service and also the Australian Federal Police.

Last year, the Australian Commission for Law Enforcement Integrity's jurisdiction was extended to AUSTRAC. It was also extended to CrimTrac and to certain prescribed aspects of the Department of Agriculture. This government is proudly investing a further $1 million in the Australian Commission for Law Enforcement Integrity as part of comprehensive measures to stamp out corruption at Australia's borders. We have seen the effective work of this agency with the arrest already of an AFP officer in July following a 15-month joint investigation between the Australian Federal Police professional standards areas and the Australian Commission for Law Enforcement Integrity. This officer was charged with corruption related offences. This investigation and arrest show Australia's ongoing commitment to upholding the integrity of those who serve the Australian community.

I should also mention the Commonwealth Ombudsman. As someone who used to work for the Queensland Ombudsman back at the end of the last century, I strongly believe in the role of the Ombudsman in looking at maladministration within government departments and agencies. I believe that the Commonwealth Ombudsman performs an important function in investigating and auditing various agencies and functions. I know that the Queensland
Ombudsman along with the Commonwealth Ombudsman, which have been going for decades, have found many areas where they can see reform and they have made suggestions about reform.

The Australian Federal Police also play a fundamental role, a very important role, in investigating serious corruption issues. On 31 July this year, the Australian government added to the strength of this structure by formally establishing the Fraud and Anti-Corruption Centre located in the Australian Federal Police headquarters. This Fraud and Anti-Corruption Centre delivers whole-of-government fraud investigation training in partnership with Australian Federal Police learning and development. This Fraud and Anti-Corruption Centre brings together the Australian Taxation Office, the Australian Securities and Investments Commission, the Australian Crime Commission, the Department of Human Services and the Department of Foreign Affairs and Trade, not to mention the Australian Customs and Border Protection Service and the Department of Immigration and Border Protection. It brings them altogether to assess, to prioritise and to respond to serious fraud and corruption measures. This centre is going to maintain a coordinated specialist cell that will collect, analyse and disseminate data from Commonwealth partners. It is going to engage with existing local intelligence initiatives and work with financial intelligence agencies to assess, prioritise and respond to serious fraud and corruption matters.

These measures show that the federal government is taking the issue of perceived corruption very seriously. But it is better to have these types of bodies established, which are within the system at the moment, rather than setting up an additional body, which I imagine would have anywhere between 50 and 100 staff. It would be one of those bodies that grows and grows and grows. I should mention that in addition the Commonwealth has recently announced Task Force Pharos which will target corruption in the Australian Customs and Border Protection Service. The thing we should say is that so many people who work for the federal government, whether they are on the front line when you come through Brisbane or Sydney airport or elsewhere, are very hardworking people who maintain the front line against those who would do harm to Australia. It is a very, very small minority of people who may be up to no good. Often there is no need for the establishment of a further body to investigate allegations. Instead, it is for those good people who are working in these services to dob in a mate. That is a better way for these things to be found out and taken to the appropriate authorities. It is up to all of us to make sure that we keep our eyes and our ears open so that if we think that someone is up to no good we go to our supervisor—we go to our boss. If you are concerned about that, there is whistleblower protection, or you can make anonymous complaints. I think setting up a further bureaucratic body is not the way to go.

The government has also delivered on a key election commitment to establish the Royal Commission into Trade Union Governance and Corruption, which was announced by the Prime Minister in February and is now underway. The terms of reference for the commission were not restrictive so it is a truly national inquiry. I think we are proud of Australia's position and reputation because we are seen as a very open, free and transparent country. I have done a lot of work in emerging democracies over the years and in those countries people wish they had the reputation of Australia. They wish that their civic institutions were built up and established to have the strength of honesty, openness and transparency that Australia's institutions have. One of the senators for the Australian Greens talked about institutional
corruption and made references to donations and banks and things like that. But I think that the existing bodies we have in place and the Australian Electoral Commission making sure that donations can be seen and the way that this place operates with thousands of people in the gallery at the moment listening to me prattle on about corruption, show that this is an open and transparent place. I do think that the Australian Greens are sincere in their views. I do not wish to attack them. I do not think they are saying that we are on the same level as some of the African countries or that we take some of the positions taken in the former Soviet Union in terms of the outrageous corruption there. But they are misguided in that they are approaching a solution to a problem that does not exist. The best way—what we should do—is look at how we can strengthen what we have, rather than throw the whole system out based on a presumption that a national anticorruption commission will be more effective.

The Australian people should be the ultimate arbiters of whether we are a corrupt body—a corrupt government—or not. The Australian people always make sensible decisions in terms of elections even when they make decisions that break my heart, as at a couple of elections recently when they voted the other side into power. The Australian people will be the ones who make the decision about whether we are corrupt and, if they think we are, they can throw one party out and put another party in. The system that has been established in Australia since Federation, when the six colonies came together and formed Australia and this Commonwealth government, is a system that has served this country well.

Just as the Liberal Party is a broad church in that it has a liberal stream and a conservative stream, I am also a very broad church in some of my views—almost a cathedral, in a way—and the conservative side of me does not want to see changes made to our institutional structures unless there is a clear, persistent and strong argument that change should be made. It is up to the Greens, who I do believe are sincere in their views, to put on the table evidence of where there is systemic corruption at a national level. We have had a lot of reading out of press clippings; we have had a lot of inferences to what has happened at a state level and to a particular inquiry taking place at the moment. We have heard very little about what is happening at a federal level. There are always stories about things that may happen in the shadows. My good friend Senator McDonald made reference in a Facebook posting today to a senator from another party and some allegations there; but it is at such a low level and it is about such a small number of people that these allegations float around. I do not think there is a call for this, or marches in the street with people saying: 'The federal government—Labor, the Liberals, the Nationals, the Greens, Palmer, all those people—are all corrupt. Let us have a federal anticorruption commission set up and that will keep them honest.' I do not think that is the answer.

What will always keep us honest are the existing institutions we have, which work very well. We could probably always improve the operation of some of them if that needed to be the case; but ultimately it is up to the Australian people to decide, in the absence of evidence from the Australian Greens. I call upon the Australian Greens: if you have evidence of systemic corruption—that we all have Cayman bank accounts or things like that, or that we are all pilfering money—please put it on the table. Please bring us the evidence of where there is corruption, because I do not think there is any corruption at a federal level. We are a very free and open country and we should be proud of the openness and freedom we have in this country. Establishing another level of bureaucracy will not improve matters. It may actually
end up hindering matters in terms of how the current institutions are working at the moment. This proposed anticorruption commission will start meddling with the current institutions which are working so well in terms of delivering their own anticorruption strategies.

Senator KETTER (Queensland) (17:19): I rise to make a contribution in respect of the proposal by the Greens. As a Queensland senator, albeit relatively new to this place, I believe I am in a position to talk about the history of official corruption. The Labor Party has a proud record in this area of addressing issues of longstanding official corruption in Queensland.

It is right that the Greens raise this issue of the general question of integrity in federal politics. There is a new cause for concern about corruption in Australian politics, notwithstanding the contribution of Senator McGrath. We have seen in recent times revelations from the New South Wales ICAC, which has heard allegations that illegal political donations have been funnelled to the New South Wales Liberal Party via various slush funds. In the last few months, as we are all aware, we have seen the resignations of former New South Wales Liberal Premier Barry O'Farrell and two New South Wales Liberal cabinet ministers.

I refer to an article by Neil Chenoweth of the Australian Financial Review of 7 May where he says:

Any investigation of NSW state finances inevitably involves some scrutiny of federal fund-raising. It’s done by the same people, the same structures, there are constant crossovers.

That scandal does call into question the integrity of politicians and, in particular, politicians of the Liberal persuasion. It calls into question the integrity of our political finance laws.

And while I am talking about political finance laws, I also make the point that the Greens have a somewhat inconsistent position on this particular issue. In Senator Whish-Wilson's contribution, he talked about the issue of corporate donations. We know that the Greens had a dissenting report on the funding of political parties and election campaigns. They said that businesses should be banned from making donations to political parties. The dissenting report said:

It is disappointing that the inquiry rejected the opportunity to place caps on election expenditure, to place a total ban on corporate donations …

Under 'A ban on all donations except from individuals and bequests', it said:

The best way to restore trust in the democratic process is to restrict political donations to only those made by individuals and bequests. This would ban businesses and lobby groups from using donations to push an agenda while allowing individuals on the electoral roll to give a limited amount of money.

That is from the dissenting report.

That may have been the Greens position; however, we know that the Greens did accept a $1.6 million donation from Mr Graeme Wood, the founder of online travel company Wotif. As I understand it, this was the largest ever political donation in Australian history. Mr Wood made a comment to the Herald before the release of the Greens campaign figures. The article said:

… Mr Wood said his donation was motivated by disappointment with Labor and Coalition policies on climate change and the environment.

I accept that the Greens party are well-meaning in bringing this matter before the Senate, but we do need to understand that there are some inconsistencies in their approach. I note that
Senator Rhiannon did raise this issue and that led to her apologising to the Greens with regard to a particular article that was published in 2012.

I believe that Labor has a proud record in this area, particularly in my home state of Queensland. I need to go back to the dark days of the late eighties to talk about the situation in Queensland at that point in time. The fact was that Queensland was seen as the laughing stock of Australia in terms of transparency and accountability at a government level. We had people referred to as the 'white shoe brigade' and we had people who seemed to have unfettered access to the decision makers in government. There was a great need at that time for reform. To his credit, the then acting Queensland Premier Bill Gunn, in May 1987, ordered a commission of inquiry after the media reported possible police corruption involving illegal gambling and prostitution. We know Tony Fitzgerald QC was appointed to lead the commission of inquiry into possible illegal activities and associated police misconduct. This, as we know, became known as the Fitzgerald inquiry.

During the inquiry, the terms of reference were extended to 'look into any other matter or thing appertaining to the aforesaid matters', which then enabled the inquiry to investigate matters of political corruption. That inquiry was initially expected to last about six weeks, but ended up taking two years, conducting a comprehensive investigation of long-term, systemic political corruption and the abuse of power in Queensland. There were 238 sitting days and 339 witnesses focusing attention in Queensland and throughout Australia on integrity and accountability in public office. That inquiry went on and it was in 1989 that we saw a change of government in the state of Queensland. Wayne Goss became the Premier of Queensland and it was left to Labor to implement the recommendations of the Fitzgerald inquiry.

Some of the things that were found by the Fitzgerald inquiry included that we had a police commissioner who was cultivated by the premier of the day and promoted to assistant commissioner over 122 equal or more senior officers. He was a police commissioner who was corrupt and who fostered a web of deceit; this was so mired in the police service it became part of its culture. The same police commissioner's trial saw him sentenced to 14 years for taking more than $600,000 in protection money. We saw a system of corruption so widespread it extended from brothel owners and hoteliers right through to the police service. It was so widespread it had its own name; it was perversely called 'the Joke'. We heard about a police officer by the name of Jack Herbert, who was known as the bagman. He was collecting payments from smugglers and other unsavoury characters.

The Fitzgerald inquiry did allow sunshine to pour in, and that was a great disinfectant for the state of Queensland. What was then created in the state of Queensland following the inquiry included the institutions that take their genesis from that inquiry: the Crime and Misconduct Commission, freedom of information laws, the Electoral and Administrative Reform Commission, the Whistleblower Protection Act and the all-party parliamentary committees overseeing those systems.

It is testament to the ability and determination of Wayne Goss that he worked and prevailed against the gerrymander that existed in Queensland at that time and which led to his historic victory. It is testament to the integrity of his government that set about cleaning up the place in an anticorruption drive, the likes of which we are unlikely to see. That led to a far more
open and transparent system in Queensland. Of course we know that the price of liberty is eternal vigilance. We must always be focused on what is happening.

Unfortunately, we have seen a bit of a return to type in recent years. There was the election of the Campbell Newman government in 2012 with a substantial majority and we then saw the government last year use its massive majority to sack the cross-party committee that oversees the Parliamentary Crime and Misconduct Committee. The original committee had been investigating whether the Acting Chairman of the Crime and Misconduct Commission, Ken Levy, had acted appropriately and whether he gave misleading evidence about his contact with the government before he wrote a newspaper article that was backing the controversial new bikie laws. As I said, the government overnight used its massive majority to sack that cross-party committee. The committee previously had an Independent MP, Liz Cunningham, on it. She was sacked, along with the six other members of the cross-party committee. They were replaced with Liberal National Party members of parliament, who then went on to hold four of the seven seats. Of those four, the member for Capalaba became the chairman at the time.

This goes to illustrate the point that we do need to be ever vigilant in this area. We have seen examples of where governments have essentially taken the law into their own hands in these types of situations. The position I would put tonight in respect of the Greens' proposal is that Labor are open to considering a federal ICAC. In fact, Labor have never objected to a federal ICAC in principle. Our concern is that there has been no clear case for the necessity of such a body. The last Labor government were serious about tackling corruption at the federal level. There was not during our time in government any clear evidence of the nature, extent and sources of corruption at a Commonwealth level. We supported improving Commonwealth anticorruption efforts that would make it easier to prevent, detect and respond to corruption. We strongly supported existing anticorruption agencies—the Australian Crime Commission and the Australian Commission for Law Enforcement Integrity. In fact, we took a national anticorruption plan to the last election, a plan which I note the Abbott government has taken no action on.

So Labor are open to considering a federal ICAC. If there is any serious question of significant corruption in the federal sphere, we are open to the full suite of measures that are necessary to restore public trust. A standing anticorruption body at the federal level does deserve some consideration, but we believe there should be full and proper consideration of a range of options.

At this point I would like to refer to the fact that in the Senate we have important checks and balances in this area. I am relatively new to the Senate and I have started participating in a number of Senate committees. I have been very impressed with the level of proficiency of those committees and with both the level of dedication of the senators and members who participate in those committees and the work that is done in the secretariat. People generally are not well aware of one of the principal functions of the Senate—and I am referring to *Odgers' Australian Senate Practice*, which states:

… perhaps more important than the functions of making laws and debating matters of public interest, is to conduct inquiries into such matters of public interest and into the conduct of government.
So there are very robust systems in place for us to investigate a whole range of issues. As I said, I am very impressed with the robustness of the Senate committee system. In fact, that system does have some teeth. Again *Odgers’ Australian Senate Practice* says:

If evidence contains allegations of criminal conduct, and those allegations could be investigated, or contains matter relevant to a criminal investigation in progress, the committee may invite the submitter to provide the evidence to the police or other investigating authority. If the evidence contains matter relevant to a criminal trial or a civil action in progress, the submitter may be invited to have the evidence put before the courts.

So the Senate committee process is very robust and is one of the protections that, I think, Australians should be aware of. It forms part of this suite of measures which act to ensure that corruption does not ever gain a foothold. In my time with the committees, we have received information from people who could be referred to as whistleblowers and, of course, those submissions or items of correspondence are appropriately dealt with. I think the people of Australia can have great confidence that there is already in place a mechanism for them to address issues of official corruption, if that is what they want to do.

In summing up, as I indicated before, Labor is open to considering a federal ICAC. It may well be an appropriate measure, but we do believe that there should be proper consideration of all the options. Labor has a longstanding commitment to a full suite of anticorruption measures at the federal level. We must be careful to take a holistic view about that. We must think about the broad suite of integrity measures. We would say there is no one panacea.

**Senator DI NATALE** (Victoria) (17:39): I have to say I am quite proud to stand up here today and speak to this important integrity measure. Listening to the debate that has occurred throughout this important motion, I have been encouraged that the debate has been conducted respectfully and that we have heard a range of views expressed. I have to say I would like to welcome the Labor Party's interest in this issue and its openness on any future discussion around the establishment of a federal anticorruption body. It is just so important. I have only been here a very short time, but what has become obvious to me is that politicians are faced with enormous pressures. When you are debating legislation and regulations which have serious financial impacts, when you are involved in those sorts of debates, the pressure that comes to bear from lobbyists, from vested interests and from individuals and organisations with very deep pockets who may have a financial stake in the outcome of that legislation or regulation, is enormous.

I have seen that occur through a number of debates. I have seen that occur, for example, over the mining tax in the previous parliament. I was personally involved in a debate on poker machine reform where we saw enormous pressure come to bear on politicians of all persuasions. I am not for a moment suggesting that there was anything corrupt about any of those activities, but the very nature of those debates does bring enormous pressure to bear on politicians from those people with a financial stake in the decision. We need to recognise that. We need to recognise that sometimes in those circumstances people make bad decisions. We have seen very recently in New South Wales—and, obviously, there has been much discussion about the situation in New South Wales—what can happen when we establish some level of oversight with a body that has the powers to investigate and, if necessary, refer people on to prosecutions. It is a very relevant example as to why we are having this debate right now.
I would just like to refer to the contribution earlier from Senator McGrath, who said he felt that people did not want another level of bureaucracy and that, generally, there was a high level of trust in politics and politicians. I do not live in that world, I have to say. I live in a world where it seems to me that politicians and politics, in general, are held in very low regard. I think the public attitude towards politicians is at a very low ebb at the moment, and I think the recent investigations and subsequent findings in the New South Wales probe have contributed to that. But one thing that has come out of that is that the Australia community is at least aware that, where people have transgressed there is a penalty associated with it. The case in New South Wales just presents a very compelling argument for why we need a federal body with similar powers.

It is true that most of the instances that have been picked up are around planning and zoning issues—approvals for particular developments, and so on. They are state and local government issues. But it is also true that what we have also seen are examples where there have been—or at least it appears there have been—sophisticated mechanisms established to get around those state planning laws, and they have involved federal members of parliament. Again, highlighting just how important it is to ensure that we have oversight, it exists not just at the state level but at the federal level. Ultimately, that corruption is corrosive. It seeps into all levels of administration and governance. The existence of corruption breeds more corruption. It breeds a level of mistrust and it undermines the work that we are all doing here.

Every state in the country has an anticorruption watchdog or some such body in operation and they all have the capacity to investigate misconduct, whether it be politicians, government officers or indeed members of the judiciary. Simply saying that we support an anticorruption body at a federal level is not enough. We know from the examples in different states where we see a body working effectively such as in New South Wales, where it really is exposing behaviours that are not acceptable. In my home state of Victoria, we have an anticorruption body that is essentially toothless and there is now a very live debate in the lead-up to a state election that is discussing what sorts of reforms need to occur to our own state anticorruption watchdog.

It is encouraging to hear the position of the Labor Party. I note that back in 2011 we had a Joint Committee on the Australian Commission for Law Enforcement Integrity and that actually proposed a significant review of the Commonwealth's integrity framework, and it did recommend the creation of an anticorruption body. So it is a surprise now that here we are three years later revisiting that issue. I also note that former Prime Minister Gillard promised a National Parliamentary Integrity Commissioner, but again we have not seen much progress on that front.

There is an argument, and I understand that argument, that we have a number of existing checks and balances and that they alone should be sufficient. But the existence of a national anticorruption watchdog does not mean that we should not continue to strengthen those existing checks and balances—the Australian Crime Commission, the Australian Customs and Border Protection Service and the Australian Federal Police. They are important but they are not as robust as having a stand-alone, independent watchdog. They just cannot achieve what an ICAC can.

Of course there is always the option for a royal commission and we have heard from a number of speakers about the impact of royal commissions in Queensland and in Western
Australia. What we have to remember is that a royal commission only occurs when there is a referral by a government. So it is self-evident that where a government is determined to ensure that we do not have transparency into the operations of politicians, the public service and the judiciary, it is their decision and their decision alone to make. While there is the option for a royal commission with the powers that exist there, and they have been effective in the past, they are only effective when they are implemented by the government of the day. They exist only at the discretion of the government.

It is not just about detecting corrupt activities and it is not just about the investigative powers and the subsequent referrals; it is also about the very existence of such a body working as a deterrent. Earlier this month, Dr Gabrielle Appleby, Deputy Director of the Public Law and Policy Research Unit at the University of Adelaide, wrote:

The very act of establishing a dedicated anti-corruption body is a meaningful public acknowledgement by government that the corruption, either systemic or opportunistic, is a problem that must be taken seriously. By fostering greater awareness and education, the introduction of a new body also provides an important moment around which cultural change within government can occur. A dedicated anti-corruption body provides a means of discovering corruption across all facets of government and parliamentary administration. It provides systemic oversight, education and coordination for the existing mechanisms.

So a body such as a federal ICAC can actually work to strengthen the existing integrity measures that we have in place at the moment.

I think there is some irony that we are in the middle of a national debate where we are talking about the issue of individual protections and security, where we are talking about ensuring public safety, and we are here right now debating the question really of protection and security for the Australian community. There is security in knowing that the decisions we make in this place— and it is easy to lose sight of this— affect the lives of ordinary people. There is a huge responsibility on each and every one of us, and people deserve to have the protection of knowing that those decisions have been made free from influences that may mean that individuals stand to gain financially from a particular outcome. That is an important form of protection. That is an important form of security. Individual members of the community absolutely deserve it. We, here, are making the laws of the land and there can be no greater security than knowing that the laws we make in this place are made for reasons of public interest rather than self-interest.

It is also ironic that sometimes one of the arguments used in the national security debate is: if you have done nothing wrong, you have nothing to hide. It is an argument that applies on this specific issue. Each and every one of us need to know that if we have done nothing wrong, if we have not behaved in a corrupt manner then we should not reject this change and we should embrace it. I say to the government, if you have done nothing wrong then you have nothing to fear from this and you should embrace it.

Ultimately, we are at an important moment in this debate. I believe that there is public momentum from within the community for change. Many of us in this place, and I think this is true of all sides, acknowledge that what has happened recently in New South Wales has had an impact on all of us—that it has damaged the reputation and standing of politicians no matter where they sit and no matter what jurisdiction they are involved in. Where corruption exists it is a cancer on our democracy and it must be stamped out. I do not pretend that this
solution alone will fix it, but it makes an important contribution to dealing with what is one of the most precious things that we have as Australian citizens, and that is the strength of our national democracy.

Senator IAN MACDONALD (Queensland) (17:53): In the five or six minutes I have left to me I will not have the opportunity of discussing at length the merits or otherwise of the proposal. Suffice it to say that were such a commission in existence, the first investigation might be the investigation into Mr Graham Wood's biggest ever political donation to the Greens political party a few years ago. Senators might remember that Mr Wood gave, I think it was, something like $1.5 million to the Greens political party. The Greens in Tasmania, as I remember the incident—and my memory is not all that good, it was a few years ago now—then did something in the Tasmanian parliament in relation to the Triabunna wood mill and port to assist Mr Wood in taking control of that site to the exclusion of the timber industry. The Greens then set up an inquiry in the federal parliament to try to get tax-free exemption for an online newspaper that Mr Graeme Wood was setting up as a commercial entity. The Greens advocated that Mr Wood should be given a tax-free status.

One would wonder just what the New South Wales ICAC might have said about that little cosy deal in the Tasmanian parliament and in the federal parliament at the time that Mr Wood gave that biggest ever political donation to any political party in Australia, and that was to the Greens political party.

Senator IAN MACDONALD: Mr Acting Deputy President, on the point of order—this cuts in, of course, to the few minutes I have to speak—if Senator Ludlam thinks I am imputing bribery, well let that be in the eye of the beholder. I did not say those words.

The ACTING DEPUTY PRESIDENT (Senator Edwards): Thank you Senator Macdonald. I will have the President review the transcript and, if there is anything in it, I will seek his direction on the matter.
I only have a few minutes left and my colleagues have gone into the substantive parts of
the motion and I will too if I can. I noticed a lot of the Labor Party contributions mentioning
alleged corruption against the Liberal Party. I could not help myself laughing. I come from
Queensland. In Queensland we have Mr Gordon Nuttall, a minister in the Queensland Labor
government actually serving time for bribery and corruption. For the Labor Party to even
mention corruption in Queensland is just gobsmacking, I must say. Add to that, Karen
Ehrmann, a poor old Labor councillor from the Townsville City Council, who was also jailed
for fraud. Then, of course, you have Keith Wright, once upon a time the leader of the Labor
Party in Queensland in jail; or he may be out by now, I am not sure. But he was in jail for
certain offences. Then there was Mr Bill D’Arcy, a serving minister in the Queensland
government serving time for some criminal activities. Of course, we have Mr Mike Kaiser
who Senator Conroy appointed to a $500,000 job with the NBN as a government lobbying
representative by NBN to lobby the government that set it up—it was just amazing. That was
500,000 Mr Kaiser got. I only mentioned Mr Kaiser because, as my Queensland friends will
know, Mr Kaiser had to leave the Queensland parliament where he was a state member
because of allegations of corruption, vote rigging and fraud. So for the Labor Party to raise
these issues in this chamber is amazing. I do not have time to go into—(Time expired)

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Report

Senator BACK (Western Australia) (18:00): I move:
That the Senate take note of the report.

The Rural and Regional Affairs and Transport References Committee report Industry
structures and systems governing levies on grass-fed cattle is most interesting. The committee
held extensive consultation with industry representatives in hearings in Canberra, Broome,
Katherine, Rockhampton, Albury-Wodonga and back again in Canberra. It was originally
intended to be a very short half-day hearing into the structure of beef levies. The further the
committee went into it, the further it became obvious that growers particularly were
dissatisfied with the circumstances in which, as part of their fees paid on cattle sold or
slaughtered, a levy is attracted. There are four elements into which the levy is paid: a
marketing and research and a development component being two of them, a small amount
going to Animal Health Australia for its administration and a fourth one for residues of
chemicals in meat. The first two were the cause of concern for most producers around
Australia. They pay about $50 million a year, so over a decade about $500 million has been
paid by growers into levies. Indeed, levies are paid by the grass fed beef producers who may
sell on the markets and the second group are feedloters who would take cattle, finish them
through the feedlots and then put them through for processing. Then there is a levy paid by
the processors themselves.

The concern being expressed by growers—time will not permit me this evening to spend a
lot of time on this—is that there is a disparity, as they claim, in terms of the voting power
between individual producers and the number of cattle they might sell in a year, particularly
the large feedloters who are themselves very often linked to processors. So if they put cattle
through a feedlot and beasts are in there for 50 days or more, they pay the levy, which is
about a $5 levy, and then when the animal is processed they pay another levy. Growers are concerned that there is an inequity in the decision making as to where the levy moneys are spent on the marketing in the research and development component.

There were seven recommendations made by the committee. One of them related to the necessary modernisation of the whole levy collection and recording process. At the moment, when cattle are sold the agent keeps the levy moneys and then at the end of each month there is some form of reconciliation, but there is no automated process that allocates the cattle themselves back to the producer. One person gave evidence to the fact that they simply got in touch with the body that oversees this at the moment, Meat and Livestock Australia, and said to them, 'We sold a certain number of cattle.' That then gave them a vote based on the number of cattle they said they had sold.

One of the very strong recommendations was that we should bring this process into the 21st century and indeed that there should be electronic settlement not only of the levies collected on a daily basis but also an electronic reconciliation of the votes counted. That should not be all that difficult to achieve. Nobody seems to be too angry about that.

If I could put it to you this way, from the growers' point of view you would say that they are the owners and therefore they pay the levies. The second group would be, if you like, the funders or the peak body who should oversee the distribution of these funds. The third group should be the providers of both marketing and research and development services. It is important to point out to the chamber that the research and development portion of the levy is met dollar for dollar by the Australian government. The marketing component is purely industry; the R&D component is added to by the Australian taxpayer to assist in the overall research and development. That therefore introduces the need for there to be some sort of statutory oversight, particularly for that component provided by the Australian taxpayer.

At the moment, Meat and Livestock Australia is the overarching body to which the funds are paid. Then we have a group called Cattle Council of Australia, which is notionally the peak body, to which producers would look for providing information and feedback and some sort of direction. You would expect that Cattle Council should be the body that oversees decisions in regard to marketing and research and development components. That is not quite how it works. MLA on the one hand is a large organisation which is very well funded. Cattle Council, which should be giving direction to Meat and Livestock Australia, is beholden to MLA for at least some of its funding. Therefore, in my own position—and I think that taken by many members of the committee—we have an imbalance. We have the producers providing the funding, we have a peak body and we should then have the provider, who should in fact undertake the work as required by the peak body and in its turn the peak body should report back to the producers. The committee was of the view that because of this concern and tension between the funds generated by processes and those by producers, that the industry's interests would be better served if they were to separate, so that it would become more transparent as to where the funds were being collected and where they were being spent.

In Australia—this was brought home very strongly—there is little transparency from the farm gate to the consumer's plate. The United States of America has the Packers and Stockyards Act, which gives a very high level of transparency so that everybody throughout the supply chain has an understanding of where the funds are allocated and who gets what.
Certainly, one of the recommendations of this committee was that the government should have a look at the Packers and Stockyards Act in the United States and see what the benefits and costs might be of doing something similar.

Why is this important? The producers would say that it is important because in the last 10 years they have seen very little, if any, increase in the per-kilogram price of meat given to them at the farm gate, whereas the overall cost of the meat product has gone up significantly. The other point they would make is that the per capita consumption of meat in Australia has gone down from about 40 kilograms to about 30 kilograms per head per year, at a time when they have paid out about half a billion dollars in levies. We do our best, if and when we can get to the Kingston Hotel on a Thursday evening, to right that wrong! Tonight will be one of the evenings when we will not be able to, so that 30 kilograms looks safe.

There are other recommendations about a role, perhaps, for the Australian National Audit Office because of the involvement of statutory funds associated with the research and development component. The National Audit Office may well want to have a look at that circumstance.

There was not unanimity in some areas. I could certainly say that I remain very concerned about a group called the Red Meat Advisory Council. As its name suggests, that council has the role of advising the minister of the day on matters pertaining to the red meat industry—particularly, in this case, matters relevant to the cattle industry. The two bodies that feed into the Red Meat Advisory Council are the Australian Processors Council representing the processors and the MLA representing the producers.

There was a point made very strongly in evidence given to us from around Australia. Probably the greatest crisis in the beef industry's history—certainly in the some-40 years that I have been associated with it—was the debacle caused by the ban on the export of live cattle in June 2011. That resulted in a circumstance in which the Red Meat Advisory Council could not come together to give any advice to the minister of the day. I hasten to add that we know very well that the minister was not in a position to take any advice because the decision was made at the Prime Minister's level. The Prime Minister was then Ms Gillard. But had the council wanted to give some advice to the minister it could not. The council could not give advice to the minister because the meat processing component of the Red Meat Advisory Council has a vested interest in making sure that the live export component of the industry is kept at a very minimal level. Why?—because the less competition there is in the market for the producers' cattle, the better it is for the processor. So if you do not have the live exports you do not have the competition, and the processors are a lot happier. That was the reason, from my point of view—I cannot speak for other committee members—we took the position that there should be a close examination of whether the Red Meat Advisory Council, if it cannot give reasonable advice, should exist at all.

I thank you, President, for the opportunity to comment on the report. I recommend it to the Senate.

**Senator IAN MACDONALD** (Queensland) (18:11): I commend Senator Back on his very fair reporting of the committee's conclusions. I was originally a full member of the committee and subsequently a participating member. I gave the one dissenting report on that committee in relation to two of the recommendations of the committee. Before I go into those I want to put on record my appreciation to the secretariat of the committee, who did an
absolutely magnificent job. This was one of those inquiries that went right around Australia, as Senator Back has mentioned. There was a lot of information given and the committee secretariat, as always, come up with an excellent report.

It is clear from our inquiries right around Australia that the whole industry is a bit fragmented and does not really have anyone who can give a strong leadership voice to the industry at this time, particularly the grass-fed-cattle producers. I disagreed with the majority report in the recommendation that the government should set up an industry peak body. As I said in my dissenting report, I think the days of governments getting involved in setting up peak bodies for any agricultural or horticultural industry are long gone.

There was clearly some angst about the role of the Cattle Council of Australia. I accept some of that. The Cattle Council of Australia's problem is that it has no money. It is funded, currently, by contributions from state farming organisations. Regrettably, those state farming organisations are losing membership. They do not have a lot of money themselves and therefore their payments to the Cattle Council are diminishing. The Cattle Council has, I think, only five staff. To try and be the industry voice with such small resources was just impossible.

The Cattle Council realises this and has recently changed its constitution so that it can have individual members of the Cattle Council, to try and get more people involved, to get people voting and to get people standing for positions. That has only just happened. I hope that that might give to the nation—particularly the grass-fed-cattle producers of our nation—a body that can speak for them.

The difficulty is that the Cattle Council are supposed to be overseeing MLA, which is a big organisation with a huge budget and a big staff, and yet the Cattle Council gets some of its money—perhaps the majority of its money—from MLA. So it is a stupid situation where the Cattle Council is supposed to be overseeing MLA but can only exist with a little bit of money it gets from the state farming organisation plus the bigger bit it gets from MLA. So it is like the tail trying to oversight the dog, one might say; it is a system that cannot continue.

I would have thought that there needed to be some way that that the $5 dollar levy that is currently paid could be adjusted so that a portion of it could go to the Cattle Council or, if people did not like the Cattle Council, another body, but I thought the Cattle Council was better than any other suggestion—certainly a better suggestion than a government set-up peak body for primary producers; however, the current $5 levy paid on every transaction involving an animal a small portion of that should be allocated to an industry body—I suggest Cattle Council—to give it the resources to be a good advocate and manager on behalf of the grass-fed cattle industry.

Senator Back mentioned the current situation in the industry is that the grass-fed levy payers pay the majority of the contribution but it seems—and the evidence seemed to support this—that most of those funds were used by other sections of the industry: the feedlot industry, the processing industry and little of it came back in direct support for the grass-fed cattle producers. It was a bit like the old Boston Tea Party: no taxation without representation. The grass-fed levy payers were paying most of the money but having the least say.

MLA recognises this to a degree. MLA, up until now, had a very convoluted system of appointing its board. Effectively, it meant that the grass-fed levy payers, who contributed
most of the money to the MLA, have very, very little say in who was appointed to the board. In fact MLA and a selection committee, which consisted mainly of existing MLA directors, actually suggested who the new directors might be but they only gave the voters one choice. So you have an election for the new director but he is the only one who we are nominating that you can vote for.

MLA, to its credit, has realised that that is just not sustainable either and they have taken steps to alter their rules to give the opportunity for more grass-fed levy payers to become members of the MLA board. There was a suggestion that one of the skills that is necessary for appointment to that board should be a direct understanding of the grass-fed cattle industry.

Whilst I support all of the other recommendations of the committee—and there were some very good recommendations—I did disagree with that first recommendation about a government set-up peak body. I think with a bit of goodwill, effort and getting the proper resources that I suggest in my dissenting report, Cattle Council could do the job.

The only other recommendation I disagreed with was recommendation 5—the abolition of the Red Meat Advisory Council that Senator Back has also mentioned. I took from the evidence and from my limited knowledge of the industry that, while the Red Meat Advisory Council, which comprises all elements of the meat industry, has been found wanting in certain areas, generally, it is able to give whole-of-industry advice to government. It cannot get involved where only one part of the industry is involved, for example, in the ban of live exports, because it comprises not only the grass-fed cattle producers but also the processors. Of course the processors were a bit happy when the ban on live cattle exports came in, because they could buy all the surplus cattle for next-to-no price and process it all through their processing shops.

Clearly, the Red Meat Advisory Council could not take any activity in the biggest issue that has confronted the industry in the last couple of decades, because it was comprised of too many. I think, again those sorts of bodies have their supporters and detractors but it did seem, I understood from the evidence given, that there was the need for an overall industry body and the Red Meat Advisory Council was that body and should continue.

Again, I thank all those who did contribute. It was a very interesting exercise. I did not know a great deal about the industry before this—I still don't know a great deal—but it opened the eyes of many of the senators to some of the issues and unfairnesses that are currently there, and perhaps some of the solutions that should be taken.

I wish Minister Joyce, the agriculture minister, all the very best as he sifts through the report and tries to respond and perhaps do something that will help the whole industry. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Environment and Communications Legislation Committee

Report

Debate resumed on the motion: That the Senate take note of the report.

Senator WILLIAMS (New South Wales) (18:22): I rise to take note of the final report of the Environment and Communication Legislation Committee's report on the performance,
importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices. I chaired a lot of this inquiry and this is a very, very important issue. We have some 2,900 licensed post offices, where people have bought the post offices, paid some big money for some of them, and they should get a fair return for the hard work they do. We know Australia Post is doing it tough. In fact, from 1 January to 30 June this year—the second half of the 2013-14 financial year—Australia Post made a loss. One billion letters fewer were handled last year than five years ago. One billion letters at 70c is $700 million.

These post offices are, I think, being treated unfairly. They are not paid enough for the storage and handling of parcels. Even in the case of unwanted stamps, they cannot return them and get a credit back from Australia Post. They have to throw them in the bin and suffer the loss. There are many issues and, of course, if the licensed post offices do fall over financially, under the community service obligation Australia Post has to re-establish them. We have that community service obligation right around Australia. They are selling products of Australia Post but I believe, and the report says this, the profit margins are too low. There should be a good commercial value margin in what they sell. Even with the handling of the letter boxes—where you get the key and roll up to the post office—they should get proper compensation for the time and effort they put into sorting the mail and putting it in those post boxes.

I want to make some comments in relation to POAAL. POAAL is the organisation that supposedly represents the licensed post offices. Now another group has broken out—the LPOGroup, the licensed post offices group. I will quote from the committee's report:

While the committee considers that POAAL appears to have a somewhat difficult negotiating position, there are other matters which raise questions in the committee's mind as to its competence. The committee notes that, in some instances, the evidence provided by POAAL was less than satisfactory. Mr Kerr, CEO of POAAL, appeared to lack an in depth knowledge of POAAL's membership, the structure of its subsidiary company, POAAL Services Ltd, and was less than helpful to the committee in relation to some matters it wished to pursue.

We are talking about Mr Kerr, the CEO. He is probably paid a lot of money. It continues: In its dealings with licensees, POAAL also showed a lack of sound administrative practices. For example, the committee received evidence that letters addressed to POAAL at its post office box were returned to the sender as they had remained uncollected. Indeed, one of the committee's letters sent to POAAL suffered this fate.

So here we have POAAL and Mr Kerr, running this office and being paid money by the licensed post offices to represent them, and they do not even accept the mail but return it to the sender. The report continues:

The committee also sought information in relation to POAAL's financial statements. The committee considered that this information was important to its inquiry as POAAL represents LPOs not only in direct negotiations with Australia Post but also during meetings with the responsible Minister. In relation to the information sought by the committee, POAAL had four opportunities to provide the information the committee requested following the March 2014 hearing. While the committee eventually received a response in relation to POAAL's 2012–13 financial statements, no other information was forthcoming. The committee considered the use of its powers to call for documents and persons. Ultimately, the committee agreed not to use these powers as it considered that it already had sufficient evidence that called into question the effectiveness of POAAL as an organisation advocating on behalf of licensees.
Those are pretty damning words. I think Mr Kerr was probably one of the worst witnesses I have ever seen in a Senate hearing in the six years that I have been here. I thought his arrogance was terrible. I thought he had no understanding of the people he represented, and consequently those licensed post offices have been going downhill financially for many years—probably as a direct result of Mr Kerr and his failure to represent them properly and fight their case to get a fair deal for the licensed post offices.

I am not going to speak for much longer. I would just like to say: the best thing Mr Kerr could do for POAAL would be to resign his position; put someone in there who is competent, who will represent the licensed post offices properly. This is a big and important issue. It is also a very difficult issue when we know that Australia Post, which is owned by every Australian, has to pay these licensed post offices more money. That may lead to a worse bottom line for Australia Post. But we have to have our post offices remain financially afloat. They are the heart of our country towns, especially where some 1,600 licensed post offices are based in rural and remote areas. Mr Kerr, you did yourself no favours. You certainly did not gain any credibility with the committee, in my opinion, when I chaired your presence. As I said: the best thing you could do would be to find yourself another job.

I thank Christine McDonald and her staff. As always with these reports, each and every senator in this place knows how hard the secretaries work. They spend an enormous amount of time reading the submissions, preparing everything, putting everything in place for the public hearings. They do a magnificent job. I thank Christine McDonald and her very capable staff for a job well done.

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (18:28): I also rise tonight to speak on the Environment and Communication Legislation Committee's report on its inquiry into the performance, importance and role of Australia Post in Australian communities and its operation in relation to licensed post offices.

While I am no longer a member of this committee, Australia Post and this inquiry in particular are issues that I still have a strong interest in. In recent months, licensed post office licensees have contacted me with their concerns about the future of their post office businesses in Tasmania. Post office businesses are the heart of the communities. They are a vital piece of infrastructure for our nation and are an extremely important part of the Australian social fabric. Apart from the obvious letter and parcel services they provide, they also provide important banking and bill-paying services and act as a focal point for their communities. You know a community has died when it no longer has a post office. Licensed post offices are under considerable financial stress and serious changes are needed in the way they interact with Australia Post.

I am pleased to see that the committee has addressed a large number of the issues that post office licensees have raised with me—in particular through recommendations 12 to 15. Australia Post licensees have been particularly concerned about the additional costs caused by the rapid rise in the number of parcels and the need to store them when a delivery is unsuccessful. Recommendation 13 recommends that 'Australia Post review parcel storage requirements in licensed post offices with a view to providing payments for those licensees who incur additional storage costs.'

One of the issues that I was quite stunned to learn about is the issue of returning out-of-date stamps. Senator Williams mentioned this issue, and I would like to concur with his comments.
Last night, when this report was first spoken on, a number of senators mentioned the issue as well. So I think through this place there is great agreement about the concerns regarding this issue. As Senator Williams said, current practice does not allow for post office licensees to return stamps that they have purchased that useable because the postal rate has changed. I found this to be quite despicable. It is a case of the corporate division profiteering at the expense of post office licensees. I am extremely pleased that recommendation 15 recommends that 'Australia Post allow for the return of unsold and out-of-date stamps by licensees and franchisees'. Licensees should not be unfairly punished simply for keeping in stock Australian Post products.

Licensees—particularly in southern Tasmania but some in other areas of Tasmania—have also expressed concern to me on the very small margins for postal products they sell on behalf of Australia Post and the limited payments they receive for post office boxes. One licensee spoke to me about the price of selling a ream of paper that Australia Post supplies. It was actually cheaper for them to go to the local Woolworths and buy the paper there than it was for them to sell it in their own post office at the recommended retail price. Recommendation 14 recommends that 'Australia Post review the margins on postal products it sells to licensees with a view to ensure that margins are in line with commercial practice'. Recommendation 12 recommends that 'Australia Post, as a matter of urgency, reassess post office box payments to licensees to ensure that they reflect the true costs borne by licensees in providing this service'. The government must now have the courage to adopt these unanimous recommendations to give post office licensees a fair go and ensure that regional licensed post offices remain viable. I would also like to note the Labor senators' additional comments in this report, and I quote:

Labor Senators are concerned that the Government is irresponsibly seeking to use the prospect of increased remuneration and post office visits from additional trusted services as a financial lifeline for Licensed Post Offices.

They noted that:

… all the submitters who support the outsourcing of services provided by Centrelink and Medicare to Australia Post rely on the prospect of additional revenue for Australia Post and LPO operators as justification for the measure.

The Labor senators recommended that:

The Government not outsource any functions of the Department of Human Services to Australia Post. Post offices are not Centrelink offices. Australia Post office licensees and their staff should not be used by this government to shift work and costs away from the Department of Human Services. It is just not right.

There is great concern in the community about the viability of the 3,200 licensed post offices in regional Australia. Next week I hope to table a petition that has been signed by around 1,000 customers of licensed post offices around Australia. The development of this petition came out of concerns from the licensed post offices in Tasmania talking to me. I would like to thank the Licensed Post Office Group for their efforts in distributing this petition and the time that they have taken to keep me informed on the issues of concern for their members.

I am extremely pleased that recommendation 11 recommends that the definition of 'association' in the LPO agreement be amended to include the LPO Group. Senator Williams
referred to the organisation that allegedly is representing the licensed post offices and the concerns that everyone on the committee had with regard to that. And, once again, I would endorse his comments in that regard. The Licensed Post Office Group have done an excellent job in informing the committee and advocating on behalf of their members, and I hope this recommendation, along with the other recommendations of the committee, is adopted with alacrity. I seek leave to continue my remarks.

Leave granted.

**DOCUMENTS**

The following order of the day relating to government documents was considered:

Aboriginal and Torres Strait Islander Peoples Act of Recognition Review Panel—Final report by the Honourable John Anderson AO, Ms Tanya Hosch and Mr Richard Eccles. Motion of Senator Siewert to take note of document called on. On the motion of Senator Bilyk the debate was adjourned till Thursday at general business.

**COMMITTEES**

The following orders of the day relating to committee reports and government responses were considered:

Rural and Regional Affairs and Transport References Committee—Industry structures and systems governing levies on grass-fed cattle—Report. Motion to take note of report moved by Senator Back and debated. Debate adjourned till the next day of sitting, Senator Macdonald in continuation.


Environment and Communications Legislation Committee—Performance, importance and role of Australia Post in Australian communities and its operations in relation to licensed post offices—Final report. Motion of the chair of the committee (Senator Ruston) to take note of report debated. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Northern Australia—Joint Select Committee—Pivot north: Inquiry into the development of northern Australia—Final report. Motion of Senator Macdonald to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Environment and Communications References Committee—Management of the Great Barrier Reef—Report. Motion of the chair of the committee (Senator Urquhart) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Community Affairs References Committee—Prevalence of different types of speech, language and communication disorders and speech pathology services in Australia—Report. Motion of the chair of the committee (Senator Siewert) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Education and Employment Legislation Committee—Family Assistance Legislation Amendment (Child Care Measures) Bill (No. 2) 2014 [Provisions]—Report. Motion of Senator Lines to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.
Economics References Committee—Future of Australia’s naval shipbuilding industry: Tender process for the navy’s new supply ships (part 1)—Report. Motion of the chair of the committee (Senator Dastyari) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

National Broadband Network—Select Committee—Interim report—Government response. Motion of Senator Ludlam to take note of document called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Community Affairs References Committee—Out-of-pocket costs in Australian healthcare—Interim and final reports. Motion of Senator Di Natale to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Finance and Public Administration References Committee—Commonwealth procurement procedures—Report. Motion of the chair of the committee (Senator Lundy) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

School Funding—Select Committee—Equity and excellence in Australian schools—Report. Motion of the chair of the committee (Senator Collins) to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Education and Employment Legislation Committee—Fair Work Amendment Bill 2014 [Provisions]—Report. Motion of Senator McEwen to take note of report called on. On the motion of Senator Bilyk the debate was adjourned till the next day of sitting.

Education and Employment References Committee—Technical and further education system in Australia—Report. Motion of Senator Bilyk to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Education and Employment References Committee—Government’s approach to re-establishing the Australian Building and Construction Commission—Report. Motion of the chair of the committee (Senator Lines) to take note of report called on. Debate adjourned till the next day of sitting, Senator Bilyk in continuation.

Orders of the day nos 2, 4 and 5 relating to committee reports and government responses were called on but no motion was moved.

AUDITOR-GENERAL’S REPORTS
Consideration

Orders of the day nos 1 and 2 relating to reports of the Auditor-General were called on but no motion was moved.

BILLS

National Security Legislation Amendment Bill (No. 1) 2014

In Committee

Debate resumed.

The CHAIRMAN (18:35): The committee is considering the National Security Legislation Amendment Bill (No. 1) 2014 and amendment (1) on sheet 7579, moved by Senator Leyonhjelm.

Senator LEYONHJELM (New South Wales) (18:36): The issue under consideration at the moment is how much access ASIO should have under a single warrant in terms of a computer network. We have heard from Senator Ludlam in relation to his amendment, which was about 20 computers. That amendment was not approved.
My amendment does not seek to constrain ASIO with respect to the number of computers, but it does seek to restrain ASIO with respect to what it might do with such access. It adopts the wording that was included in the explanatory memorandum and seeks to incorporate it into the bill, bearing in mind that the bill is the legislation, not the EM. I can see no reason why the government and the opposition would not support the incorporation of the language in the EM into the bill. What it says is:

Despite anything in section 25A, a computer access warrant issued under that section may authorise access to a computer—and, in that context, 'a computer' refers to a computer network, which is the point of contention—only to the extent necessary to collect intelligence in respect of the security matter specified in the warrant.

It is a modest amendment and it simply incorporates in the bill what was incorporated in the explanatory memorandum. It was, in fact, recommended by the joint committee.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (18:38): The government does not support this amendment. There are sufficient limitations in the existing authorisation requirements in section 25A(2) and section 25A(4). Section 25A(2) provides that the minister can only issue a warrant if satisfied that there are reasonable grounds for believing that access by ASIO to a computer will substantially assist the collection of intelligence in respect of a security matter as specified in the warrant request.

Section 25A(4) provides that the minister may authorise certain activities if he or she considers it appropriate. One such activity is using the computer to obtain data that is relevant to the security matter in respect of which the warrant is issued. This means that any computer access must be for the purpose of collecting intelligence relevant to a particular security matter and not to some general or abstract notion of security. In addition, the minister could cause warrants subject to conditions which might further limit access if considered necessary or appropriate in particular operational circumstances. The proposed necessary test would impose a de facto last resort requirement significantly and inappropriately limiting the utility of ASIO's computer access warrants. The access would need to be essential or critical to collect the information relevant to the security matter. It would mean ASIO may be unable to access a computer or part of a computer because other methods of collecting intelligence relevant to the security matter exist, even though these methods may be less effective and carry a higher operational risk. This matter was considered extensively by the Parliamentary Joint Committee on Intelligence and Security. That committee came to the view, unanimously, that there was not a need to amend the legislation in this respect. However, it did, by recommendation 3, recommend that consideration be given to including extra material in the explanatory memorandum. As set out in the government's response to the committee's report, which I released last week, the government has accepted that recommendation.

Additional material has been included in the replacement explanatory memorandum to make clear that the thresholds for the issuing of computer access warrants and the authorisation of activities under those warrants are limited to those activities which are carried out for the purpose of collecting intelligence in respect of a specific security matter as set out
in the warrant request. Might I refer you, Senator, to pages 75 to 76 of the replacement explanatory memorandum which deals with the matter.

Senator LUDLAM (Western Australia) (18:41): I was waiting for an indication from the opposition. I put on the record my support, and the support of the Australian Greens, for the amendment which Senator Leyonhjelm has explained. It is obviously tackling the issue in a different way to that which the Australian Greens sought to do. Bear in mind the context. With the changes that the government has built into this bill and in negating the Australian Greens amendment of a short time ago, effectively ASIO will now, on passage of this legislation, be empowered to access third-party computers that have no direct relationship to a particular operation and to cause disruption to that computer. We have tended to craft or phrase the debate in terms of intrusion or surveillance or monitoring of traffic that is passing over a network or through a particular device.

Obviously, with computer equipment, it is quite a bit more technical than that. These warrants will allow ASIO, or those working for ASIO, to modify these computers, to delete files, to install malware, to seek higher levels of user access and to impersonate people—not only on a particular specified device but, as I think we have well and truly established, on any device that it is connected to or is considered to be in a relationship with. The physical equivalent is if ASIO served a warrant to enter a particular house for a legitimate reason that also allowed them to enter any other house in the street or any other house in the country, actually, completely arbitrarily. That is certainly why the Australian Greens would support the amendment that obviously does not tackle the open-endedness—the government and the opposition have combined their numbers to leave that open-endedness on the statute books—but it will at least, as Senator Leyonhjelm has identified, further circumscribe the uses to which these warrants can be put. For that reason, we will be supporting it.

Senator JACINTA COLLINS (Victoria) (18:44): Senator Ludlam, in terms of the opposition position, it remains as it was for the previous amendment. I think I indicated on that occasion that our position would be fairly consistent throughout all of the amendments, which is that we are confident that the intelligence committee has reviewed the bill thoroughly and that no additional amendments beyond those recommended by the committee are required. I should indicate further, though, that this is the first tranche of national security legislation. Matters that might arise subsequent to the considerations of the intelligence committee can obviously be considered further by that committee and, indeed, by referral to the legal and constitutional committee, which I think occurred today with respect to that second tranche.

The CHAIRMAN: The question is that amendment No. 1 on sheet 7579 moved by Senator Leyonhjelm be agreed to.

The committee divided. [18:49]

(The Chairman—Senator Marshall)

Ayes ......................12
Noes ......................44
Majority...............32

AYES

Day, R.J. Leyonhjelm, DE
Question negatived.

Senator LEYONHJELM (New South Wales) (18:52): I, and on behalf of Senator Xenophon, Senator Madigan and Senator Ludlam, move amendment (1) on sheet 7582:

(1) Schedule 2, page 30 (after line 31), after item 28, insert:

28A After section 25A

Insert:

25B Reporting by Inspector-General of Intelligence and Security

(1) The Director-General must, as soon as practicable after the end of each financial year and in any case within 28 days, give the Inspector-General of Intelligence and Security a report setting out the total number of devices accessed in accordance with a warrant under section 25 or 25A during the financial year.

(2) The Inspector-General's annual report referred to in section 35 of the Inspector-General of Intelligence and Security Act 1986 for the financial year must include the number.

(3) The number included in accordance with subsection (2) must not be deleted from the report before it is laid before each House of the Parliament.
**Senator XENOPHON** (South Australia) (18:52): I see this as a minimalist amendment but an important one nonetheless. Senator Ludlam's amendment was defeated earlier—and I did not support it—in terms of the number of devices covered by a warrant. Senator Ludlam sought to circumscribe that. I can understand why the government and the opposition took the position that you should not do so because it could constrain, on an operational basis, the intelligence agencies from doing their work effectively. But what this amendment essentially does is require the Inspector-General of Intelligence and Security to give details in the annual report of how many devices are covered by these warrants. That is all it does. But it gives the public, the people of Australia, and this parliament an idea of how many devices have been captured by these warrants in terms of internet surveillance and surveillance of electronic devices. I think it is a reasonable transparency measure. It does not constrain or compromise any operational matters on the part of intelligence services but it does give us that glimmer of transparency that otherwise would be completely lacking in respect of the exercise of these warrants.

**Senator LUDLAM** (Western Australia) (18:54): The Greens will be supporting this amendment. Where I disagree with Senator Xenophon is that we are seeking more than a glimmer of transparency. Nonetheless, this amendment is an improvement. It relates to recommendation 5 of the joint committee. I should also identify at this point that, in relation to the joint committee that has provided the source material for so much of this work, the government, when it came to power just over a year ago, moved to eliminate the crossbench position that in recent memory has been filled by Mr Andrew Wilkie. Since then, there has been no crossbench representation on the Parliamentary Joint Committee on Intelligence and Security. When the time comes to debate the bill the exclusion of the crossbench from that committee means our views have not been included—and then you get dissent in these amendments. The government supported recommendation 5 of the joint committee with respect to material disruption but not with respect to non-routine access. As Senator Xenophon has identified, it is minimalist but it is also very important. I think what Senator Leyonhjelm has done is extend the provisions of the bill so that both the minister and the Inspector-General of Intelligence and Security need to be notified of instances of material disruption. I think that does at least create a paper trail and a record of exactly what has been done under the use of these powers. I commend this amendment to the chamber.

**Senator LEYONHJELM** (New South Wales) (18:56): I also commend this amendment to the chamber. What it does is prevent a blank cheque from being provided to ASIO in terms of the number of warrants and the number of computers that can be accessed, because they will be aware that those numbers will be reported in the annual report of the Inspector-General of Intelligence and Security. This provides a level of accountability which is currently missing. To my way of thinking, it does not interfere with the operations that are proposed under the ASIO Act but simply reminds ASIO that they are being scrutinised—and if there is one thing that we should never allow to occur, it is security agencies remaining unscreened.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (18:57): The government does not support this amendment. Reporting publicly on the total number of devices accessed under warrants would not be appropriate as it may reveal sensitive
information about ASIO's capability. Pursuant to section 94 of the ASIO Act the organisation's unclassified annual reports tabled in parliament do not contain information that would if disclosed be likely to prejudice security. The total number of warrants sought and obtained by ASIO is not included in any unclassified annual report for that reason. Similarly, provision is made in section 35 of the IGIS Act in relation to the unclassified annual reports of the IGIS. The proposed amendments to the bill would have the effect of overriding those important protections and are inconsistent with what are accepted as the existing principles governing disclosure or, in this case, non-disclosure. Further, it is not necessary to impose a specific annual reporting obligation on the IGIS in relation to the total number of computers accessed by ASIO in accordance with warrants because the IGIS has extensive oversight powers in relation to ASIO under which such information can be requested. The IGIS can of course inspect ASIO's warrant documentation at any time.

Senator JACINTA COLLINS (Victoria) (18:58): I appreciate that the position put by the various cross-party senators is minimalist and that they are hoping to attract support on that basis. But that does not change the in principle position that I have already indicated to the committee in relation to additional amendments—that is, we remain convinced at this stage that a comprehensive review of this bill by the joint committee has already occurred and no additional amendments beyond those recommended by the committee are required at this stage.

Senator XENOPHON (South Australia) (18:59): I thank the Attorney for his answer. But I just want to ask him a very brief question and I am happy for a very succinct answer. How could knowing the number of warrants but not what they are about or which operations they relate to, and the number of devices affected by those warrants if it is simply reported annually in aggregate terms, compromise security operations or national security? How could knowing whether 1,000, 10,000 or 100,000 devices are affected compromise national security without any further information other than the aggregate number of warrants and the aggregate number of devices that could be affected by those warrants?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (18:59): Because, as I said in response to your remarks before, what it could do is reveal ASIO's capability—and that is never done. That is why the legislation at the moment contains the exclusions which it does.

Senator MADIGAN (Victoria) (19:00): Senator Brandis, are you able to tell the Senate how many applications for warrants have been rejected in your time as Attorney?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:00): I do not think I am at liberty to tell you that, but I can tell you that there have been applications for warrants rejected by me.

Question negatived.

Senator LAZARUS (Queensland—Leader of the Palmer United Party in the Senate) (19:00): by leave—I move Palmer United Party amendments (3) and (4) on sheet 7564 together:

(3) Schedule 6, page 85 (after line 27), after item 5, insert:
5A Subsections 92(1) and (1A) (penalty)

Repeal the penalty, substitute:
Penalty: Imprisonment for 10 years.

(4) Schedule 6, page 103 (after line 29), after item 19, insert:

19A Subsection 41(1) (penalty)

Repeal the penalty, substitute:
Penalty: Imprisonment for 10 years.

As I already indicated, the Palmer United Party supports the National Security Legislation Amendment Bill (No. 1) 2014. We support the need to increase intelligence powers in this country. We need to give ASIO and ASIS the powers they need to do their job well.

The bill will increase various powers—including powers in relation to intelligence gathering and intelligence operations—and their reach. Advances in technology and communications necessitate this. The internet, while a tool which has revolutionised the way we live, work and operate, has also revolutionised the way sinister and criminal behaviour is orchestrated and undertaken across the world. The internet poses one of the greatest threats to our existence because of this. Therefore we must give ASIO and ASIS increased powers, capability and reach to do what must be done to protect, maintain and advance our safety and security. The people involved in protecting our country put their lives at risk every day. We must ensure that we afford these people the highest level of protection. These people are involved in covert operations which require the highest levels of secrecy, discretion and anonymity.

My amendments increase the penalty associated with exposing the identity of an ASIO or ASIS officer from one year to 10 years. Exposure of an ASIO or ASIS officer's identity puts the officer's life and livelihood at risk and it puts the security and safety of our country at risk. Exposure of an ASIO or ASIS officer’s identity is therefore a form of treason. Treason is a serious matter. It is a direct breach of a person's allegiance to this country. It is a breach which compromises our national security. It is an act which harms the interests of our country. This is not an act which should be taken lightly. If anything, in the context of what we have seen happen in our country recently, we need to harden our stance on the need for our people to demonstrate their undivided loyalty to our country, our laws and our Constitution.

While my amendments increase the penalty for exposure of an ASIO or ASIS officer's identity from one year's jail, which is what you would expect for a small offence, to 10 years jail, which is the sort of penalty that should be applied in the case of a serious crime, a prosecution under the division may be instituted only by, or with the consent of, the Attorney-General or a person acting under the Attorney-General's direction. The Attorney-General still has the capability to manage the way Australia responds to acts of treason. If charged under this division, the matter will be dealt with in the judicial system, where every person is given a fair, just and exhaustive hearing. Exposure of an ASIO or ASIS officer’s identity is a form of treason and should carry the potential for a harsh penalty. I therefore commend my amendments to the chamber.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:04): The government accepts and supports the amendments moved by Senator Lazarus on behalf of the
Palmer United Party. In saying that, might I take the opportunity to thank Senator Lazarus and his colleagues for their very constructive engagement with the government in relation to this legislation. We acknowledge the persuasive observation that the penalties applying to those offences are currently disproportionately low in comparison with the wrongdoing they seek to punish. The existing maximum penalties are unlikely to serve as a serious disincentive to such behaviour and we agree that it is appropriate to increase them.

The identity of our intelligence officers is highly sensitive information. Revealing their identities can expose them to serious harm by making them targets for espionage or coercion. It could also involve exposing them to the risk of physical harm. The lives, safety and livelihoods of our intelligence professionals depends on maintaining absolute secrecy as to their identities. Australia's capacity to collect intelligence to protect its security and other national interests similarly depends on this. It is everyone's responsibility to keep this sensitive information confidential—and, particularly, to refrain from publishing it. A maximum ten years penalty will create a strong disincentive to such wrongful behaviour. It will, importantly, maintain parity with the penalty proposed to be applied to offences in schedule 6 of the bill concerning the unauthorised communication of intelligence related information. Indeed, the identity of intelligence officers could be seen as a form of intelligence related information. For those reasons, as I said at the outset, the government supports the Palmer United Party's amendments and thanks them for their foresight in moving them.

Senator JACINTA COLLINS (Victoria) (19:06): I should indicate, again, consistent with the responses I have given previously, that Labor cannot accept these amendments at this stage. The Labor Party agreed to a process with the government that involved joint committee consideration of proposed changes, and I am advised that this issue was not canvassed in that process and that these matters have not been considered by the Parliamentary Joint Committee on Intelligence and Security. We are concerned that what is proposed here is an increase in penalties tenfold, and, whilst there may well be—a good argument to that effect, I think, consistent with the process that Labor agreed to with the government, those issues should be addressed by the parliamentary joint committee and, as I pointed out previously in relation to amendments that have been proposed by other senators, that opportunity does indeed exist in relation to the next tranche of measures.

So we are not necessarily opposed on the issue of dealing with penalties, but, at this stage of the process, as indeed regarding some of the other amendments that have been proposed, Labor would like to see the process that we signed onto in the first instance proceeded with.

Senator LEYONHJELM (New South Wales) (19:08): I and the Liberal Democrats will not be supporting these amendments. It is worth noting that maximum penalties are merely that—maximums—and judges very rarely impose such penalties. There is also very little evidence that maximum penalties have any deterrent effect in the commission of many crimes.
I also have to note that, in respect of schedule 6, a subsequent amendment will be moved by me in relation to penalties, and therefore the argument that 10 years is consistent with the penalties in schedule 6 would not be consistent with my views in relation to schedule 6.

I note also the comments by Senator Collins in relation to the fact that these have not been considered by the joint committee. I further note that neither I nor any of the other crossbench senators were involved in the joint committee and will not be involved in subsequent considerations by the joint committee of further legislation. Therefore, I would just mention to the Attorney that issues along these lines may in fact arise again in future.

Senator LUDLAM (Western Australia) (19:09): I will just make a few comments on behalf of the Australian Greens. I understand why these amendments have been brought forward. The Australian Greens will not be supporting them—not quite in the same way as the opposition, which I think has just decided not to support any amendments that did not make it out of the parliamentary joint committee, but more on the merits. This is an issue on which the intelligence agencies have had—and Senator Brandis reminded us of this—a very long lead time; this is a very long lead-time process that we are involved in here. This has been underway for nearly two years and takes us back to the process's initiation by Minister Roxon—I think she was the Attorney at the time that this process was set in motion. And I am not aware of, at any time, ASIO bringing this matter forward as an issue of concern. Senator Brandis has been very reluctant to respond to the questions earlier in the debate but I do not know whether, at this stage, on this different matter, he is aware of whether the issue was raised before the PJCIS when he was on that committee, whether the government simply missed a burning issue, or whether in fact this has not been something that was exercising the minds of the agencies, because it appears that they got pretty much everything else that they were after in the process of drafting these bills. So I would just seek that advice from the Attorney-General, and, secondly, by way of a supplementary question, advice on whether these provisions have been used in anger—whether there have actually been recent prosecutions. I understand why the identities of these people need to be kept secret, and that is a longstanding tradition. But I guess I am just seeking some indication of why the government has suddenly discovered the urgency of this matter.

The DEPUTY PRESIDENT: The question is that amendments (3) and (4) be agreed to.

Senator XENOPHON (South Australia) (19:12): I have two things on which to make quick comments in relation to these particular amendments. I will, with some reservations, support these amendments for these reasons. I think that disclosing the identity of an ASIO or ASIS officer can, in some cases, sign their death warrant if they are involved in an undercover operation. Obviously the court would need to consider those matters in the case of an offence, but I think that the need to protect the identity of those officers is a significant consideration. I do note very closely Senator Collins's concerns about the process in respect of this, but I want to be consistent with my remarks earlier in the course of this debate as to adequately protecting, and having adequate deterrents against disclosing, the identity of agents. However, I would like to ask the Attorney, as briefly as possible: is this a matter that has been raised in terms of the adequacy of deterrents for disclosing the identity of agents? Is this a matter that has been on his radar through intelligence agencies? Can he indicate in broad terms: is this a concern that he has had—that the penalty has not been adequate in the past?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:13): Senator Xenophon, thank you for your indication that you propose to support these amendments. The answer to your question is yes. And, as to the reason for the amendment, which has been expressed very well, if I may say so, by Senator Lazarus: you have just expressed it once again yourself—this is information which, if disclosed, could put a man's or woman's life at risk while in the service of their country on a dangerous operation. I am not being rhetorical; that is literally true. As Senator Leyonhjelm has, if I may say so, very wisely observed, we should never make the mistake of thinking that a maximum penalty is the penalty that will necessarily or even commonly be imposed. Of course there is a gradation of considerations to which all courts have regard. This is not a statutory minimum penalty; it is a maximum penalty, and therefore would be reserved for the most serious class of case. So one must ask oneself the question: what is the most serious class of case in which one can imagine the disclosure of the identity of an intelligence services officer?

The answer would be, as you have said Senator Xenophon, a class of case where perhaps that person might lose their life as a result of that malevolent act. Then, I think, a reasonable person would be satisfied that a maximum penalty of 10 years imprisonment is not an unduly draconian sanction.

The CHAIRMAN: The question is that amendments (3) and (4) on sheet 7564 be agreed to.

Question agreed to.

The CHAIRMAN: Senator Lazarus, you have amendments (1) and (2); is it still your intention to oppose items 1 to 3 and 7 of schedule 4?

Senator LAZARUS: Yes. I move:

(1) Schedule 4, items 1 to 3, page 72 (lines 5 to 14), to be opposed.
(2) Schedule 4, item 7, page 72 (lines 24 to 29), to be opposed.

The CHAIRMAN: The question is that items 1 to 3 and 7 of schedule 4 stand as printed.

Question negatived.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:16): I seek leave to move all government amendments together.

Leave granted.

Senator BRANDIS: I move government amendments (1) and (2) on sheet HK105 and government amendments (1) to (54) on sheet ZA357:

(1) Schedule 3, item 3, page 62 (after line 32), after subparagraph 35C(2)(e)(i), insert:

(ia) constitute torture; or

(2) Schedule 3, item 3, page 67 (after line 20), after subparagraph 35K(1)(e)(i), insert:

(ia) constitutes torture; or

(1) Schedule 2, page 55 (after line 4), after item 45, insert:

45A After section 31

Insert:
31A Notification requirements in relation to the use of force under warrant

(1) This section applies if a warrant issued under this Division authorises the use of force against persons to do the things authorised by the warrant.

(2) The Director-General must cause the Minister and the Inspector-General of Intelligence and Security to be notified if such force is used against a person in the execution of the warrant.

(3) The notification must be given:
   (a) in writing; and
   (b) as soon as practicable after such force is used.

(2) Schedule 2, page 55 (after line 33), after item 46, insert:

46A Section 34

   Before "The", insert "(1)".

46B At the end of section 34

   Add:
   (2) If:
      (a) the warrant was issued under section 25, 25A, 27A, 27C or 29; and
      (b) a thing mentioned in subsection 25(5) or 25A(4), paragraph 27D(2)(h) to (k) or subsection 27E(2) was done under the warrant;

   the report must also include details of anything done that materially interfered with, interrupted or obstructed the lawful use by other persons of a computer or other electronic equipment, or a data storage device.

(3) Schedule 2, item 47, page 56 (before line 12), before paragraph 34AA(2)(a), insert:

   (aa) a warrant issued under section 25, 25A, 27A, 27C or 29; and

(4) Schedule 2, item 47, page 56 (line 14), before "section 25A", insert "subsection 25(5) or".

(5) Schedule 2, item 47, page 56 (line 17), after "authorised under", insert "paragraphs 27D(2)(h) to (k) or".

(6) Schedule 2, item 47, page 57 (line 35), after "section", insert "25;".

(7) Schedule 3, item 1, page 60 (lines 7 to 9), omit the definition of authorising officer.

(8) Schedule 3, item 1, page 60 (after line 10), after the definition of engage in conduct, insert:

   IGIS official (short for Inspector-General of Intelligence and Security official) means:
   (a) the Inspector-General of Intelligence and Security; or
   (b) a member of the staff referred to in subsection 32(1) of the Inspector-General of Intelligence and Security Act 1986.

(9) Schedule 3, item 3, page 61 (line 18), omit "An ASIO employee may apply to an authorising officer", substitute "The Director-General, a senior position-holder or an ASIO employee may apply to the Minister".

(10) Schedule 3, item 3, page 62 (lines 4 and 5), omit paragraph 35B(4)(b), substitute:

   (b) give a copy of it to the Minister.

(11) Schedule 3, item 3, page 62 (lines 10 to 12), omit paragraph 35C(1)(b), substitute:

   (b) the Minister is satisfied that there are reasonable grounds on which to believe that the matters in subsection (2) exist;

(12) Schedule 3, item 3, page 62 (line 13), omit "authorising officer", substitute "Minister".
(13) Schedule 3, item 3, page 63 (lines 4 and 5), omit "authorising officer", substitute "Minister".

(14) Schedule 3, item 3, page 63 (lines 6 to 9), omit paragraph 35C(4)(b), substitute:

(b) if the Minister is satisfied there are reasonable grounds on which to believe that the delay caused by giving a written authority may be prejudicial to security—orally in person, or by telephone or other means of communication.

(15) Schedule 3, item 3, page 63 (lines 10 to 13), omit subsection 35C(5), substitute:

(5) If a special intelligence operation authority is granted in accordance with paragraph (4)(b), a written record of the special intelligence operation authority that complies with section 35D must be issued within 7 days.

(16) Schedule 3, item 3, page 63 (line 31), omit "general".

(17) Schedule 3, item 3, page 64 (lines 12 and 13), omit all the words from and including "as long as" to the end of subsection 35D(2), substitute "as long as the person’s identity can be matched to the assumed name, code name or code number".

(18) Schedule 3, item 3, page 64 (lines 24 to 27), omit subsection 35F(1), substitute:

(1) The Minister may vary a special intelligence operation authority on application by the Director-General, a senior position-holder or an ASIO employee.

(19) Schedule 3, item 3, page 64 (line 29), omit "paragraph (1)(b)”, substitute "subsection (1)”.

(20) Schedule 3, item 3, page 65 (line 4), omit "(1)(b)”, substitute "(2)(b)”.

(21) Schedule 3, item 3, page 65 (lines 6 and 7), omit paragraph 35F(3)(b), substitute:

(b) give a copy of it to the Minister.

(22) Schedule 3, item 3, page 65 (lines 9 to 16), omit subsection 35F(4) (not including the heading), substitute:

(4) The Minister must not vary the special intelligence operation authority unless the Minister:

(a) is satisfied that there are reasonable grounds on which to believe that the special intelligence operation, conducted in accordance with the special intelligence operation authority as varied, will assist the Organisation in the performance of one or more special intelligence functions; and

(b) considers it is appropriate to do so.

(23) Schedule 3, item 3, page 65 (lines 22 and 23), omit "authorising officer", substitute "Minister”.

(24) Schedule 3, item 3, page 65 (lines 24 to 27), omit paragraph 35F(6)(b), substitute:

(b) if the Minister is satisfied there are reasonable grounds on which to believe that the delay caused by giving a written variation may be prejudicial to security—orally in person, or by telephone or other means of communication.

(25) Schedule 3, item 3, page 65 (lines 28 to 31), omit subsection 35F(7), substitute:

(7) If a special intelligence operation authority is varied in accordance with paragraph (6)(b), a written record of the variation must be issued within 7 days.

(26) Schedule 3, item 3, page 66 (line 5), omit "An authorising officer", substitute "The Director-General or a Deputy Director-General”.

(27) Schedule 3, item 3, page 69 (after line 23), at the end of subsection 35P(1), add:

Note: Recklessness is the fault element for the circumstance described in paragraph (1)(b)—see section 5.6 of the Criminal Code.

(28) Schedule 3, item 3, page 70 (after line 4), at the end of subsection 35P(2), add:

Note: Recklessness is the fault element for the circumstance described in paragraph (2)(b)—see section 5.6 of the Criminal Code.
(29) Schedule 3, item 3, page 70 (after line 14), after paragraph 35P(3)(d), insert:

; or (e) for the purpose of obtaining legal advice in relation to the special intelligence operation; or

(f) to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising powers, or performing functions or duties, under the Inspector-General of Intelligence and Security Act 1986; or

(g) by an IGIS official in connection with the IGIS official exercising powers, or performing functions or duties, under that Act.

(30) Schedule 3, item 3, page 70 (after line 22), after section 35P, insert:

35PA Notifications by Director-General

(1) The Director-General must cause the Inspector-General of Intelligence and Security to be notified if a special intelligence operation is authorised under this Division.

(2) The notification must be given:

(a) in writing; and

(b) as soon as practicable after the special intelligence operation authority is granted.

(31) Schedule 3, item 3, page 71 (after line 8), after subsection 35Q(2), insert:

(2A) A report under subsection (1) must report on whether conduct of a participant in a special intelligence operation:

(a) caused the death of, or injury to, any person; or

(b) involved the commission of a sexual offence against any person; or

(c) resulted in loss of, or damage to, property.

(32) Schedule 3, item 3, page 71 (lines 12 to 15), omit subsection 35R(1), substitute:

(1) The Minister may issue a written certificate signed by the Minister setting out such facts as the Minister considers relevant with respect to the granting of a special intelligence operation authority.

(33) Schedule 6, item 2, page 81 (line 9), omit "Subsection (1)", substitute "Subsection (2)".

(34) Schedule 6, item 2, page 81 (after line 13), after subsection 18(2A), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2B) Subsection (2) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986. Note: A defendant bears an evidential burden in relation to the matter in subsection (2B) (see subsection 13.3(3) of the Criminal Code).

(35) Schedule 6, item 4, page 82 (after line 29), after subsection 18A(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986. Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the Criminal Code).

(36) Schedule 6, item 4, page 84 (after line 22), after subsection 18B(2), insert:

Exception—Inspector-General of Intelligence and Security
(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the Criminal Code).

(37) Schedule 6, item 4, page 85 (after line 25), after section 18C, insert:

**18D Offences against section 18, 18A or 18B—IGIS officials**

(1) A person does not commit an offence against subsection 18(2), 18A(1) or 18B(1) if:

(a) the person is an IGIS official; and

(b) the relevant conduct is engaged in by the person for the purposes of exercising powers, or performing functions or duties, as an IGIS official.

(2) In a prosecution for an offence against subsection 18(2), 18A(1) or 18B(1), the defendant does not bear an evidential burden in relation to the matter in subsection (1) of this section, despite subsection 13.3(3) of the Criminal Code.

(38) Schedule 6, item 6, page 86 (before line 4), before the definition of record, insert:

**IGIS official** (short for Inspector-General of Intelligence and Security official) means:

(a) the Inspector-General of Intelligence and Security; or

(b) a member of the staff referred to in subsection 32(1) of the Inspector-General of Intelligence and Security Act 1986.

(39) Schedule 6, item 11, page 86 (after line 27), after subsection 39(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

(40) Schedule 6, item 14, page 87 (after line 13), after subsection 39A(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

(41) Schedule 6, item 17, page 87 (after line 26), after subsection 40(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

(42) Schedule 6, item 18, page 88 (after line 35), at the end of section 40A, add:

Exception—communication to the Inspector-General of Intelligence and Security
(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

(43) Schedule 6, item 18, page 89 (after line 34), at the end of section 40B, add:

Exception—communication to the Inspector-General of Intelligence and Security

(3) Subsection (1) does not apply if the person communicates the information or matter to an IGIS official for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

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

(44) Schedule 6, item 18, page 91 (after line 2), after subsection 40C(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(45) Schedule 6, item 18, page 92 (after line 12), after subsection 40D(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(46) Schedule 6, item 18, page 93 (after line 28), after subsection 40E(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(47) Schedule 6, item 18, page 95 (after line 6), after subsection 40F(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(48) Schedule 6, item 18, page 96 (after line 20), after subsection 40G(2), insert:

Exception—Inspector-General of Intelligence and Security
(2A) Subsection (1) does not apply if the person deals with the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(49) Schedule 6, item 18, page 97 (after line 32), after subsection 40H(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(50) Schedule 6, item 18, page 99 (after line 13), after subsection 40J(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(51) Schedule 6, item 18, page 100 (after line 24), after subsection 40K(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(52) Schedule 6, item 18, page 102 (after line 6), after subsection 40L(2), insert:

Exception—Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(53) Schedule 6, item 18, page 103 (after line 15), after subsection 40M(2), insert:

Exception—communication to the Inspector-General of Intelligence and Security

(2A) Subsection (1) does not apply if the person makes the record for the purpose of the Inspector-General of Intelligence and Security exercising a power, or performing a function or duty, under the Inspector-General of Intelligence and Security Act 1986.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A): see subsection 13.3(3) of the Criminal Code.

(54) Schedule 6, item 21, page 104 (after line 23), after section 41A, insert:

41B Offences against this Division—IGIS officials

(1) A person does not commit an offence against an information offence provision if:
(a) the person is an IGIS official; and

(b) the relevant conduct is engaged in by the person for the purpose of exercising powers, or performing functions or duties, as an IGIS official.

(2) In a prosecution for an offence against an information offence provision, the defendant does not bear an evidential burden in relation to the matter in subsection (1), despite subsection 13.3(3) of the Criminal Code.

(3) In this section:

information offence provision means subsection 39(1), 39A(1), 40(1), 40A(1), 40B(1), 40C(1), 40D(1), 40E(1), 40F(1), 40G(1), 40H(1), 40I(1), 40K(1), 40L(1) or 40M(1).

As the chamber has heard from several contributions, the government amendments are in all respects amendments which give effect to the unanimous recommendations of the Parliamentary Joint Committee on Intelligence and Security. They are relatively modest amendments, indeed amendments essentially of a technical character. They include some additional oversight mechanisms—for example, the interposition of the Attorney-General's fiat before a special intelligence operation can be undertaken. Let me quickly summarise them. The focus is primarily on enhancing oversight and reporting in relation to ASIO's warrants and special intelligence operations. The amendments also insert some new exceptions to offences for the disclosure of intelligence related information for the avoidance of doubt. Seven of the 16 recommendations require amendments to the bill of a largely technical nature. There are 12 groups of amendments, which I will summarise briefly.

Amendment (1) will implement recommendation 6 of the PJCIS report to require ASIO to notify the Attorney-General and the Inspector-General of Intelligence and Security when reasonable force is exercised against a person in the execution of a warrant.

Amendment (2) will implement recommendation 5 of the PJCIS report to require ASIO to include further information in its ministerial reports on the execution of warrants under section 34 of the ASIO Act. The amendment will require ASIO to report on details of any material disruptions to computers.

Amendments (3), (4), (5) and (6) will correct a minor oversight in the drafting of the evidentiary certificate provisions in section 34AA of the ASIO Act. That the provision creates a new scheme of evidentiary certificates to protect technical and other sensitive operational information about how warrants are executed. A particular warrant type, namely a search warrant, was unintentionally left out of the drafting.

Amendments (7), (9), (10), (11), (12), (13), (14), (15), (17), (18), (21), (22), (23), (24), (25), (26) and (32) will implement recommendation 9 of the PJCIS report that authorisations for the commencement and variation special intelligence operations conducted by ASIO should be provided by the Attorney-General.

Amendments (8) and (29) will implement recommendation 11 of the PJCIS report, which recommended additional exceptions to the offences in section 35P for the disclosure of information relating to special intelligence operations. Consistent with the committee's recommendation, new exceptions will be included for persons who disclose information for the purpose of seeking legal advice, or to the Inspector-General of Intelligence and Security or his or her staff. A further exception will apply to the IGIS and his or her staff for communications within the office of the IGIS to create absolute certainty that the offences do not apply in those circumstances.
Amendment (16) addresses an issue identified by the Senate Scrutiny of Bills Committee about the 'reckless' description of conduct to be authorised under a special intelligence operation. The relevant provision, section 35D(1)(c), currently requires a description of the general nature of the conduct authorised. In response to the committee's comment, amendment (16) will change this to a description of the nature of the conduct.

Amendments (20) and (33) will make minor technical corrections to deal with typographical errors in the bill as introduced.

Amendments (27) and (28) will implement the government's response to recommendation 13 of the PJCIS report to include an express statement of the relevant fault elements applying to the new offences for the disclosure of information relating to special intelligence operations. These amendments insert notes to the offences confirming the applicable fault elements.

Amendments (30) and (31) will implement recommendation 10 of the PJCIS report that additional notification requirements should apply to the special intelligence operations. These include notification to the IGIS when operations are authorised and additional requirements and periodic reports to the minister and the IGIS on operations. ASIO will be required to include details of whether any conduct of a participant has caused death, injury, loss or damage to a person.

Amendments (34) through to (54) will implement recommendation 14 of the PJCIS report. The committee recommended that additional exceptions should apply to the offences in schedule 6 of the bill. Those are the offences concerning entrusted persons who disclose or place at risk intelligence related information. Consistent with the committee's recommendation, new exceptions will apply to persons who communicate information to the Inspector-General of Intelligence and Security or his or her staff. A further exception will apply to the IGIS and his or her staff where these persons communicate information to one another in the performance of their functions and official duties. They will remove any risk that the offences might operate as a perceived disincentive to people who may wish to report any matters of concern to the IGIS.

Those are the recommendations in summary. They are, as you can see, recommendations which principally will increase the oversight and safeguards regime already built into an act which has an extensive oversight and safeguards regime written into it, or are of the technical character, or are for the purposes of clarification only. As I said at the start, these are unanimous recommendations.

Senator JACINTA COLLINS (Victoria) (19:23): I can indicate Labor's support for all government amendments. I outlined the reasons for that in my second reading contribution. I do not need to revisit the detail of all those amendments already expressed, in part by Senator Brandis but also by me during the second reading contribution, other than to indicate our support.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:23): I omitted to mention one other important amendment. That is government amendment on sheet HK105. That is the amendment which will include an express exclusion of conduct constituting torture from the regime of special intelligence operations conducted by ASIO.
The government maintains its view that conduct constituting torture cannot be authorised as part of a special intelligence operation or subject to the limited immunity from legal liability. There can be no sensible suggestion that such gross violations of Australia’s international human rights obligations are in any way necessary for, or relevant to, ASIO’s functions. ASIO cannot, does not and has never engaged in torture.

However, I acknowledge that some honourable senators, and I note in particular the concerns raised by Senator Leyonhjelm, had sought an express exclusion of torture from conduct capable of being authorised under section 35C and from the immunity in section 35K. In order to make the existing legal position explicit on the face of the legislation, these amendments do this. I note that the amendments are declaratory of the existing legal position. They do not change the law. I hope, Senator Leyonhjelm, they give you the reassurance that you had sought.

Senator LEYONHJELM (New South Wales) (19:25): I will support the government amendments. I rise merely to note that I am grateful to the Attorney. Although I have a different opinion as to the legal status of torture, I am grateful that he is reflecting my concerns in this amendment.

Senator JACINTA COLLINS (Victoria) (19:25): I am not sure if I am cutting across Senator Leyonhjelm here. Unfortunately, I was distracted for a moment. I wanted to indicate for the committee’s benefit that at the start of the committee stage consideration I indicated we would not be proceeding with the amendment we circulated which expressed our concern that a definition of ‘torture’ needed to be dealt with. My understanding, and unfortunately my adviser is not here at the moment, was that the government would be addressing that matter in a supplementary explanatory memorandum. Would Senator Brandis care to comment on that?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:26): Yes, Senator Collins, that is the case. For those who might be listening to this broadcast, to avoid any obscurity the opposition decided, as the government did, to put to rest what in my view is plainly a false issue. Nevertheless, we would explicitly exclude torture from the category of conduct that is capable of attracting an immunity in relation to a special intelligence operation. The opposition amendment was expressed in very slightly different language from the government’s. The government’s prohibition was, in fact, slightly broader than the opposition’s. But in any event, I gave an indication to Senator Collins that there is not an issue between the government and the opposition, and that has been done. I think that is all I need to say.

Senator LEYONHJELM (New South Wales) (19:27): Could I ask the indulgence of the Attorney. I was also a little concerned at the absence of a definition of ‘torture’. I assumed there was a common law definition or some other definition in legislation which would apply. Somewhat unlike a libertarian, I trusted the government on that point. Could you please provide me with some assurance that that is the case, or will this be addressed in a subsequent amendment, as Senator Collins has suggested?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:27): Senator Leyonhjelm, I am told this has been addressed in the revised explanatory memorandum that I believe has been circulated—it is about to be circulated, I am told. I am sorry. The definition
of 'torture' which we have included—I am sure you will be happy with this—is a broader definition which is based upon the definition in the international instruments to which Australia is a party, and in particular the convention on the elimination of torture.

Senator LEYONHJELM (New South Wales) (19:28): Excuse me if I slept through this in my law degree, but to what extent does explanatory memorandum bind the interpretation of the act when it becomes an act?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:28): It is a material. Under the Acts Interpretation Act, it is a material to which a court may have regard in construing an act. We have used the word 'torture'. Torture has received meaning in international law, because it is defined in international instruments to which Australia is a party. Australian domestic law reflects what is now a commonly understood definition of 'torture'. The EM directs the attention—not that I would imagine it would be necessary, given there is a received meaning of this concept in law—of any court that might be called upon to construe this provision to the definition in that instrument.

Senator LUDLAM (Western Australia) (19:29): The Greens will be supporting the government amendments for most of the reasons Senator Brandis put forward. The amendments not entirely but largely reflect the recommendations that the PJCIS made when the bill they had effectively constructed was referred back to them a few weeks ago. The amendments are marginal at best, which is why the Greens have sought to move our own committee stage amendments. Nonetheless, Senator Brandis has accurately outlined the fact that these amendments were largely in the spirit of the recommendations that the PJCIS put forward. They go no way towards persuading me that this is a bill which should be called upon to construe this provision to the definition in that instrument.

Senator LEYONHJELM (New South Wales) (19:32): I move amendment (2) on sheet 7579:

(2) Schedule 2, page 55 (before line 5), before item 46, insert:

46A Before section 32
Insert:

32A Notification requirements in relation to interference with computer use under warrant etc.

(1) This section applies if:
   (a) a warrant was issued under section 25, 25A, 27A, 27C or 29; and
   (b) a thing mentioned in subsection 25(5) or 25A(4), paragraph 27D(2)(h) to (k) or subsection 27E(2) was done under the warrant.

(2) The Director-General must cause the Minister and the Inspector-General of Intelligence and Security to be notified of any material interference with, or interruption or obstruction of, the lawful use by other persons of a computer or other electronic equipment, or a data storage device, that resulted from the thing being done.

(3) The notification must be given:
   (a) in writing; and
   (b) as soon as practicable after the thing was done.

This amendment relates to recommendation 5 of the joint committee. The committee recommended that instances of material disruption of a computer and instances of non-routine access to third-party computers be reported to the minister. The government supported this recommendation with respect to material disruption and rejected the recommendation with respect to non-routine access. The government has just amended the bill to require reporting to the minister any instances of material disruption. Our amendment simply extends this so that both the minister and the Inspector-General of Intelligence and Security need to be notified of instances of material disruption. It is a small amendment and it simply reflects recommendation 5 of the joint committee.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:33): The government does not support this amendment merely because we consider it to be unnecessary. The government has already moved amendments implementing the recommendations of the PJCIS, which the Senate has now adopted, that ASIO must report to the minister of instances of material interference with the lawful use of a computer by other persons. A specific reporting requirement to the IGIS is not necessary now because the IGIS has extensive powers of inspection under the Inspector-General of Intelligence and Security Act. The IGIS exercises this power routinely in relation to ASIO's warrants and gave evidence at the PJCIS hearing that she would continue to do so in relation to computer access powers and, as I said, Senator Leyonhjelm, following the government amendments just passed by the Senate, the matter which is the subject of your current amendment is a matter in respect of which there has to be express notification.

Senator JACINTA COLLINS (Victoria) (19:34): In indicating that our position remains as it has been throughout the non-government amendments, I would however like to indicate appreciation for Senator Leyonhjelm's constructive approach in relation to these issues. He put considerable energy and effort into both the consideration of this bill and also the committee stage consideration, and I should add into his submission to the joint parliamentary committee. While I understand there are some concerns about crossbench senators not necessarily being able to participate in detailed considerations, on the next occasion, as I understand, the second tranche will be going before the Legal and Constitutional Affairs
Committee. From observing Senator Leyonhjelm's contribution here today, I expect he will continue to contribute through that process as well. I suppose I can only add, as I have said previously, that this is the first tranche and any outstanding issues of our consideration at this stage can potentially be addressed on a future occasion.

Senator LUDLAM (Western Australia) (19:35): The Australian Greens will be supporting this amendment. In fact, I think I may have inadvertently declared my support for it at an earlier stage of the debate. I would also like to acknowledge the diligence with which Senator Leyonhjelm has brought these issues to bear. This amendment more closely reflects the will of the parliamentary joint committee than does the government bill and the government amendments which have been brought forward. For that reason we will be supporting it.

The TEMPORARY CHAIRMAN (Senator Gallacher): The question is that amendment 2 on sheet 7579 be agreed to.

Question negatived.

Senator LEYONHJELM (New South Wales) (19:36): I move amendment (3) on sheet 7579:

(1) Schedule 2, page 30 (after line 31), after item 28, insert:

28A After section 25A

Insert:

25B Collection of intelligence under computer access warrant

Despite anything in section 25A, a computer access warrant issued under that section may authorise access to a computer only to the extent necessary to collect intelligence in respect of the security matter specified in the warrant.

(2) Schedule 2, page 55 (before line 5), before item 46, insert:

46A Before section 32

Insert:

32A Notification requirements in relation to interference with computer use under warrant etc.

(1) This section applies if:

(a) a warrant was issued under section 25, 25A, 27A, 27C or 29; and

(b) a thing mentioned in subsection 25(5) or 25A(4), paragraph 27D(2)(h) to (k) or subsection 27E(2) was done under the warrant.

(2) The Director-General must cause the Minister and the Inspector-General of Intelligence and Security to be notified of any material interference with, or interruption or obstruction of, the lawful use by other persons of a computer or other electronic equipment, or a data storage device, that resulted from the thing being done.

(3) The notification must be given:

(a) in writing; and

(b) as soon as practicable after the thing was done.

(3) Schedule 3, item 3, page 63 (after line 22), after section 35C, insert:

35CA Sunsetting

A special intelligence operation authority must not be granted after the end of 30 June 2025.
(4) Schedule 3, item 3, page 69 (lines 30 and 31), omit "or prejudice the effective conduct of a
special intelligence operation".

(5) Schedule 3, item 3, page 70 (lines 2 and 3), omit "or prejudice the effective conduct of a special
intelligence operation".

(6) Schedule 3, item 3, page 70 (line 14), at the end of subsection 35P(3), add:
; or (e) of information that has already been disclosed by the Minister, Director-General or Deputy
Director-General; or

(f) made reasonably and in good faith, and was in the public interest.

(7) Schedule 3, item 3, page 70 (after line 16), after subsection 35P(3), insert:
(3A) Subsections (1) and (2) do not apply if:
(a) the person informed the Organisation about the proposed disclosure at least 24 hours before
making the disclosure; and

(b) the disclosure did not include information on the identities of participants of a special
intelligence operation, or on a current special intelligence operation; and

(c) the information concerns corruption or misconduct in relation to a special intelligence operation.

Note: A defendant bears an evidential burden in relation to the matters in this subsection—see
subsection 13.3(3) of the Criminal Code.

(8) Schedule 5, items 9 and 10, page 74 (lines 4 to 19), to be opposed.

(9) Schedule 5, item 14, page 79 (lines 1 and 2), omit subparagraph 1(1A)(a)(i).

This is an amendment to impose a sunset clause on special intelligence operations. Under the
amendment, no authority for SIO could be granted after 30 June 2025. I am relying on public
statements by the Attorney-General to this effect, but I understand that the government has
agreed to sunset clauses to 2025 for other significant security powers, including preventive
detention. SIOs—special intelligence operations—involve a broad immunity for ASIO
operatives and impose very heavy penalties for unauthorised disclosures. As such, they should
be seen as a significant security power.

The Prime Minister has stated that our current circumstances justify the current rebalancing
of security and freedom concerns. These circumstances may or may not be present in 2025.
Given this, I can see no reason why the government and opposition would not support this
item.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-
President of the Executive Council, Minister for Arts and Attorney-General) (19:38): The
government does not support this amendment. When one introduces sunset provisions one
does so because a view is taken at the time the legislation is passed, because of the particular
character of the provisions sought to be sunsetting, that it is prudent to have a termination
date—usually some years into the future—at which the necessity and utility of the provision
can be reassessed. And if the government and parliament of the day on that future date do not
consider otherwise, the provision automatically expires.

But this regime is by no means a temporary regime. We do not foresee that the
augmentation of ASIO's powers by these provisions is something that is going to expire. It is
essential to ASIO's ability to collect intelligence relevant to security that it can have close
access to entities or individuals of security concern. Currently, some significant operations are
not able to commence because such close access may enliven security offences—for example,
those relating to associating with terrorist organisations. I appreciate Senator Leyonhjelm's desire to ensure rigorous oversight. As the PJCIS acknowledged, this outcome is achieved by the current bill with that committee's recommended enhancements which the Senate has not adopted. I note that the controlled operations scheme for law enforcement agencies such as the Australian Federal Police is not subject to a sunset clause either. Similarly, the limited immunity from liability in section 14 of the Intelligence Services Act is not subject to a sunset provision.

What we are asking the Senate to adopt in the measures which you seek to sunset is a provision which is consistent with existing laws of other intelligence agencies and the Australian Federal Police, which are not sunsetted. It is a set of provisions that reflect the core business of ASIO which, for as long as ASIO exists, are likely to continue to be needed. That is a judgement that we can make in the here and now, and not in years to come.

Of course, because of the particular character of national security legislation, because it does involve sometimes unusual intrusions on the liberties and privacy of the citizen, the government subjects this kind of legislation to a superabundant level of scrutiny, to which more commonplace legislation is not subject. It is subject to the IGIS, as you know, and it is also subject to the Independent National Security Legislation Monitor who, at any time, can come back to the government and say, 'I no longer consider these provisions to be necessary, and recommend that they be repealed or amended.'

So, Senator Leyonhjelm, I understand why you say what you say but, through the superabundant review processes which apply to this legislation, the concern you express is already accommodated by those arrangements. In any event, it is the government's view—and it is consistent with analogous legislation in intelligence and law enforcement—that this is not the sort of provision which is suitable for a sunset clause.

Senator JACINTA COLLINS (Victoria) (19:42): I can indicate that the opposition will not be supporting the amendment.

Senator XENOPHON (South Australia) (19:42): Very briefly, I can indicate my strong support for this amendment of Senator Leyonhjelm. I believe that it is important to have an adequate sunset clause. I note with interest that over the years since the PATRIOT Act was passed in the United States, more and more members of the US Congress have reservations about the extent of those powers in the PATRIOT Act. More and more Democrats, and indeed Republicans, are concerned about that act. There is a narrowing gap between those who want to maintain the PATRIOT Act in its current form and those who want to have it scrapped.

I think that having a sunset clause would force a review. The year 2025 is still quite a way away. It does not leave a gap or a hiatus in the legislation; it just alerts us to the fact that we need to thoroughly review the need for the legislation at that time.

Senator LUDLAM (Western Australia) (19:43): The Australian Greens strongly support this proposal. The Greens have not sought to amend the bill to remove the provisions relating to SIOs. We figured it would be simpler to express our opposition simply by voting against the bill. But I think Senator Leyonhjelm has brought forward an extremely valuable point that reflects a huge number of the submissions that were made in relation to this bill from different parties right across the political spectrum—from the Law Council and from others who we have quoted during the debate—that the entire SIO framework is extremely flawed. Just how
flawed it is we will debate in a little bit more detail when we discuss amendments that are forthcoming, around the reporting and transmission of information about them.

But the very least that we can do, if the legislation is to stay on the statute books, is to ensure—just to give you one example—that an Independent National Security Legislation Monitor evaluating how these instruments are being used in practice could well recommend to a future parliament that they lapse. If I had had the presence of mind to draft the amendment I suspect that I would not have let it lie for 10 full years, but it is Senator Leyonhjelm's drafting. We will be supporting it, and I hope the government will as well.

The TEMPORARY CHAIRMAN: The question is that amendment (3) on sheet 7579 be agreed to.

Question negatived.

Senator LUDLAM (Western Australia) (19:44): Now we get to one of the most serious parts of this debate and one of the areas where I struggle to understand how a government—that 18 or so months ago, when there were proposals to reform some elements of the architecture of media regulation in this country, shouted to the rooftops about curtailment of press freedom—would seek to bring provisions as draconian as what we see before us tonight and that have been condemned from one end of the country to the other. Effectively—and I will read a few quotes in shortly—it is proposed to criminalise the reporting of one of these special intelligence operations, the transmission about it, so this would relate not necessarily to journalists, because obviously they are not named in the bill, but people sharing Facebook information about one of these operations may well find themselves falling foul of the law.

By leave—I move Australian Green amendments (3) to (5) together:

(3) Schedule 3, item 3, page 69 (lines 19 to 23), omit subsection 35P(1).

(4) Schedule 3, item 3, page 70 (line 6), omit "Subsections (1) and (2) do", substitute "Subsection (2) does".

(5) Schedule 3, item 3, page 70 (line 20), omit "(1) or".

It effectively relates to the criminalisation of the reporting of national security issues. We will do this in two tranches and I will speak at more length on the first. There is a later batch of amendments that relate to similar matters, and I will reserve my comments on those now. These ones relate specifically to reporting of SIOs and even their mere existence.

Schedule 3 creates new offences relating to disclosing information on special intelligence operations or SIOs with a penalty of five years imprisonment. Schedule 6 creates new offence provisions and updates existing offences relating to the unauthorised disclosure of intelligence information, and we will come to those a little later in the debate.

Under the proposed subsection 35P(1):

- a person will commit an offence if he or she:
  - discloses information and
  - the information relates to an SIO.

The maximum penalty for the offence will be imprisonment for five years.

These offences are by far the most controversial of the proposed scheme—and, I would argue, of the proposed legislation. Two major concerns have been raised: the offences do not contain exceptions for public interest disclosures, which I think Senator Xenophon will try and
address in a forthcoming amendment; or whistleblowing by ASIO employees. They apply to any person and would thereby capture disclosures by, for example, journalists. Many submitters made that point to the PJCIS.

I go back to earlier stages of the debate yesterday where we were discussing the document that the Scrutiny of Bills Committee had prepares when evaluating this bill. They identified 19 areas over which they had grave concerns. One of them was this very issue, subsection 35P—the committee sought a fuller justification from the Attorney as to why a penalty of imprisonment for five years is considered appropriate, given the breadth of application of the offence provision.

What this means in practice, which was stated very bluntly by a number of the submitters—and the first contribution that I would like to read is submission no. 17 by combined media organisations and signed by the following: AAP, ABC, APN, Astra, Bauer Media, Commercial Radio Australia, Fairfax Media, FreeTV, the MEAA, News Corp Australia, SBS and the West Australian.

Under a section of their submission, which they have entitled 'Jailing journalists for doing their jobs,' they say:

The insertion of proposed section 35P could potentially see journalists jailed for undertaking and discharging their legitimate role in a modern democratic society—reporting in the public interest. Such an approach is untenable, and must not be included in the legislation.

I can say to our colleagues in the press gallery tonight that this is included in the legislation and that we may be about to legislate away your extremely important role in our democracy.

They go on to say:

This alone is more than adequate reason to abandon the proposal as the proposed provision significantly curtails freedom of speech and reporting in the public interest.

This is particularly so as the proposed section 35P prohibits any disclosure of information relating to an SIO, not just reporting in the public interest.

It is a blanket prohibition. The trick is: how would you know if you had done that, because the very existence of SIOs would be suppressed?

These entities make up by far the largest fraction of those working in the parliamentary press gallery—I am not sure where they all are tonight but, nonetheless, their submission speaks for itself. They go on to say:

In addition, SIOs by their very nature will be undisclosed. This uncertainty will expose journalists to an unacceptable level of risk and consequentially have a chilling effect on the reportage of all intelligence and national security material. A journalist or editor will simply have no way of knowing whether the matter they are reporting may or may not be related to an SIO. We express this as information that ‘may or may not be’ related to an SIO because:

- It may or may not be known if the information is related to intelligence operations, and whether or not that intelligence operation is an SIO;
- ‘relates to’ is not defined and therefore the breadth of relevance is unknowable;
It is unclear whether SIO status can be conferred on an operation retrospectively—i.e. if information has been ‘disclosed,’ whether any operation that it may be associated with or related to can be retrospectively allocated SIO status; and

It is likely that clarity about any of these aspects would only come to light after information is disclosed—particularly in the case of reporting in the public interest.

This submission is damning. I cannot for the life of me understand why the opposition is lining up and supporting this uncritically. Perhaps Senator Collins can inform us, but I would like Senator Brandis to tell us how those in this press gallery and working journalists around the country will know in advance whether what they are deciding to report in tomorrow’s paper may or may not be related to an SIO. How will they know without simply publishing and hoping for the best?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (19:52):

The Greens seek to remove from the bill the offence in section 35P(1), which applies to persons who intentionally communicate information reckless as to the circumstance that it relates to a special intelligence operation. The government does not support this amendment. It is inconsistent with the unanimous view of the PJCIS. As the PJCIS in its report recognised, the offence provision is necessary and appropriate to protect sensitive information about the existence and conduct of covert intelligence operations.

The very disclosure of the existence of such covert operations creates a risk. They may be compromised, and the safety of the participants and their families might be placed in jeopardy. Such a risk could be immediate or could arise over the longer term. There is no way of controlling it once it is disclosed. This risk of harm, potentially harm to life, is inherent in the disclosure of such information. It does not depend in any way on the discloser’s intention. Justice Hope observed in his 1984 report on ASIO, if I may quote him:

The disclosure of secrets or secure areas to risk through inadvertence or carelessness can result in just as much damage to the national interest as can result from espionage or sabotage.

But here, unlike the observations Justice Hope made all those years ago, we have a higher threshold—that is, intention to disclose with reckless disregard of the circumstances.

The Australian Law Reform Commission has also endorsed the view that offences concerning unauthorised disclosure of intelligence related information should not be limited to those which require proof of harm or malicious intent. That is because such harm is inherent in the very act of disclosure, which places the information at risk.

As the PJCIS further recognised, the offence requires the prosecution to prove that the person who disclosed the information was reckless as to the fact that it related to a special intelligence operation. And, of course, Senator—it perhaps should go without saying but let me remind you—that this being a criminal offence, the burden of proof lies on the prosecution to prove every element beyond reasonable doubt. As the PJCIS acknowledged, this is an onerous burden of proof. The prosecution must establish to that standard of proof that the person knew of a substantial risk that the information resulted to a special intelligence operation. It must then establish that the person nonetheless and unjustifiably in the circumstances took the risk of making the disclosure.
Senator Ludlam, might I also point out to you that, although you claim in an exuberance of rhetoric that this is a new and extremely dangerous provision, it is entirely of a piece with a number of existing provisions in the law. In particular, the offence elements are identical to the existing provisions of section 15HJ of the Crimes Act, which creates the same offence in relation to the disclosure of controlled operations by the Australian Federal Police. That provision was inserted by the previous government in 2010. In fact, there have been no prosecutions or referrals for prosecution to date. That should tell you that this is a provision that would be very sparingly used. It should also give you a level of reassurance, I hope. It strongly suggests that the offences are not operating to unduly curtail media reporting or public disclosure in relation to security matters.

If I may say so, Senator Ludlam, you often raise a false fear. This is not about reporting on the operation of the intelligence agencies. It is about intentionally disclosing a covert operation with reckless disregard as to that circumstance and in circumstances where, because of the very nature of a covert operation, the persons involved in that covert operation are likely to be placed at risk of harm or, indeed, at risk of their lives.

Lastly, Senator Ludlam, you did say in your contribution that you were concerned that this would constrain or eliminate the rights of whistleblowers. That also, Senator Ludlam, like so many things you said, is erroneous. The existing protections of whistleblowers under the ASIO Act are preserved and are unaffected by this amendment.

Senator JACINTA COLLINS (Victoria) (19:57): Senator Ludlam addressed at least part of his question to the opposition, so I will supplement Senator Brandis’s comments with the point that the joint parliamentary committee probably spent the most time on issues addressing this particular matter, and the opposition remains confident with the outcome and the recommendations arising from that, which are reflected in the government amendment that makes clear that the offence only operates where a person is aware of a substantial risk that information relates to an SIO and it is unjustifiable to take that risk. Once again, Senator Ludlam, we would be relying on the consideration of the joint parliamentary committee.

Senator XENOPHON (South Australia) (19:58): I indicate my support for this amendment for these reasons. This amendment does not touch clause 35P(2), which relates to committing an offence if you disclose information relating to a special intelligence operation and it could in any way endanger the health or safety of any person or prejudice the effective conduct of a special intelligence operation. So it is not just about the health and safety of our intelligence officers, which ought to be a very key and important consideration. That is why I supported Senator Lazarus’s amendment to increase substantially the penalty in respect of that. This amendment seeks to delete the offence of up to five years imprisonment for simply disclosing a special intelligence operation. It must be read in conjunction with subclause (2), which ought to remain subject, I hope, to an amendment that I will be moving in respect of public interest considerations. That is the difference. If you disclose information, and that information prejudices an operation, prejudices the health or safety of intelligence officers, that will still be an offence. The Australian Greens are not seeking to get rid of that.

I think we need to listen to the fourth estate in relation to this. I think we need to listen to organisations as diverse as Fairfax Media, AAP, SBS, Commercial Radio Australia, the West Australian, the ABC, free TV and News Corp in relation to their concerns. They have set out very clearly and unambiguously:
The insertion of proposed section 35P could potentially see journalists jailed for undertaking and discharging their legitimate role in the modern democratic society—reporting in the public interest. Such an approach is untenable and must not be included in the legislation.

I am conscious of time and I will be as quick as I can, but I do want to make mention to what occurred almost 30 years ago.

Almost 30 years ago, Peter Wright, a counterintelligence officer from Britain's MI5—which is the UK's counterpart to ASIO—wrote a book entitled Spycatcher. The British government, in particular the British Attorney-General, Sir Michael Havers, in consultation with the Director of Public Prosecutions, decided to prosecute Wright for unauthorised disclosure of classified information. Heinemann, the UK publishing house, tried to avoid an injunction preventing publication by transferring the book to the Australian subsidiary. The British government decided to take legal action in Australia and in the United Kingdom. Accordingly, in September 1985, the British Attorney-General began proceedings in Australia against Peter Wright and the publisher, Heinemann Australia, seeking an injunction to prevent publication on the grounds that Wright was in breach of his duty of confidentiality to the Crown.

The Attorney-General admitted, for the purposes of those proceedings only, that all the allegations in Spycatcher were correct. The admission that Sir Roger Hollis, a former MI5 director-general, had been a Soviet spy was of considerable public interest in Australia, since Hollis had had a major role in the foundation of ASIO. The Spycatcher trial lasted five weeks. Peter Wright's counsel was a young—some would say brash—then 32-year-old lawyer named Malcolm Turnbull. On that historic occasion, Malcolm Turnbull was able to make fun—and rightly so—of the exaggerated levels of British secrecy. The Australian Cabinet Secretary, Michael Codd, in evidence at the trial claimed that, if Spycatcher were to be published in Australia, the intelligence agencies of Britain and other friendly countries would be unwilling to exchange secret intelligence with Australia. But Spycatcher was published and the sky did not fall in. The intelligence agencies of Britain and other friendly countries are quite happy to exchange secret intelligence with Australia.

My fear is that, under this bill, with this particular provision—the subject of so much concern by the media, the fourth estate in this country—Spycatcher could not be published in Australia. That is a situation we must not permit. This is where the bill is weak. It assumes a best-case scenario and impeccable behaviour by all concerned. I have referred to the witness K case in relation to East Timor—a different set of circumstances, but the principles are the same. The foundation of Western political thought, as the Attorney-General knows full well—and I say that as a compliment—is that we do not rely solely on individuals to be good or rulers to be righteous but on institutions to provide checks and balances. This has been known since at least the second half of the 18th century when Montesquieu, a French political philosopher, championed the need to resist tyranny by fragmenting government power, particularly through the device of the separation of powers. I have real concerns about the impact of this particular piece of the legislation on the freedom of the press.

Senator LUDLAM (Western Australia) (20:03): I would say on behalf of those I cited before who put that submission—and Senator Xenophon just cited—that they raised the question about whether SIOs can be declared retrospectively. I do not think it is something...
that we have canvassed in the debate thus far. Senator Brandis, I wonder whether you could clarify whether that is possible under the operation of the act.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:03): No.

Senator LUDLAM (Western Australia) (20:03): I thank Senator Brandis for the clarity of his answer. It is actually quite embracing. I would also put to you the concerns that I shared before. The submission that the MEAA put to the joint committee, submission No. 6, raised a very interesting case study—that being the phone-tapping of the wife of Indonesian President Susilo Bambang Yudhoyono. It was controversial reporting—I would argue, public interest reporting—and it was obviously based on disclosure of operations that took place well before the SIO scheme came into place. Senator Brandis, had that wiretapping been done under the framework of an SIO—which I think is entirely plausible—would that reporting have been illegal?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:04): I am not going to indulge Senator Ludlam by answering hypothetical cases or cases of historical interest—or, indeed, addressing cases or issues that may come before the courts. The legislation is before you, Senator. You have made your position clear. You are entitled to the view that you take. Really, that is all I have to say to you.

Senator LUDLAM (Western Australia) (20:05): That is rather extraordinary, because that is not a hypothetical case. So I will put another one to you. In submission No. 12, the Guardian—who do a lot of national security reporting, as you would be well aware—note on page 8 of their submission:

Of the 20 public reports of the Inspector-General (as at 31 July 2014), nine appear to have been triggered directly or indirectly by media disclosures.

The unfortunate case of Dr Mohamed Haneef was largely brought to light by the media. That is a case that has well and truly run its course. It is not something that is going to be brought before the courts. I wonder, Attorney, whether you could outline for us whether reporting of that case—strongly, clearly and unambiguously in the public interest—would have been illegal if an SIO had been in place at the time of those events.

The TEMPORARY CHAIRMAN (Senator Bernardi): The question is that Australian Greens amendments—

Senator LUDLAM (Western Australia) (20:06): It is unacceptable that the minister has just returned to an earlier rather childish pattern of behaviour of simply refusing to answer simple questions put in the committee stage. It is absolutely extraordinary. Thank you for at least acknowledging that I am entitled to have these views—and so are the many, many people, including the working journalists of this country who have put these questions before you. They do not get the opportunity to ask questions in the committee stage. That is my job, and I would appreciate at least the courtesy of a response to direct and relevant questions that I am putting to you. That is what this stage of debate is for. The Human Rights Commission noted—as many others did; not just journalists and their representatives—on page 14 of their submission No 28.
… the provisions deal with disclosures from ‘a person’, they have the potential to capture the work of journalists and potentially limit the right to freedom of expression under article 19 of the ICCPR. The HRC has stated that:

the media plays a crucial role in informing the public about acts of terrorism and its capacity to operate should not be unduly restricted. In this regard, journalists should not be penalized for carrying out their legitimate activities.

Senator Brandis, how is it that all of these entities who study these issues for a living could possibly have it so wrong? By what means does the government believe that the potential criminalisation of national security reporting makes our country any safer?

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:08): I rise tonight to support my colleague Senator Ludlam in asking Senator Brandis to answer the questions. This is the committee stage of this important legislation. This is seriously challenging the right of journalists to be able to report in the public interest. It is extraordinary that he is refusing to answer very straightforward questions. Of course, we know that the Labor opposition is going to go along with this regardless; they are not even interested in the answers. But the Fourth Estate in Australia are interested and we want to know exactly what the penalties are going to be. Journalists around the world are being jailed for simply reporting the news. We know that in the case of Peter Greste, for example, our own journalist in Egypt, and we have condemned the Egyptian government and the legal system there for the farce that was the trial that sees him continue to languish in prison in Egypt for simply doing his job.

We are putting to Senator Brandis here tonight questions that go to the heart of the issues of reporting what is going on. I cannot believe that here on a Thursday night this chamber is virtually empty and yet we have seen already tonight penalties increase from one to 10 years for various things. Incredibly draconian legislation is being passed, and the minister responsible either cannot or will not answer and is smug because the opposition is going along with it. I ask Senator Brandis to answer the questions being put to him in the committee stage of a bill as is expected of a competent minister, or is he incompetent and unable to answer the questions being put?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:10): Senator Milne, there is no need to be discourteous. The reason I did not respond to Senator Ludlam’s question is very simple: because I had already answered it. In fact, I had already answered it twice in the course of this debate. I am not going to facilitate Senator Ludlam's parliamentary tactic of filibustering this legislation by responding repeatedly to questions that have already been asked and have already been addressed. That is the reason why I am not going to respond to a questions already asked and already answered.

Senator Milne, you mentioned Peter Greste. This government has gone to enormous lengths on behalf of Mr Peter Greste, whose parents are constituents of mine, as his family well knows and generously acknowledges. The Prime Minister has engaged the Egyptian head of government, the Foreign Minister has on numerous occasions engaged her Egyptian counterpart and the Egyptian Ambassador to Australia. I have engaged at length the Egyptian Attorney-General. Do not try and make a cheap political point, Senator Milne, out of the fate of Peter Greste.
The TEMPORARY CHAIRMAN (Senator Bernardi): The question is that Australian Greens amendments (3) to (5) on sheet 7570 be agreed to.

The committee divided. [20:16]

(The Temporary Chairman—Senator Bernardi)

Ayes .................12
Noes .................36
Majority..............24

AYES

Hanson-Young, SC
Ludlam, S
Milne, C
Rice, J
Waters, LJ
Wright, PL

NOES

Back, CJ
Bilyk, CL
Bullock, J.W.
Canavan, M.J.
Conroy, SM
Fawcett, DJ (teller)
Heffernan, W
Lambie, J
Lines, S
Mason, B
McGrath, J
McLucas, J
Muir, R
O'Neill, DM
Polley, H
Ruston, A
Smith, D
Wang, Z

Question negatived.

Senator XENOPHON (South Australia) (20:19): I move amendment (1) on sheet 7574:

(1) Schedule 3, item 3, page 69 (after line 23), after subsection 35P(1), insert:

(1A) A court must, in determining a sentence to be passed or an order to be made in respect of a person for an offence against subsection (1), take account of whether or not, to the knowledge of the court, the disclosure was in the public interest.

(1B) Subsection (1A) does not limit Division 2 (general sentencing principles) of Part IB of the Crimes Act 1914.
This item relates to the new offence of disclosing information relating to special intelligence operations. The aim of this amendment is to require a court, when determining a sentence for this offence, to take into account whether the disclosure was in the public interest. It does not go to exculpating a person, but it does go to the issue of mitigation. I hope this amendment will be a satisfactory compromise, because I know the position of the major parties and the Palmer United Party not to support the earlier amendment that I supported, which was moved by Senator Ludlam and supported by both Senator Leyonhjelm and Senator Madigan as well as by the Australian Greens.

This amendment requires public interest to be taken into account when sentencing. In an ideal situation I would prefer to see the first part of this offence, which relates to general disclosure information, removed completely. While I acknowledge the need to protect sensitive information, I also believe that the public have a right to know certain facts. For example, in my view, it would be in the public interest to disclose corruption, malpractice, criminal activity, or similar and related matters. I believe the public interest must be taken into account in relation to this new disclosure offence, and introducing a requirement for a court to consider this when determining a sentence is a fallback position in a sense.

To put this in context, if you are disclosing information where you are not a spy for another country, you are not getting remuneration, it is not done for malicious purposes but is done for a genuine public interest because an operation has been in some way unlawful or unethical, and it does not in any way compromise an existing operation, nor would attempt to identify any intelligence officers, which is what subsection 35P(2) does, then it ought to be taken into account by a court. The government and opposition may indeed say that there is a general discretion in sentencing to take these matters into account. But it ought to be acknowledged that by elevating this, by including reference to the public interest in determining the penalty for an offence, it would be a matter that the court must cast its mind to. What the court does with it is a matter for the court, but it would provide some degree of safeguard in the sense that the public interest must be considered in any sentencing. It is a fall-back position to that moved by the Australian Greens, which I supported. But let us bear in mind that practically every major news organisation in this country, including News Corporation, has very serious concerns with the proposed section 35P. There are many elements of this bill that I think are good, there are many elements of this bill that I think are important and needed, but to me this clause is a deal breaker because it strikes at the heart of the freedom of the press in this country.

The TEMPORARY CHAIRMAN: For the benefit of the Senate: I invited Senator Xenophon to seek leave because it was my understanding that he was going to move several amendments at once. Senator Xenophon, I am seeking clarification. You are only moving amendment (1) standing in your name?

Senator Xenophon: That is correct. There is a reason for that, which I will go into once this is dealt with. I indicate to the chamber that, so long as I can get an indication from my colleagues where they stand on this, I do not propose to have a division in respect of this amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:24): The
government does not support the amendment because it is entirely unnecessary. The amendment proposes that the following words be added to section 35P:

A court must, in determining a sentence to be passed or an order to be made in respect of a person for an offence against subsection (1), take account of whether or not, to the knowledge of the court, the disclosure was in the public interest.

Senator Xenophon, that is what courts would always and routinely do in a case of this kind. If a person were to be prosecuted and convicted of an offence of this kind and there was material before the court that enabled his counsel to urge on the sentencing judge that he was acting in the public interest, it is inconceivable that that consideration would not be had regard to as a potential circumstance of mitigation. The principles of criminal sentencing are a very, very, very well established discipline and the amendment you have proposed instructs by statute a court to do what a court always would do and since time immemorial has always done. So the government does not support the amendment because it is entirely unnecessary.

However, having regard to the concerns you have raised I have amended the explanatory memorandum to refer to the Prosecution Policy of the Commonwealth, which actually explicitly indicates that public interest is a factor to be had regard to in relation to a decision to prosecute. So I spoke about a judge considering a sentence in relation to a convicted person; but at a prior stage in the process it is also, under the existing Prosecution Policy of the Commonwealth, a matter to which a prosecutor must have regard in exercising a prosecutorial discretion.

Finally, I know that there have been some rhetorical flights from the crossbench tonight but might I remind you, as I pointed out before, that this provision does not take the law of the Commonwealth any further than it already stands. Under section 15HJ of the Crimes Act the same provisions apply, and have applied since 2010, to controlled operations by the Australian Federal Police. This provision merely applies the same regime as applies to controlled operations by the Australian Federal Police to special intelligence operations carried out by ASIO.

Senator XENOPHON (South Australia) (20:27): Is the Attorney-General saying that APN News and Media, Fairfax Media, AAP, SBS, Bauer Media Group, Commercial Radio Australia, the Australian Subscription Television and Radio Association, the Media Entertainment and Arts Alliance, the West Australian, the ABC, Free TV Australia and News Corp Australia are wrong in relation to their interpretation of section 35P?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:27): I am sure those media organisations would prefer that this provision not be enacted. But for the reasons that persuaded every member of the Parliamentary Joint Committee on Intelligence and Security—including, I might say, the independent member who sat on the committee during the last parliament Mr Andrew Wilkie—there are sound policy reasons to do so.

Senator JACINTA COLLINS (Victoria) (20:28): Senator Xenophon, you are correct. Despite this being your fall-back position it does not change our principal position.

Senator LUDLAM (Western Australia) (20:28): For reasons that Senator Xenophon has expressed, the Australian Greens will be supporting this amendment. It is correctly described as a fall-back position. It is not as strong as what we sought to do in the previous amendment—and one I foreshadow which will probably be the last one we will deal with
tonight—where we sought to remove these provisions from the bill entirely. Senator Xenophon seeks to add an additional layer where the public interest is firmly in the minds of the court or perhaps would lead to these things not even being prosecuted in the first place. For that reason the Australian Greens are in strong support.

Senator LEYONHJELM (New South Wales) (20:29): For the reasons that Senator Xenophon has outlined I also support this amendment. I understand that there will not be a division but I want my support recorded in Hansard. The general point is that ASIO is there to serve the public interest. The public interest test in the legislation does no harm; it just reminds the relevant authorities of who they are working for.

Senator MADIGAN (Victoria) (20:29): I wish to put on the record that I support Senator Xenophon's amendment.

Senator LAMBIE (Tasmania—Deputy Leader and Deputy Whip of the Palmer United Party in the Senate) (20:30): I would also like it noted that the Palmer United Party will be standing behind Senator Xenophon on this amendment. Once again, as cross-benchers we have not been a part of this—and I say that Labor is calling this one wrong. Thanks very much.

Question negatived.

Senator XENOPHON (South Australia) (20:30): by leave—I move amendments (2) to (7) standing in my name on sheet 7574:

(2) Schedule 6, item 1, page 81 (lines 4 and 5), to be opposed.
(3) Schedule 6, item 10, page 86 (lines 17 to 19), to be opposed.
(4) Schedule 6, item 13, page 87 (lines 3 to 5), to be opposed.
(5) Schedule 6, item 16, page 87 (lines 16 to 18), to be opposed.
(6) Schedule 6, item 18, page 88 (line 29), omit the penalty, substitute:
Penalty: Imprisonment for 2 years.
(7) Schedule 6, item 18, page 89 (line 28), omit the penalty, substitute:
Penalty: Imprisonment for 2 years.

I will be very brief on this. I think we know where people stand on it.

These amendments relate to the proposed increase in penalties for disclosure offences under the bill from two years to ten. I believe these increases are too large, apart from those that relate to putting lives or operations at risk—and I have already supported those. I think that these go too far in the circumstances. I have already indicated my support for the Palmer United Party amendments, also supported by the government, about endangering the life of officers in intelligence operations, but these are too broad. This is similar to the objections I had in relation to the earlier parts of the bill.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:31): The government will not be supporting your amendments, Senator Xenophon. I am a little surprised, if I may so, given your support for Senator Lazarus's amendments, that you would persist with these amendments—because what you said about Senator Lazarus's amendments applies equally to these provisions. The disclosure of the identity of an officer and the disclosure of activities under the provision you seek to amend are, I would submit to you,
criminal behaviour of equivalent gravity. For that reason, the government will not be supporting your amendment.

Senator JACINTA COLLINS (Victoria) (20:32): I can indicate that the opposition will be opposing these amendments.

Senator LUDLAM (Western Australia) (20:32): I understand that these amendments are effectively consequential and are part of a package—that Senator Xenophon is seeking to move to increase the freedom of the press. I think it is a shame that none of our colleagues in the gallery are actually with us tonight to witness what is occurring down here. The Greens will be supporting this amendment.

Senator XENOPHON (South Australia) (20:33): Can I just respond briefly to the Attorney's comments? I see a distinction in respect of these matters. They do not relate to the disclosure of the identity of an officer; they relate to broader matters. I can see Senator Brandis's point, but there is a distinction between the two—a distinction I have drawn and the reason I have moved this amendment. I am not proposing to divide over this amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:33): I thought I might take the opportunity to point out to Senator Ludlam that, again, he has fallen into error. He does not understand this legislation. These provisions have nothing to do with the press. What these provisions have to do with are officers of ASIO who communicate intelligence information, which would be a grave breach of trust on their part. It has absolutely nothing to do with the press.

The TEMPORARY CHAIRMAN (Senator Bernardi): I am going to divide these amendments into two separate questions. The first question is that amendments (6) and (7) on sheet 7574 be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: The next question is that items 1, 10, 13 and 16 of schedule 6 stand as printed.

Question agreed to.

Senator LEYONHJELM (New South Wales) (20:35): by leave—I move amendments (4) and (5) standing in my name on sheet 7579 together:

(4) Schedule 3, item 3, page 69 (lines 30 and 31), omit "or prejudice the effective conduct of a special intelligence operation".

(5) Schedule 3, item 3, page 70 (lines 2 and 3), omit "or prejudice the effective conduct of a special intelligence operation".

I indicate that I will move each of amendments (6) and (7) separately.

Amendments (4) and (5) relate to the special intelligence operation disclosure offence. They relate to the particular offence that gives rise to a maximum penalty of 10 years imprisonment. My amendments would mean that disclosures that do not endanger anyone's health or safety but nonetheless prejudice the effective conduct of a special intelligence operation do not give rise to a maximum penalty of 10 years imprisonment. Instead, such disclosures would give rise to a maximum penalty of five years imprisonment. The point I am
making, and the point on which I am seeking support, is that 10 years imprisonment is unreasonable when no-one's health or safety has been endangered.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:36): Mr Temporary Chairman, we are dealing with amendments (4) and (5) at the moment?

The TEMPORARY CHAIRMAN (Senator Bernardi): Yes.

Senator BRANDIS: The government opposes those amendments. Amendments (4) and (5) relate to the aggravated offence in section 35P(2), for persons who disclose information relating to an SIO intending to cause or actually causing one of two forms of harm. Those are: endangering the health or safety of any person, or prejudicing the effective conduct of a special intelligence operation. These are circumstances of aggravation and, for that reason, in the government's view, the higher maximum penalty of 10 years imprisonment is justified.

Senator Leyonhjelm's amendment would remove from the exaggerated offence the element of causing prejudice to the effective conduct of an SIO. This would mean that the offence would not target a very grave wrongdoing. ASIO's ability to perform its functions effectively relies absolutely on its ability to conduct effective covert operations without compromise. It is appropriate that offences are enacted to create an appropriate disincentive to persons contemplating the disclosure of operational information of the most sensitive kind. I note that these offences are subject to rigorous safeguards. These include the ability to disclose suspected wrongdoing to the IGIS, and specific exemptions for persons seeking legal advice or participating in legal proceedings in relation to an SIO.

Senator Leyonhjelm, without repeating myself, may I remind you, as I pointed out to Senator Xenophon before, that this is a maximum, not a mandatory minimum, so, although the maximum has been elevated to reflect the potential gravity of the offence, obviously only in the most serious kind of case would a sentencing discretion be exercised to impose the most serious penalty.

Senator JACINTA COLLINS (Victoria) (20:39): I can indicate that the opposition will be opposing the amendments.

Senator LUDLAM (Western Australia) (20:39): For the benefit of the chamber, and for Senator Leyonhjelm, I will just indicate in advance that we will be supporting these amendments. We are dealing with (4) and (5) now. Items (4) to (7) are effectively part of a batch with similar intent that the Australian Greens will be supporting, for the reasons that Senator Leyonhjelm has effectively outlined.

The TEMPORARY CHAIRMAN (Senator Bernardi): The question is that amendments (4) and (5) on sheet 7579, standing in the name of Senator Leyonhjelm, be agreed to.

Question negatived.

Senator LEYONHJELM (New South Wales) (20:39): I move amendment (6) on sheet 7579:

(6) Schedule 3, item 3, page 70 (line 14), at the end of subsection 35P(3), add:

; or (e) of information that has already been disclosed by the Minister, Director-General or Deputy Director-General; or
(f) made reasonably and in good faith, and was in the public interest.

This amendment seeks to add to the list of exceptions to the special intelligence operation disclosure offence. Under this item, a person could claim a defence that the information the person disclosed had already been disclosed by the minister, director-general or deputy director-general. The fact that there is such an amendment required suggests a flaw in the government's drafting. Under the government's drafting, as the bill stands, there is no exclusion from the offence of disclosing SIO information that the government has already authorised for release. Separately, this item would allow a person to claim a defence that the disclosure was made reasonably and in good faith and was in the public interest. This is a tight public interest defence and resembles the public interest defence under section 18D of the Racial Discrimination Act which the government is now heavily relying on, given the continuation of 18C. This is an identical defence to what already exists.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:41): The government does not support these amendments because we think they are entirely unnecessary. The two additional exceptions to the SIO disclosure offences are for information already disclosed by the minister, by the director-general, or by a deputy director-general, or for information disclosed reasonably in good faith and in the public interest. In relation to the first of those, there is no need at all for a specific exemption for information that has already been lawfully disclosed, because, Senator Leyonhjelm, if the information is already in the public domain because it has been disclosed by the minister or the director-general or a deputy director-general, there can, ex hypothesi, be no disclosure, and therefore there is no conduct on which the offence provision could operate. So there is no factual circumstance to which your amendment could possibly apply.

In relation to the other exemption you propose—good faith and in the public interest—a specific public interest exemption is not necessary because appropriate protection is already afforded to persons who make disclosures of suspected wrongdoing to the relevant authorities. As I have already pointed out earlier in the debate, nothing in this bill intrudes upon the capacity of someone to take advantage of the whistleblower protection provisions, and nothing in this bill constrains the capacity of a person to approach the IGIS. In fact, as a result of the recommendations of the PJCIS dealt with earlier in the government's amendments there are strengthened safeguard provisions for a person approaching the IGIS. So if a person, in good faith and in the public interest, wants to ensure that what they perceive to be or believe to be wrongdoing is brought to the attention of the authorities, they can already do that under the provisions of the existing bill as amended and improved by the government amendments today.

Senator XENOPHON (South Australia) (20:43): Just a very brief comment in relation to that: my understanding was—and a nod or a shake of the head from the Attorney would suffice, to save time—that the intelligence community is carved out of the public interest disclosure provisions. I am not sure if that is the case, but I would—

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:44): Senator Xenophon, there is a whistleblower regime which specifically protects the capacity of officers of ASIO and the intelligence services to blow the whistle on wrongdoing.
Senator XENOPHON (South Australia) (20:44): My understanding is, firstly, that the intelligence community is carved out of the Public Interest Disclosure Act and the intelligence community can only talk to IGIS.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:44): No, it is not the case that they are carved out from the whistleblower protection regime.

Senator XENOPHON (South Australia) (20:44): My final point involves witness K. It is a matter before the courts in relation to the alleged bugging of the East Timor cabinet room by ASIS. Witness K went to IGIS but did not get a satisfactory response. That is why he went to the media and is now facing criminal charges and a significant jail term.

Senator LEYONHJELM: Minister, if you, as minister, or a subsequent minister, or the director-general or the deputy director-general of ASIO were to disclose information about an SIO, would you or they have committed an offence under the bill?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:46): No, because in those circumstances the provisions of section 35P(3) would apply which exempts from liability disclosure:

(a) in connection with the administration or execution of this Division—
that is, this division of the ASIO Act—

(b) for the purposes of any legal proceedings arising out of or otherwise related to this Division or of any report of any such proceedings; or

(c) in accordance with any requirement imposed by law; or—

And this is most immediately relevant to your question, Senator—

(d) in connection with the performance of functions or duties, or the exercise of powers, of the Organisation.

If, for example, the director-general were to make a decision to disclose a matter then, given the powers and discretions conferred on the director-general by the ASIO Act, it is very difficult to see how that would not be an act done in connection with the performance of a function or duty or the exercise of power vested in him by the ASIO Act.

The TEMPORARY CHAIRMAN (Senator Bernardi): The question is that amendment (6) on sheet 7579 be agreed to.

Question negatived.

Senator LEYONHJELM (New South Wales) (20:47): I move amendment (7) on sheet 7579:

(7) Schedule 3, item 3, page 70 (after line 16), after subsection 35P(3), insert:

(3A) Subsections (1) and (2) do not apply if:

(a) the person informed the Organisation about the proposed disclosure at least 24 hours before making the disclosure; and

(b) the disclosure did not include information on the identities of participants of a special intelligence operation, or on a current special intelligence operation; and

(c) the information concerns corruption or misconduct in relation to a special intelligence operation.
Note: A defendant bears an evidential burden in relation to the matters in this subsection—see subsection 13.3(3) of the Criminal Code. This amendment represents a separate and specific defence for the offence of disclosing special intelligence operation information. The amendment is proposing a new and specific defence. Under this amendment, a person could claim a defence if the person informed ASIO of the proposed disclosure of information at least 24 hours before the disclosure and the disclosure did not identify participants in an SIO, and the disclosure did not include information on a current SIO, and the information concerns corruption or misconduct in relation to an SIO. This is very important, in my view.

What we are looking for here is scope for somebody to report on corruption and misconduct. The argument might be that disclosure of such information may divulge sensitive information and disrupt an otherwise legitimate SIO. This amendment would allow an exemption only where that information is disclosed to ASIO for at least 24 hours, did not identify participants in a special intelligence operation, did not include information on a current SIO and related to corruption or misconduct. An exception from disclosure offences for instances of corruption and misconduct is found in law applying to the AFP.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:50): The government does not support this amendment because the mischief that it seeks to address is already provided for in relation to people who make such disclosures. It is inconceivable that an accusation or an allegation of corruption, if made in good faith, would not already be governed by the whistleblower protection regime. As well, a person can make a complaint to the IGIS. The power under the IGIS Act to approach the IGIS in relation to a complaint of that nature is unconstrained. As well, of course, if a criminal offence has been convicted, as you would expect on the factual scenario which your amendment seeks to address, Senator, then a person could without contravening section 35P report that suspected criminal activity to the Australian Federal Police, and indeed ought to do so.

The TEMPORARY CHAIRMAN: The question is that amendment (7) on sheet 7579 be agreed to.

Question negatived.

Senator LEYONHJELM (New South Wales) (20:51): by leave—I move amendments (8) and (9) on sheet 7579:

(8) Schedule 5, items 9 and 10, page 74 (lines 4 to 19), to be opposed.

(9) Schedule 5, item 14, page 79 (lines 1 and 2), omit subparagraph 1(1A)(a)(i).

I will speak to amendments (8) and (9) together. Perhaps you can put them separately. What I am seeking here is to remove a provision in the bill to allow ASIS, the Australian Security Intelligence Service, our foreign intelligence service, to cooperate with foreign authorities in undertaking training in the use of weapons. Item 9 removes the authorisation of ASIS to provide weapons and weapons training for self-defence purposes to an officer of a foreign authority with whom ASIS is cooperating. ASIS is not a military organisation, and there is no definition of 'foreign authorities' provided in the bill. This is significant. It seems to be is a significant expansion and change in the nature of ASIS activities which will allow them to arm and train foreign authorities. ASIS itself is actually prohibited from using weapons in its
activities, but here it is taking on responsibility for training others in the use of weapons and training. The closest analogy that comes to mind in respect of this scenario is that ASIS would take on some of the sorts of activities for which the CIA is notorious; that is, funding, providing weapons to and training organisations and bodies that it wishes to support. It is a very murky activity. I would like to think that our government and our agencies do not get involved in that sort of thing. The best example that I can think of in recent history was the CIA's arming and training of the Taliban during the period of the Russian occupation in Afghanistan. That was a very dodgy activity and I would like to think that our ASIS is not going to engage in anything similar.

The TEMPORARY CHAIRMAN (Senator Bernardi): For the benefit of the committee, Senator Leyonhjelm spoke to amendments (8) and (9). The questions will be put separately. Any subsequent remarks can address both of the amendments.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (20:55): The government does not support the amendments. Their effect would be to remove the amendment currently proposed in the bill to enable ASIS to provide training in self-defence techniques and the use of weapons to persons from a limited group of foreign partners. The bill implements a recommendation of the PJCIS report—that is, the principal report tabled last year. The committee concluded that:

…the lack of such joint training poses an unacceptable danger to ASIS officers and agents … as ASIS officers are permitted at law to co-operate with certain agencies and use weapons and self-defence techniques to protect themselves and their partner agencies, it is reasonable for ASIS to be able to train with those same partners in the self-defence techniques and with the weapons that are intended to save their lives.

Senator Leyonhjelm raises a concern that the amendment might enable ASIS to train a foreign terrorist organisation or might enable ASIS to provide weapons to an organisation contrary to the restriction of engaging in paramilitary activities. However, there are a number of safeguards in the bill already existing in the act, which means that neither of those things could occur.

Firstly, cooperation with a foreign authority must be approved by the minister and can only be approved after the minister has consulted with the Prime Minister and the Attorney-General. Under section 13, the approval can only be for the cooperation so far as is necessary for ASIS to perform its functions or so far as it facilitates the performance by ASIS of its functions. Further, the approval of and the training remains subject to the oversight of the IGIS. Secondly, the purpose for which the weapons may be provided to a staff member of an approved foreign authority are also limited by the bill and by the act. It requires the specific approval of the minister and can only be for one of the limited purposes set out here in the amendment. A copy of the minister's approval must be provided to the IGIS. In practice, what it will mean is that weapons would be provided for the purposes of training only.

The TEMPORARY CHAIRMAN: I will deal first with Senator Leyonhjelm's amendment (8). The question is that items (9) and (10) in schedule 5 be removed from the bill.

Question negatived.
The TEMPORARY CHAIRMAN: The next question deals with Senator Leyonhjelm's amendment (9) on sheet 7579. The question is that the amendment be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: I now turn to schedule 6, items 1 to 24, 26 and 4 standing in the name of the Australian Greens.

Senator LUDLAM (Western Australia) (20:58): by leave—I move government amendments (6), (7), (9) and (10) on sheet 7579 together. I also foreshadow that I will be speaking for amendment (8), even though I know those questions will need to be put separately.

(6) Schedule 6, items 1 and 2, page 81 (lines 4 to 13), to be opposed.

(7) Schedule 6, item 4, page 81 (line 16) to page 85 (line 25), to be opposed.

(9) Schedule 6, item 24, page 106 (lines 3 and 4), to be opposed.

(10) Schedule 6, item 26, page 106 (lines 9 to 11), to be opposed.

These amendments I suppose dovetail with the comments I made before about national security reporting and the criminalisation of what goes on behind the scenes. Nothing at all that I or any of the crossbenchers have discussed or debated tonight, or any of the amendments that we have put into the field, are intended to reduce the effectiveness of our covert intelligence agencies. Glenn Greenwald is the journalist who has reported on and was in receipt of the material that former NSA contractor Edward Snowden put to him more than a year ago now. Mr Greenwald conducted a fascinating interview with New Zealand television a week or two ago where the journalist asked him on his reporting. The journalist asked why he thought it was in the public interest to put this material into the field. His answer was quite instructive.

Effectively he said that if these powers were only being used to pursue terrorist networks, to pursue organised crime, to pursue entrenched corruption, which is what most people think and why most people support the existence of these coercive or intrusive powers, if they were only being used for those purposes, then we would not be having this conversation. The fact is that, more often than not, as The Guardian pointed out, we have quite a responsible culture, I would argue, of journalism in this country where people are not setting out to recklessly endanger our covert agents or intelligence operations. Rather national security reporting in this country and overseas, especially resulting from the Snowden revelations, is about disclosing massive wrongdoing. There are very few ways of going about that.

We rely on whistleblowers. Consider Mr Snowden, who is no effectively and excise we understand in Moscow, Chelsea Manning who is behind bars, and Julian Assange, who is effectively in exile and has been in a room not much bigger than the space occupied by two or three of these Senate wedges for a period of well over two years for disclosing not just wrongdoing but illegalities and very serious crimes. There is no other way of finding out about these things than from public interest whistleblowers putting material to journalists who then evaluate, redact when necessary to avoid harm being done to those who might be in the middle of the situation which is being reported and then putting this material into the public domain. We have sought to do is to oppose the new provisions in schedule 6 regarding protection of information, which effectively lift penalties for AMMA unauthorised disclosure
from two years maximum penalty to 10 years. The explanatory memorandum gives the game away. It states in part:

The necessity for increasing the penalty has become apparent through recent domestic and international incidents involving the unauthorised disclosure of security intelligence-related information.

That is the reason these have been noted informally as the Snowden amendments. We are seeking to remove them from this legislation because nothing could be more important, particularly given the costs paid by those brave individuals who have come forward to expose not the identity of covert agencies but to expose criminality at the heart of some of these agencies because people are only human. When internal processes for whistleblowing fail, you do have to go public and we have quite a proud tradition of press freedom in this country. I would like to see a lot more of it but from what we do know protections for these people are absolutely essential. So these amendments go directly to that.

I suspect the Attorney-General will feel as though he has one or two options open to him. One is simply to not reply at all, as he has done a fair bit during the course of this debate. The other would be to jump up and accused Edward Snowden of being a traitor, as he has done in this chamber a number of times. Mr Snowdon just won a Swedish human rights prize for his work exposing state surveillance programs. He is one of the Right Livelihood Honorary Prize, which is often referred to as 'the alternate Nobel Prize', for showing courage and skill in revealing the unprecedented extent of state surveillance violating basic democratic processes and constitutional right. This prize is awarded annually to honour and support those offering practical and exemplary answers to the most urgent challenges facing us today.

This extraordinarily brave young man has a very uncertain future. As I said, he is effectively living in exile in Russia and nobody knows how that situation is going to turn out, where he is going to end up. I want to emphasise that the reason for the Australian Greens putting these amendments to the chamber tonight is not to put the legitimate operations of our intelligence agencies at risk but to assist in protecting those who come forward with material that does belong in the public domain, again after it has been through the hands of journalists. That is why I say that these amendments are linked to those we discussed before about national security reporting and the importance of not criminalising it in this country. These clauses have been criticised by the media organisations that Senator Xenophon and I catalogued at some length before and I commend strongly these amendments to the Senate.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (21:04): The government opposes all of the Greens amendments on sheet 7570. What the Greens propose is to retain the grossly inadequate maximum penalty applying to offences against section 18(2) of the ASIO act for entrusted persons who engage in the unauthorised communication of intelligence information and to remove from the bill the proposed new offences in section 18A and 18B in relation to entrusted persons who engage in activities which place intelligence related information at risk of compromise—that is, by unauthorised dealings with records or recordings of information. These proposed amendments will grossly diminish the bill.

A 10-year penalty for the unauthorised communication offence in section 18(2) is necessary to reflect the harm that is inherent in such behaviour. The current penalty of two years imprisonment was inserted in 1979 at a time at which the instant global dissemination
of information via the internet was simply not contemplated. The offence applies only to
entrusted persons being employees of ASIO or persons in a contract agreement or another
arrangement under which legitimate access is provided to information.

These offences reflect a legitimate expectation that persons to whom sensitive information
is entrusted will be held to a high standard of conduct. They also reflect the outrage of the
community at the gross breach of trust that would be perpetrated upon our community were
that trust to be violated. The offences do not override or displace the regime of internal
disclosures in the Public Interest Disclosure Act. The government has moved amendments
that create an express exception for persons who communicate information to the IGIS or his
or her staff for the purpose of the IGIS perform his or her statutory oversight functions. This
will ensure that the offences do not operate as a perceived disincentive to the making of
complaints to the IGIS. As the Parliamentary Joint Committee on Intelligence and Security
recognise, we need offences directed specifically to entrusted persons who place sensitive
information at risk in breach of their authority. As I have said, these offences give effect to a
legitimate expectation of such persons.

Like the unauthorised communications offence, the offence of unauthorised dealing with
records or recording of information do not displace the regime under the Public Interest
Disclosure Act. The Greens amendments would also create an arbitrary distinction to the
proposed amendments to the Intelligence Services Act in schedule 6 to the bill. The offences
are directed to exactly the same mischief in relation to all intelligence agencies and, for the
sake of consistency, the penalty regime between the ASIO Act and the Intelligence Services
Act should be equivalent.

Senator XENOPHON (South Australia) (21:07): I indicate that I cannot support the
Australian Greens amendments for a number of reasons. I have concerns with respect to the
drafting. I do not understand the exemption as drafted. It appears to be internally inconsistent
with the other amendments in respect of that. I think that there ought to be a public interest
defence in respect of this. This seems to me to be somewhat too broad. I can understand the
intent of what Senator Ludlam is trying to do but I think that in the way that it is drafted it is
simply too broad. Also, there appears to be issues with respect to the drafting. This is not a
criticism of Senator Ludlam but I think that I cannot support the amendment, principally for
those two reasons.

If the amendment spoke in terms of public interest defence—that matters that were released
were clearly in the public interest—then I would be minded to support it, but given its
drafting I cannot support it.

Senator JACINTA COLLINS (Victoria) (21:09): I can indicate to Senator Ludlam that
Labor will not be supporting these amendments for much the same reasons as we have
indicated previously. However, picking up on Senator Xenophon's point, this is an interest
that perhaps the joint parliamentary committee can look further at and address in a bit more
detail in a subsequent tranche of security legislation.

The TEMPORARY CHAIRMAN (Senator Smith) (21:09): I advise the Senate that I
will put Senator Ludlam's amendments in two parts. The question is that items 1, 2, 4, 24 and
26 of schedule 6 stand as printed.

Question agreed to.
The TEMPORARY CHAIRMAN: The question is that the amendment be agreed to.
The committee divided. [21:14]
(The Chairman—Senator Marshall)

Ayes .................10
Noes ..................44
Majority.............34

AYES

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

Leyonhjelm, DE
Miles, C
Rice, J
Waters, LJ
Wright, PL

NOES

Back, CJ
Bullock, J.W.,
Cameron, DN
Colbeck, R
Day, R.J.
Fawcett, DJ
Fifield, MP
Ketter, CR
Lazarus, GP
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
McKenzie, B
Moore, CM
Nash, F
O’Sullivan, B
Polley, H
Ruston, A
Sinodinos, A
Sterle, G
Wang, Z
Wong, P

Brandis, GH
Bushby, DC
Canavan, M.J.
Conroy, SM
Edwards, S
Fierravanti-Wells, C
Gallacher, AM
Lambie, J
Lines, S
Macdonald, ID
Marshall, GM
McGrath, J
McLucas, J
Muir, R
O’Neill, DM
Parry, S
Reynolds, L
Scullion, NG
Smith, D
Urquhart, AE
Williams, JR
Xenophon, N

Question negatived.
Bill, as amended, agreed to.
Bill reported with amendments; report adopted.
Question agreed to
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) (21:18): I move:
That this bill be now read a third time.
Might I take the opportunity of making some brief third reading remarks to thank those who have contributed to the outcome that the Senate has accomplished this evening. This is the most important reform of the powers of our national security agency since the 1979 ASIO Act based on the report of Justice Hope was enacted by this parliament. As I said in my second reading remarks, what we have achieved tonight is to ensure that those who protect us, particularly in a newly dangerous age, have the strong powers and capabilities they need but we have also achieved the outcome that those strong powers are protected and balanced by strong safeguards.

This has been a work of admirable bipartisanship, and I want to pay particular tribute to Mr Anthony Byrne, who chaired the Parliamentary Joint Committee on Intelligence and Security throughout the 43rd Parliament and who crafted the report on which this legislation at least in part was based. I should also acknowledge Mr Dan Tehan who chairs the committee today who made a number of other recommendations which, as I have said, the government has adopted.

I want to thank those officers of the Attorney-General's Department and of ASIO who have worked so hard on this legislation, in particular Annette Willing, Christina Raymond and Jamie Lowe from the Attorney-General's Department; along with the officers of ASIO, DFAT, Defence and the Office of National Assessments for their contribution; and my own adviser Justin Bassi, who has engaged with so many senators in answering or seeking to address their concerns.

It was on the Sunday before last that David Irvine retired as the 12th Director-General of Security. This legislation was largely inspired and driven by him. David Irvine was a great Director-General of Security. I feel a little sorry for him, because the two great legacies that he left the organisation—the new building which he never had the opportunity to occupy as Director-General and this legislation which did not quite pass on his watch—will nevertheless stand as testaments to him. This legislation and the greater safety to our people, which it will enable, are very much David Irvine's legacy.

Senator LUDLAM (Western Australia) (21:20): I recognise that the hour is late so I will not seek to detain the chamber for long but I want to put some final comments on the record. What we have seen tonight, I think, is an exercise in politics that in some form is actually hundreds of years old. I will explain what I mean by that, but I want to thank my crossbench colleagues from across the political spectrum for providing the only opposition that Australia has tonight. What Senator Brandis proudly summed up as bipartisanship, I would characterise as an absence of critique and opposition at a time when this country desperately needs it.

The Australian Greens will not be voting for this bill, recognising that this is the first in a series of expansions of powers of our covert intelligence agencies, expansion of policing powers. I simply do not believe in and cannot in good conscience vote, particularly in the climate that we are in, for continued relentless expansions of powers for these agencies at a time when the only person who the Australian government had established—the office, obviously, now having lapsed—to investigate whether the laws that we already have are necessary and proportionate has said in many cases that in fact they are not. Instead of taking that advice in a calm and measured way, the government is in fact doubling down and digging us in deeper. As I say, this is politics hundreds of years old. What I mean by that is a quote that resonates for me, from Ben Franklin, who said, 'Those who surrender freedom for
security will not have nor do they deserve either one.' I think that is the process that we are engaged in tonight.

Senator XENOPHON (South Australia) (21:22): Very briefly, I indicate that, whilst there are many aspects of this bill that I think are worthy, the fact that every major media organisation in this country has serious concerns about proposed section 35P in terms of the potential curtailment of the freedom of the press in this country means that, with a heavy heart, I cannot support the third reading.

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:23): The former Clerk of the Senate, Harry Evans, once said that it is the role of the legislature to question the executive, particularly in times of crisis. What we have seen is the development of an atmosphere of crisis such as would warrant extreme measures that in other circumstances would never be countenanced. That is exactly what has happened here with this legislation. It is a case of doing in haste what we will repent at leisure.

The fact of the matter is that we are doing away with freedoms of the press that have been fought for over a long period of time and have now been given away. The Greens have severe criticisms of this legislation. It has been rushed through this parliament without any scrutiny from the Labor opposition. The reason why is their case to answer; but we have put a very strong case here, and I congratulate my colleague Senator Ludlam for the way that he has handled this. But in years to come people will look back and ask why we never learnt the lessons of history and we repeated them.

Senator JACINTA COLLINS (Victoria) (21:24): I would like to take this opportunity on behalf of the Labor opposition to thank the crossbenchers for their contribution to the committee stage consideration today. However, contrary to Senator Milne's statements, I would like to stress the history that we covered in the discussion in relation to this legislation. These were matters that were first addressed quite some time back when first put forward by the Attorney at the time, Nicola Roxon. These are matters that have been dealt with by the Joint Parliamentary Committee on Intelligence and Security, amendments that have been drafted in response to that committee and then returned to that committee. These are matters that have been considered by the members of that committee in quite some detail, particularly the media measures that have been referred to.

These are not extreme measures in response to an immediate crisis. The Senate will indeed be dealing with other legislation—in fact, there is legislation now before us with respect to foreign fighters—that is more immediate and pertinent to current circumstances. But to characterise these first tranche measures as extreme and in response to more immediate national security issues is simply inaccurate.

I have indicated on behalf of the Labor Party that some of the issues that have been raised by crossbenchers may indeed warrant further consideration by the Joint Parliamentary Committee on Intelligence and Security. That is where I have indicated that such matters should be further investigated. This is not us absenting ourselves from scrutiny. Indeed, it was the Labor Party in the committee stage consideration that ensured that we had sufficient time to deal with the response from the Scrutiny of Bills Committee. It was indeed the Labor Party that would have ensured—absent the vote that actually occurred—with the support of some crossbenchers, that the gag motion ultimately succeeded, but not with the support of the Labor Party.
So, Senator Milne, I take offence at your characterisation of the Labor Party's participation in this debate. I was not intending to make a third reading contribution, but I think your comments are inaccurate and unfair.

The PRESIDENT: The question is that the bill be now read a third time.

The Senate divided [21:31]

(The President—Senator Parry)

Ayes ......................44
Noes ......................12
Majority ................32

AYES

Back, CJ
Brown, CL
Bushby, DC (teller)
Canavan, M.J.
Collins, JMA
Day, R.J.
Faulkner, J
Fierravanti-Wells, C
Gallacher, AM
Lambie, J
Lines, S
Marshall, GM
McEwen, A
McKenzie, B
Moor, CM
Nash, F
O’Sullivan, B
Polley, H
Ruston, A
Sinodinos, A
Uqahart, AE
Williams, JR

Brandis, GH
Bullock, J.W.
Cameron, DN
Colbeck, R
Conroy, SM
Edwards, S
Fawcett, DJ
Fifield, MP
Ketter, CR
Lazarus, GP
Ludwig, JW
Mason, B
McGrath, J
McLucas, J
Muir, R
O’Neill, DM
Parry, S
Reynolds, L
Scullion, NG
Smith, D
Wang, Z
Wong, P

NOES

Hanson-Young, SC
Ludlam, S
Milne, C
Rice, J
Waters, LJ
Wright, PL

Leyonhjelm, DE
Madigan, JII
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

Question agreed to.

Bill read a third time.

ADJOURNMENT

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (21:33): I move:

That the Senate do now adjourn.
Australian Dairy Industry

Senator McKENZIE (Victoria) (21:34): It gives me such great pleasure to be here tonight, and I thank all my colleagues for sticking around to listen to what Senator Faulkner and I have to say tonight. Tonight I want to address the Senate on the importance of securing the best possible outcome for our farmers in Australia's negotiations with China on a free trade agreement. The Australian dairy industry started with seven cows and two bulls brought ashore from the First Fleet where they grazed in pastures around Parramatta—now a city within Sydney—and Australian dairy is today a $13 billion farm, manufacturing and export industry.

Communication by our early pioneers has evolved beyond their imagination with the domination of social media, used by most Australians including our business savvy farmers. I specifically refer to the hugely successful #FTA4dairy campaign launched by Australian dairy farmers early this month to raise awareness and strong support for a positive outcome for the industry as Australia negotiates a trade deal with China. The campaign reached over 1.7 million Twitter users within days—1,390 tweets on the launch day alone. It broke new ground for Australian agriculture in grassroots campaigning and sparked national and international online and media interest, including from China. Even Australian politicians, like my own National Party Senate team, helped spread the word and enjoyed a cold glass of milk in the party room on the day of #FTA4dairy campaign launch. Support for the campaign was, and still is, justified—and I will tell you why.

As mentioned before, the dairy industry is a $13 billion farm, manufacturing and export industry. Australia's 6,400 dairy farmers produce around 9.2 billion litres of milk per year. Forty-three thousand Australians directly employed on farms and in dairy processing. More than 100,000 Australians rely on dairy for their livelihoods, including vets, scientists, mechanics, financial advisors and feed suppliers. Ninety-eight per cent of Australian dairy farms are family-owned businesses.

The dairy industry in my home state of Victoria is the largest rural industry, with a gross value of raw milk production of around $2.52 billion. Victoria supplies around 86 per cent of Australia's dairy product exports, worth around $1.93 billion in the financial year 2011-12. More than 10,000 people are employed in dairy production and more than 9,000 work in the dairy processing sector. Australia is the fourth largest dairy exporter in the world, accounting for seven per cent of global trade. More than 40 per cent of milk production is exported, and Australian exports are worth around $2.7 billion a year. More than 125 Australian companies export dairy. Australian dairy therefore makes a vital contribution to the national economy and, with a farm-gate value of $13 billion, dairy enriches regional Australian communities.

China is the world's largest importer of dairy products and is Australia's biggest dairy export market. In 2013, 109,790 tonnes of Australian dairy exports went to mainland China—14.7 per cent of our total volume of dairy exports—valued at over $460 million. Australian dairy is also an important partner of the domestic dairy manufacturing and processing industries within China. It has been the key supplier, particularly Victoria, of imported dairy heifers to China over the last 10 years, helping domestic dairy development and production, as well as delivering a number of scholarship, training, conference and delegation programs to the mutual benefit of both countries.
Australia has world-class quality assurance systems that ensure the quality and safety of dairy products, and the industry has invested almost $1 billion in modernisation and improving our processing capacity. China is itself a substantial dairy producer, but its domestic industry cannot nearly satisfy demand for growth and is increasingly reliant on imports to fill the gap. Factors contributing to growing dairy demand include continued economic growth, rising disposable incomes, ongoing urbanisation, more working mothers, the relaxation of the one-child policy—with 16 million babies born in China last year—and increasing Western influence in diets. Dairy retail sales value has quadrupled over the last decade.

While Australia could not solely meet this massive demand and is no threat to domestic dairy production in China, our exports have helped to meet the shortfall between domestic supply and demand for higher value added products, including cheese, butter and particularly our high-quality assured infant formula. However, the Australian dairy industry is operating at a commercial disadvantage to New Zealand since our Tasman cousin secured a free trade agreement with China six years ago. It includes early elimination of most tariff lines which have already phased to zero in 2012 or 2013. Sensitive tariff lines such as liquid milk, milk powders, butter and cheese will be eliminated by 2019.

Dairy Australia estimates the value of New Zealand's preferential access at around US$30 million in 2013, growing to US$230 million per annum, as remaining safeguard volume limits on some specific dairy products are lifted between now and 2024. The Australian dairy industry, understandably, seeks a comprehensive 'New Zealand-plus' dairy outcome in China. This means that, at the commencement of an FTA, tariffs on Australian-origin dairy products will immediately fall to the same level as New Zealand. Products not yet at zero tariff level will phase down to zero at an equivalent rate to New Zealand. Tariffs on Australian dairy products currently range from 10 to 15 per cent. The Australian Dairy Farmers estimates such an arrangement would amount to well over $26 million in savings to the industry in saved tariff payments in the first year alone. It projects cumulative potential long-term savings of $950 million to 2025. It is encouraging that Australia's Minister for Trade and Investment, Andrew Robb, advised the recent Australian Dairy Farm Investment Forum that it is his 'major objective with the China FTA to get at least a New Zealand-equivalent deal for the daily industry', with similar support from the Minister for Agriculture, Barnaby Joyce. However, we acknowledge the challenge in reconciling many competing interests and that decisions should ultimately be based on the national interest. I commend Minister Robb and the government for their success in trade negotiations so far with Korea and Japan, particularly Japan given the strength of the Iron Triangle.

Negotiations with China regarding a trade deal have lasted almost 10 years and the Abbott-Truss government hopes to secure a free trade agreement with China by the end of the year. The signs from China are also encouraging. China's foreign minister Wang Yi, during the recent Australia-China Foreign and Strategic Dialogue, stated:

I would like to work with the Foreign Minister and with the Australian side to have an in-depth discussion on a new definition for our strategic partnership, a new blueprint for our trade and investment cooperation and a new plan for our people-to-people and cultural interactions.

Senior executives in the Chinese dairy industry are also reportedly urging both governments to conclude a trade agreement to capitalise on soaring demand for dairy products.
The Abbott-Truss government has just completed another high-level trade delegation to China, led by The National's minister Barnaby Joyce. It follows a similar one in April involving around 600 delegates led by Minister Robb and Prime Minister Abbott. A key message has been Australia’s capacity to sell clean green products into the $7 billion per year Chinese market, which is indeed appealing to our Chinese friends given as much as 90 per cent of China's groundwater is polluted and 25 per cent of its major rivers are so polluted that they cannot be used for industry or agriculture.

Minister Robb recently noted that, while China is likely to be able to maintain self-sufficiency in wheat, rice and a number of other major products, demand for safe, untainted products will continue. These are things that Australia is uniquely positioned to be able to supply. We have a role to play in exporting technology to help our Chinese friends deal with the challenges they face in domestic food production. Minister Joyce highlighted an example in which 35 million tonnes of grain is lost each year from storage processes in China alone. That is one and a half times Australia's annual wheat crop.

Two-way agriculture, fisheries and forestry trade with China was valued at over $11 billion last year. Aside from dairy, our other largest exports include wool, grain and oilseeds, and meat and livestock. They are our six biggest import markets, so we are important despite our smaller economy and population. Minister Robb noted that, aside from agriculture, there is strong interest in and opportunities for our resources and energy, manufacturing, tourism and hospitality, health and medical, banking, services, and education, research and training sectors.

I seek leave to have the last paragraphs of my remarks incorporated in Hansard.
Leave granted.

The paragraphs read as follows—

I would like to note the Education Minister, Christopher Pyne, discussed opportunities to strengthen our education ties with China during a recent visit to the country. He highlighted the opportunities for Chinese students as part of our higher education reforms which will help us to attract the best and brightest students from across the world, and our New Colombo Plan which will expand to include China next year.

China is our largest source of overseas students and continues to be Australia's most important education partner.

Securing a free trade agreement with China has been a priority for the Abbott-Truss government and we are getting close to achieving that. As a regional senator, I feel strongly that our dairy farmers, and other producers are delivered a positive outcome. But it must be an outcome that is ultimately in the national interest.

Recognise Campaign

Senator FAULKNER (New South Wales) (21:44): I support the Recognise Campaign for recognition of Aboriginal and Torres Strait Islanders in Australia's Constitution. Recognise is critically important to raising awareness for a referendum to amend the Constitution in two parts: to fix the historic exclusion of Aboriginal and Torres Strait Islander peoples from Australia's Constitution; and to make sure there is no place for racial discrimination in our Constitution.
Aboriginal and Torres Strait Islander peoples have lived on this ancient land for more than 40,000 years. Thousands of generations make for one of the world's oldest and most enduring cultures. Prior to European settlement, Australia was home to literally hundreds upon hundreds of nations, some of them semi-nomadic and others permanent settlements, with hundreds of languages and dialects. Customs and cultures varied greatly between nations and regions.

It is a proud history, something all Australians should be proud of, and something we should recognise in our founding document. Sadly, Australia's Constitution does not recognise the first and longest chapter in our national story. Reading Australia's Constitution one could easily be mistaken for thinking that our history began some time in the 1800s. For many years legal fictions such as terra nullius were created to deny the existence of anyone on the Australian continent before European settlement. Of course terra nullius literally translates as 'land belonging to no-one' or 'empty land'. The landmark Mabo judgement by the High Court simply blasted away that legal fiction.

Our Constitution originally mentioned the first Australians twice, but only to discriminate. Until the 1967 referendum Indigenous Australians were excluded from being counted as citizens under section 127, and were excluded from a federal power to make laws for people of any race. Mr President, we righted that wrong. In the 1967 referendum more than 90 per cent of Australians voted yes to remove that discrimination, and now it is time to finish the task. I am pleased to say that there has been bipartisan support for recognising Indigenous Australians in the Constitution. Prime Ministers John Howard, Kevin Rudd, Julia Gillard, and now Tony Abbott have stated their support for such constitutional change.

In 2010 an expert panel of community leaders, lawyers and parliamentarians was established to advise on what changes were appropriate and what steps would be needed. The panel consulted extensively across the nation and reported to the Prime Minister in January 2012. The panel recommended Australians should vote in a referendum to: insert new clauses in the Constitution that recognise Aboriginal and Torres Strait Islander peoples and to preserve the Australian government's ability to pass laws for the benefit of Aboriginal and Torres Strait Islander peoples; insert a new clause recognising Aboriginal and Torres Strait Islander languages were this country's first tongues, while confirming that English is Australia's national language; and remove clauses that discriminate against people based on their race.

To get on with the job this parliament has established a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. The committee's task is to finalise the words that will form the amendment to the Constitution. Mr Ken Wyatt MP is the chair of that committee and our colleague here in the Senate, Senator Nova Peris, is its deputy chair.

At the same time, of course, the Recognise Campaign seeks to raise awareness and build support for the referendum, and awareness and support are growing. More than 219,000 Australians are now part of the Recognise movement. In the ABC's Vote Compass survey of 1.3 million Australians in September 2013, 70 per cent of people said that they were in favour of recognition. That, by the way, included majority support—55 per cent—amongst coalition voters. And 84 per cent public support levels were recorded in election day exit polling in marginal seats for Indigenous recognition in the Constitution as well.
The Australian Constitution was written well over a century ago and it has served us well. But, in its current form, the Constitution does not recognise the first part of our national story. Simple, strong, clear words in the Constitution that recognise our true history are long overdue. It really is time for the government and the parliament to get on with it. We must keep up the pressure. We must keep the focus we have seen from the Prime Minister and from the Leader of the Opposition on this issue in recent weeks. We must ensure that there is no unnecessary delay. Personally I hope we can see a referendum question put simultaneously with the federal election due in 2016. After all, four of the eight referendums in Australia held with elections were successful.

It is fundamental of course that the referendum model be meaningful and have the support of the Aboriginal and Torres Strait Islander people. I strongly support and congratulate all those who are working for this important change to the Constitution. Let us not lose any momentum in this campaign. Constitutional recognition would not only acknowledge Australia’s ancient cultures but would also be a shared declaration about their importance to us all. It is simply the right thing to do.

Senate adjourned at 21:53

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Fair Work Act 2009—Fair Work (State Declarations — employer not to be national system employer) Endorsement 2014 (No. 4) [F2014L01266].


Higher Education Support Act 2003—

Revocation of approval as a Higher Education Provider (Navitas College of Public Safety Pty Ltd) [F2014L01270].

Revocation of approval as a VET Provider (Navitas College of Public Safety Pty Ltd) [F2014L01271].

Taxation Administration Act 1953—


Indexed Lists of Departmental and Agency Files

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2014—Statement of compliance—Department of the Prime Minister and Cabinet.