INTERNET
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the Senate and committee hearings are available at

For searching purposes use
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SITTING DAYS—2015

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<th>Month</th>
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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
Forty-Fourth Parliament
First Session—Seventh 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. George Henry Brandis QC
Deputy Leader of the Government in the Senate—Senator Hon. Mathias Cormann
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Liberal Party in the Senate—Senator Hon. Mathias Cormann
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and Senator Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett, and Dean Anthony Smith
The Nationals Whip—Senator Matthew James Canavan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

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

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

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<td>Xenophon, Nicholas</td>
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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.
(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.
(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice C. Milne), pursuant to section 15 of the Constitution.
(6) Chosen by the Parliament of South Australia to fill a casual vacancy (vice P Wright), pursuant to section 15 of the Constitution.

---

*Italic text*:

- Gallagher, K.
- Scullion, N. G.
- Peris, N. M.
- Seselja, Z. M.
PARTY ABBREVIATIONS
   AG—Australian Greens; ALP—Australian Labor Party;
   AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
   FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
   LNP—Liberal National Party; LP—Liberal Party of Australia;
   NATS—The Nationals; PUP—Palmer United Party

Heads of Parliamentary Departments
   Clerk of the Senate—R Laing
   Clerk of the House of Representatives—D Elder
   Acting Secretary, Department of Parliamentary Services—D Heriot
   Parliamentary Budget Officer—P Bowen
# Turnbull Ministry

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<th>Title</th>
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<tr>
<td><strong>Prime Minister</strong></td>
<td>Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator Hon Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister for Women</strong></td>
<td>Senator Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>Senator Hon Michaelia Cash</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td></td>
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<tr>
<td><em>Minister Assisting the Prime Minister for Digital Government</em></td>
<td>Senator Hon Mitch Fifield</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Counter Terrorism</em></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Hon Alan Tudge MP</td>
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<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Senator Hon James McGrath</td>
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<tr>
<td><strong>Assistant Minister for Productivity</strong></td>
<td>Hon Dr Peter Hendy MP</td>
</tr>
<tr>
<td><strong>Assistant Cabinet Secretary</strong></td>
<td>Senator Hon Scott Ryan</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>Hon Warren Truss MP</td>
</tr>
<tr>
<td><em>(Deputy Prime Minister)</em></td>
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<tr>
<td><strong>Minister for Resources, Energy and Northern Australia</strong></td>
<td>Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td><strong>Minister for Territories, Local Government and Major Projects</strong></td>
<td>Hon Paul Fletcher MP</td>
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<tr>
<td><strong>Assistant Minister to the Deputy Prime Minister</strong></td>
<td>Hon Michael McCormack MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>Hon Julie Bishop MP</td>
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<tr>
<td><strong>Minister for International Development and the Pacific</strong></td>
<td>Hon Andrew Robb AO MP</td>
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<tr>
<td><strong>Minister for Tourism and International Education</strong></td>
<td>Hon Steven Ciobo MP</td>
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<tr>
<td><strong>Minister Assisting the Minister for Trade and Investment</strong></td>
<td>Senator Hon Richard Colbeck</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>Senator Hon George Brandis QC</td>
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<tr>
<td><em>(Vice-President of the Executive Council)</em></td>
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<tr>
<td><em>(Leader of the Government in the Senate)</em></td>
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<td><strong>Minister for Justice</strong></td>
<td>Hon Michael Keenan MP</td>
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<tr>
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<td>Senator Hon Concetta Fierravanti-Wells</td>
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<td>Hon Morrison MP</td>
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<td><strong>Minister for Small Business</strong></td>
<td>Hon Kelly O’Dwyer MP</td>
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<td>Hon Kelly O’Dwyer MP</td>
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<tr>
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<td><strong>Minister for Industry, Innovation and Science</strong></td>
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<td>Hon Karen Andrews MP</td>
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<td>Hon Wyatt Roy MP</td>
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<tr>
<td>Minister for the Environment</td>
<td>Hon Greg Hunt MP</td>
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Monday, 23 November 2015

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 10:00, read prayers and made an acknowledgement of country.

DOCUMENTS

Tabling

The Clerk: I table documents pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

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

COMMITTEES

Parliamentary Joint Committee on Corporations and Financial Services

Joint Standing Committee on Foreign Affairs, Defence and Trade

Meeting

The Clerk: Proposals to meet have been lodged as follows: by the Parliamentary Joint Committee on Corporations and Financial Services for a public meeting today from 7 pm; and by the Joint Standing Committee on Foreign Affairs, Defence and Trade for public meetings on 25 November and 2 December from 11 am.

The PRESIDENT (10:01): Does any senator wish to have the question put on any of those proposals? There being none, we will proceed to business.

BILLS

Social Services Legislation Amendment (No Jab, No Pay) Bill 2015

Second Reading

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

Senator MOORE (Queensland) (10:01): Labor will be supporting this bill, the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015. I reviewed the comments I made when we were talking in the last process and I saw that, at that stage in the debate, I pointed out a number of the concerns that I have with the legislation. I continue to have the concerns that I raised—about the need for education, the need for certainty, and the need to ensure that people and their views are respected effectively in our community—but it is very clear that Labor supports the legislation. We believe that there is a need to have strong immunisation policies in Australia. The evidence that we as a committee have received indicated that that was important and that it was real.

However, I also want to talk about some of the things that we need to get right in introducing this legislation because, as I said in the previous contribution, there will be a group of people in our community who reject immunisation, who do not believe in its effectiveness, and who are actually quite fearful about the processes. Those people will not change their views. Many people have spoken to parliamentarians about their concerns. The people who genuinely reject vaccination have strong views and will not change these. But we need to listen to the questions that are being asked, to respond effectively, and to ensure that
the information process is accurate. I have spoken about my concern that I do not believe that the department was able to convince us effectively during the committee process that the education campaign which must go with this legislation is fully developed and effectively funded. In fact, to this day we still have not got the full budget to discuss in this place.

I know that there have been effective processes in Australia looking at the need for immunisation, and we pointed in the discussion to what had happened with some of the then Medicare Locals, where there was intensive effort put into particular regions to make sure that people knew about the value of immunisation, to talk about the safety issues, and to acknowledge that there was a need for people to make decisions and also to find out about the processes. That worked, Mr Deputy President—for the Medicare Locals which had this as a priority, we know that there were changes in the vaccination rates in those regions. Where this was not a priority, there continued to be a lack of effective information, and also fear—people were not certain about how the process worked, and about how it should work.

So, when you are introducing legislation as decisive as what is before the chamber today, what must go with that is the education and engagement program—well funded, well targeted and also done with respect so that people who have differing views are not excluded, demonised or ridiculed but have their views acknowledged with acceptance that there will not be agreement. That is important in ensuring that any program of change is effectively brought forward.

Another element is the Australian Childhood Immunisation Register. One of the parts of this legislation which has not been discussed as fully as others is the fact that now the registry vaccination program is there not just for early childhood but through until the late teens. We need to have an effective registration process for the whole of our lifetime of vaccinations. That has not been in place in the past. In fact there was considerable discussion around the way the current Australian Child Immunisation Register operates and there was a recent ANAO report which looked at the operations of that register and made suggestions for how the process could be improved.

Evidence that we received at our inquiry talked about some real concerns that the data was not always accurate, that there could have been multiple registrations made to this register and that by the evidence we received it was felt that perhaps it was not seen as a priority by the people who were putting this data into the system. We know this is an issue across the board in our systems with data collection and maintenance. If we are going to be sure that there is going to be real knowledge of what is happening with vaccinations across our nation, we have to have confidence that the data is accurate and that we will be able to use the Australian Childhood Immunisation Register effectively and with confidence.

That was part of the discussion we had during the committee process. We needed to ensure that the work which was done by the ANAO, which was looking at how the register was working now and also at the operations of the register into the future, would be accepted by the departments and by government and that there would be confidence that the register would be accurate. We did not at the inquiry because, naturally, the department that was in charge of the register was not there to provide evidence to our committee, but subsequent to the inquiry we did get evidence back from the Department of Human Services that said that they were meeting the time line of change, that they were confident that they had the resources and the skills to ensure that the register would be accurate and that we would be
able to know that this register, which is kind of the infrastructure of vaccination, would be accurate. People would be able to have confidence that their details were accurate and that, when we have a system which is actually saying that you are not going to be able to receive payment unless you are up to date with your vaccinations, there is knowledge about what the vaccinations are, what is needed and what is required. The register would be able to confirm that you have received that process.

We accept the evidence provided by the department that they are aware of the needs, that they are working to cleanse the data and that they are ensuring that the site will be functional and secure by September 2017. There does seem to be a reasonable expectation that, if we bring the changes in on 1 January, it will take time to make sure that the system catches up and the register will be accurate.

In terms of ensuring that we actually know where there is genuine conscientious objection to using vaccines, the new system needs to have some consideration. This is something we discussed and put back to the department. We need to know where there is conscientious objection to vaccination so that we know where there are areas that may well have a lower vaccination protection rate. The department took that on board, and at this stage that is part of ongoing discussion to ensure that we do not lose contact, that we do not lose information about where there are and are not effective vaccination rates in the nation.

We know that this debate will continue. As I have said, there are people in our community who will not accept vaccination, and that is their right. Nothing in this legislation actually says that not taking up vaccination is illegal. What it does is change the family payment regime and the childcare benefit regime around having vaccination up to date. This is actually an extension of existing legislation, and we know that there have already been processes where we link access to family payments with vaccination, so this is not new, but it is wider and takes up more people. We need to ensure that we are working with the community to explain the reasons and to point out to them what the background to this process is and how it is going to operate.

During the committee process, the Labor Party recommended—and the committee took up this recommendation—that there would be reviews of how this legislation is operating after a year and after five years, with very intensive scrutiny of how this legislation operates—making sure the register process and the public campaigns of education and awareness are in place—and also of the impact of these changes on the childcare area, as I said. We do not think this is something that should just wait for the standard review process that is natural in departmental processes. I would be very interested to hear from the minister about whether there has been any agreement to the recommendations that the committee made about this concept of having a very intensive review, almost from the start, of how the legislation is impacting, who is affected and whether we get changes to ensure that the vaccination rates increase. It would be useless to introduce such a significant piece of legislation and not know how it is going and how it is working from the very start.

So I would be interested if in the minister’s concluding comments and in committee, if it should go to committee, we can get some clear indication that the department will be taking up a very intensive review process which is linked to the necessary engagement with the community, with people who do not agree with vaccinations and, most importantly, with the almost seven per cent of people and families in our community who are non-vaccinators, who
have not registered as conscientious objectors but have not vaccinated their children. That is the group that I believe will be most benefited by this change, but it will not happen if we do not work with them, if we do not have the engagement campaigns and public awareness campaigns targeted clearly, and if we do not get effective information out of the department about where the people are.

I think I have shown my frustration on a number of occasions during my contribution about the lack of information that we were able to extract from the various departments who have a role to play in this process. We need to have the data. We need to know where vaccinations are occurring and where they are not. Only then, when we find out where people are choosing not to vaccinate and why and we work in a targeted way with that group, will we be able to reach the kinds of results that this legislation is designed to do.

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (10:13): I rise today to speak to the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015. The Australian Greens are very strong supporters of vaccination as an evidence-based approach to preventing disease, but we have some concerns about this specific legislation.

Immunisation is one of the great success stories of modern medicine and public health. Vaccinating against illness and disease is the easiest way a GP can protect people of all ages from vaccine-preventable disease. It is a proven method of reducing the incidence of deaths from causes such as measles, tetanus, diphtheria and *Haemophilus influenzae* type B. Measles, we know, can be fatal in young children. Tetanus is something that is almost nonexistent now, but people died from tetanus regularly. Diphtheria is another disease that led to the deaths of people, and *Haemophilus influenzae* is a cause of meningitis and pneumonia, a very serious cause of morbidity. We know that, since the introduction only recently of the vaccine against *Haemophilus influenzae*, we are seeing a reduction in the incidence of meningitis and pneumonia from that specific condition. And let's not forget, of course, polio. It was not that long ago that polio caused death and serious disease—a disease that resulted in muscle paralysis and ongoing problems with mobility and so on.

So we know that vaccines work and that they are effective, but of course they are only effective if we are able to immunise large numbers of the population, and vaccination rates over the last 20 years demonstrate that Australia has done a pretty good job of it. We have an excellent record of achievement in the prevention of vaccine-preventable diseases. It is a critical message for the community, though, where there is patchy immunisation coverage in places like the Northern Rivers in New South Wales and the Sunshine Coast in Queensland. It is very critical that this message be able to penetrate those communities, because we know that when immunisation rates fall below a particular level, in the 90 to 95 per cent range for a number of conditions, we lose that critical principle of what is called herd immunity.

Herd immunity is absolutely critical. What it means is that, when immunisation rates are low, illnesses like measles and whooping cough or pertussis can be much more easily spread. So, if we have a population where a large number of people are immune as a result of vaccine, the chain of infection can be disrupted or effectively stopped. The greater the number of people who are immune, the smaller the probability that those who are not immune will come into contact with the infection. So, once you reach that critical threshold and achieve herd immunity, you see the gradual elimination of a disease from a population, so you can actually eradicate the existence of that disease altogether.
What we saw with, for example, the eradication of smallpox in 1977 was exactly that. We were able to reach herd immunity and get a critical level of immunity across the population, and people now no longer die from smallpox, a hugely successful public health intervention. We are on the verge of eliminating polio altogether from the planet. What a wonderful thing that would be, and that is because of the huge investment that we are making across polio eradication in some of those very hard-to-reach populations. Of course, the final yards are the most difficult. The law of diminishing returns means you have to throw a lot at it to eliminate those final cases, but once we do that—and I am confident that we will—polio, much like smallpox, will be a thing of the past.

It is partly because of the success of immunisation that we are having the problems that we have with some communities deciding no longer to vaccinate children. Vaccination has been a victim of its own success in many ways. Because people are not exposed to these life-threatening illnesses, we do not have the level of knowledge and understanding that exists with exposure to diseases like polio and, of course, measles, diphtheria and so on. What that means is that people make the decision not to vaccinate their children because they are not aware of the consequences of those illnesses. Of course, it is a rational decision in some ways, because there is a very small risk associated with having a vaccine and, if we are talking about a population where herd immunity exists, you do not expose your child to the incredibly small risk of the vaccine and you get the benefit of herd immunity within that population. Those people are so-called free riders, and they benefit from the decision that other people make.

Now let us look specifically at the bill, which requires that families be up to date with the National Immunisation Program. They need to be up to date in order for either parents or guardians to be eligible for the family tax benefit part A, for the supplement and for childcare benefit and the childcare rebate. The rules that this bill—basically, the No Jab, No Pay bill—seeks to implement would remove the immunisation exemption categories for access to childcare benefit, childcare rebate and the family tax benefit part A supplement.

One of the positive things the government did as part of this initiative was provide a $26 million funding boost to the Immunise Australia Program to ensure that we saw doctors and immunisation providers identify and vaccinate kids in their practices who were overdue for their vaccinations. That is really important. It is a positive initiative and, if we can do more in boosting those programs that encourage doctors and other immunisation providers to identify kids who are not currently vaccinated, that is a positive thing.

The bill, as Senator Moore just said, does not remove the right to make a conscientious decision not to immunise. People will continue to have that choice. What it does is put a financial cost to that decision. The government's proposition is this: the disincentive of no longer being eligible for Centrelink payments may result in parents reassessing their conscientious objection or antivaccination stance. It is important to understand why people do not vaccinate. It is worth exploring that, because it really goes to the substance of whether this policy proposal is the right one. We know that there are people who do not vaccinate for all sorts of reasons. Interestingly, the majority of these families are not conscientious objectors. In fact, Professor Julie Leask told the inquiry into this legislation that the majority of families who do not vaccinate are not conscientious objectors. Of the eight per cent of people who are not vaccinating, only 1.5 per cent register as conscientious objectors. In her opinion, the remaining 6.5 per cent could benefit from other measures, and the best way to tackle those
people is through supporting health professionals and, of course, ongoing education. That is one of the concerns we have with the bill: it does not focus enough on that large group of people who are not conscientious objectors but are not vaccinating their children for other reasons.

Professor Leask also told the inquiry that there need to be strategies to tackle those people who at present do not have fully vaccinated kids. She said that, when it comes to the issue of conscientious objectors, there are a number of what she called hesitant parents—people who are fence sitters and who are on the margins of vaccine acceptance. What we need to do with that group is ensure that there are community-based interventions and that there are provider-based interventions—things that we are working on the moment—and that we actually incentivise the interactions between those parents and the healthcare system. Under the current model, for someone to register as a conscientious objector they actually need to interact with the health system and get their forms signed by a health provider. That is the area in which we should be working. The real concern we have is that this is a very blunt measure. It limits the opportunities for engagement with people who might be at the margins of vaccine acceptance and their interaction with the healthcare provider.

I think it is important to note that the government’s provision of $26 million in funding for Immunise Australia does include incentive payments to GPs who identify undervaccinated kids and initiate catch-up schedules. That is a good thing. Also, it improves public vaccination records, reminder systems and communication strategies to promote the benefit of vaccines. We welcome this recognition of the importance of reminder and recall strategies, and we look forward to seeing evidence of how these measures have led to an increase in the numbers of children who are vaccinated. That evaluation process is important. We also look forward to looking at how the reliability of the immunisation register, and their capacity to target Aboriginal and Torres Strait Island communities, has improved.

The bill provides that a child meets the immunisation requirements if a GP has certified, in writing, that the immunisation of the child would be medically contraindicated under the specifications set out in *The Australian Immunisation Handbook*. That is good; we think that is important. But we also think it is important also to recognise that the legislation says that if in the opinion of a GP a person has contracted a disease or diseases and that as a result has developed natural immunity, that that also is a factor. Importantly, GPs need to be able to use their clinical judgement in assessing children who are eligible for a medical exemption. As Dr Kidd testified to the inquiry, medical exemptions are rare, but with the guidance provided by the handbook and by using their own clinical judgement, GPs are the people who are best equipped to identify the small number of children who should not receive a vaccination.

Again, let me stress that point: that a GP can use their clinical judgement to determine whether somebody should receive a vaccination. But simply going to a GP and saying that you believe a vaccine is dangerous—that a vaccine will cause conditions such as autism—is not good enough. That will no longer qualify.

We do agree with the AMA’s view:

All children have the right to be protected from vaccine preventable diseases. This includes infants who are too young to be immunised as well as those infants and children who are medically unable to receive immunisations. Immunising as many infants and children as possible affords these vulnerable infants and children the protection they deserve.
We do, however, as I said, have a concern that in order to register as a vaccine refuser under the current system you need to discuss that decision with a health professional. Often what we hear from health professionals is that sometimes it is a discussion that ends with the person changing their mind. It might not be about all vaccines, it might only be about some of them—but that interaction does create possibilities to influence somebody who is at the margins. We have concerns that removing that incentive for that encounter does deprive health professionals of the opportunity to encourage parents to reconsider that decision.

We also heard evidence from Dr Richard Kidd of the AMA, who said that there are occasionally severe reactions to vaccines. Depending on the degree of severity—we are talking about the extreme end—we are talking about cases that are close to one in a million. So, yes, there are minor reactions—I think that most parents will have had the experience of taking their child along to an immunisation provider and the child having a red, sore arm from the vaccine or, indeed, a little bit of a temperature overnight, but they recover reasonably quickly. But when we talk about serious vaccine injuries, we talk about in the order of one in a million or so. So we can expect a handful of serious vaccine complications to occur each year.

It is the Greens’ view that it is a serious problem, and that in order to encourage greater acceptance of vaccines there should be a vaccine injury compensation scheme. We think that is really important. We heard evidence through the inquiry that the United States requires a compulsory levy on the manufacturers of vaccines that goes towards such a vaccine injury compensation scheme for those vanishingly small but very real and severe impacts associated with vaccines. We think that would lead to greater acceptance. Of course, that is at the opposite end of what some of the people who do not support vaccination claim is the consequence of vaccines. They cite links to autism, other mental health conditions and a range of conditions where there is absolutely no evidence of a connection between vaccines and those conditions.

We know that the AMA provided more detail about the Australian Immunisation Handbook and how that provides guidance about exemptions to immunisation. It also provides information on a range of contraindications and precautions for specific groups—those people who are at risk of anaphylaxis, those who are immunocompromised, those who are receiving particular blood products and so on.

One of the other things that we are concerned about is the accuracy and the quality of the data upon which the requirements for immunisation are enforced and, of course, the association with the removal of those particular benefits. The policy uses the Australian Childhood Immunisation Register as the primary data source. It is true that the ANAO did a performance audit of the register, and it reported that overall the administration of the register has been effective and that it has met or exceeded performance targets. That is a good thing. But we also acknowledge that there were concerns expressed through the hearing. Indeed, some were expressed by the Public Health Association of Australia, who documented some of the flaws in the register, which was developed in the 1990s. In evidence submitted on notice, the Department of Human Services wrote that:

In accordance with the phased expansion of the ACIR into a Whole of Life Australian Immunisation Register (AIR)—and that is a good thing; to have a register that covers people right through their life—
a range of improvements will be implemented to the Register's functions and operations. This includes new functionality to enable providers to correct errors online through the AIR secure site, such as correction of an incorrect dose number or incorrect vaccine recorded. This will begin to be implemented in September 2017.

That is especially concerning. It is concerning because we have a scheme that is relying on data to remove payments from people, but we know that the system they are relying on will not be fully operational and accurate—in the way that we want to see it—until September 2017. That is why we think that if you are going to introduce this sort of legislation, you should at least do it once your data system is up to date. And that is why we are moving an amendment to delay the start date of this legislation until 1 January 2018, along with other specific amendments.

The Public Health Association of Australia told the committee that the government should seek to address the structural and practical barriers that exist, including socioeconomic reasons, and that explain why some children are not fully vaccinated. We absolutely agree with that, and we think that vaccination will be enhanced by supportive systems—reducing barriers to access, improving the reliability of the register, and further strategies that are specific to Aboriginal and Torres Strait Islander communities. We absolutely look forward to seeing the impact of reminder and recall strategies, through a thorough evaluation. These strategies should include a national immunisation reminder system, catch-up campaigns, and local initiatives to improve coverage, as well as home-visiting programs and other actions to address some of the barriers to health care.

Finally, there is some confusion in the information that has been provided on the departmental websites. The Department of Human Services and the Department of Health websites actually differ in terms of information about which vaccinations that are required for people to be able to access family assistance payments. That needs to be clarified as a matter of urgency. We need to know absolutely clearly what is and what is not mandatory for eligibility for family assistance payments.

In conclusion, I move the Australian Greens second reading amendment on sheet 7798:

At the end of the motion, add:

"but the Senate:

(a) recognises that it is of critical importance that GPs remain able to use their clinical judgement in assessing children who are eligible for medical exemption; and

(b) calls on the Government to clarify which vaccinations are mandatory to meet the immunisation requirements and make this clear on all their relevant websites and publicly available material".

The ACTING DEPUTY PRESIDENT (Senator Seselja): Thank you, Senator Di Natale. Your time has expired. The question is that the second reading amendment be agreed to.

Senator LEYONHJELM (New South Wales) (10:33): Since it is about time somebody did, I rise to ask: won't someone think of the childless? Politicians seem to be obsessed with families, so it may come as a surprise to many that most households in Australia are childless. A quarter of all households consist of an individual and more than a quarter of all households consist of an adult couple. There are also hundreds of thousands of households where unrelated adults live together. Childless households are also on the rise, in part because kids have grown up and moved out of their parents' homes, and because of the increasing
propensity of couples to remain childless. To the childless people of Australia I want to say, on behalf of this parliament, 'Thank you for being childless.'

You work for more years and become more productive than the rest of Australia. You pay thousands and thousands of dollars more tax than other Australians. You get next to no welfare, and your use of public health services is minimal. But you pay when other people get pregnant; you pay when they give birth; you pay when they stay at home to look after their offspring; you pay for the child's food, clothing and shelter; you pay when the child goes to child care; you pay when the child goes to primary and secondary school; and then you pay when it goes to university.

Thank you, for all you do for others. I am sorry that rather than receiving thanks, you are often ignored, pitied, considered strange or even thought of as irresponsible. For your sake, I hope the children you are forced to support do not end up as juvenile delinquents and I hope that they get immunised so that you do not end up getting sick, because you will pay then too.

For this reason, amongst others, I support the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015. This bill concerns parents who, on religious or conscientious grounds, refuse to immunise their children. The bill makes such parents ineligible for childcare subsidies and family assistance end-of-year supplements. This is as it should be. It is bad enough that people continue to bring wave upon wave of these little blighters into the world. The least they can do is immunise their bundles of dribble and sputum so they do not make the rest of us sick.

Withholding welfare payments from parents who fail to immunise their kids is entirely legitimate, including from a libertarian perspective. Immunisation generates a significant social benefit, and parents do not have a right to welfare payments. Such payments are, fundamentally, a gift from their fellow Australians. No work is done for the money, so there is nothing wrong with placing conditions on it. The fact is that most welfare payments to parents should be abolished, because people without children should not be forced to subsidise people with children.

Children generate great joy, warmth and meaning for their parents. They are a precious gift. What more do you want? It is unfair that people without children are forced to pay money to those people who have received the gift a child. Some people are childless by choice and are happy with that choice. There is no moral case to make them subsidise other people's choices. For some people, childlessness is not a choice; it is a great sadness. Forcing them to hand over money to more fortunate people is like charity in reverse. It is like making people in wheelchairs pay for other people's running shoes.

People without children are not freeloaders; they can look after themselves throughout their life through working, saving, and engaging in voluntary, mutually-beneficial exchanges. It would be weird to suggest that you need to pay for the upbringing and training of a baker just because one day you will want to buy bread. It is equally as weird to suggest that a childless person needs to pay for the upbringing and training of children just because they might want to buy services from those children in the future.

Some argue when taxpayers fund subsidies for today's children that this is a proxy for paying back the subsidies the taxpayers received when they were children. But this ignores the fact that some taxpayers received little or no subsidies when they were children. They
have nothing to pay back. And forcing money on today's children, whether they need it or not, does not create any special obligations on them in the future either. And there are plenty of adults right now who pay little or no tax, so if they received subsidies when they were children they are not paying them back now. Overall, intergenerational wealth transfers are best achieved within families.

The Liberal Democrats support the abolition of childcare subsidies, coupled with deregulation of the childcare sector—including its excessive credentialism—to cut the costs of childcare. The Liberal Democrats support the abolition of taxpayer-funded paid parental leave, which is an arbitrary payment provided only to those new parents who were in employment in 10 of the prior 13 months. The Liberal Democrats believe that family tax benefit part A should be limited to low-income families, and that family tax benefits should end their march through the alphabet right there. Family tax benefit part B should be abolished, and, instead, we should have a flat income tax rate to ensure that families are not penalised if one member of a couple makes more money than the other. Parenting payment would remain only for low-income families with children who are not yet in school.

Some people may say that if this policy platform came to pass they would not be able to afford to have children. In response, let me make this very clear: people do not have a right to expect or force others to pay them to have children. The government is not your parent or your spouse. Get over it. In fact, do not just get over it; be thankful for it. The government does not make a good parent—just ask any ward of the state. What is more, when you allow the government to become a de facto parent it encourages the breakdown of traditional family units—something many politicians claim to support. Mark my words: when you treat the government like a parent, it will soon enough treat you like a child. The passage of the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015 should help. I commend the bill to the Senate.

Senator XENOPHON (South Australia) (10:41): The issue of immunisation of children is highly emotive because it relates to our most treasured loved ones—our children. It is true that Australia is seeing a drop—many consider it a worrying drop—in immunisation rates and the herd immunity that comes with them. Australia has a vaccination rate across the nation of a little over 90 per cent, but in some parts of the community it has dropped well below that.

From 1 January 2016—just five weeks away now—this bill will introduce a requirement that children have up-to-date immunisation shots in order for the family to receive childcare benefits, childcare rebate or the family tax benefit part A supplement. The vast majority of families that would be affected by this bill already meet the immunisation requirements for their children at the appropriate age points—it is about 97 per cent. Figures provided by the Department of Social Services show that this 3 per cent of families represents an additional 18,000 children who would be required to undergo immunisation shots from 1 January 2016. But, crucially, this bill would also apply to children of all ages who do not have up-to-date immunisation shots. The parents of these children would need to have them undergo catch-up shots to the appropriate level for their age in order to continue receiving the childcare and FTB-A payments.

The bill also scraps the conscientious objection exemption to children's vaccinations. Exemptions will only be granted for valid medical reasons, such as when a GP certifies that the child already possesses a natural immunity from, say, previously contracting the disease in
question. At this point it is worth mentioning that the Australian Greens second reading amendment seems, on balance, a sensible way to go forward—to allow GPs to make a judgement in these cases. It is a second reading amendment and it is not binding on the parliament, but, from a policy framework perspective, I think it is important that we do not ignore or shut out GPs who are on the ground, know the families and children and can make a reasoned judgement based on the medical evidence as to what is the best and most appropriate course of action to take.

Although we are talking about a small percentage of families, when added to those needing so-called catch-up shots and those families for which exemptions no longer apply, this bill will affect many thousands of Australian children and their parents. The DSS estimates that more than 200,000 children aged from one to 19—although if you are 19 you are not really a child, but I am relying on the DSS estimates—would need to be immunised to some level in the current financial year. That is 3.4 per cent of the total population of 5.9 million Australians in that age bracket of between one and 19. This is a large number of children, the future health of whom should be a priority for all of us. The arguments that weigh both sides of this debate cannot be discounted. I think we need to respectfully consider both sides of the debate. On one side of the equation there are parents who believe that their children will be at risk of contracting diseases because another child in the classroom has not been immunised. They say that that is unfair, despite any conscientious objection. These could be classmates at school or playmates in child care, or just kids that kick around together in the neighbourhood. On the other side of the equation, we should not discount the concerns of parents who do not want to see what they regard as pharmaceuticals injected into their children, even for the best intents and purposes, because there has been a concern that occasionally—rarely—there are adverse health impacts. There is a school of thought that has linked immunisation to autism. However, as reported in the *Journal of the American Medical Association*, this year there was a massive study of 95,000 children which found that the measles-mumps-rubella vaccine did not affect autism rates in a known risk group—those with autistic siblings. But I do understand that there are also contrary views in respect of that. It is not for me or for the Senate to repudiate what parents have observed in their children stemming from immunisation; I think that parents know their children best. There have been instances and evidence suggesting that vaccines are not risk-free. That is something that even the most ardent proponents of vaccination acknowledge—that there are, occasionally and rarely, adverse outcomes.

This year, the journal *Vaccine* reported that mistakes made in making Fluvax in bioCSL's Melbourne laboratory had led to dangerous side effects in children. Fluvax remains banned for children aged five and younger. The risks of injury from immunisation are very small but very real. I think there is a place for a statutory compensation scheme to cover the very small number of families who face a tragic outcome. And I note that, going back a number of years now, there have been calls for a vaccination injury compensation scheme. These are from people who support vaccinations; these are from advocates of vaccination who acknowledge that, where there is an adverse outcome and where that adverse outcome is linked to the vaccination, there ought to be such a scheme. My understanding is that Canada has had such a scheme in place for a number of years. That is something that we need to look at. That would appear to be a best-practice model. I ask the minister—and I would be satisfied if this were taken on notice—whether the government has looked at the Canadian approach, where
vaccination programs are very much in place and supported by the community and where, for those rare cases of adverse outcomes, there is a compensation scheme.

I note that, back in 2011, Associate Professor Heath Kelly of the Melbourne University School of Population Health told Fairfax Media:

... although it was rare for children to be seriously harmed by vaccines, it was unfair not to compensate the few affected when there were known risks.

He is an advocate for vaccination, and he also said:

There is no doubt that the benefits of immunisation far outweigh the risks. However, on the very rare occasions that there is a serious complication, despite proper manufacture and administration of a vaccine, it is only fair that the community should provide for the individual suffering ... as there is a community benefit from as many people as possible being vaccinated.

That seems to be a measured view, which I think we ought to consider. But we also ought not to dismiss those who are critical of vaccinations; their views should be heard, and not derided.

We also need to ensure that the risks posed by future vaccines are closely monitored. Earlier this year, researchers writing in the PLOS Biology journal outlined the risks that vaccines against some of humanity's deadliest diseases, including HIV, Ebola and bird flu, can be 'leaky' and can lead to so-called 'super-bugs'.

For all the claims and counterclaims around this debate, I understand that this piece of legislation is about the risk of contracting diseases that have previously been eradicated, or largely eradicated, in Australia. I understand the government's argument about herd immunity, and that is a concern. But I also think it is important that we acknowledge the concerns of those who have said, 'we are worried about adverse outcomes'. We need to make sure that vaccines are produced to the highest possible standard. What happened with the Fluvax vaccine—where children were injured as a result of that situation—indicated, I think, a failure in appropriate quality controls. I also think that it is not unreasonable that there be ongoing monitoring of adverse effects of vaccines. We also need to look at what Canada has done for a number of years now with their statutory compensation scheme. That way, the issue is less about emotion, in a sense, and more about dealing with the facts that we have before us, on a scientific basis, so that we can ensure that our children are as safe as they can be, and free not only of disease but also of any unnecessary adverse impacts.

Senator IAN MACDONALD (Queensland) (10:50): I support this bill, the Social Services Legislation Amendment (No Jab, No Pay) Bill, and I will be voting for it. I have no particular expertise in this area, but I accept what appears to be the overwhelming support of professionals and learned people who make immunisation and the control of diseases are a full-time study.

I was approached by a group of very sincere Australians who had an objection to this bill. Whilst I indicated to them that I did not necessarily support their arguments, I was very keen to ensure that they had the opportunity of putting their case and their concerns to the parliament—and through the parliament, to the general public. I was also pleased to see that the minister and the government allowed a committee investigation—which I note, Mr Acting Deputy President, that you were chairman of; as usual, a very distinguished chair. I note the recommendations of the committee which, broadly speaking, I support. The principal recommendation is that the bill be passed. The report contains recommendations that, in broad, call upon the government to keep the matter under review, to embark on education and
communication strategies, and to look more closely at the question of conscientious objection. I note the thoughtful comments of the previous speaker in that regard. I will not take the time of the Senate by repeating a lot of those issues; suffice it to say, I think that the people who have a serious objection to the proposal are genuine. They are serious in their concerns and I think, in a country like Australia, we have the democratic right to make these views known. I was pleased that this group of people had that opportunity. I note that there were over 2,000 submissions to your committee's inquiry, Mr Acting Deputy President. I suspect and I see that quite a number of them were what we in this business call 'campaign letters' but, notwithstanding that, there is clearly a group of people who have concern about the compulsory nature of this.

In general, I am reluctant to impose these sorts of things on fellow citizens, particularly where there are serious objections, if—as most would say—not valid objections. I am a little bit uncomfortable about that. But I go along with the majority view—and Senator Xenophon mentioned this as well—that it is not just about the children involved: if particular children do not have these immunisations, there is a belief that this could impact unhealthily on other children in their sphere of influence.

I congratulate the committee on its report, and on its work in hearing the evidence and presenting this report to parliament. I think on balance that it is a bill that should be supported. However, I like the committee's urging—and I am paraphrasing here—that this matter should be kept under review, and perhaps some of the international incidences and experiences which have been spoken about in this debate should be looked at. I will be supporting the bill.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (10:54): I thank those who have contributed and the spirit in which they have engaged not only in the debate in this place but also in the Senate committee inquiry. I think we can all agree that one of the great strengths of this institution is its committees, when they are directed to good purposes.

This bill will ensure that children fully meet the immunisation requirements before their family can access a childcare benefit, a childcare rebate or the family tax benefit part A supplement. Immunisation is an important health measure for children and families as it is the safest and most effective way of providing protection against disease. What is proposed is that from 1 January next year the government will extend the current immunisation requirements to include children of all ages. At present, a child's immunisation status is only checked at the age of one, two and five for family tax benefit part A supplement and up to the age of seven for childcare payments.

There has been a high degree of public interest in this policy, with a large number of submissions being made to the inquiry. A range of views from organisations and individuals have been presented. The government recognises that communication to medical professionals and families is a critical part of this policy, and that is something the Senate inquiry touched on. Materials provided to families will make it clear which vaccinations are necessary to meet the requirements, and communications to general practitioners will clearly stipulate how the catch-up program will operate.
While concerns have been raised in regard to this legislation's approach its intentions remain the same, and that is to prevent Australian children from preventable diseases—in particular, those who are unable to be immunised because they are too young or for valid medical reasons. Parents do have the right to decide not to vaccinate their children. However, if they decide to object to vaccination, this decision can no longer be supported with government financial assistance. The choice made by some families not to vaccinate their children is not supported by public policy or medical research, and nor should such an action be supported by taxpayers in the form of family assistance and childcare payments.

Crucially, the government is ending vaccine objection exemptions through this bill. This means that families who object to vaccination will no longer be able to access these family assistance payments. Exceptions to the policy will apply for valid medical reasons such as when a GP certifies that a child has a medical contra-indication or vaccination is not required as the child has natural immunity to a particular disease. Families with children participating in an approved vaccination study will be taken to have met the immunisation requirements for the duration of the study, and similar rules will apply where a vaccine is temporarily unavailable. The requirements will also be met if a recognised immunisation provider certifies that a child has an equivalent level of immunisation through an overseas vaccination program.

Lastly, the secretary of the department will be able to determine that a child meets the immunisation requirements in very limited circumstances after considering decision-making principles set out in a legislative instrument to be made by the minister. Such decisions of the secretary will be made on a case-by-case basis to address unusual situations—for example, where a grandparent or non-parent carer does not have legal authority to vaccinate a child in their care—but it cannot be used to give effect to exemptions on the grounds of vaccine objection. This policy will tighten up the rules and reinforce the importance of vaccination in protecting public health, especially for children.

I should point out that the government supports the Australian Greens second reading amendment, which records the Senate's recognition of the importance of the role of GPs in assessing medical exemptions and the need to record publicly which vaccinations are mandatory to meet the immunisation requirements. I commend the bill to my colleagues.

Question agreed to.

Original question, as amended agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:00): I move the Greens' amendment circulated on sheet 7797:

(1) Clause 2, page 2 (table item 2), omit "1 January 2016", substitute " 1 January 2018".

The genesis of this amendment is the information that was presented at the Senate inquiry, where the Department of Human Services wrote: 'In accordance with the phased expansion of the Australian Childhood Immunisation Register into a whole-of-life Australian Immunisation Register, a range of improvements will be implemented to the register's functions and operations. This includes new functionality to enable providers to correct errors online through the Australian immunisation register secure site, such as correction of an incorrect
dose number or, indeed, an incorrect vaccine recorded.’ This will begin to be implemented in September 2017.

That is of significant concern to us because the decision to withdraw someone's support, that is child care rebate, family tax benefit A supplement, child care benefit, is entirely dependent on the data that is listed in the Australian Immunisation Register. If we have an acknowledgement from the Department of Human Services that there are some flaws currently within the system—and we know there are because, for example, there is no capacity to go online and directly make alterations to dose numbers, or indeed if an incorrect vaccine has been recorded—then somebody can have their support payments withdrawn on the basis of that incorrect information. That is concerning. I just cannot understand why we would have a scheme that is reliant upon quality data to see who is and who is not fully vaccinated if the systems that support that are not going to be fully operational until late 2017. That is absolutely critical.

Again, restating our support for immunisation: we do strongly support measures that will increase our immunisation coverage, but we do believe that if we are going to introduce measures as drastic as those that have been proposed here in this bill, that remove support and payments from individuals on the basis of a database that may be inaccurate, then that has the potential to cause very serious problems.

This amendment addresses that specific issue by delaying the start date of the legislation until 1 January 2018, when data systems are ready to provide confidence that the immunisation data is accurate and that providers are resourced to undertake an extensive history and checking of the information. It allows consumers and health professionals who are using the Australian Immunisation Register secure site to correct errors online. It is about ensuring confidence in the systems; again noting how important it is that accurate data is used if we are going to take measures as drastic as the removal of these support payments.

Senator MOORE (Queensland) (11:04): We are not supporting this amendment. We believe that the information we received, not always immediately from the departments in our examination through the committee process, gave us the confidence that we would be able to move forward with the legislation at this time, provided that there is the injection of resources into ensuring that the publicity and information campaigns and also the maintenance of the register are both put in place. So we have accepted the department's views that that will occur and will ensure that the starting date can be the original in the legislation.

But I would like to take the opportunity in this committee stage to ask the minister for some comments on the committee recommendation, which you know very well, Mr Acting Deputy President Seselja, that there will be a review process in the department to ensure, as Senator Macdonald pointed out in his contribution, the need for this particular legislation to have a quite specific review process through the department to ensure that it is working and that the objections that have been put forward by many people in the community are taken seriously—that this is an important element of our agreement to the whole process.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:05): It is important to note that the data match does not work. Obviously, there will be the opportunity for individuals to take documentary evidence to the
department to demonstrate that they have the relevant immunisations for their child, and, clearly the government will be monitoring these arrangements as they roll out.

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (11:06): So just to clarify that specific issue: are we suggesting that somebody may have their payments ceased—that is, their child care benefit payments or family tax benefit A—that that might occur over a period of weeks, possibly months, and then that it is up to the individual to provide documentary evidence to the department that the information on which that decision was made is incorrect? If that is the case, it is of great concern to us.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:06): I am advised that, for child care, there is a 63-day grace period but, for family tax benefit arrangements, families will need to be in a position to provide documentary evidence if there is advice that they do not have the requisite immunisations and that their payments will be ceasing.

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (11:07): In that circumstance, at what point does the government believe it is appropriate to introduce other safeguards? If we start to see a rush of people who have their family tax benefit A payment ceased as a result of incorrect information in the register, at what point will the government decide that the system as it has been designed is not working and that in fact there is the need for a revision in terms of the way this is managed?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:08): Just to clarify: there will not be any impact on the fortnightly payment in relation to FTB. It would only be in relation to the end-of-year supplement.

**Senator DI NATALE** (Victoria—Leader of the Australian Greens) (11:08): I understand that it is related to the supplement, but, if people are relying on that supplement and they have it ceased as a result of the fact that the information provided on the register is inaccurate, at what point does the government decide that this is a problem—that we are having a number of people who were relying on that supplement not receiving the supplement as a result of faulty information listed in the database?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:08): The end-of-year supplement is paid at the end of a financial year and, if that does not occur, then parents can present the relevant documentation and that payment will be made.

**Senator MOORE** (Queensland) (11:09): Can we just get some information from the department—not today but on record—about what the process is going to be in terms of the interaction between the department and the people who are going to be subject to these changes? At the committee process, that degree of detail was not known. We asked at that stage, but I think in view of the questions that Senator Di Natale has been asking, it would be very useful for us to get from the department what is going to be the exchange of correspondence, how people are going to be identified and what the communication process on that is going to be. Could we have that on notice, please?
Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:10): Just further to that issue: was any consideration given to perhaps a warning letter or some correspondence flagging that somebody may not be receiving their family tax benefit A supplement and giving them a grace period in which to either seek to update their immunisation or to provide documentary evidence that the information on the register is inaccurate. It seems to me a much more sensible approach would be to at least advise individuals that this change is coming. Family tax benefit A supplement is really important for a lot of families. It might pay for the schoolbooks for the coming year. It might pay for birthday and Christmas presents. It is a really important bit of family support. It just strikes me as a much more sensible measure. We have already expressed our concerns broadly with the bill. There could be some provision or allowance made for individuals to take corrective action before the payment is actually withdrawn. I just wonder whether any consideration has been given in terms of a warning, a grace period et cetera.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:11): I am advised that the Department of Human Services will be sending letters in advance to people who are not up to date, advising them that that is what the records of the department show and that, if they are not accurate, to make contact.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:11): When are letters sent? What is the time that will elapse between the letter being sent and the payment being withdrawn?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:11): My understanding is that the letters will be sent shortly after this legislation is passed.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:12): What is the gap between the letter being sent and the payment being withdrawn? What is the period that will elapse between those two things? Let us assume that we are a year on and the legislation has passed. Let us look at December 2017. Will someone receive a letter and then have two weeks, four weeks, six weeks—or two days—to present the information if the register proves to have inaccurate information?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:12): In effect, people will have the best part of six months, because the end-of-year supplement would not be paid until after the middle of the next year, so, if the letters go out in the very near future, then there is a reasonable period of time for the appropriate advice to be provided to the department.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:13): I understand that would be true once this legislation has passed. I am looking into the future. What is the time between the letters being sent and the supplement being withdrawn? Of course, if there is a plan to send letters out as soon as this legislation passes, people have got a lot of time, but what happens the following year and the year after that? What is the period of time that will elapse between letters or advice being given to an individual that the information on the
register indicates that someone's immunisation schedule is not up to date and the time at which that payment is withdrawn?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:13): Once the legislation has passed and we get through what you might call the transition period, it will be part of the routine information that is provided to individuals that they need to make sure that the information that they provide to the department in different forms is accurate. The onus is on individuals thereafter to make sure that the advice that they provide to the department is accurate.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:14): Just to be clear on that: are you suggesting that each person who might have a child whose vaccination status is listed on the register needs to get onto the register and check to see whether their immunisation information is accurate and up to date; and, if they do not do that and have their payment cut off, they are not going to be given any warning prior to that decision being made? To be frank, that strikes me as completely impractical. I suspect the majority of the community who have children would not have the faintest idea about the existence of an immunisation register. For the onus to be on the individual to make sure their immunisation information is up to date strikes me as a completely unsatisfactory way of dealing with that potential problem.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:15): If someone does not make the register, the department will in the ordinary course of events write to the family, drawing their attention to the fact that it would appear that what is required has not happened. There are two points: the need for people to keep relevant information up to date; and communication from the department saying: 'It appears that you haven't undertaken what is necessary to remain eligible.'

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:16): So again we get back to that critical point, which is beyond the transition period, as you have described it: when will the correspondence be issued by the department to the families involved; and how much time do they have to correct the record, if the information on the register is inaccurate?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:16): Your specific question, Senator, goes to: when someone gets advice that they are not compliant, how many weeks will it be before they could potentially lose a payment? Obviously, in the case of the end-of-year supplement, the reconciliations will happen at the end of the year. I cannot give you any more specific advice at this point about what period of time there might be between when someone receives a letter and something happening, because you have got the end-of-year supplement, which is a reconciliation at the end of the year. You have got individual's birth dates, which determine when various vaccinations are required. I know what you are seeking but I just cannot give you a definitive time frame at this point in time.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:17): That could easily be rectified by saying there had to be a minimum period of time from notification by the department to when the decision to withdraw a payment was made. This is a pretty big
change. We do not know how many families will be affected, and this is going to be a big test of the reliability of the data on the Australian Childhood Immunisation Register. The last thing we want is for the department to be withdrawing support to thousands of families on the basis of information that is just not accurate. So it is going to be a big test of that database. I think there needs to be a minimum period from notification to the individual families involved—and we can have a discussion about what that minimum notification period needs to be, but I would have thought at least a fortnight and probably closer to a month to allow people to take the necessary action to ensure that the register is updated. I would have thought a commitment from the department that there will be a minimum period for people to be able to update the information before the decision to withdraw the payment is made would be something that had already been dealt with—I am surprised it has not. Obviously, this is an opportunity to raise that specific issue and get some undertaking from the department that there will be a period of two or four weeks for people to respond to a notice that a withdrawal of payment will be made, if the information on the register is not updated.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:19): I have just been seeking further advice from those intimately involved in this legislation and have been advised that in effect there will be a two-week period between when the first letter comes saying, 'It would appear that you're not compliant' and the next letter advising that payments would be ceasing. So I think that is the time frame that you were seeking advice on. I am further advised that this is in effect the sort of mechanism that is currently in place when providing advice to people that they are not compliant and then a subsequent letter advising what the impact might be on their payments.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:20): That is helpful, if we are talking about a minimum two-week period. What action needs to be taken by the individual involved? Because clearly some people will have made the decision not to immunise their child, and that is clearly the intent of this legislation. In the instance where the information on the register is simply not accurate, what is the specific course of action that an individual needs to undertake to ensure that their payments are not withdrawn?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:21): The provision of documentary evidence from a doctor or an immunisation service that the immunisations required have occurred.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (11:21): I suppose one of the concerns is the ability within a short space of time to get that documentary evidence. We all know how difficult it is in some circumstances to access a GP, and certainly for something like this it may take a little longer. Will there be any provision within the current arrangements that will allow, for example, a family to contact their department to say that an error has been made and to put a hold on withdrawing the payment and providing the opportunity for the register to be corrected, even if it is not within that two-week time frame?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:22): The advice at the moment is, 'I don't think so,' in terms of putting a pre-emptive hold on the operation of that two-week period. But I should also
indicate that what is commonly known as the 'blue book' would be one source of evidence that people could provide. I do not think it is an unreasonable expectation that, in most cases, people may have that, but I obviously recognise that there can be difficult circumstances in particular households.

Senator MOORE (Queensland) (11:23): Minister, we do want the details that you have gone through in the actual process circulated when that is worked out. I know there is a transition process, but we do share a lot of the issues that Senator Di Natale has raised about the actual implementation. So I am just following up on that point.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:23): Thanks, Senator Moore. Probably the best mechanism is if that is provided to the Senate Community Affairs Committee. That way it can be accessible for all colleagues.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (11:24): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Migration and Maritime Powers Amendment Bill (No. 1) 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator KIM CARR (Victoria) (11:25): I would like to say a few words about the Migration and Maritime Powers Amendment Bill (No. 1) 2015. Labor supports this bill which amends two pieces of legislation passed last year that came into effect in December. The first is the Migration Amendment (Character and General Visa Cancellation) Act 2014, which essentially strengthened the character test and gave the minister greater discretion in removing noncitizens who had committed crimes and could put the community at risk. We supported that legislation and all but one of the amendments in the present bill, which were mostly of a technical nature, relating to it. Therefore we support the bill before us now.

The bill provides consistency in the treatment of deportees who, for whatever reason, have to return to Australia. At present, if a destination country refuses to accept a deportee, that person is lawfully able to return without a visa and, legally, it would be as though the deportee had never left. If a deportee's journey is disrupted for some other reason—such as an unforeseen incident in transit—that person could not return without a visa. This bill removes that anomaly and therefore all returning deportees will have the same legal standing.
The bill also provides for greater consistency in the application of the character test, including requirements for information applicants must provide. Under the original legislation, information had to be supplied upfront. This bill extends that requirement to applications made on behalf of others. That is most likely to happen when the applicant is a minor. In this regard Labor is pleased that the government accepted the Senate committee's recommendation that the explanatory memorandum be amended and that the amendments clarify the operations of the legislation with respect to minors and people with cognitive impairment. The amendment will also explain retrospective provisions in the legislation. These changes remove what would otherwise have been obstacles to Labor supporting the bill.

This bill also amends the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014. That legislation had many schedules—one of which had the intent to ensure that Australian vessels act lawfully when they intercept other vessels on the high seas. That schedule is the only remedial provision amended by the bill now before us. This bill provides that any exercise of maritime powers, such as the interception of a vessel at sea, is lawful provided it complies with Australia's international obligation. The relevant international obligations in these matters will also be those set out in the United Nations Convention on the Law of the Sea. This provision of the bill also applies to an Australian vessel passing through the territorial waters of another country. This obviously relates to the government's policy of turning around boats carrying asylum seekers from Java to Christmas Island.

When this bill was being debated in the other place, the member for Corio noted that Labor does not want boats to set out on that journey again. The loss of life over many years was a tragedy, and there is nothing compassionate about standing by while people's lives are lost at sea. The most significant measure to dissuade people from embarking on that dangerous journey was the regional settlement agreement that the Rudd government negotiated with Papua New Guinea and Nauru. Because of the role that that agreement has played in ending deaths at sea, Labor continues to support it. We do not however support the way the government has managed the offshore processing of asylum seekers. There has been a lack of transparency, which has destroyed confidence that the rights of asylum seekers are in fact being respected.

Labor is deeply concerned about the decisions the government has taken with regard to the management of the facilities on Manus Island and Nauru. For too long the medical facilities on Manus were inadequate, leading to the death of Hamid Kehazaei from what should have been a preventable condition. Worst of all, the government delayed completing the construction of the facility on Nauru so that people had to live in tents for much longer than was necessary. Now, the facility is said to be an open centre, but it is unconscionable that the government force people to live in worse conditions than they otherwise could have done. The government must negotiate with the PNG and the Nauru governments to establish independent oversight of the facilities as soon as possible.

I repeat the call made in the other place by the member for Corio that the government must provide an answer to a fundamental question: what is to be the fate of the 2,000 people on Nauru and Manus? A Labor government would not allow these people to be cast into the
limbo of the detention centres indefinitely. Yet this is what the current government seems to
be willing to do.

In July, Labor committed itself to a series of measures that would allow Australia to re-
engage with the international humanitarian efforts on behalf of asylum seeks. Under a Labor
government Australia would double its humanitarian intake and would substantially increase
its funding to the UN High Commissioner for Refugees. I say these things are important, and
it is important that Labor make its position clear on them. We are willing to act in a bipartisan
spirit on asylum seeker issues when it is possible to do so without violating the principles that
must be upheld, and that is why we support the bill now before the Senate. It remains a matter
of deep regret, however, that the government chooses to act on human rights issues in a
manner which is inconsistent with the spirit of bipartisanship.

Senator HANSON-YOUNG (South Australia) (11:32): I rise today to speak to this bill,
the Migration Maritime Powers Amendment Bill (No. 1) 2015. This bill, of course, has been
through the regular Senate inquiry process. I think it is important to note at this stage that out
of the seven submissions received by the committee inquiring into this bill all but one of those
submissions were disfavourable towards this piece of legislation. The only submission saying
that this bill should pass was—surprise, surprise—the submission from the government itself
and the Department of Immigration and Border Protection. We are becoming quite used to the
department ticking off on their own pieces of draconian legislation.

There is a number of aspects to this bill that the Australia Greens are concerned with.
Firstly, the provisions that deal with giving the minister more powers to automatically cancel
visas on character grounds. I find it somewhat extraordinary that we are here today debati
ging a piece of legislation that will give Minister Dutton more say to cancel peoples' visas—because
it has worked out so well so far. We have our detention facilities, particularly the centre on
Christmas Island, almost full to the brim with people who have
automatically had their visas
cancelled. We know the problems that that has caused only in the last couple of weeks.

Of course, even the New Zealand Prime Minister himself, John Key, was forced to raise
this automatic cancellation issue with the Prime Minister, Malcolm Turnbull, on his first visit
to New Zealand only last month. Here we have a piece of legislation that is going to give the
minister more powers to deny people appeal rights in relation to the cancellation of their
visas. The extraordinary aspect of this is that it will give the minister additional power to set
aside decisions made by the Administrative Appeals Tribunal. I do not see many people
spruiking that Minister Dutton of all people should be given the power to determine anything,
let alone in a situation where it has become already so delicate in terms of our diplomatic
relations—particularly with our cousins over the ditch.

Furthermore, this piece of legislation also has some concerning elements in relation to the
impact on children or mentally ill people, who may not be aware that they could not make
repeat applications for protection visas and therefore impacting on them significantly. We
raised concerns about this provision last year and we are raising it again today. It is incredibly
unfair and short-sighted to see that a child, or a mentally ill person, is going to be significantly
disadvantaged because of these new provisions.

The other concerning element, which is somewhat different but nonetheless still important,
is schedule 4 of the bill, which includes provisions in relation to the breach of international
law and undermines Australia's relationships with other states in relation to purporting the
authority of the turn back of boats in other countries' waters. We already know that the Prime Minister, Malcolm Turnbull, had an uncomfortable conversation with one aspect of this bill when he visited New Zealand. We also know that only a week or two ago he had another uncomfortable conversation with the government in Indonesia, specifically in relation to turning back boats. But it seems that while our Prime Minister is globe trotting there is one set of concerns, but back in the nation's parliament we have been asked to tick and flick legislation which undermines those relationships and the very real concerns of our regional neighbours.

I want to spend some time talking about the amendments which I have circulated in this place in relation to this legislation because I think they are extremely important. We know from time to time, when pieces of migration legislation come up in this place, the government do everything they can to push them through as quickly as possible with very little debate of the impact on the people involved. We saw at this exact time last year a piece of legislation which forced people who were found to be in legitimate need of protection, were found to be refugees, forced onto temporary protection visas. Part of that legislation included deals with a number of the crossbench members in this place in order to have that legislation passed. Part of that deal, may I remind the chamber, was in exchange for releasing children from detention. It seems somewhat saddening to be standing here 12 months later having to move an amendment to this piece of legislation to ensure children are released from immigration detention.

My first amendment will be to ensure that all children here in Australia will be released from detention by Christmas. A number of members of the community have asked me, 'Wasn't that what was supposed to happen 12 months ago?' Yes, indeed it was, but it did not occur. We still have over 100 children locked up in immigration detention here on Australian soil and it is a national shame that we have a government which has sat by and allow those children to deteriorate mentally, physically, emotionally, socially and developmentally over the last 12 months by keeping them locked up as prisoners. We are talking about children as young as just a couple of months old, right through to children of primary school and high school ages. No child deserves to be incarcerated through no fault of their own but simply as a consequence of where they were born and the terrors and the torments which they and their parents have had to flee, seeking protection and safety in a country like Australia. All these children have been given in return thus far is to be forgotten, to be locked up and, effectively, for the key to be thrown away. We have an opportunity today to pass an amendment to this bill that would ensure the release of children from detention and would ensure that they can be housed safely in the community, where they can be looked after with their families and where their asylum claims can be assessed fairly and efficiently.

My second amendment to this legislation is one I have spoken of before in this place but I think it is absolutely fundamental. It is about ensuring that there is mandatory reporting of child abuse when it happens inside detention facilities. It is unthinkable, unfathomable, that we have a situation where doctors and nurses can be jailed for two years for reporting crimes in detention; meanwhile, there is no legal requirement for people who work in these facilities to report abuse, harm or violence. We know we need this provision because we have seen the reports over and over again. The Human Rights Commission report reported dozens of cases of child abuse and harm towards children. We saw the Moss review into the detention facility
and the detention camp on Nauru reaffirm that children are being harmed inside these facilities. Even the Senate's own recent inquiry into conditions in Nauru showed again that children are being harmed and are suffering abuse inside the detention facilities. It should be, at a basic bare minimum, mandatory for staff or for anyone who witnesses abuse and harm to have to report it independently. We expect those conditions for teachers in our schools, we expect those conditions for doctors working in our hospitals, we expect those conditions for other Commonwealth officers in public institutions, but currently, as it stands under the law, it is not a requirement to report criminal activity and the harm of children but, in fact, it is a crime to report criminal activity to independent authorities. We can get done with that today by ensuring that the amendment that would establish mandatory reporting of abuse be passed by this place.

The third amendment I will be moving today is in relation to media access to detention facilities. We know that the detention camps offshore and the centres in Australia and on Christmas Island are media black holes. Journalists are not allowed in, staff are not allowed to speak out and then we wonder why abuse and harm fester. It is time we threw open the doors and shone the light on what is actually going on inside these facilities. If the government have nothing to hide, they will not have a problem with allowing media to access the facilities to see for themselves what is really going on.

The Australian people spent billions of dollars on this government's detention regime. They have every right to know how their money is being spent and what the conditions are inside these horrible, horrible camps. I have been there and I have seen them, and they are awful. They are places of horror, particularly for the young children who are locked up. But you should not just have to take my word for it—the public has a right to know, and journalists should be able to report fairly on what is going on inside these centres.

The fourth amendment I will be moving to this legislation goes to the issue of the public interest test for those who believe they need to speak out about what they see and about what is going on inside these detention centres. As we know, the Border Force Act, which came into force on 1 July this year, included a provision to threaten staff working in these facilities from speaking out—whether they be doctors, nurses, guards or teachers. Today I am moving an amendment that has been put to this place previously. It is important to reaffirm that there should be a public interest test so that staff who fundamentally believe that they need to speak out, that they need to blow the whistle on what is going on inside these camps, have the protection of the law to do so. Why is it that doctors and nurses feel so intimidated, so threatened, about being able to speak out and even to talk about their clients? It is out of fear that the government is going to prosecute them and hold them to the potential of a two-year jail sentence. It is just abhorrent that we are treating our professionals and our practitioners like this. This amendment will reverse the secrecy provisions under the Border Force Act and will allow for whistleblowers to have their case tested. If it is found to be in the public interest, then they will not have to feel the full brunt of the secrecy war this government continues to embark on.

The fifth amendment, importantly, relates directly to the issues in relation to the cancellation of visas on character grounds. Those who are actually criminals—who have broken the law, who have committed awful crimes and who are being detained in our detention facilities—should not be detained alongside people who have committed no crime
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at all, who are only seeking asylum in our country. The separation of criminals from people seeking asylum in our detention centres is absolutely vital. We know that the recent riots on Christmas Island were a result of this hideous situation where people who are seeking asylum—people who have fled war and persecution, even people who have been found to be genuine refugees—are being locked up alongside serious criminals. It does not need to be like that, it should not be like that and the government should be banned from locking up refugees alongside criminals. I was doing a little research on these amendments last night, and I found it interesting that even former Liberal leader John Hewson was reported in the last couple of weeks as saying that it is madness and absurd that we are locking up asylum seekers alongside criminals.

We know that the government does not want to talk about the riots on Christmas Island. They would prefer that nobody knew. They would prefer that the black hole and their war on secrecy are continued to Christmas Island as well. But we do know it happened, and we know that one of the main contributing factors was that the government has been keeping serious criminals locked up alongside asylum seekers, putting them at risk of harm. A simple amendment to ban the government from keeping those two groups of people together would go a long way towards ensuring safety, security and good order inside our detention centres.

The amendments have been circulated, so we will move into committee stage and I will deal with them one by one. I want to ensure that the government understands that the reason these amendments are important is that every time this government introduces a new amendment bill to make life harder and tougher and meaner in our detention facilities, it is coming on top of all of the things that are already in place and that are already missing. Let's get those children out by Christmas. Let's ensure that mandatory reporting of abuse happens. Let's not just talk about it, not just say that it is a good idea; let's make sure it happens. To do that we have to amend the legislation. If the government has nothing to hide about what they are doing, then they would let the media in and they would stop the threat to whistleblowers. These are simple amendments, and I hope that my Senate colleagues will look at them favourably.

Senator O'NEILL (New South Wales) (11:50): I rise to place a few remarks on the record this morning with regard to the Migration and Maritime Powers Amendment Bill (No. 1) 2015. This bill makes a number of technical amendments to the Migration Act 1958, and one of those amendments also amends the Maritime Powers Act 2013. All but one of the amendments relate to previous amendments made by this government in previous legislation, entitled the Migration Amendment (Character and General Visa Cancellation) Act 2014. Labor supported that then, and we indicate support for this bill and the amendments that have already been put forward by Senator Carr from Labor. I can indicate Labor's support in principle for the amendments that have just been put forward by Senator Hanson-Young, but there will be further amendments brought forward by Labor in committee stage with regard to those Greens amendments. I will speak to that a little later on.

Labor opposed the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014 and there is one amendment which relates to that schedule. The government have assured us though that there is no new policy or policy changes associated with the amendments that are before the chamber this morning, and that their clear intention is to clarify the legal framework in the two acts and ensure that they will
be interpreted consistently with original policy intention and operate as intended. Essentially, this bill deals with legislation that Labor have previously supported. I note that the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014 invokes the United Nations Convention on the Law of the Sea as its basis and that that is of some comfort to Labor.

The bill comprises four schedules. Schedules 1 to 3 really do propose amendments to the Migration Act and schedule 4 to the maritime powers act of which I was just speaking. The explanatory memorandum notes the outcome being sought by schedule 1 in regard to when an unlawful non-citizen is being removed from Australia under section 198 of the Migration Act: until that person enters the destination country, the person can be returned to Australia without a visa and will continue to be barred from making a valid application for a certain visa. Schedule 2 is seeking to improve coherency and consistency in the character related provisions of the Migration Act, which go to the government's stated intention of using this legislation to ensure that the interpretation is consistent and that the legislation operates effectively.

Schedule 3 seeks to ensure that when the Migration Act provides for a visa to cease that that visa will cease whether or not it is in effect at the time, with the exception of visas to remain in but not re-enter Australia. Schedule 3 also seeks to ensure that fast-track applicants who are refused protection visas based on certain character or security grounds can apply for merits review in the Administrative Appeals Tribunal. The last element of schedule 3 is an attempt to clarify that when a protection visa application has been made on a person's behalf—for example, if they are a minor—and that visa has been refused, the person cannot make a further protection visa application, and that is irrespective of the grounds on which a new application would be made and irrespective of the grounds stated in the original application.

Schedule 4 deals with the Maritime Powers Act. This amendment seeks to confirm that powers under this Maritime Powers Act are able to be exercised in the course of passage of through or above the waters of another country in a manner consistent with the 1982 United Nations Convention on the Law of the Sea.

This bill has been given consideration by the Legal and Constitutional Affairs Legislation Committee, who reported to the Senate in November 2015. They did take a number of submissions and gave them due consideration, and I commend the report to the chamber and to Australians who are particularly interested in getting to the truth of this very significant challenge that faces our nation and getting to the truth of the information about the way in which Australia can fairly and consistently apply law, and make sure that children, to which Senator Hanson-Young so passionately referred this morning, are not caught up in the processes of government in ways that would disadvantage them and their wellbeing.

One of the points made by my colleague Senator Carr this morning is that, apart from indicating that Labor will support this bill and its capacity to amend two pieces of legislation that passed last year and came into effect in December, the reality is that this bill did give the minister greater discretion in removing non-citizens who had committed crimes and who could put the community at risk. That legislation was supported by Labor and all but one of the amendments in the present bill, which, as I said, are mainly of a technical nature, relate to it. We do support the bill and it does indeed provide some consistency for the treatment of the
deportees who have to return to Australia. What happens at the moment is if a destination country refuses to accept a deportee, that person is unable to return without a visa. That leaves a legal problem where it would be almost as if the deportee had never left. The disruption of a journey by a deportee—such as some sort of incident that might happen while they are travelling—would put the person in a situation where they could not return without a visa. This bill is sorting out that problem. It is removing that anomaly so that returning deportees will have the same legal standing.

In terms of the consistency test and the clarity that this bill seeks to achieve, it does provide for greater consistency in the application of what is a critical part of this process—that is, the character test. It does go to some detail about the requirements for information that applicants have to provide. In the original legislation, the information had to be supplied at the front end of the process, but this bill extends that requirement to applications made on behalf of others as well. When we talk about applications being made on behalf of others, that is most commonly a situation referring to a minor—so a child. That is why Labor are pleased that the government accepted the Senate committee's inquiry recommendation that the explanatory memorandum be amended. If I could go to the report and recommendation 1, which clearly states:

The committee recommends that the Explanatory Memorandum to the Bill be amended to clarify the operation of the retrospective provisions of the Bill and the safeguards around the impact of these provisions on young people and people with cognitive impairment.

This is an important amendment, and I think that we will see the benefit of that down the track. The amendments also explain the retrospective provisions in the legislation, and by doing so they remove what would otherwise have been obstacles for Labor to indicate support for this bill.

The other legislation amended by the bill is, as I have said, the fourth schedule of the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014. That piece of legislation had quite a number of schedules, and one of those was intended to ensure that Australian vessels would act lawfully if they were intercepting other vessels on the high seas. That is the schedule that is going to be amended before us today, and it is a remedial amendment. I suppose that this bill could also be considered to provide that any exercise of maritime powers, such as intercepting a vessel at sea, becomes lawful provided it complies with Australia's international obligations, and that is an important consideration for Labor in determining to support this bill. Those conventions and understandings—and obligations, indeed—are set out in the United Nations Law of the Sea.

When this bill was being debated—and I think it is very important to get this on the record—over in the House of Representatives, Labor made it very clear that we simply cannot support legislation that would do anything to encourage boats to set out on journeys again. I think all of us in both chambers are very mindful of many years of tragic loss of life, and I think it is absolutely clear that there is no compassion about watching people die at sea and failing to respond to that reality. Obviously, embarking on a dangerous journey is something that asylum seekers are doing right across the world at this point in time. The importance of dissuading people from taking that journey led to the establishment of the Rudd-negotiated settlement with Papua New Guinea and Nauru. We know that, under this government, that
settlement in Nauru and in Papua New Guinea looks, sounds and feels nothing like it would have under a Labor government. The standards to which we held those providing that detention would have been extremely different from what we have seen, but the fact that people have not been dying at sea is something we can also not ignore.

What we have seen from this government on every level and in every piece of enactment of policy is a consistent effort to hide what it is doing. This lack of transparency is a common theme across multiple policy areas from this government. We are deeply concerned about the decisions that this government has made with regard to the management of the facilities on Manus Island and Nauru, its continuing obfuscation about what is happening there, its denial of problems and its failure to deal with the reality that people in detention in both Nauru and Manus deserve far better conditions than those to which they have been subjected while this government has been on its watch.

Most telling, I think, of the unnecessary cruelty in the way that this policy has been implemented is the government's decision to delay the completion of facilities on Nauru, so that people were living for extended periods—much longer than necessary—in tents. The facility is an open centre, but it is still a reminder of the attitude of the government to unconscionable conduct that they should have put people in that situation. We clearly believe that the government have to negotiate with the PNG and Nauru governments and they need to, at the earliest possible moment, establish oversight of these facilities. To continue as they are is simply an untenable and unethical position. Labor certainly would not be allowing these people to be cast into limbo as they have been. In particular, the impact on families is something of great concern to Labor members right across the country. Under a Labor government, there would be a very different view about our international responsibilities in this area.

At our national conference, the Leader of the Opposition made a very clear announcement that I think should give succour to people who have genuine interest in this policymaking matter for Australia. Labor committed very clearly to double Australia's humanitarian intake, which is very different from what we have seen from this government once it came to power, and we also indicated that we would substantially increase the funding of the United Nations High Commissioner for Refugees. Currently—and I stand to be corrected on this—my understanding is that the federal government's commitment to this massive task of finding a way for refugees to find places for settlement and safety is a $20 million commitment. In the scope of the Australian federal government's budget capacity, $20 million is an insult to the United Nations, to the millions of people whose lives are affected and to refugees who are seeking asylum and who want to try to go about it in a way that is ethical and authentic and have some sense of the chaos of their lives pulled back into a sense that there is a process and an opportunity for a future for them. That is what we seek. To that end, Labor's policy is vastly different from what is on offer from the current government, because Labor would make a real and genuine commitment of $400 million to the United Nations to enable them to do the work of assessing and providing plans for a future for refugees to enable them to resettle and get on with their lives.

We have the talk of those opposite, and we have the hysteria from somewhere down on the crossbenches frequently, but we need a practical, empowered and funded response that gives authority to the United Nations, that gives power to the United Nations and that gives them
the practical capacity to put people where they need to to make a transparent process of the journey from asylum seeker to resettled citizen of another country. Of course, Labor are willing to work in a bipartisan spirit on asylum seeker matters when it is possible to do so without violating essential principles of human dignity that have to be upheld. The demeaning of people seeking asylum that we have seen by this Liberal-Nationals government in coalition will go down in history as a shameful period of marginalisation of people who are already at the edge.

I indicated in my earlier remarks that we support, in essence, the Greens amendments to which Senator Hanson-Young spoke just a little while ago. She spoke about the children who remain in detention. It is very important as we approach Christmas—I remember being in this Senate last year, and there was a highly controversial debate about what would happen and children getting out of detention. We need some facts here. My understanding is that there are about 30 children who are still in detention. The reason, predominantly, that those children are in detention here, onshore, is that they are with their parents. Why are their parents not released? Their parents are not released because in those cases they have had an adverse finding from ASIO. That number was larger, and as time has passed a series of assessments have been undertaken and reviews have happened, and a number of those families have been able to move out of detention and into the community, with no threat to the community. That is one of the things that Labor really think is important. Of course we want to support those children, but we also have to make sure that, in their effort to do all things that look good to the community, the Greens do not create a situation where children are removed from their parents inadvertently. That is the risk of their legislation and the amendments that they are putting here this morning.

Our amendments, I think, are very responsible ones, moderate ones, not full of hyperbole and drama, not full of meanness and shaming and marginalisation but practical, sensible, genuinely compassionate, thought-through amendments that will improve the lives of all who get caught up in this piece of legislation and its impacts. Our amendments, which will be put very shortly when we move into the committee stage, will be to make sure that the minister has regard to national security. Of course, if there has been a negative ASIO finding, that has to be given serious consideration. If you are a child and it is your mum or dad, you are part of that. That needs to be given consideration. The second thing is that we need to think about keeping families together, even if that choice for them is to stay in detention. We need to give respect to that. Finally, we would not support anything that saw the release of people into the community into living conditions that were not at least as good as—in fact, demonstrably better than—those that they are in already. I foreshadow these amendments, and I thank you for the opportunity to participate in the debate this morning.

Senator IAN MACDONALD (Queensland) (12:11): Those are very fine words from Senator O'Neill, and I think she is genuine about what she says, but for a member of a political party the words just reek of hypocrisy about the approach that the Labor Party has taken to this whole issue. I take issue, of course, with Senator O'Neill's comment that Manus and Nauru would be different if Labor were in power. Evidence has been given to this effect at hearing after hearing after hearing. That program was put in by Mr Rudd with undue haste because an
election was coming up, and ever since then the officials who had to implement Mr Rudd's policy have conceded that, because of the haste, it was put together poorly, and some of the problems we have experienced in those nations in subsequent times stem directly from Mr Rudd's involvement in and initiation of that scheme.

I am also delighted that the Labor Party are actually supporting the Migration and Maritime Powers Amendment Bill (No. 1) 2015. Again, Senator O'Neill's fine words read well, but if you look at the history, of course, the Labor Party have always been opposed to the tough action taken by the coalition government to stem the flow of uninvited people to Australia, not just because we want to protect our own borders but because we want to protect the lives of those asylum seekers who put their lives at risk by paying people smugglers tens of thousands of dollars to get on leaky boats to come to Australia. I am pleased that the Labor Party's rhetoric is now changing and they are now saying that they have always supported that, when we know they did not. Under the years of the Labor government, of course, the borders were open. It was open slather to anyone who wanted to come to Australia, and I think over 50,000 people took advantage of the Labor Party's porous borders policy and came to Australia without the appropriate qualifications and papers. Whilst I appreciate the Labor Party's support now, we must not forget the history of the coalition government having to fight tooth and nail at every turn to try to close our borders and to bring some sanity, sense and safety to this whole issue.

Senator O'Neill also talked about a funding cameo for refugees. Could I remind Senator O'Neill that Australia punches well above its weight in all aspects of dealing with refugees. In fact, Australia has the highest per capita intake of refugees of any country in the world. We spend far more per capita on refugees than any other country in the world. And, in addition to that, Australia in many other ways—in its foreign aid program across Asia and the Pacific—does a considerable amount to help those less advantaged than itself. So it is good to see Labor now getting on board. I do not want to rub their noses in it, but I do get a bit tired of this latter-day conversion, effectively, to the programs and policies of the coalition government.

I still remember and will never forget the way the Labor spokesman, Senator Conroy, verbally and very directly insulted a senior officer of our Defence Force in charge of Operation Sovereign Borders, who was unable to defend himself. The senior Labor opposition spokesman actually insulted and attacked this senior serving officer for doing what he was instructed to do, which was to stop the boats coming and protect our borders.

I cannot have the same passion about the Greens. At least they are consistent. They are consistent with their opposition to anything that brings sense, safety and stability to our migration program. They have never changed, and in fact in this particular bill I notice they are now proposing a series of amendments. These amendments did not appear in the committee report into this bill. I might indicate that I am chairman of the Legal and Constitutional Affairs Legislation Committee, and we did look at this particular bill and made some recommendations, which I will deal with shortly. The Greens political party simply put in a report saying, 'The Australian Greens recommend that the bill be rejected by the Senate'. There was not a mention of any of these amendments, which I understand have appeared on the desk today and which now they are passionate about. Apparently, they were not so passionate about it in the committee investigation of the report, and their dissenting report
makes no mention of these amendments they now find so important. In fact, the basics of the Greens' opposition to this in their report, which I think was actually written by Senator Hanson-Young on behalf of the Greens political party, is that they are concerned that schedule 4 of the bill includes provisions in breach of international law. They then go on to quote the Andrew & Renata Kaldor Centre for International Refugee Law, people who regularly give evidence to my committee in relation to these matters. Every time those issues are raised, the experts in the field, the Commonwealth government department that spends 24 hours a day dealing with these issues, assisted by the very best legal advice available in Australia, have consistently rejected these claims. In fact, my committee's report, at paragraph 2.76, says:

Throughout the inquiry, the committee heard concerns that the Bill potentially breaches Australia's international law obligations. The department assured the committee—most vehemently in respect of Schedule 4—that the Bill does not breach, and is consistent with, those obligations.

The committee accepted this advice and recommended that the bill be passed, subject to one matter that I will deal with shortly. No matter how good the advice and no matter how much the professionals tell the Greens about this, it is still not good enough for them. It is never good enough for them.

Regrettably, we live in difficult times. There cannot be an Australian or a person in the world who is not horrified by what happened in Paris last week. And, whilst this government has been attacked time and time again, particularly by the Greens political party, about the measures it has taken to look after the safety of its citizens, the government continues to do it in spite of the opposition of the Greens political party. There are a lot of measures and laws that have been passed by this parliament in the last couple of years that in normal times—if you can ever remember when normal times were or define them—would never have been countenanced. But we live in difficult times and we are fighting an unseen enemy who does not play by the rules. What happened in Paris last week is a prime example of that.

Regrettably, the government, with the belated but very significant support of the opposition, had to do things to protect Australians, and there has been a series of tranches of bills passed by this parliament, all designed to protect Australians, as a government is obligated to do and as the government would want to do and indeed as all Australians would want their government to do. Sure, at the margins, some people are unhappy about these things. Sure, at the margins, there are some things that in the 'good old days' would not have been contemplated by this parliament. But they are measures that have been carefully thought through. They are measures based on the very best advice of our security and law enforcement agencies, and they are all done with a view to keeping Australians safe and keeping them with the democratic rights and principles that they have come to know and love. They are principles that many countries in the world do not follow. We have a wonderful set of freedoms in this country; freedom of speech, freedom of religion and freedom to congregate and discuss. We have human rights in this country that are second to none, but do we ever get from the Greens political party any support for these freedoms that the measures we take are meant to protect? Never. We are always attacked by the Greens political party on periphery issues which, fortuitously, most Australians do not follow.

I urge the Greens to get on board with their Labor mates and realise that we do live in serious times and that in these tough times tough measures have to be taken. I must say there
are some signs of improvement under their new leader, but some of those in the Greens political party will never concede that these measures are measures that had to be taken.

I return to the committee's report. I want to thank those who did make a submission to the committee. The committee did not meet but we did consider the issues raised in all of the bills. All senators had the opportunity to enter into that consideration and put in dissenting reports. I note the Labor party did not but the Greens did and recommended that the bill be rejected full stop.

The evidence to this committee—the same evidence given to this committee on a previous occasion when a similar matter was raised—did give some cameo examples of how there could be unintended consequences so far as the rights of children were concerned where their parents had made an application on their behalf and that had been rejected at the time. I suspect it would often be because of issues relating to the parents rather than the children. The children at a later stage in life would come forward and make an application to get a visa. Under this legislation, as I read it, they would be rejected on the basis that an application made by their parents what could have been many years before had previously been rejected.

The committee, in considering this as we did when we considered much the same issue in the previous legislation that has already been passed and which related to this, were concerned that the government should be very much aware of this. The committee decided to recommend that the bill be passed, and I support that and will be supporting the bill when it is voted upon, but the committee did recommend that the explanatory memorandum to the bill be amended to clarify the operation of the retrospective provisions of the bill and the safeguards around the impact of these provisions on young people and people with cognitive impairment.

These issues were raised in the previous hearing and indirectly in this hearing. I understand that the department and therefore the government understand these concerns and the retrospective nature of these rules. As I recall the evidence to the previous committee inquiry into this, the department has assured the committee that there are ways that these issues can be addressed. I seek in the minister's final comments or in the committee stage some comment about how the department will deal with these issues should they arise if this bill is passed. I support the bill.

Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (12:26): I thank my fellow senators for contributing to the debate on the Migration and Maritime Powers Amendment Bill (No. 1) 2015. This bill is a technical omnibus bill that deals with a number of unrelated matters. The bill fixes a number of legislative gaps and clarifies the government’s policy intention on a range of matters in the Migration Act 1958 and the Maritime Powers Act 2013. The bill amends the Migration Act to strengthen and clarify the legal framework to ensure that it will be interpreted consistently with original policy intention.

Firstly, the amendments in schedule 1 of the bill will amend the Migration Act to ensure that, when the department attempts to remove someone from Australia, if that removal is aborted for any reason up until the point the person successfully enters the destination country, the person can be returned to Australia without a visa. The amendments will also ensure that certain visa application bars will continue to apply to those persons. That means that, when an unlawful noncitizen's removal from Australia is aborted—for example, it could
be refusal of entry by a transit country—and that person needs to be returned to Australia, that person can re-enter Australia lawfully without a visa.

Secondly, the amendments in schedule 2 of the bill strengthen and clarify the legal framework established in December 2014 by the Migration Amendment (Character and General Visa Cancellation) Act 2014 and ensure that the character cancellation provisions operate effectively as intended. It does this by ensuring that confidential criminal intelligence that is critical to decision-making under certain character provisions can be appropriately protected. It does so by inserting a new removal power to put beyond doubt that a noncitizen whose visa has been mandatorily cancelled will be available for removal from Australia at the end of the process and aligning the definition of 'character concern' with the character test to ensure that the department is able to identify noncitizens who have a criminal history or who are of character concern. By aligning the definition of 'character concern' in the Migration Act with the changes to the character test, people of character concern will now include, amongst other things, references to noncitizens who have been suspected of or involved in conduct constituting an offence of people smuggling or human trafficking and the crime of genocide regardless of whether the noncitizen has been convicted; convicted or found guilty of child sex offences; or charged with such an offence even if the noncitizen was discharged without conviction. Thirdly, the amendments in schedule 3 to the bill will ensure that, when the Migration Act provides for a visa to cease, that visa will, with one exception, cease whether or not the visa is in effect at that time.

These amendments clarify that a person who has previously had a protection visa application made on their behalf, where the grant of that protection visa has been refused, cannot make a further protection visa application claiming to satisfy different grounds or criteria for the grant of the visa. This is a technical amendment to fix an oversight and gives effect to the policy that was originally intended when the provisions barring further protection visa applications were inserted by legislation passed by parliament in 2014. The intention is that, if a person's protection visa has been cancelled or refused, they cannot avoid or delay their departure by making repeated protection visa applications.

The amendments will also ensure that fast-track applicants who are refused protection visas on certain character or security grounds can make an application for review of that decision to the Administrative Appeals Tribunal under the existing provisions in the Migration Act. Character determinations can be evidentially and legally complex and the AAT has particular expertise in this area. By allowing the AAT to review those decisions, the government is ensuring a consistent, rigorous—but fair—and expert process. This is also a technical amendment to give effect to the original policy intention that this cohort have access to specialist merit review by a tribunal.

Amendments in schedule 3 to the bill will also clarify that when a protection visa application is made on behalf of a person who is a minor or is mentally impaired, and where that person is then refused the visa, the person cannot apply for a further protection visa regardless of whether the application is made on the same or different grounds from the original application. This will ensure that the protection visa application bar in section 48A applies consistently across all protection visa applications. Finally, schedule 4 to the bill amends the Maritime Powers Act 2013 to confirm that powers under that act are able to be
exercised in the course of passage through or above the waters of another country in a manner consistent with the United Nations Convention on the Law of the Sea.

I now want to turn to the matters raised by the Senate Legal and Constitutional Affairs Legislation Committee in their consideration and report on this bill. Firstly, I thank the committee for their report on the bill. The committee reported on the bill on 10 November 2015. The committee recommended that the bill be passed, subject to the explanatory memorandum clarifying the operation of the retrospective provisions of the bill and the safeguards around the impact of these provisions on young people and people with cognitive impairment.

I can advise the Senate that, in line with the committee's recommendations, the government tabled an addendum to the explanatory memorandum to the bill on 12 November 2015. This addendum provides further detail on certain amendments made by schedule 2 and schedule 3 to the bill and relates to the retrospectivity of the measures as well safeguards for minors and vulnerable persons. I trust that this detail assures the Senate that, in relation to retrospectivity, the amendments are aimed at remedying drafting oversights and inadvertent omissions in legislation that was passed by parliament in 2014. They simply clarify what has always been the government's policy intention and are not expected to have an undue impact on individual cases.

I also want to pick up the point that Senator Macdonald made as the chair of the Legal and Constitutional Affairs Legislation Committee about how Senator Hanson-Young has, in her usual manner, come into this chamber today and dropped amendments on the table. These amendments relate to issues she did not bother to raise when the Legal and Constitutional Affairs Legislation Committee was considering these bills, so she obviously did not think that they were important at that time—yet she is now prepared to come into this place and grandstand about them. So, Senator Hanson-Young, I really have to question your bona fides here. You have clearly written the dissenting report of the Greens in the Legal and Constitutional Affairs Legislation Committee's report—Senator Macdonald referred to that—but you did not see fit to include any reference to this issue whatsoever. Senator Macdonald may well correct me on this, but I do not even think that you led any evidence, or that there was any evidence raised, in relation to the matters that you are now trying to put through the Senate by way of your amendments. It just goes to show, Senator Hanson-Young, that you will take any opportunity—any time or any place—to grandstand about these issues. If you thought they were so important, you would have raised them at the Legal and Constitutional Affairs Committee—not turned up this morning and just dropped the amendments so that you could have another opportunity to gasbag in this chamber on these matters. It really does, I have to say, go to your bona fides on this particular issue.

In summary, this bill deserves the support of all senators and I commend the bill to the chamber. But, before concluding, can I just put some facts on the record, because facts are things that the Greens and those opposite do not always refer to: 'Why let a fact get in the way of an argument?'

Senator Kim Carr interjecting—

Senator FIERRAVANTI-WELLS: I will go particularly to some of the comments that were made by Senator O'Neill. I have the benefit of having spent many years as a government lawyer. Those opposite come to this place and criticise the coalition on our record. Cast your
minds back to who instituted mandatory detention in this country. Who instituted it? It was those opposite. So go back, Senator Carr. Some of us have a long record and some of us have spent a lot of time dealing with legal issues pertinent to the time when you opposite instituted mandatory detention in this country. So do not come into this place and preach to us about people in detention. You need to go back into history and have a look at your record in this space before you come and preach to us.

Let me also put some other matters on the record. Senator O'Neill started to lecture us on what we are doing in the humanitarian space. I remind those opposite and the Senate that we take 13,750 people under our Humanitarian Program every year. That figure will go up to 18,750 by 2018-19. We are now taking 12,000 people as a one-off, and we are taking them as permanent residents. We are taking them in addition to our current Humanitarian Program. We have a good Humanitarian Program. Indeed, we have one of the best settlement processes in the world. That is not to say that there is not room for improvement, and I have made comments in relation to some potential improvements. But we do it very well compared to the rest of the world.

I also remind those opposite that, when the Howard government left office in 2007, there were only four illegal maritime arrivals in detention. None of those were children. So, Senator Hanson-Young, do not come into this place and preach, because, without policy foresight, Labor proceeded, with your help, to tear down the successful Howard government border protection policies. They tore them down. They changed program after program after program, and what did that result in? That resulted in 50,000 people arriving, on over 800 boats, and 1,200 deaths at sea. At the height of this absolute policy disaster, July 2013, there were over 10,000 people in detention, including almost 2,000 children. Labor were forced to open 17 detention centres to deal with the influx of illegal arrivals, all of which resulted in an $11 billion border protection blow-out. This government is using strong and consistent policies, which include turn-backs when it is safe to do so, offshore processing and temporary protection visas. All of this has ended Labor's chaos and has restored integrity to Australia's immigration system. As a consequence of this, we have halted the abhorrent people-smuggling trade and we have ended the deaths at sea.

Australia is a migration country that has been very successful. Why? Because, when you have an ordered migration process, people respect it. People respect ordered migration processes.

Senator Hanson-Young interjecting—

Senator FIERRAVANTI-WELLS: Clearly, Senator Hanson-Young, when you rabbit on this way, you have absolutely no idea. That is why millions of people have come to this country. Since 1945, 7.5 million migrants have come to this country, including over 825,000 people under our Humanitarian Program. Under successive coalition governments, we have run good and ordered migration processes. I am a daughter of migrants to this country. My parents came to this country in the proper way. Millions of people have come to Australia in the proper way. That is what has made this such a successful country. That is why it is important that you have a good and ordered migration process, and that is why this legislation that we are up putting before the Senate today—

Senator Hanson-Young interjecting—
The ACTING DEPUTY PRESIDENT (Senator Reynolds): Order! Senator Hanson-Young, the minister has the call. Your interjections are now getting a bit overwhelming.

Senator FIERRAVANTI-WELLS: They are not overwhelming; they are a nuisance. The reality is that this is a noncontroversial bill, but this morning the Greens have decided to come into this place and put in a few amendments which absolutely have nothing to do with what is really a technical bill. They did not raise these matters before the committee. The Labor Party—correct me if I am wrong, Senator Macdonald—have agreed to passage of this legislation, or are not opposing this legislation. Now we come in here and we find ourselves faced with these amendments which bear no resemblance to the legislation before us, just to give Senator Hanson-Young the opportunity to prattle on a little bit more and make absolutely no sense whatsoever. Let us get back to the matter at hand. Let us get back to the piece of legislation that is before us. It is purely a technical bill. It seeks to remedy minor matters. Let us get on with it and just pass this piece of legislation.

The ACTING DEPUTY PRESIDENT: The question is that this bill be now read a second time.

The Senate divided. [12:49]

(ACTING DEPUTY PRESIDENT—Senator Reynolds)

Ayes ..................... 41
Noes ..................... 11
Majority ................. 30

AYES

Back, CJ
Brown, CL
Bushby, DC (teller)
Carr, KJ
Day, RJ
Fawcett, DJ
Gallacher, AM
Ketter, CR
Lazarus, GP
Lines, S
Macdonald, ID
McEwen, A
McKenzie, B
Moore, CM
O’Neill, DM
Ronaldson, M
Singh, LM
Smith, D
Urquhart, AE
Williams, JR
Xenophon, N

Bernardi, C
Cameron, D N
Cormann, M
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Gallacher, K R
Lambie, J
Lindgren, J M
Ludwig, J W
McAllister, J
McGrath, J
Muir, R
McLachlan, J
McLucas, J
Moore, C M
Muir, R
Reynolds, L
Ruston, A
Sinodinos, A
Sterle, G
Wang, Z
Wong, P

NOES

Di Natale, R
Leyonhjelm, DE
McKim, NJ

Hanson-Young, SC
Ludlam, S
Rhiannon, L
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator HANSON-YOUNG (South Australia) (12:52): We have not been given a grey sheet for these amendments, so I will just have to step through piece by piece. I wish to move the first set of amendments that relate to children in detention. The amendments to schedule (1)—

Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (12:53): Senator Hanson-Young, are you going to deal with amendments (1), (2) and (3)? On sheet 7791, you have amendments (1), (2), (3), (4) and (5). Are you going to deal with them in that order? I understand that Senator Carr's amendment is to Greens' amendment (4).

Senator KIM CARR (Victoria) (12:54): That is correct. Given the nature of these bills, I will follow the pattern I have in recent times—that is, I will speak to all of these amendments so that we do not have to get up and down. The position will not change. It is unlikely to persuade anyone of anything on this matter. So I think we will just state our position.

Senator HANSON-YOUNG (South Australia) (12:55): I would like to start with my amendments in relation to releasing children from detention. My understanding from sheet 7791 is that the first two amendments deal with 3A section 4AA and 3B subsection 5(1). Can I get clarification that we are all on the same page?

The TEMPORARY CHAIRMAN: Senator Hanson-Young, are you seeking leave?

Senator HANSON-YOUNG: I am seeking leave to speak to the amendments as circulated.

The TEMPORARY CHAIRMAN: Senator Hanson-Young, are you seeking leave to move amendments (1), (2) and (5) together?

Senator HANSON-YOUNG: Yes, please.

Leave granted.

Senator HANSON-YOUNG: I move Greens' amendments (1), (2) and (5) on sheet 7791:

3A Section 4AA

Repeal the section, substitute:

The Parliament affirms as a principle that no minor is to be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a minor must be in conformity with the law and must only be used as a measure of last resort and for the shortest appropriate period of time.
(2) Schedule 3, page 11 (after line 11), after item 3, insert:

3B Subsection 5(1) (definition of residence determination)

Omit "subsection 197AB(1)", substitute "subsections 197AAA(1), (2), (3) and 197AB(1)".

(5) Schedule 3, page 12 (after line 22), after item 10, insert:

10A Application—subsection 197AAA(1) of the Migration Act 1958

(1) This item applies if:

(a) a person is in detention under section 189 of the Migration Act on or after the commencement of this item; and

(b) the person is a person to whom Subdivision B of Division 7 of Part 2 of that Act applies; and

(c) before the commencement of this item the person was identified as a minor.

Residence determination for minor

(2) The Minister must, as soon as practicable, but in any case within 14 days of commencement make a determination under subsection 197AAA(1) of the Migration Act, as inserted by this Part, in relation to the minor.

Residence determination for member of minor’s family unit

(3) If:

(a) the Minister makes a determination in accordance with subitem (2) in relation to the minor; and

(b) another person to whom Subdivision B of Division 7 of Part 2 of the Migration Act 1958 applies is a member of the family unit of the minor;

the Minister must make a determination under subsection 197AAA(2) of that Act in relation to the other person as soon as practicable, but in any case within 14 days of making the determination in accordance with subitem (2).

Residence determination for minor’s carer or guardian

(4) If:

(a) the Minister makes a determination in accordance with subitem (2) in relation to the minor; and

(b) another person to whom Subdivision B of Division 7 of Part 2 of the Migration Act 1958 applies has not been identified as a member of the family unit of the minor; and

(c) the minor, at commencement, is, or has been, in the care of another person (a guardian) to whom that Subdivision applies;

the Minister must make a determination under subsection 197AAA(3) in relation to the guardian as soon as practicable, but in any case within 14 days of making the determination in accordance with subitem (2).

As I outlined in my speech in the second reading debate, these amendments go to releasing children from detention. We know from the statistics released by the department on 30 October that there are 112 children held in immigration detention here in Australia. We have heard over and over again from the experts, medical professionals and practitioners, that the detention of children is extremely harmful. Only last month the medical community, including doctors, nurses and the Australian Medical Association, called on our parliament to act swiftly to remove children from indefinite detention.

Some would be watching this debate this morning and wondering why on earth we are still debating this issue, when 12 months ago there was a very similar discussion about releasing children from Australian facilities. Sadly, there are still over 100—the latest statistics showing 112—children detained in Australian facilities. These amendments would release these
children by Christmas and they would ensure that families are kept together. I understand that there are a number of amendments to the Greens' amendments that the Labor Party wish to move to ensure security and safety of the community as well as the families involved, and I welcome those amendments as put forwarded by Labor's spokesperson, Senator Carr, in this place.

It is time. Some of these children have been in detention for years and years. They are incredibly damaged as a result. Children are not developing as they should and young babies have not been able to grow at the normal rate because of the negative physiological, emotional and social impact of their detention. One of the doctors at the Melbourne Children's Hospital described one of these children as 'the youngest depressed person' the doctor had ever seen—and it was a six-month-old baby. No-one in this place should be advocating—and I do not believe does advocate—directly for the detention of children. These children currently held have been there for way too long. It is a national shame that we have kept them locked up; that we have effectively stolen this amount of time from their childhoods. It is time that we right this wrong and release this children once and for all.

There is one little girl in detention who is now seven years old. She has been in detention for 2½ years. She suffers significant post-traumatic stress disorder. At the age of five or six, she attempted to swallow razor blades. She cannot sleep. She has nightmares. Her parents complain of her wetting the bed. The trauma that she has endured from being locked in these facilities is not something that we can pretend we do not know about. We know that the damage to children from detention is significant. We knew it last time children were detained, under the Howard government. We have seen it over and over again in independent reports and inquiries, but most importantly in the medical reports that are written about these children by their doctors, their paediatricians and their expert psychiatrists and clinical teams.

In years to come we will be asked what we in this place did to ensure the protection of these children—when we knew that the detention of them was harmful. I urge all members in this place to act today to support an amendment which requests the minister to remove these children from detention and to house them securely and safely in the Australian community, where they can start to get better, where they can integrate into their communities and where their parents can start being mums and dads properly again. These children deserve us as a parliament today to stand for them and to act for them. We are only speaking about 112 children—and some would say, '112 children out of how many others?' We have the power today to remove those children from detention, to stop any further suffering and to ensure that they are no longer put in harm's way.

If indeed there is a reason that they must remain in detention, we should have that argument put before a court and ensure that the minister has to justify their continued detention. I find it hard to see how anyone can justify the detention of a six-year-old, or a six-month-old, or a 16-year-old—a little boy or a little girl who has done nothing wrong apart from being a victim of the world they have been born into and the circumstances they have endured. These children deserve a voice in this place, and we today can give them a voice and give them the protection that so far has been denied to them. I urge all of my colleagues in this place to move to release the children currently in detention here in Australia immediately and to ensure that they can be living in the community free from harm by Christmas.
Senator KIM CARR (Victoria) (13:02): I raise a question. The matters we had before us go to children in detention. Senator Hanson-Young has moved amendments (1) and (2). Is it her intention to move amendment (5) separately? Should it not be dealt with in this same category? The reason I ask that is that we will be opposing amendment (3) and seeking to amend amendment (4). I am concerned that, because there is no running sheet here, it is difficult to assess the subject matter. My reading of those amendments, though, is that they all go to the same issue—that is, children in detention. I am wondering why amendment (5) has not been moved at this point and whether that is the intention of Senator Hanson-Young.

The TEMPORARY CHAIRMAN (Senator Reynolds): Senator Hanson-Young, is it your intention to move just amendments (1) and (2) together and the others individually?

Senator HANSON-YOUNG (South Australia) (13:03): On the advice that I have been given, amendment (5) should have been included originally when I sought leave to move amendments (1), (2) and (5) together.

Senator KIM CARR (Victoria) (13:04): I will indicate the opposition will be supporting amendments (1), (2) and (5). The principle that should apply here is that children should only be in detention for as long as is necessary to complete health, identity and security checks. We also take the view that families should be kept together wherever possible. I think it is possible to reconcile those two principles. We would say, though, that if one or more parents, or a guardian, of a child has received an adverse security assessment by ASIO, the minister should not be required to make a determination. In such a case, a child should be able to choose whether or not to remain in detention with the parent or guardian. Further, when a child is moved, the minister must be satisfied that a child’s new living conditions will be better than their existing circumstances. Therefore we are seeking to have amendments made, which we will do when it comes to consideration of amendment (4), according to those principles I have outlined.

Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (13:06): Clearly, everyone does want children out of detention, but I will say a couple of things. One is that we have had circumstances where people have had an adverse security assessment and, when it has been put to the families or the guardian to take the child out of detention, the decision has been made to keep the child in detention. That is a matter for the guardian or the parent. We cannot forcibly move children out if their guardian or parent wants to keep them in detention. I think that we need to be cognisant in this debate that, as a Commonwealth or as a government, we cannot just take the children out if their guardian or parent does not wish them to be removed from them.

I go back to the point I originally made. I would remind Senator Hanson-Young that under the ALP-Green coalition, you supported Labor’s policies. When Labor were in government, there were over 10,000 people in detention including almost 2,000 children. So let us put those figures again on the record. Under the coalition government, the number of children in detention has been reduced to about 100. I also remind the Senate that the Migration Act already contains a provision which states that a minor should only be detained as a measure of last resort. Therefore, these provisions already exist. If the Greens want children out of detention, the facts show that under our policies there have been fewer children in detention. The government opposes amendments (1), (2) and (5).
Also, we believe this amendment is unnecessary. There are already processes in place to mitigate any risk of non-citizen detention, including children, becoming unlawful or arbitrary through internal administrative review process, judicial review, Commonwealth Ombudsman inquiry processes, reporting and parliamentary tabling, and ultimately the possible use of the minister's personal intervention powers to grant a visa or to make a resident determination with the minister considers it is in the public interest.

Senator RICE (Victoria) (13:09): I wish to draw the attention of the Senate to the level of community support for these amendments to be removing children from detention. Just this morning, I had a meeting with five members of the Grandmothers Against Detention of Refugee Children telling me about the work they are doing in their communities, listening to their communities and expressing the concerns of the community about the fact that we have ongoing detention of children here in Australia and on Nauru because the harm being done to these children is unnecessary. There is no place for children to be in detention.

This afternoon I will be presenting a petition from the Wills branch of the Grandmothers Against Detention of Refugee Children which has 2,550 signatures on it. The women I met with today told me that Grandmothers Against Detention of Refugee Children is growing. They have 1,200 members in Victoria. They are spreading across Australia and they are hearing a level of concern in the community about children being jailed, being harmed and being damaged. Passing these amendments today will mean, if enacted, that children will be removed from detention. There would be a great level of support across the community because people know it is unacceptable to have this ongoing harm being done to innocent children.

Senator KIM CARR (Victoria) (13:10): Sorry to be out of place. This is a further problem with not having a running sheet here. Our support for these amendments is in fact conditional on the fourth item, which is now the fourth item, being dealt with and amended, which I understand is acceptable to the mover—the amendments we are proposing. Although this may be technically tricky, I might suggest to Senator Hanson-Young that she seek agreement of the Senate to move amendment (4) before the other amendments are dealt with, to allow us to process that matter.

The TEMPORARY CHAIRMAN (Senator Reynolds): Senator Hanson-Young, is it your intention to seek leave to postpone amendments (1), (2) and (5) and to bring forward now amendment (4)?

Senator HANSON-YOUNG (South Australia) (13:12): That is indeed my intention. Leave granted.

Senator HANSON-YOUNG (South Australia) (13:12): I move:

(4) Schedule 3, page 12 (after line 10), after proposed item 8A, insert:

8B After section 197AA

Insert:

197AAA Minister must determine that minor is to reside at a specified place rather than being held in detention facility

Residence determination for minor

(1) If a person to whom this Subdivision applies is identified as a minor, the Minister must:
(a) make a determination (a **residence determination**) to the effect that the person is to reside at a specified place, instead of being detained at a place covered by the definition of **immigration detention** in subsection 5(1); and

(b) do so as soon as practicable, but in any case within 30 days, after the person is identified as a minor.

**Residence determination for member of minor’s family unit**

(2) If:

(a) a determination under subsection (1) is in force requiring a minor to reside at a specified place; and

(b) a person to whom this Subdivision applies is a member of the family unit of the minor;

the Minister must, as soon as practicable, make a determination (a **residence determination**) to the effect that the person is to reside with the minor at the specified place, instead of being detained at a place covered by the definition of **immigration detention** in subsection 5(1).

**Residence determination for minor’s guardian or carer**

(3) If:

(a) a determination under subsection (1) is in force requiring a minor to reside at a specified place; and

(b) a person to whom this Subdivision applies has not been identified as a member of the family unity of the minor; and

(c) the minor is, or has been, in the care of another person (a **guardian**) to whom this Subdivision applies;

the Minister must, as soon as practicable, make a determination (a **residence determination**) to the effect that the guardian is to reside with the minor at the specified place, instead of being detained at a place covered by the definition of **immigration detention** in subsection 5(1).

**Minister may refuse to make determination if in best interests of a minor**

(4) Despite subsections (2) and (3), the Minister may refuse to make a determination under either of those subsections if the Minister is satisfied that it is in the best interests of the minor to do so.

*Note:* Section 4AA sets out principles relevant to making a determination under this subsection.

**Residence determination must specify names and conditions**

(5) A residence determination must:

(a) specify the person or persons covered by the determination by name, not by description of a class of persons; and

(b) specify the conditions to be complied with by the person or persons covered by the determination.

**Residence determination must be in writing**

(6) A residence determination under subsection (1), (2) or (3) must be made by notice in writing to the person or persons covered by the determination.

**Regulations**

(7) Regulations made for the purposes of this section must prescribe:

(a) a method for a person to whom this Subdivision applies to apply for recognition of:

(i) his or her relationship to a minor for the purposes of subsection (2); or

(ii) his or her care of a minor for the purposes of subsection (3); and

(b) that the application must be determined within 30 days of the application being made.
Review
(8) Application may be made to the Administrative Appeals Tribunal for review of a decision under this section.

8C Subsection 197AD(2)
Omit "subsections 197AB(1) and (2)", insert "subsections 197AAA(1), (2), (3) and (5) and 197AB(1) and (2)".

8D Section 197AF
Repeal the section, substitute:

197AF Power to make etc. residence determination

Who can make residence determinations
(1) The power to make a residence determination under subsection 197AAA(1), (2) or (3) may only be exercised by:
   (a) the Minister personally; or
   (b) the Secretary; or
   (c) an authorised officer who is an SES employee, an acting SES employee, or equivalent, in the Department.
(2) The power to make a residence determination under subsection 197AB(1) may only be exercised by the Minister personally.

Who can vary or revoke residence determinations
(3) The power to vary or revoke a residence determination made under subsection 197AAA(1), (2) or (3) may only be exercised by:
   (a) the Minister personally; or
   (b) the Secretary; or
   (c) an authorised officer who is an SES employee, an acting SES employee, or equivalent, in the Department.
(4) The power to vary or revoke a residence determination made under subsection 197AB(1) may only be exercised by the Minister personally.

8E At the end of Division 7 of Part 2
Add:

Subdivision C—Miscellaneous

197AH Definitions
In this Subdivision:

designated person means:
(a) an authorised officer; and
(b) a person appointed or employed by, or for the performance of services for:
   (i) the Commonwealth, a State or a Territory; or
   (ii) an authority of the Commonwealth, a State or a Territory; and
(c) a person employed by another person or body that is contracted by the Commonwealth, or an authority of the Commonwealth, to perform services in relation to an immigration detention facility.

immigration detention facility means:
(a) a detention centre established under this Act; or
(b) a place approved by the Minister under subparagraph (b)(v) of the definition of immigration detention in subsection 5(1); or
(c) a place or facility in a regional processing country where restraint is exercised over the liberty of a person who is taken to that country under section 198AD.

journalist has the same meaning as in the Evidence Act 1995.

official employment means:
(a) appointment or employment by, or the performance of services for:
   (i) the Commonwealth, a State or a Territory; or
   (ii) an authority of the Commonwealth, a State or a Territory; or
(b) employment by a person or body contracted by the Commonwealth or an authority of the Commonwealth to perform services in relation to an immigration detention facility.

protected immigration detention facility information means information or a document that:
(a) was obtained by a person in the course of official employment; and
(b) relates to an immigration detention facility.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

relevant authority means:
(a) in any case—the Department and the Australian Federal Police; and
(b) if:
   (i) the victim of an alleged reportable assault is a child; and
   (ii) the alleged assault occurs in a State or Territory;
   a relevant authority of the State or Territory that has functions relating to child safety; and
(c) if:
   (i) the victim of an alleged reportable assault is a child; and
   (ii) the alleged assault occurs in a foreign country;
   a police force of the foreign country.

reportable assault means any of the following, to the extent that they occur, or allegedly occur, in an immigration detention facility:
(a) unlawful sexual contact;
(b) sexual harassment;
(c) unreasonable use of force;
(d) any other assault.

197AI Mandatory reporting of reportable assaults
(1) If a designated person believes on reasonable grounds that a person has experienced, or is experiencing, a reportable assault, the designated person must, as soon as practicable, notify the relevant authorities of:
(a) the alleged assault; and
(b) the grounds on which the person has formed the belief that the alleged assault occurred.

Offence
(2) A person commits an offence if:
(a) the person is required to make a notification under subsection (1); and
(b) the person fails to comply with the requirement.
Penalty: 60 penalty units.

Geographical jurisdiction

(3) Section 15.3 of the Criminal Code (extended geographical jurisdiction—category C) applies to an offence against subsection (2).

197AJ Disclosure of protected immigration detention facility information in the public interest

(1) A person may disclose or use protected immigration detention facility information if the person reasonably believes that the disclosure or use is in the public interest.

(2) If the person discloses or uses information under subsection (1):

(a) the person is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure or the use; and

(b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the individual on the basis of the disclosure or the use.

Note: For example, if a term of an enterprise agreement or other employment contract prohibited such a disclosure, the term would be of no effect in relation to the disclosure.

(3) To avoid doubt, subsection (2) includes any liability a person may otherwise be subject to under section 42 of the Australian Force Act 2015.

197AK Entry to immigration detention facilities for journalists

Journalist not to be refused entry unreasonably

(1) A journalist must not be refused entry to an immigration detention facility unless:

(a) the entry is refused by an officer, an authorised officer, or the Minister (the decision maker); and

(b) the decision maker has reasonable grounds to do so.

(2) If a journalist is refused entry to an immigration detention facility, the decision maker must:

(a) notify the journalist as soon as practicable, in writing, of the reasons for that decision; and

(b) cause those reasons to be published on the Department’s website within 14 days of making the decision.

Quarterly report

(3) The Minister must, as soon as practicable after the end of each quarter, prepare a report on journalist access to immigration detention facilities during the quarter.

(4) A report under subsection (3) must include the following:

(a) the number of times journalists have been denied access to immigration detention facilities during the quarter;

(b) whether or not the Minister was the decision maker for each decision;

(c) if the Minister was not the decision maker for a decision—the classification of the individual who made the decision;

(d) the reasons for each decision.

(5) The Minister must cause copies of a report under subsection (3) to be tabled in each House of Parliament within 10 sitting days of that House after the report has been completed.

Extraterritorial operation

(6) This section extends to immigration detention facilities outside Australia.
197AL Term of agreement that contravenes section 197AK has no effect

Any contract or other agreement that purports to limit a journalist’s entry to an immigration detention facility has no effect to the extent that it contravenes section 197AK.

197AM Journalists granted access to immigration detention facilities must have regard to privacy

A journalist who is granted entry to an immigration detention facility:

(a) must take all reasonable steps to ensure that his or her visit to the facility is conducted with regard to protecting the privacy of detainees in the facility; and

(b) must not publish any information in relation to the facility that is likely to enable the identification of a detainee.

This amendment goes to releasing children from detention, ensuring the minister uses the power he already has to allow families to be given a residence determination—that is, where it is safe to do so, where it is able to happen, children and their families can be moved from detention facilities into the community securely and safely. It is the practical element to ensuring that children can be released from detention.

This amendment also goes to the issue of mandatory reporting. I spoke about this in my speech in the second reading debate. This is to ensure that where there is criminal activity or a child has been abused, where abuse has been witnessed, whoever is working in the facility is required by law to report that abuse. It is the same standard that we set in our schools and in our hospitals and of professionals working in other public institutions. If we are serious about ensuring that children are safe in immigration detention facilities or in any government institution, then wherever abuse is witnessed or known of, it should be reported to the police. There should be no hiding for the perpetrators of abuse. We know what happens when perpetrators get to hide: their abuse festers and the people who suffer are the children. It is important that we have a very clear understanding: if you are in a facility and you see abuse, you are required not to stay silent, not to let the abuser get away with it, but instead you are required to act in the best interests of the child to ensure they are protected from the perpetrator.

Senator KIM CARR (Victoria) (13:14): The opposition would support these amendments if we are able to amend it in the terms that I will move at this point.

The TEMPORARY CHAIRMAN (Senator Reynolds): Senator Carr, are you seeking leave to move two amendments on sheet 7808?

Senator KIM CARR: That is correct.

The TEMPORARY CHAIRMAN: To amend amendment (4) on 7791, which has been moved by Senator Hanson-Young?

Senator KIM CARR: That is right—in regard to matters that relate to public interest, public disclosure and residence criteria.

The TEMPORARY CHAIRMAN: So you are seeking leave to make those two amendments?

Senator KIM CARR: I am.

Leave granted.

Senator KIM CARR: I move opposition amendments (1) and (2) on sheet 7808:
(1) Item 8B, omit subsection 197AAA(4), substitute:

 Minister must have regard to matters of public interest

 (3A) When making a residence determination under subsection (1), (2) or (3) the Minister must have regard to the public interest.

 Minister must not make a residence determination in certain circumstances

 (3B) Despite subsections (1), (2) and (3), the Minister must not make a residence determination under any of those subsections in relation to a person if the Minister has been given an adverse security assessment in respect of the person by the Organisation.

 (3C) Despite subsections (1), (2) and (3), the Minister must not make a residence determination under any of those subsections that a person reside at a specified place unless the Minister is satisfied, on reasonable grounds, that the living conditions at that place are of a higher standard than a place covered by the definition of immigration detention in subsection 5(1) where the person would otherwise be detained.

 Minister may refuse to make determination in certain circumstances

 (4) Despite subsections (1), (2) and (3), the Minister may refuse to make a determination under one or more of those subsections if:

 (a) the Minister is satisfied that it is in the best interests of the minor to do so; or
 (b) the Minister is satisfied that it is in the public interest to do so;
 (c) if subsection (2) applies—both:

 (i) the Minister has been given an adverse security assessment in respect of a member of the family unit of the minor mentioned in paragraph (2)(b) by the Organisation; and
 (ii) the family unit notifies the Minister that the family unit does not want to be separated;
 (d) if subsection (3) applies—both:

 (i) the Minister has been given an adverse security assessment in respect of the guardian mentioned in paragraph (3)(c) by the Organisation; and
 (ii) the guardian notifies the Minister that the guardian and minor do not want to be separated.

 Note: Section 4AA sets out principles relevant to making a determination under this subsection.

(2) Item 8B, at the end of section 197AAA, add:

 Definitions

 (9) In this section:

 adverse security assessment has the same meaning as in Part IV of the Australian Security Intelligence Organisation Act 1979.

 Organisation means the Australian Security Intelligence Organisation.

 The proposals that Senator Hanson-Young has outlined here are, in general terms, worthy of the support of this chamber. When the bill creating the Australian Border Force was before the parliament, Labor maintained that the legislation did not prevent staff and contractors in detention facilities from speaking publicly on conditions in the centre. We are still confident that that is the legal position. There is no intention, as far as we are concerned, for the suppression of potential whistleblowers, because staff and contractors continue to be protected by the Public Interest Disclosure Act. The disclosure restrictions of the Border Force Act relate to criminal investigation, national security and other sensitive matters; they do not concern comments that might be made about the treatment and the living conditions of detainees. Nonetheless, Labor supports these amendments because they will make it
absolutely clear that disclosures in the public interest are lawful and protected, and I understand that this was a position that we carried through the Senate inquiry on that matter.

The second issue goes to the issue of media access. Labor has always opposed the excessive secrecy with which this government has chosen to cloak the administration of the offshore detention facilities. I know there are now extraordinary costs being imposed by other governments that nonetheless I cannot believe have been put in place without consultation with the Australian government.

Asylum seekers are human beings whose rights must be respected. This includes being housed in a place of safety with access to adequate health care, social services and educational opportunities. Equally important is the right of the Australian people to know what is being done in their name and at great expense. They are entitled to know how Australian funded facilities are being operated. That is why we support this amendment which will ensure that reasonable requests for media access to a detention facility will be granted, and that any refusal must be tabled by the minister. There must be public disclosure and accountability. I have noted in regard to the amendment on media access that Labor has consistently condemned the government’s mismanagement of offshore processing.

The government places detainees in living conditions that lead to all forms of abuse. Nearly two years after their arrival, asylum seekers in the Nauru detention facility were still living in tents. Increased sexual abuse and assaults were an inevitable consequence of having to live in that environment. That is why Labor instigated a Senate inquiry into the reports of sexual abuse on the Nauru facility. Labor would establish an independent oversight of the detention facilities to ensure transparency and the protection against abuse. The member for Corio has introduced in the other place a private member's bill on mandatory reporting of offences against children. Therefore, we support the amendment on those grounds as well, which makes it absolutely clear that assaults and abusive conduct are not acceptable in Australian funded facilities. This amendment will mandate the reporting to relevant authorities of any assault, just in case there is any question about those matters—and failure to report such matters would be an offence.

The question of discretion then arises. It strikes me that while we need the proposition that Senator Hanson-Young has moved here, it does require a clearer statement that the minister has a responsibility to show common sense when it comes to the question of these administrative arrangements. There needs to be ministerial discretion and there needs to be accountability. These two things go together—that is why this parliament has such an important role in ensuring transparency in the operation of these facilities. So the amendment I am moving allows ministerial discretion when it comes to the minister being satisfied that refusal to make a determination on one or more of the various subsections is in the best interests of the minor, and that it is in the public interest to do so. The amendment I am moving also allows that, where the minister has been given an adverse security assessment in regard to a member of a family unit, they are still able to be treated in a proper way according to law.

Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (13:20): I will respond to both Senator Hanson-Young's amendment and to Senator Carr's amendment. I can make the general comment that the government opposes these amendments and that they go beyond the scope of the policy intention of this
This amendment includes reference to detention facilities in regional processing countries which cannot be supported under the Migration Act. The Australian government does not detain people offshore—this is a matter for overseas governments.

I will now go specifically to residence determination for minors. The minister already has a level of discretion available under section 197AB to make a residence determination, and will continue to use that discretion as appropriate and in the public interest for a person who is detained. Also, section 4AA already provides that the parliament affirms as a principle that a minor shall only be detained as a measure of last resort. In relation to mandatory reporting of assaults, reporting of incidents is already comprehensively provided for in the onshore immigration detention environment. Serco must inform the department of incidents in accordance with the incident management reporting requirements as set out in the contract. Reportable assaults include assault of a client under 18, minor assault, serious assault, sexual assault. Each of these is well defined and has a minimum time frame within the incident must reported by Serco to the department. Departmental officers must, under current operating arrangements, report alleged criminal activities, including assault, to the relevant law enforcement authorities.

In relation to disclosure of information related to detention facilities, this bill does not propose changes in relation to information related to immigration detention facilities or access to these facilities. It proposes amendments to ensure that confidential information that is relevant to the exercise of a section 501BA or 501CA power in the context of court proceedings receives the same level of protection from disclosure as confidential information relevant to the other character powers. This is a legitimate measure to protect the information in the context of court proceedings and it is a legitimate community protection measure.

Disclosure of information in the public interest is already separately provided for in the Public Service. The Public Interest Disclosure Act is the Commonwealth's statutory regime for disclosure of information in the public interest. Any disclosure under the Public Interest Disclosure Act would give immunity from criminal liability under section 42 of the Australian Border Force Act. There is nothing in the bills before the Senate preventing disclosure that is inconsistent with the Public Interest Disclosure Act.

I turn now to reasonable access for journalists. There are a number of oversight mechanisms for the monitoring of immigration detention facilities, including the Australian Human Rights Commission, the Commonwealth Ombudsman, the United Nations High Commissioner for Refugees and the Australian Red Cross. Detainees have the right to provide feedback about their treatment in immigration detention without adverse consequences. Their feedback will be followed up quickly and fairly and can be submitted to the detention service provider or departmental staff at the facility, the Commonwealth Ombudsman, the police, state and territory child welfare agencies and other agencies such as the Human Rights Commission.

The government opposes the amendments moved by Senator Carr. The government considers the amendment as unnecessary. As I have indicated, section 4AA of the Migration Act makes it clear that the government and the parliament affirms, as a principle, that a minor should only be detained as a last resort. There are already processes in place to ensure that detention of children is a last resort and decisions relating to children place importance on the best interests of the child.
The TEMPORARY CHAIRMAN (Senator Reynolds): The question is that opposition amendments (1) and (2) on sheet 7808 be agreed to.

The committee divided. [13:30]

(The Temporary Chairman—Senator Reynolds)

Ayes .................. 33
Noes .................. 28
Majority ............... 5

AYES

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lambie, J
Lines, S
Ludwig, JW
McAllister, J
McLucas, J
Muir, R
Rhiannon, L
Siewert, R
Singh, LM
Waters, LJ
Xenophon, N

NOES

Back, CJ
Bushiy, DC
Colbeck, R
Day, RJ
Fawcett, DJ (teller)
Fifield, MP
Johnston, D
McGrath, J
Nash, F
Payne, MA
Ronaldson, M
Ryan, SM
Sinodinos, A
Wang, Z

Birmingham, SJ
Canavan, MJ
Cormann, M
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Lindgren, JM
McKenzie, B
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Smith, D
Williams, JR

PAIRS

Bilyk, CL
Marshall, GM
McEwen, A
Peris, N

Cash, MC
Seselja, Z
Abetz, E
Brandis, GH

CHAMBER
Question agreed to.

**The TEMPORARY CHAIRMAN (Senator Ketter) (13:37):** The question is that Greens' amendment (4) on sheet 7791, as amended, be agreed to.

The committee divided. [13:37]

(The Temporary Chairman—Senator Ketter)

Ayes .................32
Noes .................27
Majority ...............5

**AYES**

Brown, CL
Cameron, DN
Collins, JMA
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Lines, S
Ludwig, JW
McAllister, J
Mclucas, J
Muir, R
Rhiannon, L
Siewert, R
Singh, LM
Wang, Z
Whish-Wilson, PS

Bullock, JW
Carr, KJ
Conroy, SM
Di Natale, R
Gallagher, KR
Leyonhjelm, DE
Ludlam, S
Madigan, JJ
McKim, NJ
Moore, CM
O'Neill, DM
Rice, J
Simms, RA
Urquhart, AE (teller)
Waters, LJ
Xenophon, N

**NOES**

Back, CJ
Bushby, DC
Colbeck, R
Day, RJ
Fawcett, DJ (teller)
Fifield, MP
Johnston, D
McGrath, J
Nash, F
Payne, MA
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

Birmingham, SJ
Canavan, MJ
Cormann, M
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Lindgren, JM
McKenzie, B
Parry, S
Reynolds, L
Ruston, A
Seullion, NG
Smith, D
Question agreed to.

Senator HANSON-YOUNG (South Australia) (13:40): I seek leave to bring forward again amendments (1), (2) and (5)—they too relate to releasing children from detention—based on the provisions that have now been voted on in this place. It makes sense to move on those substantial amendments.

Leave granted.

Senator KIM CARR (Victoria) (13:40): The Labor Party will be supporting all of those amendments. Are they being moved as one?

Senator Hanson Young: As one.

Senator KIM CARR: As one—so the Labor Party will be voting in favour of all of those.

The TEMPORARY CHAIRMAN (Senator Ketter): The question is that Greens’ amendments (1), (2) and (5) on sheet 7791 be agreed to.

Question agreed to.

Senator HANSON-YOUNG (South Australia) (13:41): My understanding of the sheet is that we only have amendment (3) remaining. May I just have a clarification from the Clerk?

The TEMPORARY CHAIRMAN: Yes, that is correct, Senator Hanson Young.

Senator HANSON-YOUNG: I move Greens’ amendment (3) on sheet 7791:

(3) Schedule 3, page 12 (after line 10), after item 8, insert:

**8A** After section 189

**Insert:**

**189A Certain unlawful non-citizens to be detained in separate immigration detention facilities**

(1) This section applies if:

(a) a person is detained as an unlawful non-citizen under section 189; and

(b) the person was an unlawful non-citizen because:

(i) the Minister refused, under subsection 501(1), to grant the person a visa because the person did not satisfy the Minister that the person passes the character test; or

(ii) the Minister cancelled, under subsection 501(2), a visa that had been granted to the person because the person did not satisfy the Minister that the person passes the character test; and

(c) the person is being held in an immigration detention facility.

(2) The person must be held in a facility that only holds other unlawful non-citizens of a kind referred to in paragraph (1)(b).
(3) In this section:

- **character test** has the meaning given by section 501.

- **immigration detention facility** means:
  
  (a) a detention centre established under this Act; or
  
  (b) a place approved by the Minister under subparagraph (b)(v) of the definition of **immigration detention** in subsection 5(1); or

  (c) a place or facility in a regional processing country where restraint is exercised over the liberty of a person who is taken to that country under section 198AD.

This amendment relates to the need to keep the different groups of asylum seekers who are detained in our facilities separate—to keep those who have committed crimes, people who are criminals, separate from those who have sought asylum in our country. I spoke about this at length during the second reading debate, so I do not propose to go into great detail now. Suffice it to say that many experts have suggested for a long time now that keeping those different groups separate is important for the safety of all involved, including the good order of our facilities.

We know just from recent weeks, after the riots on Christmas Island, that the people who suffered the intimidation and threats while that riot was going on were those who had committed no crime but were seeking Australia's protection as refugees. This amendment bans the government from keeping those two groups of people locked up together and instead ensures that groups are kept separate. It is a simple amendment. It makes sense, and we should just get on and ensure that it happens.

**Senator KIM CARR** (Victoria) (13:43): If I might indicate the Labor Party's position, the best advice that we have available is that it is already standard operating practice for the Department of Immigration and Border Protection to make a risk assessment when placing people in detention centres. I am advised that the detainees are assessed for risks that they pose either to others or to themselves, and therefore Labor will not be supporting this amendment. For a similar reason, we opposed a similar proposition that was advanced in earlier legislation by Senator Madigan. The amendment would merely place an unnecessary legislative restriction on the department and the Australian Border Force, which we believe is a matter left to the discretion of relevant officers, and they have to be held accountable for the decisions that they take, through the normal parliamentary and legal processes.

**Senator FIERRAVANTI-WELLS** (New South Wales—Assistant Minister for Multicultural Affairs) (13:44): The government opposes this amendment. We consider this amendment unnecessary. The government has a range of accommodation options available to manage people in immigration detention. Superintendents have a specific focus on security and safety of immigration detention facilities and use intelligence to determine programs that ensure the good order of each facility and the protection of people housed in the facility. This bill does not purport to change how the government currently manages people in immigration detention. The department has a process for triaging and placement of detainees into appropriate accommodation. Placement decisions are made as part of a national risk-based approach to the placement of detainees within the network. The detainees' risk assessment and the risk rating of a facility are considered to minimise risks to other detainees, service providers, visitors and staff. Individual detainee needs are considered in line with the department's duty of care to all detainees. Non-citizens who have had their visa cancelled...
because they have been convicted of serious crimes will be in immigration detention or serve their sentence in prison, depending on their individual circumstances.

The TEMPORARY CHAIRMAN: The question is that Greens' amendment (3) on sheet 7791 be agreed.

The committee divided. [13:50]

(The Temporary Chairman—Senator Ketter)

Ayes ..................... 14
Noes ..................... 35
Majority ................. 21

AYES

Di Natale, R
Leyonhjelm, DE
Madigan, JJ
Muir, R
Rice, J
Simms, RA
Waters, LJ

Hanson-Young, SC
Ludlam, S
McKim, NJ
Rhiannon, L
Siewert, R (teller)
Wang, Z
Wright, PL

NOES

Back, CJ
Brown, CL
Bushby, DC
Canavan, MJ
Collins, JMA
Edwards, S
Fierravanti-Wells, C
Gallagher, KR
Lindgren, JM
Ludwig, JW
McGrath, J
McLucas, J
O'Neil, DM
Polley, H
Ryan, SM
Singh, LM
Smith, D
Urquhart, AE (teller)

Bilyk, CL
Bullock, JW
Cameron, DN
Carr, KJ
Cormann, M
Fawcett, DJ
Gallacher, AM
Ketter, CR
Lines, S
McAllister, J
McKenzie, B
Moore, CM
Payne, MA
Reynolds, L
Scullion, NG
Sinodinos, A
Sterle, G

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator FIERRAVANTI-WELLS (New South Wales—Assistant Minister for Multicultural Affairs) (13:54): I move:

That this bill be now read a third time.
Question agreed to.
Bill read a third time.

**Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015**

**Second Reading**

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

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (13:55): I am proposing that the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 is part of a package of three bills, two of which—

**The DEPUTY PRESIDENT:** Minister, I am advised that you have already—

**Senator CORMANN:** Not on this bill.

**Senator Wong:** Mr Deputy President, I appreciate the procedural tack you have just taken. I did understand that we had agreed that we would finalise this bill separately, but, if that is not the advice from the Clerk, we are in your hands.

**Senator CORMANN:** Why don't I seek leave to provide some remarks that might assist the chamber in relation to this bill?

Leave granted.

**Senator CORMANN:** I thank the Senate. This bill is part of a package of bills to strengthen the integrity of Australia's foreign investment framework. The Senate dealt with two of those bills separately in the last sitting fortnight. This third bill, of course, is before the Senate today.

This is about making sure that Australia maintains a welcoming environment for investment that is not contrary to our national interests. These reforms will ensure that from 1 December 2015 Australia's foreign investment framework is more modern, simpler and better targeted to changing demands in community expectations. With this package of bills as a whole the government is implementing its commitment to increase scrutiny and transparency around foreign investment in agriculture but also responding to issues raised by the House of Representatives Standing Committee on Economics about how a lack of compliance and enforcement of residential real estate rules is undermining the overall integrity of the foreign investment framework. These changes will deliver robust additional resourcing to Treasury and the Australian Taxation Office to improve service delivery for investors.

The government has been able to work constructively with the opposition in relation to the first two bills, which were dealt with by the Senate in the last fortnight, and we have been able to work constructively with the Australian Greens in relation to this third bill of this very important package of bills. In order to inform the Senate in good time before question time starts, I propose to table a letter which the Treasurer, Mr Morrison, and the Minister for Agriculture and Water Resources, the Hon. Barnaby Joyce, have sent today to Senator Richard Di Natale, the Leader of the Australian Greens, to give effect to certain understandings which we hope will facilitate the efficient passage of this final bill as part of these very important reforms to our foreign investment framework.
I thank both the leader of the Labor Party, Senator Wong, and the leader of the Greens, Senator Di Natale, for working with us in relation to different aspects of this important package of bills, which, hopefully, will successfully—

Senator Wong: I ask that the document be tabled.

Senator CORMANN: I know that English is not my birth language, but I had actually indicated in my remarks that I was about to table it. Maybe I have not expressed it as eloquently as I should have, but I now table the letter.

Debate interrupted.

STATEMENTS
France: Terrorist Attacks

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (13:59): by leave—In recent days, the world has been shocked and appalled by a wave of attacks by Islamist terrorists on innocent people in the Middle East, most particularly in Egypt, Lebanon and Iraq; in Africa, including in Nigeria and more recently in Mali; in Turkey; and in France. Every one of those attacks is horrifying. For most Australians, I dare say the shock was most particularly felt from the attacks in Paris on Friday 13 November, since so many of us have fond memories of that city. We acknowledge it to be one of the great centres of Western civilisation—the city of light, a bastion of liberty and one of the world's greatest centres of culture.

As has been said by many, this was an attack on freedom everywhere and on all humanity. People of goodwill, of all religions and none, around Australia and around the world are united in condemning this barbarism for which there can be no excuse and for which there can be no toleration. I echo comments made by the Prime Minister this afternoon in the other place in expressing the condolences of the Australian government and people to the people of France, and to all the victims of the attacks in other parts of the world as well.

We salute the inspirational courage and resolve of the French people. We mourn with them, just as we mourn for the victims of terrorism everywhere, including here in Australia. We stand shoulder to shoulder with the French people and with other people around the world in our resolve to defeat this evil. Our cooperation with France and with our other friends, which is already close, will be closer still.

In responding with utter resolve, with the eternal vigilance which is the price of liberty and with careful, considered thought and action, we will not allow these attacks nor any others to destroy the freedom and humanity for which we stand. These attacks give no reason for us to reduce our commitment to helping those who flee the barbarism of ISIL and other terrorists. Indeed, they demonstrate all the more graphically why it is right and necessary both to stand resolutely against ISIL and also to help as best we can its many innocent victims, including the 12,000 Syrian refugees we have rightly committed to take, and who will, of course, be subject to our usual thorough security screening.

Here at home, we know that we too continue to face the risk of terror. We have suffered three fatal terrorist attacks in a little over a year and our alert level rightly remains set at 'high'. We will, as we must, strengthen our counterterrorism laws in considered ways, and we will work ever harder with community leaders to prevent and remedy the extreme radicalisation
which breeds terrorism. We also know that we have security intelligence services which are second to none in the world, appropriately supported by the government and by the parliament. As the Director-General of Security at ASIO, Duncan Lewis, has pointed out, they have disrupted six attempts to attack Australia and Australians since September of last year. As Director-General Lewis also says, all Australians can contribute to the defeat of terrorism by continuing to go about our lives in a normal way. To do otherwise, would be to give in to the threat, and that we will never do.

Protecting Australians and protecting freedom is, as the Prime Minister reminds us, a global battle. We stand together with the people of France and with all freedom-loving people in the battle against terrorism and in our solidarity with its victims. I thank the Senate.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:04): by leave—The opposition joins with all in this chamber in our condemnation of all acts of terrorism, including recent terrorist attacks in Africa, Europe and the Middle East. We extend our deepest condolences to the families and friends of those killed in recent attacks, and we acknowledge the pain and suffering of victims. We commend military, law enforcement and emergency personnel that respond to acts of terrorism, and those who work so hard to prevent attacks taking place. We join with the government in encouraging all to maintain the values of tolerance and inclusion, which terrorists have assaulted with such awful consequence.

In the past few weeks, the world has been witness to a spate of despicable criminal acts. Murderous acts have resulted in the death of hundreds of innocents. In Egypt, on 31 October, a Russian airliner crashed over the Sinai Peninsula, almost certainly due to an explosive device. All 224 passengers and crew were killed. In Beirut on 12 November, we saw bombings outside a mosque and a bakery, killing many people and wounding more: a dreadful terrorist atrocity. And, of course, there were the dreadful events in Paris on 13 November: a coordinated shooting and bombing attacks at six locations in the heart of one of the great cities of the world and one of the world's oldest democracies—attacks which killed 130 people and injured over 300, including amongst the wounded a young Australian woman who was in the audience at the Bataclan theatre. We give thanks that she survived this ordeal. And most recently we saw events in Mali in West Africa, with people killed by gunmen in this latest attack.

Fourteen years ago, at the first sitting of the Senate after the September 11 terrorist attacks in the United States, the then Leader of the Opposition in the Senate, Senator Faulkner, stood in this place and observed that 'the fight against international terrorism is our fight'. I again say that today. The fight against international terrorism is our fight. Australians recognise that fact. We recognise that these attacks are attacks on our values—the values of freedom, democracy and peace, the values of tolerance and mutual respect for different cultures and different religious beliefs.

When terrorists attack people in Europe, in the Middle East or in Africa, they not only put at risk Australians who are visiting those places but they also attack our values, Australia's values. That is why Australia will stand with the people of France, Lebanon and Mali as they recover from these attacks and as they bring those responsible to justice. It is why Australia needs to be part of the fight against terrorism around the world. And it is why we need to work in our own communities to confront the messages of intolerance and hatred and to
protect our young people from those who would seek to recruit them to this poisonous ideology.

For the opposition's part, I again express our profound sympathy for those whose lives were taken in these latest attacks, to those who have suffered injury and trauma and to those who have lost loved ones. I want to place on record our thanks to the officials from the Department of Foreign Affairs and Trade who have provided consular support to Australians caught up in these terrible events. I again take this opportunity to place on record the opposition's support for Australian law enforcement, security and emergency services personnel—and for our community leaders and community workers—involved in the fight against terrorism at home and abroad.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (14:08): by leave—Sadly, Australians are familiar with mourning the dead and supporting the injured from acts of extremist violence. We remember the Bali bombings in 2002, when 202 people were killed and many more injured, among them Australians, Indonesians and people from more than 20 other countries. Just like in Bali, the attacks in Paris, in Beirut and in Bamako have broken hearts and torn neighbourhoods apart. To the families and friends of those killed, to the injured and their loved ones, we send our deepest sympathies for your loss, your pain, in this horrendous and senseless violence.

The recent wave of attacks brings the number of extremist violence incidents around the world this year to almost 300. We remember the victims of those attacks in Nigeria, Egypt, Mali, Saudi Arabia, Afghanistan, France, Iraq, Turkey, the Philippines, Ukraine, Israel, Libya, Pakistan—and the list goes on. Today we stand together to honour the lives of those killed and injured in the recent attacks in Paris, in Beirut and in Bamako. The actions of criminal groups perpetrating extremist violence are designed to scare, to silence and to suppress any manifestation of belief or culture that differs from theirs.

In taking time to reflect on lives lost and harmed, we remain steadfast in our resolve to defeat the threat of extremist violence and we remain steadfast in our resolve that democracy—predicated on liberty, on respect for diversity, on inclusion, on global cooperation—is essential for maintaining our way of life and rising to the challenge to defeat the criminals behind this violence. But let us also remember that to give into fear, to opt for division, is to hand a victory to these criminals. Hatred is the problem here; it is not the answer. Our thoughts today are with the people of Paris and all of the cities and towns across the world affected by this senseless violence.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:11): by leave—I rise to associate the Nationals with the remarks already made in this place and offer my condolences to those impacted by these devastating events. The appalling terrorist attacks the world witnessed in Paris on 13 November have devastated not only France but also the world over. I personally and on behalf of the Nationals extend my deepest condolences to the families and loved ones of those 130 people tragically killed and the more than 350 injured. These are deliberately shocking and horrific attacks by individuals shamefully associated with a perverted interpretation of justice and religion. We have also seen devastating attacks in other parts of the world. The recent attacks in Iraq, Lebanon, Nigeria and Mali are crimes that have been perpetrated by a similarly perverted and insidious ideology.
In these times of great hardship and sadness, a natural human response can be one of hatred and distrust. But these are the times, more than ever, that we as Australians must come together and hold true to our principles. We must continue to live by those values which our enemies so jealously despise, to live and promote our freedoms, to uphold our values and to celebrate what makes our country unique—that is, its welcoming and celebration of all cultures. We must all be particularly conscious that these terrorist attacks are not the action of a religious or cultural group as a whole but of a radical minority group that represent only their perverted world view.

Countering terrorism and violent extremism is a priority for all Australian governments. Collaboration between everyday citizens, police, state and federal law enforcement, intelligence and security forces is vital to countering and preventing violent extremism. This is a plea not to spy on one's neighbours but rather to get to know them, to come together and to keep our eyes, hearts and communities open. We must be diligent but not divisive, cautious but not changed. And we cannot forget those we have lost or who have been impacted by these terrible and appalling attacks. The Nationals offer our condolences to all those affected by these terrible atrocities, their families and their communities.

Senator XENOPHON (South Australia) (14:14): by leave—I support the comments of my colleagues and wholeheartedly agree with their sentiments. I stand in unity with the people of France, Egypt, Mali, Pakistan, Lebanon and so many other nations that have been victims of terrorism. We must repudiate unequivocally, unambiguously, what these attacks represent. The death of each victim is a tragedy, but these deaths in particular are murders with the most evil of motives. It demands strong and appropriate responses from governments.

Last Monday I had a chance to give my condolences personally to Christophe Lecourtier, France's ambassador to Australia—a good man, who does his country proud, who was still visibly shaken by those events. He expressed that the places where he would go to have dinner with his friends, listen to music or to a sporting match were subject to terrorist attacks where people just wanted to go about their lives.

In making this statement, I also want to join in a plea for unity and I think that the comments of everyone here today, our Prime Minister and our opposition leader reflect that plea for unity. I also want to quote a few words from broadcaster Waleed Aly, who is perhaps Australia's most prominent well-known Muslim who, on Network Ten, using quotes from ISIL's own publications and its strategy of dividing Western nations along religious grounds to foster what in their sick and twisted minds call the final great war, said:

This evil organisation has it in their heads that if they can make Muslims the enemy of the West, then Muslims in France, England, America and here in Australia will have nowhere to turn, but to ISIL.

He went on to say:

I'm angry at these terrorists. I'm sickened by the violence. I'm crushed for the families that have been left behind … I won't be manipulated.

We all need to come together.

He also said:

… because it's exactly what ISIL doesn't want.

Our strength is our unity in our decency and our repudiation of these evil acts.
The PRESIDENT: Could I ask senators to join me in a moment of silence in respect of the dead.

Honourable senators having stood in their places—

The PRESIDENT: I thank honourable senators.

MINISTERIAL ARRANGEMENTS

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): by leave—l inform the Senate that Senator Cash will be absent from question time for the duration of this week for personal reasons. In Senator Cash's absence, Senator Birmingham will represent the employment portfolio and the Minister Assisting the Prime Minister for the Public Service portfolio. Senator Payne will represent the Minister for Women portfolio. I will represent the Immigration and Border Protection portfolio.

QUESTIONS WITHOUT NOTICE

Defence: Water Supplies

Senator McALLISTER (New South Wales) (14:17): My question is to the Minister for Defence, Senator Payne. In response to questions regarding the poisonous chemical contamination emanating from RAAF Base Williamtown at Senate estimates on 21 October, Defence Assistant Secretary Alison Clifton said:

… we believe that that contamination is still exiting the base.

Yet on 12 November, the minister told the Senate:

… this is actually not a Defence issue.

Given that Defence has admitted its culpability in the continuing chemical leak at Williamtown, does the minister now accept that Defence is responsible for this contamination?

Senator PAYNE (New South Wales—Minister for Defence) (14:18): Thank you very much. I do not have with me the benefit of the Hansard that would provide Senator McAllister with the full quote, but my memory is perhaps better than hers, which is to say that I went on to say at the time that the issue of PFOS and PFOA contamination—that it is the fire suppressant used historically in a number of places—is an issue for government as a whole, because of its impact in a number of areas. That includes airports and firefighting agencies such as rural and civil fire services. What I did not say, and will not be misconstrued as saying, is that the matters concerning Williamtown and its surrounding areas are not matters related to the Defence facility. Of course, self-evidently, they are.

Senator McALLISTER (New South Wales) (14:19): Mr President, I ask a supplementary question. When asked at Senate estimates if Defence was working to remove the chemicals and stop the environmental contamination, Ms Clifton responded:

It would not be possible for us to remove those without fundamentally disrupting the base.

Does the minister agree that it is more important not to disrupt the Defence base than to protect local communities by stopping the contamination leaking into the environment?

Senator PAYNE (New South Wales—Minister for Defence) (14:19): I think it is important to also understand the nature of the residual contaminant that is left by PFOS and
PFOA. What studies do show is that it is a contaminant that does not break down. Extensive studies have been commenced and are continuing over, I think, now decades in the United States on this particular environmental contaminant. What we would have to do in terms of the operation of the RAAF Base Williamtown and its surrounding areas has been considered by the department, and Ms Clifton acknowledged those considerations at the Senate estimates.

That is an ongoing process, because this contaminant continues, obviously, to be present in the environment. We are working with the New South Wales state government, and the New South Wales state government has, as I think I noted on the previous occasion, taken a number of decisions in this regard—(Time expired)

Senator McALLISTER (New South Wales) (14:20): Mr President, I ask a final supplementary question. The Liberal member for Paterson, Mr Bob Baldwin, is calling for Defence to take action in today's Newcastle Herald saying:

If you've got a hole in a boat and it's leaking water, you don't bail the water. You stop the leak.

Do you agree with Mr Baldwin that Defence should comply with its own policy prohibiting the release of these chemicals into the natural environment under any circumstances and immediately stop the chemical contamination leaking from Williamtown?

Senator PAYNE (New South Wales—Minister for Defence) (14:21): I wish it were as simple as plugging a hole in a boat, actually. Whilst that might be a convenient metaphor for others to use, it is not one I would use. What we are examining in the Williamtown area and at the base itself are the options that are available to us in terms of management of the contaminant, in terms of the run-off of water from the base itself and of course continuing—

Senator Kim Carr: What about stopping it at source?

Senator PAYNE: Senator Carr, you don't understand actually, and that is a technical problem. I have indicated to the shadow minister, Senator Conroy, as I am sure he will acknowledge, that the government will—and I think probably already has—provide a briefing to those responsible on the other side, which will enable them to have a far more sophisticated understanding of the problem than the simplistic one being presented now. It is not that simple, Mr President, and we are making every endeavour to support the community. (Time expired)

National Security

Senator JOHNSTON (Western Australia) (14:22): My question is to the Attorney-General, Senator Brandis. What is the government doing to keep Australians safe from the threat of terrorism?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:22): Thank you very much indeed, Senator Johnston, for that very timely question. Senator Johnston, as you know, this government is committed to keeping Australians safe. We are doing that through our work both at home and overseas. We are doing it through resourcing our law enforcement and intelligence agencies to give them the capability, the people and the resources they need to do their important work. We are doing it by constantly keeping our counter-terrorism laws under review. As part of that continuing review, the government has discussed a range of reforms with law enforcement and security agencies to respond to the lessons learned from the increased operational activity over the past 12 months. Implementing those reforms will
ensure that the laws meet the needs of law enforcement and security agencies in responding to a rapidly evolving threat environment.

And, Senator Johnston, importantly, the government is working closely with our international partners. Yesterday, Prime Minister Turnbull and his Malaysian counterpart, Prime Minister Najib, announced a strategic partnership between Australia and Malaysia that will strengthen our cooperation on counter-terrorism and defence. Last week, the Minister for Justice, Mr Keenan, and I met with the Indonesian Coordinating Minister for Political, Legal and Security Affairs, General Luhut, to discuss closer engagement and cooperation on intelligence between Australia and Indonesia to thwart terrorism. At that meeting, we agreed to meet in Jakarta next month to discuss ways in which Australia and Indonesia can work even more closely together to make our two nations and the region safer and more secure.

Senator JOHNSTON (Western Australia) (14:24): Mr President, I ask a supplementary question. I thank the Attorney for his answer and I further ask: what is the government doing to prevent the incidence of home-grown terrorism in Australia?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:24): Senator Johnston, as well as the measures that I described in my answer to your primary question, we are also utterly committed to countering violent extremism in our communities. Every country in the world is grappling with the question of what makes people susceptible to both extremist influences and recruitment by terrorists.

As highlighted by the tragic events in Paris and over the weekend in Mali, the issue of radicalisation is a very complex one. Governments across Australia are working with communities to identify young people at risk of radicalisation. To meet this challenge, the Australian government is investing more than $40 million over four years in CVE and counter-radicalisation programs. That is one of the many measures on which we will continue to work with communities to make them safe and to keep Australia safe.

Senator JOHNSTON (Western Australia) (14:25): Mr President, I ask a further supplementary question. Lastly, I ask the Attorney to update the Senate on what the government is doing to counter the threat of foreign fighters.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:25): Once again, Senator Johnston, you identify a particularly important problem. I am aware of reports that at least one of the individuals involved in the Paris attacks had previously fought with the militant group ISIL in Syria. I can tell you and the Senate that, at the moment, we judge that around 110 Australians are currently fighting in Syria and Iraq, among more than 25,000 foreign fighters—almost a fifth of them from the West—who have travelled to the region to join groups such as ISIL. Approximately 30 Australians have returned home from fighting in the conflict.

The government is addressing the threats we face. We work closely with law enforcement and security agencies to give them, as I said, the tools that they need, including the fifth tranche of counter-terrorism legislation which I introduced on 12 November. We are unstinting in our efforts to— (Time expired)
Child Care

Senator DASTYARI (New South Wales) (14:27): My question is to the Minister for Education, Senator Birmingham. I refer to the government's plan to force childcare centres to bill by the hour. Will the minister guarantee that no centres will close as a result of this policy change?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:27): I thank Senator Dastyari for the question—I think his first in his new frontbench role, and I congratulate him on that. I am happy, Mr President, to tell Senator Dastyari that the government has no plans nor intentions to force child care providers to charge by the hour.

Senator Cormann interjecting—

Senator BIRMINGHAM: Indeed, Senator Cormann; that is right. What the government is hoping and encouraging is that, through our childcare reforms, which are increasing affordability for families and flexibility for childcare providers, childcare providers will consider options within their business models to be able to provide different levels of sessional care for children. It is important that people who routinely or regularly wish to or want to access maybe five or six hours of care on certain days for their children are not billed for 10, 11 or 12 hours of care. But these will be matters for childcare providers to determine in accordance with their business models. So there should be absolutely no threat, risk or otherwise to the price of child care nor the viability of those childcare providers.

So I am very happy to give Senator Dastyari a very clear answer to his question: no, I see no risk of closure. To perhaps pre-empt the next question: I see no risk of price rises, because it is entirely up to the childcare providers to assess how their business model can best be supported. In fact, what we should see is greater affordability for families. We should see greater affordability, because we are investing more than $3 billion in improving childcare subsidies and support for families—more than $3 billion in additional support for, in particular, working families—to ensure that they get the maximum assistance to access child care and support when they need it in balancing and juggling their work and family obligations. So our reforms will ensure greater affordability and greater flexibility.

Senator DASTYARI (New South Wales) (14:29): Mr President, I thank the minister for his answer and ask a supplementary question. The Australian Childcare Alliance said today, and I quote Gwynn Bridge:

If we charge by the hour, there will be a higher cost.

Minister, will you guarantee that hourly fees will not rise for any family as a result of the government's move to hourly charging?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:29): Senator Dastyari is clearly neither very nimble nor very agile in his questioning, because if he listened to the previous answer he would have heard that I addressed pricing and pre-empted that that might be his supplementary question.

I am very happy to say that this government's reforms will put downward pressure on prices, because for the first time we are introducing an efficient level of pricing within the childcare sector that has been benchmarked and that will provide an hourly efficiency charge against which services will be expected to operate, or at least declare, and that we will be basing the subsidy arrangements for parents on that basis.
Of course, extra funding is going in—more than $3 billion additional funding—to ensure parents have extra support. But unlike the previous government, who turned a blind eye to the rise in childcare costs, we have not, and we have structured our reforms to make them more affordable through more taxpayer support and a better model of revision—(Time expired)

Senator DASTYARI (New South Wales) (14:31): Mr President, I ask a further supplementary question. The Community Child Care Association has said that a move to short-session billing would:

…make childcare less affordable for all families, would exclude those who could not afford the increase completely, and would potentially lead to closures for services in some areas.

Will the minister guarantee that no child will be pushed out of early education because of these changes?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:31): As I said at the outset, and I again reiterate, the government is not proposing to force any childcare provider to shift to short-session billing. The government is making sure the arrangements we have in place provide the flexibility for providers to do so if they so wish. I am very happy to say that no child will be pushed out in those circumstances because no provider, I imagine, would change if it were going to push a child out.

Senator Dastyari, you can be absolutely confident that under our reforms parents who need childcare support and early-learning support to be able to access their work obligations will get greater support. Those families that rely on child care most to juggle work and family obligations get greater support. Childcare providers will ensure that they have the flexibility to tailor their business models to support those families as well as early-learning outcomes across the sector.

Senator Dastyari: These words are going to come back and haunt you!

Senator BIRMINGHAM: Senator Dastyari, they will not, because I am quite confident in the model and that your questions are completely misplaced—(Time expired)

G20 Finance Ministers Meeting

Senator EDWARDS (South Australia) (14:32): My question is to the Minister for Finance, Senator Cormann. Can the minister update the Senate on the economic policy outcomes of the G20 summit in Turkey?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:32): I thank Senator Edwards for that very important question. About a week ago I attended the G20 leaders meeting with the Prime Minister. Of course, the G20 leaders meeting in Antalya was very much overshadowed by the very tragic events in Paris that have already been addressed in this chamber earlier today. Despite those shocking events in Paris, much of the G20 leaders meeting was focused on the global economic outlook and on a global policy agenda to strengthen growth and create more jobs.

As I first said previously in this chamber, as a trading nation it is self-evident that what happens in the global economy—the global growth outlook—matters to us. As such, Australia, as president of the G20 in 2014, put a very ambitious growth target for consideration at the G20 leaders meeting in Brisbane last year on the agenda: a two per cent growth target above business as usual. I am pleased to report to the Senate that the G20
leaders remain committed to achieving that growth target, which was first announced and first put on the table by the G20 leaders in Brisbane here in Australia last year.

There is no doubt that we continue to face challenges when it comes to global economic growth. Global economic growth remains uneven and continues to fall short of our expectations. In particular, there was a conversation around the table in relation to the economic outlook in China, given the significance of China to the global economy. China is our most important trading partner, so China's continuing economic success will add an estimated one per cent to global growth by 2018, according to the OECD. Australia also tabled at the G20 meeting our updated growth strategy—our contribution to global growth. In it you will not be surprised to hear me say that we relate our ambitious infrastructure investment program to our ambitious free trade agenda, which involves increased trade with Korea, Japan and China—

**Senator EDWARDS (South Australia) (14:35):** Mr President, I ask a supplementary question. How does the government's agenda support the growth objectives endorsed by the G20?

**Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:35):** G20 countries—representing about 86 per cent of the global economy—supported in Brisbane two per cent additional growth above business as usual. So far, as a result of initiatives and multiyear commitments adopted by countries around the world we have been able to get about one-third of the way, according to analysis by the IMF, the OECD and the World Bank. Further initiatives, in particular in the context of investment—in particular through private sector participation—will add an estimated one per cent to global growth by 2018, according to the OECD. Australia also tabled at the G20 meeting our updated growth strategy—our contribution to global growth. In it you will not be surprised to hear me say that we relate our ambitious infrastructure investment program to our ambitious free trade agenda, which involves increased trade with Korea, Japan and China—

**Senator EDWARDS (South Australia) (14:36):** Mr President, I ask a further supplementary question. Minister, how does stronger growth benefit Australian families?

**Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:36):** Stronger growth leads to more jobs and to better jobs. Of course, this government's total focus when it comes to economic policy is on strengthening growth and strengthening job creation. Since we came into government we have pursued an agenda of a more growth-friendly tax system—getting rid of the carbon tax and the mining tax, pursuing tax cuts for small business and not proceeding with Labor's bank tax. Of course, there is a further conversation about how the tax system can be further improved to make it more growth-friendly into the future.

Families around Australia will be better off because a more growth-friendly tax system and stronger growth will lead to more jobs and to better jobs. I know Senator Cameron is very disappointed when he hears about the record of achievement of this government when it comes to jobs. Just this year, more than 300,000 new jobs have been created.

**Climate Change**

**Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:37):** My question is to the Minister representing the Prime Minister, Senator Brandis. In the lead-up to the Paris Climate Change Conference, which the Prime Minister has said 'must establish a durable platform for limiting global temperature rise to below two degrees', how will your government defend your approval of the Adani Carmichael coal mine, which would create
100 times more carbon pollution than your latest direct action option has abated and which alone will generate more pollution than the entire European Union in one year?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:38): Senator Waters, I have no trouble at all in defending the approval of the Carmichael coal mine in Central Queensland. The pity of it is that you, as a Queensland senator, are not as eager to do so to protect the jobs of people in Central Queensland. Senator Waters, if you visited Central Queensland—as I, for example, last week visited Rockhampton—you would know that the people whom you are supposed to represent in the Senate are desperate for this project to go ahead because, under various estimates, this project will create up to 10,000 jobs while providing to India clean coal which will liberate more than 100 million people from energy poverty, which will provide clean coal to India for coal-fired power stations, which will provide electricity for more than 100 million of the poorest people of that country.

I know Senator Waters that you, in your middleclass conceit, would love to engage in the kind of moral posturing which is the trademark of the Greens, but I am afraid we on our side of the chamber are a little more interested in liberating more than 100 million of the poorest people in the world from energy poverty, while providing jobs to Australians and in particular jobs to people in Queensland, more particularly in Central Queensland. Would that you were so concerned about both of those things, but obviously, Senator Waters, you are not.

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:40): Mr President, I ask a supplementary question. Clearly Senator Brandis has never heard of the Great Barrier Reef, which employs 60,000 people.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Macdonald and Senator Wong, I need to hear the question and so does the minister.

Senator WATERS: Mr President, I ask a further supplementary question. Clearly the senator has not heard of solar either. As the co-chair of the Green Climate Fund, will Australia now pull its weight and
contribute the $400 million per year over the next four years that would be our fair share to assist developing nations to cut pollution and to adapt to climate change?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:42): I have already explained to you, Senator Waters, although you seem to be reluctant to listen, how the export of coal from the Carmichael mine to India will cut pollution in itself. But of course the Australian government is taking to the Paris Climate Change Conference one of the most ambitious reduction targets in the world, in fact the most ambitious per capita emissions reduction target in the world, which will, by 2030, decrease our emissions of 2005 levels by between 26 per cent and 28 per cent.

Senator Waters: Mr President, I rise on a point of order. My question went specifically to the financial contribution that this nation may or may not make under the auspices of being the new co-chair of the Green Climate Fund.

The PRESIDENT: Thank you, Senator Waters. I will remind the Attorney-General of the question.

Senator BRANDIS: Senator Waters, as I was telling you, we are taking per capita the most ambitious target in the world to the Paris Climate Change Conference. We have already contributed $200 million to the Green Climate Fund—$200 million—and such is the esteem in which Australia is held by our partners that we have been elected the co-chair of that fund.

Defence Procurement

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (14:43): My question is to the Minister for Defence, Senator Payne. Would the minister update the Senate on the progress of Project SEA 1000, the Future Submarine?

Senator PAYNE (New South Wales—Minister for Defence) (14:43): I thank Senator Fawcett very much for his question. Last week I had the opportunity to address the Submarine Institute of Australia conference in Adelaide on just this matter.

Senator Conroy interjecting—

Senator PAYNE: Happily, the soporific nature of Senator Conroy's speech later in the day gave them a little rest before tea time.

Senator Wong interjecting—

Senator PAYNE: He led with his chin. The Turnbull government, as Senator Fawcett well knows, is absolutely committed to the Future Submarine project as a core strategic capability, and our investment in the project reflects the importance that we put on the safety and security of our nation. This government is determined to get the best future submarine with the best capability for the best value for money through a competitive evaluation process. The government has invited DCNS of France, TKMS of Germany and the government of Japan to participate in this process, and all three have indicated they will present their proposals to Defence by the required date of the end of this month. That is a very powerful endorsement of the process; that all three have invested significant resources to participate in the development of these proposals. All three have worked with Defence to put forward their case. The evaluation process will take a period of time, because we are
determined to make the right decision. It is a very important decision, and we have taken the best possible advice from Defence in determining this time frame.

I can also inform the Senate that the government has begun the work to choose a combat system integrator for the future submarine. This is a key decision, and the point of having made this decision at this point in time is that it will enable Defence to have a qualified and experienced industry partner on board as soon as we select an international partner. Importantly, it also represents jobs in Australia. That is a very important aspect of this process. *(Time expired)*

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (14:46): Mr President, I ask a supplementary question. Would the minister inform the Senate of the risks that would arise if the competitive evaluation process were delayed?

**Senator PAYNE** (New South Wales—Minister for Defence) (14:46): It has been concerning to see some observations in relation to delaying the competitive evaluation process. There have been suggestions that we should down-select to two partners and run another request for tender, and that could apparently be easily achieved by simply extending the life of the Collins class submarine.

I believe, and Defence believes, that this would in fact be a reckless approach. I am advised that, conservatively, an approach like this would add another three or four years to the delivery of the future submarine, which does heighten the risk of developing a capability gap. An extension of the life of the Collins class submarine would come at significant cost and risk, if we were to pursue it even further, as suggested by some of those opposite, including the shadow minister.

It is well known that, as naval vessels age, they do become more expensive to maintain. But, more importantly than that, the longer the Collins submarines are kept in service, the more their relative capability will decline as newer submarines enter service within our region. *(Time expired)*

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (14:47): Mr President, I ask a further supplementary question. Could the minister outline to the Senate why the competitive evaluation process and the current time frame is the most appropriate way to meet our strategic defence needs?

**Senator PAYNE** (New South Wales—Minister for Defence) (14:47): This is a very important supplementary question from Senator Fawcett because, for the Future Submarine program, realistic capability costs and scheduling estimates will be achieved by engaging with the selected design and build partner to make informed decisions on cost capability trade-offs and risks from the earliest stages of design.

The CEP process has been designed so that we can select an international partner and get on with the task of designing and constructing our future submarine, while minimising the life extension required for the Collins submarines. What happened with those opposite is that they sat on their hands. They sat on their hands for six years in government, and now some of them seem to want to delay this project even further, which would significantly heighten the risk of a capability gap. That is not a proposition the government is prepared to accept when the safety and security of the nation is at stake. When this vitally important capability is at stake we will not participate in that process. We will make the right decisions. *(Time expired)*
Asylum Seekers

Senator HANSON-YOUNG (South Australia) (14:49): My question is to Senator Brandis, the Minister representing the Prime Minister. Yesterday, during a meeting with our Prime Minister in Malaysia, the United Nations Secretary-General, Ban Ki-moon, personally called on Malcolm Turnbull to reconsider Australia's policy of turning back asylum seeker boats. This follows requests from the Indonesian government to cease the dangerous practice. Could the minister please explain to the Senate whether the government will consider these appeals from both the United Nations and our neighbours in Indonesia to cease the tow-backs of asylum seeker boats?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:49): No, we will not, and there is a reason why we will not: the policy has been successful. As a result of that policy—a policy that I know has been opposed tooth and nail by the Greens—we have stopped the people-smuggling trade. We have stopped the penetration of Australia's maritime borders by people smugglers. We have saved countless lives. On the most conservative estimates more than 1,200 people, many of them innocent women and children, drowned at sea during the period when our borders were out of control, and some 50,000 people arrived in Australia illegally.

Senator Hanson-Young, we have absolutely no intention of reversing the policies which saw that evil trade stopped and returning to policies that saw those lives lost, that saw the loss of control by Australia of its borders. We are proud of the humanitarian achievement of saving all of those lives. We are proud of the release of all the children who have been released from detention—an issue about which you have spoken often and eloquently, Senator Hanson-Young, but about which we can point to actual results.

Because of the policies that you supported in previous years, the number of children in detention peaked at 1,992. As a result of the policies of this government, which you so decry, the number of children in detention today is 109. That is one-twentieth of the number of children that were in detention as a result of policies of which you approved, Senator Hanson-Young. We will not be going back to the bad old days. We will not be embracing those failed policies—not for a moment.

Senator HANSON-YOUNG (South Australia) (14:51): Mr President, I ask a supplementary question. The minister said that the boats had stopped. I would like to ask the minister if he can please explain the sighting of a boat just three days ago, when a refugee boat reportedly made it to within 200 metres of Christmas Island. Could the minister explain why this boat was there, how many people were on it and where it is now?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:52): Senator Hanson-Young, as you know, the government does not comment on operational or on-water matters. But what we can comment on, what tells the story in words more eloquent than yours or mine, is the outcome. We have stopped this trade—50,000 people in five years; most of them, by the way, women and children undertaking this hazardous journey involuntarily; more than 1,200 lives lost as a result of policies which failed. Policies, by the way, which those who were their authors now acknowledge failed because the Labor Party, in opposition, have now moved closer to the government's position, a position we called for for many long years. So we will
not, on this side of the chamber, be going back to the failed policies that saw thousands of
children in detention and hundreds upon hundreds of lives lost. *(Time expired)*

**Senator HANSON-YOUNG** (South Australia) (14:53): Mr President, I ask a further
supplementary question. This is a photograph of the boat that was found off Christmas Island.
Could the minister please explain why this boat was not stopped and where it is now?

**The PRESIDENT:** Senator Hanson-Young, would you place that down, thank you.

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive
Council and Leader of the Government in the Senate) (14:53): Senator Hanson-Young, if in
years gone by, you had held aloft a photograph of every boat that penetrated Australian
borders there would not have been enough question times in the six years of the Labor
government for all the individual boats that penetrated Australia's borders. The Australian
people know, and even the Australian Labor Party now acknowledge, that those policies were
a failure, that our government's policies are a success—

**Senator Hanson-Young:** Mr President, I rise on a point of order. I simply would like to
know where the boat in this photo is now and what has happened to the people on board?

**The PRESIDENT:** Senator Hanson-Young, your question was disorderly in the manner
in which you asked it by displaying prompts in the first instance. There is no point of order.
Attorney-General, have you completed your answer?

**Senator BRANDIS:** Mr President, I was in the middle of saying to Senator Hanson-
Young that the Australian people know that as a result of our successful policies, the people-
smuggling trade has been broken, the boats have stopped and innocent women and children
are no longer in peril of being drowned at sea. Senator Hanson-Young, you seem to regard
that as a bad outcome. Shame on you.

**Trade with Indonesia**

**Senator CANAVAN** (Queensland—Nationals Whip in the Senate) (14:54): My question
is to the Cabinet Secretary, Senator Sinodinos, representing the Minister for Trade and
Investment. Can the cabinet secretary update the Senate on the trade and investment minister's
recent trade mission to Indonesia.

**Senator SINODINOS** (New South Wales—Cabinet Secretary) (14:55): I thank Senator
Canavan, a great representative of the great state of Queensland and, I know, someone who is
committed to open trade and investment. Last week, Senator Canavan, you are right, the
Minister for Trade and Investment led Australia's biggest ever trade mission to Indonesia,
with more than 360 senior business people accompanying the minister for Indonesia Australia
Business Week. These business leaders covered a variety of industries: infrastructure,
advanced manufacturing, agriculture, food processing, health and aged care, resources and
energy, education and tourism.

The Minister for Trade and Investment delivered the keynote address to an Australia
Indonesia business conference in Yogyakarta. He was accompanied on this delegation by,
among others, my good friend and colleague the Minister for Tourism and International
Education, the Minister for Health and Minister for Aged Care and Minister for Sport, and the
Minister for Immigration and Border Protection along with a number of state ministers from
around Australia. In other words, this was very much Australia Inc., 'Team Australia' on the
ground in Indonesia promoting one of our most important bilateral relationships.
Many northern Australian economic centres are actually closer to Indonesia than southern Australia. Darwin is closer to Kalimantan than Canberra and Broome is closer to Bandung than Brisbane. Indonesia is a market of 250 million consumers right on our doorstep, including a large, rapidly rising middle class. We must not underestimate the size of the opportunity in the case of Indonesia. As the middle class expands, their demands for more processed foods, for more advanced manufacturing and for more sophisticated services will increase. Australia is primed, particularly northern Australia, to take advantage of that opportunity.

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (14:57): Mr President, I ask a supplementary question. Can the cabinet secretary outline to the Senate how the government is working to enhance the Australia Indonesia trade relationship?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:57): The backdrop to Australia Indonesia Business Week was a very successful meeting between the Prime Minister, Mr Turnbull, and Joko Widodo, the President of Indonesia. It was clear from the reporting not just from what we have received internally that this was a meeting of the minds: two people with business backgrounds who understood each other and who were able to speak authoritatively around issues to do with how we, as a country, can assist the development of Indonesia. That is the backdrop. Frankly, to date we have not done well enough. There are less than 250 Australian businesses with a presence in Indonesia. Two-way trade in goods and services is just $16 billion per annum. That is why we need to invest more and more in the Canberra Jakarta bilateral relationship. As a result of what happened with Australia Indonesia Business Week, the fact that we could devote so many high-level ministerial resources and Austrade resources, provides—(Time expired)

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (14:58): Mr President I ask a further supplementary question. Can the cabinet secretary also inform the Senate of any previous hurdles in the Australia Indonesia trade relationship and why stable and sensible government policy is crucial to this relationship?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:58): The one thing we must not do going forward is to repeat some of the errors of the past. Under the former government, we had the debacle of the live cattle industry being closed down overnight on the back of a Four Corners report. Imagine closing a whole industry overnight, leaving them in uncertainty. Imagine if you did that in George Street in Sydney. Imagine if you closed down the whole street and told all those retailers: 'You're now closed down. We don't know when you will be able to open again. We can't make any commitments as to how we will compensate you or when you can open again.' That was a debacle. That was, I think, a defining point in the relationship with Indonesia, but going forward we have been able to revive the trade and give them the assurance that they will not face that sort of uncertainty in the future. You cannot treat major trading partners or any country like that. The supreme arrogance of saying that these domestic interests or concerns could—(Time expired)

Minister for Trade and Investment

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:59): My question is also to the Minister representing the Minister for Trade and Investment, Senator Sinodinos. Can the minister confirm that Mr Alastair Furnival was a member of the delegation that accompanied the trade minister, Mr Robb, to Beijing in August 2015? Can the
minister confirm that Mr Furnival participated in this delegation in his capacity as a third-party lobbyist?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:00): I do not have a list of the, I think, 360 figures who went to Indonesia. I will take that question on notice. I will simply make the point: if someone has ever made a mistake in their life, should they have the mark of Cain on their forehead for the rest of their business existence?

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:00): Mr President, I ask a supplementary question. I ask: who made the decision to include Mr Furnival in the delegation to Beijing; was Mr Robb or his office consulted on the make-up of the 31-member delegation, which included just one third-party lobbyist, Mr Furnival; and can the minister further explain why the 31-member delegation included only one woman?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:01): I will take those questions on notice. Normally with these sorts of delegations people do pay their own expenses, but I will check what happened.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:01): Mr President, I ask a further supplementary question. Can the minister confirm that, despite working for three lobbying firms and owning another, Mr Furnival is not registered on the Commonwealth register of lobbyists? Can he further confirm that the Commonwealth lobbying code provides that government representatives, including Mr Robb and his staff and DFAT and Austrade officers, must not be a party to lobbying activities by a lobbyist not on the register?

Senator SINODINOS (New South Wales—Cabinet Secretary) (15:02): I will take advice from the minister.

Child Care

Senator LINDGREN (Queensland) (15:02): My question is to the Minister for Education and Training, Senator Birmingham. What is the government doing to deliver flexible, affordable and accessible child care and early learning for families?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:02): I thank Senator Lindgren for her question, which of course reflects her very strong interest, as a former teacher, in child care, early learning and all forms of education. The government's significant childcare reforms, a $40 billion childcare package and more than $3 billion of additional investment, are designed to make the system simpler, more affordable and more flexible for parents, for children and for childcare providers. The system will become simpler because we are proposing to turn three different payment arrangements into one childcare subsidy arrangement, a simple system for parents to access that will ensure all parents can readily and easily understand the type of support for accessing child care and early learning that they can access. It will become more affordable thanks to the increased investment that our government is proposing in child care.

We will ensure that families who need it most get the most support to access child care to be able to balance their work and family obligations. Those families earning between $65,000 and $170,000 will be, on average, $30 per week better off thanks to our childcare reforms. That is some $1,500 per annum better off for those families to be able to get to work, participate in the workforce and manage to juggle their work and family obligations by
accessing our childcare services. We will make sure that there is an appropriate safety net in place for the most vulnerable so that we can have confidence that early learning opportunities will still be available to children in low-income families and that all four-year-olds, through preschool arrangements, will continue to enjoy the support and opportunity of early learning and preschool activities.

Of course, ultimately what we want to do is make sure we do not see the type of price rise that occurred under the Labor government, where prices went up some 53 per cent over six years in the childcare sector—unacceptable. Our reforms seek to address these problems that Labor ignored.

Senator LINDGREN (Queensland) (15:04): Mr President, I ask a supplementary question. How is the government helping services deliver flexible, affordable and accessible child care and early learning for families?

Senator Sterle: Making it nimble and agile!

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:05): Indeed, Senator Sterle is right: we do hope that providers will be nimble and agile in responding to these reforms and that they will absolutely, in a deft way, be able to provide the types of services that parents demand. Currently, long day care, in-home care and family day care services operating all normal working days must operate all normal working days in at least 40 weeks of the year and provide care for any particular child for at least eight continuous hours on each normal working day. As a result of the simplification for providers under our new arrangements, they will only be required to operate for a minimum of 48 weeks per year. Otherwise there is flexibility for them to create and provide new services to meet parents who may not be demanding that level of hours or those arrangements. It is unacceptable that parents who routinely only require—perhaps for early learning outcomes—sessions of four or six hours of care per day are routinely charged for 10 or 12 hours for that care. (Time expired)

Senator LINDGREN (Queensland) (15:06): Mr President, I ask a further supplementary question. What else is the government doing to ensure that the almost $40 billion in child care over the next four years extends access to high-quality, flexible child care for as many families as possible?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:06): As well as making our childcare system more accessible for those families who rely upon it to undertake their work responsibilities, we want to make sure that people are supported in the most vulnerable categories. That is why we are proposing an $869 million childcare safety net, recognising that vulnerable children and families need extra support to access early learning, care and protection at appropriate times. Similarly, we have committed to ensure that universal access to preschool is extended for a further two years, providing guarantees in line with school funding determinations to provide federal support for 15 hours of preschool a week in the year before school. This was a measure, of course, that the Labor government had left unfunded and had not committed to. We have delivered this funding now over a three-year period to make sure that four-year-olds, in the year before entering school, can be guaranteed to access those 15 hours of early learning opportunities in addition to any childcare activities that their parents access.
Vocational Education and Training

Senator KIM CARR (Victoria) (15:07): My question is to the Minister for Education and Training, Senator Birmingham. I refer the minister to the report in The Australian on 20 November 2015 concerning legal proceedings against Phoenix Institute by the ACCC for engaging in misleading and deceptive and unconscionable conduct. Phoenix Institute, a private provider, has received more than $106 million this year in loans under VET FEE-HELP. Minister, why has it been left to the ACCC to take this action and not the Department of Education and Training or the national regulator, ASQA?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:08): I thank Senator Carr for the question. Indeed, we have been making sure as a government that all relevant agencies of government take responsibilities that are appropriate to them for cleaning up the mess in the VET FEE-HELP system that was created by the former Labor government. We have acknowledged that there are problems in this system. Earlier this year, when I was directly responsible for vocational education and training, I wrote to the ACCC asking them to undertake investigations in areas of their responsibility. The ACCC are of course the responsible entity when it comes to misleading and deceptive conduct, whether you are a training organisation or any other business acting in the Australian economy. In other areas, the Department of Education and Training are responsible for how VET FEE-HELP is administered, and they indeed have been undertaking, along with the Australian Skills Quality Authority, separate investigations into the Phoenix Institute.

This government has introduced a range of reforms to try to clean up the very open-ended mess that the Labor Party created in establishing VET FEE-HELP. We acknowledge that there appear to still be wrongful activities occurring out there in the marketplace. Legislation is before this parliament at present to bring into place new reforms and additional reforms that would further tighten up the sector, commencing from 1 January next year, and we are looking at further measures to make sure that we stamp out the type of unscrupulous, unethical behaviour we have seen from some vocational education and training providers. We will work, absolutely, through the ACCC, through ASQA, through the department and through any other relevant authority that we need to to make sure we stamp out these practices. The government warmly welcomes the fact that the ACCC has undertaken these investigations, has instigated such proceedings, because it is the right thing for the ACCC to do, working with all other agencies. (Time expired)

Senator KIM CARR (Victoria) (15:10): Mr President, I ask a supplementary question. Given that the minister has acknowledged that there are continuing abuses of the system despite the government's new measures and given that today, for instance, The Age reports that there are further examples of dodgy marketing agents, despite the announcements that the government has made, why has the minister not been more agile and nimble in cleaning up the sharks and shonks that are ripping off so many Australians?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:10): At the end of 2014 the then minister, Ian Macfarlane, took steps to make sure that we had new standards introduced in relation to vocational education and training providers. I then took steps as the minister, earlier this year, to ban, from 1 April, the provision of laptops and other inducements for sign-ups to the VET FEE-HELP scheme. Further reforms took place on 1 July, and others are scheduled to take place from 1 January, which will
dramatically change the incentive arrangements and end the system of up-front payments that
the Labor Party put in place. The Labor Party put in place a scheme that was driven entirely
on the basis of signing people up to VET FEE-HELP loans. We actually want to have a
scheme where providers are paid for progression through the training system. That is in part
what the legislation that is before the chamber is doing. In terms of specific action for places
like Phoenix, on 12 October this year the department issued a notice of intention to suspend
Phoenix as a VET FEE-HELP provider. (Time expired)

Senator KIM CARR (Victoria) (15:12): Mr President, I ask a further supplementary
question. Given that the minister has acknowledged that these dodgy practices, including the
use of computers as inducements, are still continuing, why has the minister not been more
agile and more nimble in cleaning out these shonks and these sharks?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (15:12): I am pleased for Senator Carr to come in here and shine a spotlight on the failures of
the Labor Party in their establishment of this scheme. I am pleased that he gives us the
opportunity to demonstrate that, throughout the course of this year, this government has
continuously implemented measures to clean up your mess. We have actually demonstrated
real action and real reforms in this area that are absolutely starting to make a difference and
will make a profound difference from 1 January next year, when the incentive arrangements
will dramatically change for providers.

As I have indicated, we are contemplating and looking at further measures that we think
may be necessary to address the mess that Labor left. Labor's sole policy on this is that they
want to establish an ombudsman. They think that a new public sector official might be the
answer to this. We think we should get the multimillion-dollar program right. We think we
should fix the guidelines in it. We are proposing changes to the legislation, and we will make
sure that we clean up the mess we inherited from those who had no idea how to structure a
program. (Time expired)

Broadband

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:13): My question is to the Minister for Communications, Senator Fifield. Can the minister update
the Senate on why it is important to undertake detailed planning prior to embarking on large
infrastructure projects like the National Broadband Network and to provide the public with
accurate financial and operational information concerning taxpayer funded government
business enterprises such as nbn co?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister
for Communications, Minister for the Arts and Minister Assisting the Prime Minister for
Digital Government) (15:14): I thank Senator Smith for his deep interest in and knowledge of
the Communications portfolio. I think everyone in this place knows that the nbn is the largest
and most complex infrastructure project in Australian history. It is national in a very literal
sense. It is extending down every street, spanning thousands of square kilometres through
fixed wireless and beaming in from 36,000 kilometres overhead in some places. It does
require a colossal amount of taxpayer funding, running into the tens of billions of dollars, and
it will be 10 years in the making. Yet, when those opposite were embarking upon this venture,
they cut every single corner they possibly could. They avoided a cost-benefit analysis. They
abandoned normal cabinet process. And, when Senator Conroy, as minister, appointed a board, not one person on the board had telecommunications experience—not one out of eight.

While Senator Conroy was in charge he waited for more than a year after appointing the executive chairman to actually issue a statement of expectations to the company. Where this chaos and mismanagement really showed was in the financial and operational targets. By the time of the election the rollout was already years behind forecast. And, after receiving $6.5 billion in funding, less than three per cent of premises were passed, and there were only 50,000 users on the network. Unlike those opposite, this government has required the nbn to set realistic financial and operational targets, and the company's most recent quarterly results prove that point.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:16): On that very thorough response I have a supplementary question. What has the coalition done to improve the operational and financial performance of the National Broadband Network, particularly in northern Australia?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (15:16): The turnaround in the NBN rollout across northern Australia has been nothing short of spectacular. Right now, more than 110,000 homes and businesses in major cities, like Cairns, Townsville, Mackay and Darwin, can connect to the NBN. Possibly the best example is the Territory. The NBN is powering ahead there with 40,000 premises in Darwin now in the footprint and about 6,700 left to cover within the next year.

The next rollout site to kick off this week will be the centre of Alice Springs, with about 9,200 premises in the forward build schedule for Alice, starting with around 2,000 homes and businesses. That work is scheduled for completion in around six months, and I know that is something that Senator Scullion will certainly be embracing. That is just one example of the turnaround of the NBN under this government.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (15:17): Mr President, I ask a further supplementary question. Can the minister advise the Senate of any threats to continuing the NBN's rollout progress across northern Australia?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Minister Assisting the Prime Minister for Digital Government) (15:17): I am tempted to just point to someone wearing a pink tie over on the other side, but I know that is something that Senator Scullion will certainly be embracing. That is just one example of the turnaround of the NBN under this government.

Senator Conroy interjecting—

Senator FIFIELD: so I had better make it clear that 'Senator Conroy' is the primary answer to Senator Smith's question. And I think even those opposite know that if Labor did come back into government, as much as we like Jason Clare—and we genuinely do on this side—it would actually be Senator Conroy with his hands on the levers. I think that is something that not only those of us on this side but many on the other side might be more than a little concerned about.

Under our watch, the Northern Territory will be fully networked with the NBN in around 18 months time. By contrast, in built-up areas there were only 322 premises capable of getting broadband services on the network under six years of Labor.
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:18): Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator DASTYARI (New South Wales) (15:19): I move:

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

We heard an extraordinary answer today from the Minister for Education and Training, Senator Birmingham, who came to this chamber and said in question time that not only is *The Australian* newspaper wrong—something I find hard to believe—but also that the Australian Childcare Alliance is wrong and that the Community Child Care Association is also wrong. Here is a minister who will have to come back at some point soon and, I suspect, eat his own words on this matter.

Let us be clear on what the government's position is, because some people may not have followed this as closely as others. There was a story in *The Australian* today that the government plans to force childcare centres to bill by the hour. The minister's response appears to be: 'We're not forcing anybody to do anything. We're going to put in place an incentive structure to encourage them to do that.' How they encourage them to do that and how onerous those encouragements are is yet to be seen, and hopefully we will be seeing shortly. But the simple fact is that the minister is looking at fundamentally changing, fundamentally reforming and fundamentally tearing apart child care and how these childcare centres operate. That is why the Australian Childcare Alliance has come out and said quite strongly that if they charge by the hour there will be a higher cost. There will be a higher cost because there will be a cross-subsidisation that will be taking place, and that is why we have had the Community Child Care Association say that a move to short-session billing would make child care less affordable for all families and exclude those who could not afford the increase completely and would potentially lead to the closure of some services in some areas.

The concern here is that prices are going to rise if these reforms are undertaken. The concern is that those who have existing places may lose some of those places, that some childcare centres may be forced to close and that some of those people who are most vulnerable, who struggle as it is to find spaces in child care, are not going to find them. These are real concerns and, frankly, a glib approach dismissing some of the key experts in this area I do not believe is an appropriate approach from this government.

We anticipate that in coming weeks—and we have been waiting a while now—we are going to see some of the details of the proposal that is going to be put forward by this government. It is being eagerly awaited by the entire sector, but I am worried and concerned when looking at the rhetoric that has been said today, and at what has been said so far by the minister, that there is no disadvantage test to be applied. I think that, frankly, if there were a proper no-disadvantage test to make sure that no childcare centre is disadvantaged, to make sure that no individual child with an existing space is disadvantaged and that, finally, no potential future child is disadvantaged from these reforms, it would go a long way to
providing reassurance to the industry and also to families out there that they are not going to suffer as a result of these proposed reforms.

There are some other key issues that need to be explored as part of this debate. One is the changes proposed to reduce access to early-childhood education from 24 hours a week to 12 hours a week and what that is going to do not only to access but also to some of the hardest working but lowest paid workers in Australia. The fact is that the minister so far has never been able to guarantee that moving to hourly charging will not disadvantage the educators or lead to the casualisation of the educator workforce. There are big issues here. This is an important area of public policy. There is a big debate that needs to be had here; and, frankly, a glib approach to what is a fundamental area of policy is not what this nation needs and not what this Senate should accept.

Senator BACK (Western Australia) (15:24): In responding to the question asked by Senator McAllister of the defence minister, Senator Payne, I must put on my hat from previous days as chief executive officer of the bushfires board of Western Australia because I do have a level of familiarity with surfactants or suppressants. In fact, what Ms Alison Clifton said in Senate estimates was correct: it is not possible to remove the elements of that suppressant without disrupting the base at RAAF Williamtown. The reason simply is that most of that material would be either adjacent to or, indeed, possibly under the main runways or some of the buildings. The minister's response was that the residual contamination or contaminant does not break down. That is correct; it does not. It remains in an inert fashion when it is dry. It is only when it is rehydrated that the issue becomes a problem. The minister eloquently responded in her comment that the run-off of water from the base is under management. That is when the suppressant can be contained and removed. It is the case that, whilst that particular product is there, stable, not breaking down and dry, it is not at risk.

I now go with a great degree of pleasure to the commentary of Senator Dastyari in his questions of Minister Birmingham. It reminded me of his incompetence when he was the secretary of the New South Wales Labor Party and he spent all of the resources of the Labor Party in New South Wales at that time to keep Mr Craig Thomson in parliament in the other place, spending the funds on his legal costs to the extent, if I recall—and Senator Bernardi will correct me if I am wrong—that he actually had to borrow from another union to pay the wages and salaries of those in his own office.

Where Senator Dastyari went wrong—even in his quote of The Australian newspaper—was making comments like 'the childcare alliance, if it became compulsory' or 'if parties were forced to change to charge by the hour'. Senator Birmingham made it very clear in this place that there is absolutely no compulsion on anybody to move towards compulsory charging by the hour. Whoever it was that Senator Dastyari quoted, assuring us that it would be the end of the world as we know it and it would be an inevitable increase in costs, must surely be from the same school of economics as Senator Dastyari himself. The minister said there is no compulsion at all for the providers of childcare services to change. But how flexible it will be—in fact, how nimble it will be—for those providers in different areas. I speak particularly of rural areas of Australia, in which you know I have a very keen interest. That is the opportunity to offer a service for four to six hours a day rather than someone being charged for eight to 10 hours a day. Let us just imagine how improved a service that will be to families.
Senator Birmingham was kind enough to tell us about the $40 billion being spent in the sector and an additional $3.5 billion to make the whole system more affordable, to use his words, more flexible and simpler—to move from three different systems down to one simplified childcare subsidy.

In the few minutes left to me I cannot avoid the opportunity to respond to Senator Carr's question of Senator Birmingham. It is absolutely wonderful that in doing so he pointed out the absolute failure of the VET FEE-HELP system as it was introduced by the Labor government. I was actually chair of the Senate Education, Employment and Workplace Relations References Committee at the time. Deputy President, I think you may have been chair of the legislation committee. I vividly recall warning the then Labor government of all of the problems that Senator Birmingham is now being forced to solve. Senator Carr's question was, 'Well, you've been in for two years; why haven't you solved them?' How many years did it take the Howard-Costello government to solve the problems of Hawke and Keating? Now he is asking if in only two years we have solved the problems of the then Labor government. Senator Birmingham answered why the ACCC is involved. I thank Senator Carr for the opportunity.

Senator LINES (Western Australia) (15:29): I too rise to take note of answers given by Senator Birmingham to Labor's questions on early childhood education and care. It is very evident from the answers that Senator Birmingham gave today that those opposite know nothing about the early childhood sector in Australia. Not once did I hear the word 'quality'. Not once did I hear about the significant benefits that the early childhood sector provides to young Australians. Not once did I hear about the academic or science based evidence out there that good-quality early childhood services enable children to get a head start in life, really follow through, get familiar with what school is about and increase their brain development. Not once did I hear that. We heard about business models and we heard about markets, but we did not hear about quality.

Those opposite have never accepted the amazing reforms that Labor made, which go to quality, ratios and well-trained educators. What did those opposite do when they were first in government? They took away the package that Labor had put together to increase the wages of early childhood educators. What is happening—and it has got worse under those opposite—is that 30 educators leave the early childhood sector every week because they cannot afford to stay. Those opposite now want to casualise the early childhood industry. Where are the educators going to come from? They cannot afford to stay there now on full-time wages; heaven knows how they will be able to stay in the industry if they earn for two or three hours a day. Those opposite are kidding themselves. Where is this sea of educators coming from? Are we going to import more foreign workers—is that the answer to their question? Is that how they are going to do it—by dumbing down the early childhood sector and not promoting Australian jobs? Make no mistake, what we heard today from Senator Birmingham was all about flexibility. Even Gwynn Bridge from the Australian Childcare Alliance, mates of those opposite, is criticising them. Even she is saying that this model is not going to work.

I saw one of the responses on The Australian's feed today. Someone had said, 'The fee is $110 a day, so that will make child care $10 an hour.' What a ludicrous suggestion—to think that you can provide quality care, quality education and quality educators for $10 an hour. It
will not get cheaper. You will have to load up a casualised rate because you have to provide
good-quality educators across the whole day, and even though they are low paid they are still
a significant cost to an operator. We did not hear anything about the word 'quality' today.

I put the minister on notice after his answer to the first question. He answered two
supplementary questions where he could have quickly thought, 'I didn't mention quality.'
No—he continued to talk about market opportunity and business opportunity. This is about
children, from very young babies up to the age of six. It completely goes over the heads of
those opposite. This notion, to casualise early childhood care in this country, will be a
backward step. All of those good-quality reforms and all of the work that Labor did on
ensuring proper ratios will go out of the window. When the biggest private for-profit operator
in the country says, 'This is not going to work,' they should sit up and listen. The ACA was
one of the organisations that continued to oppose the quality reforms Labor put in place, and
now it is opposing the casualisation of the sector. Who is calling for one or two hours of care
a week? Nobody that I have heard. The government has made the activity test so hard for
parents at home that they will not be able to use it either.

The fact is that there are already not enough early childhood services out there now, and
the government are proposing to create some kind of new business model, devoid of quality
and devoid of quality educators, to casualise an industry that is already in trouble. They say
that it is going to reduce costs. What absolute nonsense! The Turnbull government are
completely out of touch with quality early childhood education and care.

Senator BERNARDI (South Australia) (15:34): It gives me no pleasure to follow on from
Senator Lines, but I do have to respond to what is a manufactured scare campaign by Senator
Lines and her ilk on the other side of the chamber. I would make this point: when a senator
walks into this chamber and does not have a hook to hang their hat on, they make stuff up.
We have seen the race button pushed today by Senator Lines in a grubby display of
xenophobia, in which she said that we are going to import foreign childcare workers, in an
attempt to whip up some hysteria about something that has not even occurred yet. Of course,
those on the other side have a sudden, new-found appreciation for the reporting of *The
Australian*, which, when they were in government, they denoted as the hate media. They used
to mock anyone who quoted from it. That shows you just how shallow and removed from
reality they have become.

I would rather turn my attention to the important factual matters attached to protecting the
long-term safeguards for the black-throated finch habitat and to preserving the ornamental
snake and the yakka skink and making sure that they are in a protected area. That is what this
government has done in going through the approval for the Adani coalmine in Queensland, a
matter which has been widely approved of, agreed to and celebrated by the people of
Queensland, including the Labor minister for mines, Anthony Lynham. In going through the
approval process for that coalmine, there was the protection of 31,000 hectares of habitat that
is important to the black-throated finch. On the other side, they may not think the black-
throated finch is important, but I do. Similarly, I think the ornamental snake is absolutely
important. One of the environmental processes that had to be met was that there were strong
habitat protections for the ornamental snake. One hundred and thirty five hectares of habitat
has been protected for that snake. I congratulate this government for taking into account not
only the importance of coalmining for the Australian people, our export industry and the coalmining workers but also the environmental protections for the ornamental snake.

Similarly, it would be remiss of me not to mention the protections for the yakka skink, with which you would be familiar, Mr Deputy President. The yakka skink is important to protect for many reasons but there are 5,600 hectares of protected area for the yakka skink. These are important, because we have taken conservation advice. It just goes to show that we can walk and chew gum at the same time, unlike those on the other side of the chamber. We have put in place a circumstance where we have a large coalmine that has comprehensively guaranteed work, exports, employment and the economy while also putting in place these strong environmental protections.

I think that is an outstanding win-win. But what do we hear from the other side? Do we hear any praise at all for this government? Of course not—because that would be too bipartisan and it would mean we are working cooperatively to get positive outcomes for Australia. It is not just the fact that they do not care about the black throated finch or the ornamental snake. I have not heard one of them talk about the ornamental snake in my whole time here—or the yakka skink for that matter. Where are they when the yakka skink comes up? They are silent. It is a disgrace! They want to whinge, carp and whine but they will not stand up for our native habitat—and that is an environmental embarrassment for the Labor Party. Although they are not prepared to stand up for those who cannot speak for themselves, they are willing to manufacture scare campaigns to alarm people in important industries in this country. I say to those on the other side: reject the politics of fear, reject the vile xenophobic reactions that some of you will seek to play on, and look at the positives for both sides of the equation. We have got to balance our environment with the economy and balance work with flexibility. These are the challenges for the new millennium. (Time expired)

Senator McALLISTER (New South Wales) (15:39): I am almost lost for words! I rise to take note of all answers to questions from Labor senators but I want to focus my remarks on the answers provided by Minister Payne in response to my questions about the Williamtown RAAF base and the pollution issue facing residents there. Minister Payne, in a rather shocking shutdown of her colleague in the other place the member for Paterson, said that the metaphors he used about ‘a leaky boat’ were not metaphors that she would use. I have bad news for the minister: the member for Paterson appears to be a master of the metaphor. The article in the Newcastle Herald from which the first metaphor was drawn is worth a look. It includes this gem:

If you were a petrol station leaking oils and pollutants from your site, the EPA would be all over you like a … kid in a candy shop.

That, of course, speaks to the lack of action on this issue. He went on to say—and here we go with another metaphor:

The state government and federal government need to work better in their arrangements so the left hand knows what the right hand is doing.

He is a master of the metaphor, and it would be funny if it were not actually such a serious issue. Since 4 September this year, residents around Williamtown RAAF base have been told to avoid drinking bore water. They have been told not to eat fish from that place and not to eat the eggs produced by the chickens in their backyards. That is a pretty frightening prospect for residents. I think everyone in this place understands that, when something like this happens,
we need to approach it seriously and methodically. It is not something that ought to be the subject of scare campaigns and we ought not to make residents unnecessarily fearful. But it is the case that residents in this local area up in the Hunter are demanding clear answers from the Department of Defence, from the minister and from the New South Wales EPA.

In the last week we have seen news reports suggesting that there is a disturbing lack of clarity for residents about the proposed pathway to deal with what is emerging as a very serious problem in this area. The state member for Port Stephens, Kate Washington, has said that there is an ongoing disconnect between state agencies and Defence and a disconnect between Defence and the community. The community does not know what is happening. They are waiting for more information. They feel that information is being withheld from them—and, on all the evidence, it seems that it is. They are desperate to know whether they are safe in their own situation. They also desperate to know what will become of their livelihoods. Since September the state government has suspended oyster harvesting and fishing. On 27 October the state government announced there would be an additional closure of at least another eight months. There are families in that region who are absolutely dependent on fishing and oyster harvesting for their weekly incomes.

Finally, after a very long wait, a package has been announced to support people in that area. A local fisherman, Jason Hewitt, has been quoted as saying that a lot of people will go under by the end of the eight-month ban if this is all they can offer. We are talking about a regional community faced with a most serious pollution question that has existential consequences for them. Unfortunately, we are not seeing a coordinated response between the minister, her departmental staff at estimates hearings and the minister's New South Wales state government counterparts.

Fortunately, residents in this area can rely on the Labor MPs who are constantly raising these issues. My friend in the other place the member for Newcastle has made representations on behalf of local residents. She has sought briefings from the minister. She has convened community meetings in the Williamtown area. She has participated in the elected representatives reference group. She is working with colleagues in this place to ask the right questions to get the information for local residents so that they can have the information that they need to make plans for their families' financial security and health.

Question agreed to.

**Climate Change**

**Senator WATERS** (Queensland—Co-Deputy Leader of the Australian Greens) (15:44): I move:

That the Senate take note of the answer given by the Attorney-General (Senator Brandis) to a question without notice asked by Senator Waters today relating to climate change.

I rise to take note of the answer given by Senator Brandis, in relation to my question about the Paris climate conference. I found it hard to take Senator Brandis seriously—unfortunately, it is not a problem he suffers from, himself—because I asked him: 'How can you, in all seriousness, claim to commit to reducing global warming and keep it within that two-degree guardrail that the Prime Minister has said, "That's what we want to do in Paris," and yet approve the Southern Hemisphere's largest coal mine?'
I asked him how that could possibly add up. We have added it up and we have done the figures. The emissions from that one mine, the Adani Carmichael coalmine proposed for Central Queensland—if anyone will finance them, which no-one will as yet; 15 banks have said they will not touch it—if it were to go ahead, would produce 100 times the carbon pollution that this government spent half a billion dollars abating with the second Direct Action option. They have just wiped out half a billion dollars worth of the abatement, 100 times over, by approving this coalmine. I do not understand. They have also produced the same amount of carbon pollution that the entire European Union does, in one year, by approving this coalmine.

If you look at the figures another way, they have wiped out three times over, each year, their pathetic five per cent carbon pollution reduction target. Hence my question: how on earth could you possibly conceive of entering those climate discussions with any credibility after having just approved the Southern Hemisphere's largest coal mine? I got the usual lecture from Senator Brandis. We have had this exchange several times now. He continues to not address the facts. He said, 'This is going to create up to 10,000 jobs,' when the company themselves have admitted, in court: 'We kind of exaggerated. Actually, it is only going to be 1,464—soz.' Perhaps that has not reached Senator Brandis yet, despite the fact that I have mentioned it to him a few times and it is on the court transcripts.

He then claimed that this coal will reduce energy poverty in India. Again, he neglected to mention the fact that 80 per cent of rural India does not have an electricity grid. They could not access the electricity from this coal even if they could afford it. He failed to mention Australian coal was the most expensive domestic Indian energy option. He also neglected to mention that coal particulates are killing people in India in vast numbers. No, we are to accept that he is incredibly concerned about energy poverty, with a solution that will not help people and will kill them.

What he also fails to realise is that what is required—and what is already happening in India—is that fantastic transition to local distributed renewable energy, solar. In Senator Brandis's world there is only a choice between cow poo and coal. He seems to have neglected to realise that the sun rises every morning and there are a plethora of other clean energy options for rural India—and for Australia, for that matter. I asked him, given that the laws of physics show that burning coal is not really good for people's health and is not so great for the climate, how on earth he is the continuing—as the Prime Minister did at the weekend in his discussions with China—to lobby and spruik Australia's coal to be fast-tracked through China's new coal energy standards.

I got the same rant about our coal being so much cleaner—never mind the fact that it is still killing people, it is massively dirty, it is expensive, they cannot access this energy and renewables are the answer, which we could be helping with. He is so concerned about energy poverty that when I asked him: 'Are you going to cough up the money, now that we are the co-chair of the Green Climate Fund, and stump up Australia's fair share of what developing nations need to both mitigate and adapt to the climate impacts that are locked into the system?' If you are that concerned about energy poverty, surely you are going to increase the contribution,' the answer was 'No, of course not.' It is all just rhetoric.

There is not going to be any additional money, according to Senator Brandis, despite the fact that Australia's fair share would be about $400 million a year, over the next four years, to
help our Pacific Island neighbours not go under water. No, that is too much for Senator Brandis. He is going to stick with the $200 million that we proffered at the Lima climate talks, when nobody would talk to us until we put some money on the table. My favourite quote from Senator Brandis is: 'Adani’s coalmine will cut pollution.' There you have it. Opening up the Southern Hemisphere's largest coalmine, in the minds of the government, will cut carbon pollution. *(Time expired)*

Question agreed to.

**PETITIONS**

**The Clerk:** Petitions have been lodged for presentation as follows:

**Asylum Seeker Children**

To the Honourable President and members of the Senate in Parliament assembled:

This petition of Grandmothers Against Detention of Refugee Children draws the attention of the Senate to the prolonged and inhumane detention of minors under eighteen in detention centres that causes them significant mental and physical illness and developmental delay and that is in breach of Australia's international obligations.

We therefore ask the Senate to act immediately to investigate past and current policies and practices with regards to refugee and asylum seeking minors and to support freeing all minors in detention and their families into the Australian community.

by Senator Rice (from 2550 citizens).

**NOTICES**

**Presentation**

**Senators Brown, Moore and Siewert** to move:

That the Senate—

(a) notes that:

(i) throughout Australia, there are tens of thousands of children being raised by their grandparents,

(ii) these grandparents play a significant role in the lives of the grandchildren for whom they care,

(iii) the circumstances of these grandparents, as well as the grandchildren, entail significant challenges that are severely affecting the quality of life for grandparent-headed families,

(iv) it has been over a year since the Community Affairs References Committee tabled its report, *Grandparents who take primary responsibility for raising their grandchildren*, on 29 October 2014, and

(v) the Government is yet to respond to the report; and

(b) calls on the Government to respond to the report and its recommendations.

**Senator Smith** to move:

That the Joint Select Committee on Northern Australia be authorised to hold private meetings otherwise than in accordance with standing order 33(1), during the sittings of the Senate, as follows:

(a) Tuesday, 2 February 2016;

(b) Tuesday, 23 February 2016;

(c) Tuesday, 1 March 2016; and

(d) Tuesday, 15 March 2016.
Senator Smith to move:

That the Joint Select Committee on Trade and Investment Growth be authorised to hold private meetings otherwise than in accordance with standing order 33(1), during the sittings of the Senate, as follows:

(a) Thursday, 4 February 2016;
(b) Thursday, 25 February 2016;
(c) Thursday, 3 March 2016; and
(d) Thursday, 17 March 2016.

Senator Singh to move:

That the Senate—

(a) notes that:

(i) 14 November was World Diabetes Day,
(ii) there are 1.1 million diagnosed cases of diabetes in Australia and this is rising by 100 000 a year,
(iii) Diabetes Australia estimates that:

(A) diabetes currently costs the Australian economy around $14.6 billion per annum, and
(B) the cost of diabetes to the Australian economy is forecast to increase to $30 billion by 2025,

(iv) Australia needs a stronger response to the challenge of diabetes, and
(v) there is evidence that:

(A) the onset of type 2 diabetes can be successfully prevented, and
(B) serious complications and hospitalisations from diabetes can be prevented; and

(b) commits to working towards reducing the impact of diabetes on the lives of Australians.

Senator Collins to move:

That, for the purposes of its inquiry into the matters referred on 10 November 2015, the Committee of Privileges have power to consider and use the minutes of evidence and records of the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru appointed on 26 March 2015 and reappointed on 10 August 2015.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) former Newcastle Lord Mayor and developer, Mr Jeff McCloy, lost his High Court case to overturn a New South Wales law banning developers from making political donations,

(ii) in its finding on the case, the High Court identified a more subtle kind of corruption known as clientelism, which is where officeholders will decide issues not on the merits or the desires of their constituencies, but according to the wishes of those who have made large financial contributions valued by the officeholder,

(iii) the High Court also stated that the particular concern is that reliance by political candidates on private patronage may, over time, become so necessary as to sap the vitality, as well as the integrity, of the political branches of government, and

(iv) in dealing with solutions, the High Court found that, unlike straight cash-for-votes transactions, such corruption is neither easily detected nor practical to criminalise, and the best means of prevention is to identify and to remove the temptation; and
(b) calls on the Government to:
   (i) ban political donations to parties and candidates from for-profit corporations, and
   (ii) establish an independent agency, similar to the New South Wales Independent Commission Against Corruption, which works to expose corruption and enhance integrity at the federal level.

**Senator Whish-Wilson** to move:

That the Small Pelagic Fishery (Closures Variation) Direction No. 1 2015, made under subsection 41A(3) of the *Fisheries Management Act 1991*, be disallowed [F2015L01450].

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

**Senator Waters** to move:

That the Senate—

(a) notes:
   (i) the Victorian National Party’s announcement in early 2015 that they ‘support landowners having the right to say no to coal seam gas extraction activity on their land’;
   (ii) comments by the Leader of the Nationals and Minister for Infrastructure and Regional Development, Mr Truss MP, that farmers should have the right to say yes or no to coal seam gas exploration and extraction on their property;
   (iii) comments by:
      (A) the Deputy Leader of the Nationals and Minister for Agriculture and Water Resources, Mr Joyce MP, and
      (B) the Deputy Leader of the Nationals in the Senate and Minister for Rural Health, Senator Nash, supporting a right for farmers to say no to coal seam gas activity on their land,
   (iv) reports that:
      (A) the Assistant Minister to the Deputy Prime Minister, Mr McCormack MP, and
      (B) Mr Broad MP, and Senators McKenzie, Williams and Canavan, support the right of farmers to say no to coal seam gas activity on their land; and
(b) agrees that landowners should have the right to say no to coal seam gas activity on their land.

**Senators Canavan, Macdonald and Lindgren** to move:

That the following matter be referred to the Economics References Committee for inquiry and report by 31 March 2016:

1. The development of the bauxite resources near Aurukun in Cape York, with particular reference to:
   (a) the economic development of the bauxite resources near Aurukun in Cape York;
   (b) any issues relating to native title rights and interests on the land on which these resources are located;
   (c) the process for the finalisation of an exclusive Mineral Development Licence Application on this land;
   (d) any opportunities for traditional owners to receive ongoing benefit from the resources located on this land; and
   (e) any other related matter.
Senator Ludlam to move:
That the Senate—
(a) notes:
(i) the disaster at the Samarco iron ore mine, owned by BHP and Vale, which claimed the lives of twelve people with 22 still missing, left thousands homeless, and has left 280,000 without drinking water,
(ii) comments by the Brazilian Minister of the Environment, Ms Izabella Teixeira, describing this as ‘the worst environmental disaster in Brazil’s history’,
(iii) the emergence of an independent report from 2013 warning of major design flaws in the waste stockpile and tailings dam which was not included in the application or the granting of a licence to Samarco,
(iv) that the pollution from the disaster has contaminated one of Brazil’s most important river systems, the Rio Doce, and
(v) that estimates of the cost of the clean-up range from US$1 billion to US$27 billion;
(b) offers its deepest condolences to the people of Bento Rodrigues, neighbouring communities, and downstream communities in Brazil affected by the disaster;
(c) calls on BHP and all Australian corporations active around the world to uphold local environmental laws and respect human rights; and
(d) supports adequate compensation for affected communities which should be paid by the owners of the Samarco mine.

BUSINESS
Rearrangement

Senator Ryan (Victoria—Assistant Cabinet Secretary) (15:50): I move:
That the following general business orders of the day be considered on Thursday, 26 November 2015 under consideration of private senators’ bills:
No. 63 Freedom of Information Amendment (Requests and Reasons) Bill 2015
No. 41 Mining Subsidies Legislation Amendment (Raising Revenue) Bill 2014.
Question agreed to.

Leave of Absence

Senator Bushby (Tasmania—Chief Government Whip in the Senate) (15:50): by leave—I move:
That leave of absence be granted to the following senators for personal reasons:
(a) Senator Abetz for today; and
(b) Senator Cash from 23 November to 26 November 2015.
Question agreed to.

COMMITTEES
Joint Standing Committee on National Capital and External Territories
Meeting

Senator Bushby (Tasmania—Chief Government Whip in the Senate) (15:51): by leave—I move:
That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate today, from 4 pm, to take evidence for the committee’s inquiry into the governance in the Indian Ocean Territories.

Question agreed to.

BUSINESS

Leave of Absence

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:51): by leave—I move:

That leave of absence be granted to Senator Gallacher for 24 November 2015, for personal reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Hanson-Young for today, proposing the disallowance of the Child Care Benefit (Children in respect of whom no-one is eligible) Determination 2015, postponed till 3 December 2015.

Business of the Senate notice of motion no. 2 standing in the name of Senator Whish-Wilson for today, proposing a reference to the Economics References Committee, postponed till 25 November 2015.

General business notice of motion no. 854 standing in the name of Senator Muir for today, relating to the theft and export of Australian motor vehicles, postponed till 24 November 2015.

General business notice of motion no. 911 standing in the name of Senator Hanson-Young for today, proposing the introduction of the Migration Amendment (Free the Children) Bill 2015, postponed till 30 November 2015.

General business notice of motion no. 929 standing in the name of Senator Siewert for today, relating to the New South Wales Custody Notification Service, postponed till 30 November 2015.

General business notice of motion no. 933 standing in the name of Senator Xenophon for today, proposing the introduction of the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015, postponed till 24 November 2015.

COMMITTEES

Reporting Date

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

Economics References Committee—
credit card interest rates—extended from 24 November to 3 December 2015.
Australia's innovation system—extended from 25 November to 15 December 2015.
corporate tax avoidance—extended from 30 November 2015 to 26 February 2016.
non-conforming building products—extended from 3 December 2015 to 16 March 2016.

Foreign Affairs, Defence and Trade References Committee—Australia’s bilateral aid program in Papua New Guinea—extended from 26 November 2015 to 29 February 2016.
Legal and Constitutional Affairs References Committee—
residential fire safety—extended from 3 December 2015 to 16 March 2016.

Commonwealth payments relating to asylum seeker boat turn backs—extended from 4 February to 15 March 2016.

**The DEPUTY PRESIDENT** (15:53): Does any senator require the question to be put separately on any of those proposals? There being no such request, I shall proceed to the discovery of formal business.

**MOTIONS**

**Government Advertising: Regional and Community Media**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (15:54): Prior to moving general business notice of motion No. 915 standing in my name, I seek leave to add the names of Senators Ludlam and Muir to the motion.

Leave granted.

**Senator McEWEN**: I, and also on behalf of Senators Ludlam and Muir, move:

That the Senate—

(a) notes that regional and community:

(i) newspapers service 36 per cent, or over 8 million, Australians who do not live in a capital city,

(ii) newspaper media continue to be a trusted source of local information in country communities, and

(iii) media is frequently overlooked for Federal Government advertising campaigns;

(b) calls on the Government to ensure that federal media advertising campaigns extend to regional Australia; and

(c) calls on the Government to ensure that regional and community media receive its fair share of campaign advertising from the Federal Government.

Question agreed to.

**Climate Change**

**Senator McALLISTER** (New South Wales) (15:55): I move:

That the Senate—

(a) notes that;

(i) in December 2015, leaders from across the globe will meet in Paris to determine the way forward to address climate change, and

(ii) People’s Climate Marches are:

(A) being organised in hundreds of cities around the world on the last weekend of November 2015 to send a message to world leaders that strong action on climate change is necessary and possible, and

(B) scheduled to take place that weekend in Melbourne, Sydney, Brisbane, Adelaide, Perth, Canberra, Hobart and Cairns;

(b) applauds the organisers and participants of the marches both overseas and in Australia for their commitment and efforts; and

(c) endorses the message that Australia can, and should, do more to address climate change.

**Senator RYAN** (Victoria—Assistant Cabinet Secretary) (15:55): Mr Deputy President, I seek leave to make a one-minute statement.

Leave granted.
Senator RYAN: The government is taking a strong, credible and responsible approach to addressing climate change through policies which actually reduce Australia's emissions without a reckless carbon tax that punishes Australian families and businesses. The Emissions Reduction Fund actually reduces emissions—92 million tonnes in the first and second round ERF auctions. Unlike other countries, when Australia announces a target, we meet it. We beat our first Kyoto target and we are on track to meet and beat our 2020 target. We will reduce our greenhouse emissions by 26 to 28 per cent by 2030 from 2005 levels. Per capita emissions will be up to 52 per cent lower—the largest drop of any developed country. This is a strong, credible and responsible target. Australia is engaging constructively in international processes to finalise a new global climate change agreement at the December 2015 Paris conference. We are confident that Paris will deliver a strong global commitment involving action by all countries to help achieve the two-degrees goal.

Question agreed to.

United Nations Security Council Resolution 1325

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (15:56): I, and also on behalf of Senator Moore move:

That the Senate—

(a) celebrates the 15th anniversary of the United Nations Security Council Resolution 1325 on Women, Peace and Security (UNSCR 1325);
(b) recognises that women and girls are disproportionately affected by armed conflict, and that women's participation in peace processes is vital to international peace and security;
(c) notes the inadequate implementation of UNSCR 1325 internationally, despite repeated commitments from parties to the resolution;
(d) calls:
   (i) for the prioritisation of 'women, peace and security' programming in Australian aid delivery, and
   (ii) on the Australian Government to update the Senate on concrete actions it has taken to implement UNSCR 1325; and
(c) notes the current independent interim review of the Australian National Action Plan on Women, Peace and Security 2012-18.

Senator RYAN (Victoria—Assistant Cabinet Secretary) (15:56): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator RYAN: The Australian government recognises that women and girls are disproportionately affected by armed conflict and that women's participation in peace processes is vital to international peace and security. We are committed to supporting the women, peace and security agenda, having recently announced a package of assistance at the UN Security Council's high-level review on women, peace and security in October. Our pledges support a key priority announced during our term on the UN Security Council and build on the government's gender equality agenda, including our National Action Plan on Women, Peace And Security. We will provide the additional $4 million over three years to the Global Acceleration Instrument on Women, Peace and Security and Humanitarian Engagement. We were pleased to be the first country to earmark funding for the GAI, which will address the current financing gap, improve the timeliness of investments and invest in
strengthening the capacities of grassroots women's organisations. Australia will also support new research by Monash University on how women are countering violent extremism in their communities and internationally, including preventing extremism, and identifying early warning signs. We have also dedicated $7 million to address sexual and gender based violence as part of our overall commitment of $59 million over the last 12 months in response to the Syrian crisis.

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (15:58): I seek leave to seek from Senator Ryan—and I can make a few brief comments on why the Australian Greens, with the support of Senator Moore, have brought this forward—whether Senator Ryan put that statement on the record because the government intends to oppose the motion or whether the government is supporting it; I just seek some clarification, if I may.

The DEPUTY PRESIDENT: We will find out when I put the question, I suppose, Senator Ludlam. I do not want to encourage a debate in this particular area, but Senator Ryan will indicate shortly. So the question is that general business notice of motion No. 909 be agreed to.

Question agreed to.

Employment: Older Australians' Workforce Participation

Senator DAY (South Australia) (15:59): I, and also on behalf of Senators Lazarus, Leyonhjelm and Wang, move:

That the Senate—
(a) recognises the untapped potential of Australians over the age of 65;
(b) notes that Australia ranks 13th in the Organisation for Economic Co-operation and Development [OECD] for workforce participation of people aged over 65;
(c) acknowledges that raising mature age workforce participation will add tens of billions of dollars to Australia's gross domestic product; and
(d) in the national interest, calls on the Government to remove the barriers and obstacles to the workforce participation of older Australians.

I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator DAY: The barriers and obstacles to older people participating in the workforce are substantial. That is why Australia ranks 13th in the OECD for workforce participation of people over 65, at just 12.3 per cent, compared to Iceland, Korea, Mexico, Chile, New Zealand, Japan and Estonia, which are all over 20 per cent. Senior Australians are banned from topping up their superannuation after 70 years of age. They start losing their age pension once they earn over $162 a fortnight, or $288 for couples. At $700 a fortnight, they start paying tax. At $2,010 a fortnight, they lose their seniors health card and their PBS subsidised medicines. Job seeker workplace and insurance discrimination also remain unaddressed. In all this, yet, senior Australians are banned from arranging work on terms and conditions that would suit their circumstances.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:00): Mr Deputy President, I seek leave to make a short statement.
The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: The Greens will be supporting this motion because we do believe that there are barriers to older people being able to access the workforce and being able to work. However, we do not necessarily agree with all of the statements that Senator Day just made. We do note that older Australians are increasingly making up the highest proportion of long-term unemployed and that they are suffering from age discrimination. There are issues about workplace compensation and there are issues around being able to access adequate training as an older Australian. The Willing Older Workers, a group working with older unemployed Australians, has given very compelling evidence about the barriers that older people face in trying to gain access to work in Australia. That is the reason we will be supporting this motion.

Question agreed to.

Health and Wellbeing

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (16:01): I move:

That the Senate notes that:

(a) it is not the role of government to tell people what to eat and that individuals have a responsibility for their own health and wellbeing;

(b) a key to improving the health of Australians is by helping them make healthier choices about their food;

(c) actions such as the new Healthy Food Partnership, the voluntary Health Star Rating system and the Sporting Schools Initiative will tackle obesity and encourage healthy eating through educating consumers about fresh produce and appropriate portion sizes; and

(d) heavy handed government intervention through taxes and bans will only limit a person's choice and not improve long term results through increased individual responsibility.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (16:02): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator DI NATALE: Through you, Mr Deputy President, the motions coming from Senator Canavan are starting to become a little embarrassing. Here we have Senator Canavan wanting to take us to where China was during the berries scandal. What we want, according to Senator Canavan, is not for the government to intervene in our daily lives. We want people to be able to eat what they want, when they want it, without the heavy-handed intervention of government. Really, this stuff is starting to become embarrassing. What next? Are we going to allow smoking advertising back on the TV? Why don't we have that? What about billboards? Let's bring the Benson & Hedges billboards back to the MCG. Come on, let's do that! What about alcohol advertising? Why don't we advertise VB and Bundy during Sesame Street, Senator Canavan? This stuff—really! We are wasting our time again?

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (16:03): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator CANAVAN: I seek leave because I have two confessions to make. My first confession is that I have only just learnt from the Greens with regard to the motions I put
forward. I have long been a student of the motions that the Greens have put forward in this chamber over many years. I remember one day they moved a motion in support of Go Home On Time Day—a motion that held us back from going home from work on time. They moved that motion. When they accuse other senators of moving frivolous and vexatious motions, I take it as a great compliment.

My second confession is that sometimes I do like to eat a Quarter Pounder or a Big Mac or a pepperoni pizza. I confess that. As you can probably tell from looking at me, sometimes I give in to those desires and eat those particular products—and I do not think that is a bad thing. The coalition does not think that is necessarily a bad thing in moderation. It is completely different from smoking tobacco—that is ridiculous—because people can enjoy themselves without killing themselves and without the Greens overseeing every meal they have.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Arts Funding

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (16:04): A letter has been received from Senator Moore:

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

The attack on arms-length peer-reviewed arts funding presented by the Abbott-Turnbull Government's ministerial arts slush fund.

Is the proposal supported?

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

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

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (16:05): The dumping of Senator Brandis from the arts portfolio was the perfect opportunity for this government to dump its disastrous thought bubble of an arts policy. The National Program for Excellence in the Arts, the NPEA, was universally rejected by the arts community, and it was rejected for a number of very good reasons. Firstly, the policy was not evidence backed; it was not created in response to change. It was announced on the whim of the failed arts minister, Senator Brandis. Secondly, it was developed without any consultation with the arts sector or, sadly, even a basic understanding of how the arts sector works. Consequently, it has caused a large amount of fear and uncertainty in the Australian arts community and has led to organisations collapsing. Thirdly, the new program goes against the widely held and highly respected principle of arms-length funding for the arts.

The Australia Council has worked hard for over 40 years to develop a world's-best arms-length funding model that is the envy of the world. But, instead of dumping the NPEA, the government have rebranded and relaunched it as Catalyst. It is basically the same policy, but
now they have covered it in glitter. The government has stolen the title from a Western Australian community arts fund and instead of focussing on some undefined notion of 'excellence', as we had with the NPEA, Catalyst now focuses on some undefined notion of 'innovation'. Presumably this is to make the policy sound 'cutting-edge' rather than 'elitist' like the NPEA did.

So, let us compare the old fund with the new. Is there any new funding for the arts sector? No, there is still no new funding. Will individuals be able to get funding? No, individuals are not able to apply for Catalyst funding. Is it evidence-backed policy? No. Can organisations use funding under the new program for operational funding? No, they cannot. Will the Australia Council have less money for grants than previously? Yes, the Australia Council will indeed have less money for grants than it did before the NPEA was announced. Finally, does the minister still get to make the decision about which organisations and projects get funding? Yes, Minister Fifield gets to make the final decision about funding under the Catalyst program.

It is quite clear that Catalyst is just a government slush fund and that this government does not believe in arm's-length arts funding. Former arts minister Brandis saw himself as a modern-day Medici whose God-given right was to fund 'excellence'. And although Minister Fifield had the opportunity to change that, unfortunately he has delivered a hopelessly outdated approach to arts funding using the catchy buzzword 'innovation'. But he is not fooling anyone.

Through the Senate public hearings, Senator Macdonald said on many occasions that if organisations want arts funding they should talk to their coalition member or senator. It cannot be clearer that Senator Macdonald and coalition senators think that arts funding should be the gift of a minister, a senator or a member to give to whatever arts organisations they have a particular affection for. This is not the way arts funding should be allocated in this country. For the coalition senators, arts funding has become a new opportunity for pork-barrelling—a contemporary 'regional rorts' program.

Under my questioning earlier today, ministry officials stated that there may be only a minimum of one independent assessor out of a minimum panel of three assessors. This means that department-appointed assessors could be in the majority when assessing every single applications under the Catalyst program. Not only does Minister Fifield have the final say as to what projects will receive final approval but also his departmental staff will be able to control which projects are recommended to the minister. This decision, sadly, has set Australian arts policy back 40 years. It is a completely retrograde move and is typical of the government's heavy-handed approach to policy development.

From the beginning, before even announcing the NPEA, the government should have consulted with the arts community about their thoughts on arm's-length funding, because artists across Australia have been universal in their praise for arm's-length funding and extremely critical of the ministerial slush fund model. At the Hobart hearing, Ms Gallagher of the Tasmanian Writer's Centre told the committee:

… the Australia Council, with all its faults, at least is peer-review, arm's-length. The money being pooled into the ministry for the arts means that we are subject to the political nuances of whoever happens to be in power. We do not have arm's-length support anymore. It creates an atmosphere of fear. People are afraid to speak out.
We already know of a number of instances where there has been retribution. I am sure that the Biennale in Sydney has not been well received in the ministry of arts sector. We had reassurance from the Australia Council in terms of knowing that we had that arms-length. We did not have to worry so much about the political interference.

This is quite critical evidence against the government's NPEA and now Catalyst arts slush fund. Similarly, Dr Angelo Loukakis of the Australian Society of Authors told the Committee in Sydney:

… these decisions have precious little connection with the system of government and governance we have developed in this country. We do not need arts tsars or pseudoculture ministers here. Ours is a democracy. In this democracy, we have developed an excellent system for decision making about cultural and artistic affairs as well in the form of peer reviewed, arms-length funding via a statutory body insulated from direct political interference in its day-to-day operations.

Professor Edgar Snell, Chair of University Art Museums Australia, told the Perth hearing:

With the abandonment of arms-length funding policy and its replacement by a ministerial decision-making process, it is difficult to see how decisions made under this new regime will not be contaminated by the spectre of pork-barrelling, personal prejudice and undue influence.

Whatever the name of the slush fund—NPEA, Catalyst, dog’s breakfast—it is a bad idea. This government's ideological attacks on the arts has caused untold confusion, anger and heartbreak. It has caused companies and organisations to close.

The changes will be particularly felt in my home state of Tasmania. Tasmania has a wonderful, vibrant, innovative and extremely talented arts industry. It is full of extraordinarily passionate artists that strive to tell the stories of our home state to a world-class standard. But this government has failed them. Individual artists are particularly negatively affected by the government's creation of a slush fund. Individuals are not eligible to apply for funding under the Catalyst program, yet they will be competing for a smaller pool of Australia Council grant funding against small to medium organisations that cannot receive operational funding from Catalyst.

It is clear that the government has put into jeopardy the careers of thousands of individual artists. These hardworking artists are the backbone of arts organisations, yet they have been totally left out to dry. While small to medium organisations can receive project funding under the Catalyst program, organisations still need operating funding to survive. The place for small to medium organisations to turn to for operational funding is the Australia Council grants pool, which has been cut to pay for Catalyst. While the government says that Catalyst will prioritise project funding for small to medium organisations, the truth is that the lack of operational funding will mean that many small to medium organisations will fold. It is also clear that the government is discriminating against certain art practices in the design of its new slush fund. Visual arts in particular are affected by these changes. Writing, painting and photography are most often solitary activities. Australian writers, painters and photographers are producing innovative new work yet cannot apply under the new slush fund.

Does the government not consider these artists as ‘innovative’? There is a clear bias against these individual practices, and this government has failed these artists. This government and this minister has failed all Australia's artists. They have sought to destroy the arm's-length funding model that has served Australia so well. They have destroyed the Australia Council's visionary plan for six-year funding, a change that the sector overwhelmingly supported. And
the new minister has failed to dump his failed predecessor's slush fund and has simply rebranded it. It is time for the government to truly listen to the arts sector and return all of the funding to the Australia Council and to dump their slush funds once and for all. I will just say to that side of the chamber, it is time to sharpen your pencils, guys. Give Australian artists a fair go, and especially give individuals a fair go when applying for arts funding.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (16:15):
This afternoon's debate hinges on just two points. Firstly, is there an alternative way to be funding Australian arts? I absolutely agree there is an alternative way, and we should not be shy from having those sorts of discussions. Secondly, should we be broadening the base for Australians to go and witness those cultural and artistic pursuits and, indeed, broadening the opportunity for small- and medium-sized cultural and arts organisations to get funding? Clearly, the answer is 'yes' to both of those questions.

Fulminations and faux outrage from Labor senators this afternoon—
Senator Bilyk interjecting—

Senator SMITH: It must be the beginning of another sitting week here in the Australian Senate. But I have to confess that I am very surprised that in a week where security issues and concerns would be top of mind for most Australians, even those with artistic interests, it is the question of arts funding that the Labor Party wishes to focus its efforts upon. But, of course, that is their prerogative today.

There is no argument that Australians currently enjoy the full range of artistic and cultural pursuits. What the government has decided to do is to deepen and broaden the opportunities that are available to them and to arts organisations. What has occurred here, as the minister has already noted, is precisely what was always intended to occur. The government said it would consult with the Australian artistic community about these changes and what the government announced last Friday stems directly from those conversations and consultations that Minister Fifield has been engaged in.

The government announced a proposal earlier in the year and said we would consult with the arts sector. The Labor Party complained. Now that those consultations have concluded, a decision has been reached which has been welcomed by significant figures across the arts community—and I will come to that in a moment. Again, the Labor Party is still complaining. Yet what we have not heard from those opposite is their concrete alternative plan. It is all very well to sit in the cheap seats and throw popcorn at the screen, which is what the Labor Party has been doing on this—
Senator Bilyk interjecting—

Senator SMITH: and on many other budget measures, but where is your alternative plan, Senator Bilyk? The government clearly has a plan.
Senator Bilyk interjecting—

Senator SMITH: We are contemplating the already substantial levels of public investment in the arts in Australia by establishing a new $12 million annual arts funding program called Catalyst, the Australian Arts and Culture Fund, which is designed to complement existing arts funding initiatives. I note that the chief complaint in this MPI from the opposition today is that the government is launching an attack on arms-length funding. That is just utter nonsense.
Senator Bilyk: You were there this morning!

Senator SMITH: I was there this morning. It was utter nonsense this morning and it is utter nonsense this afternoon! Applications to receive funding support from Catalyst will be made by independent assessors and staff in the Ministry for the Arts. These funding decisions are not being made by the minister. I think it is important to highlight that point—

Senator Bilyk interjecting—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! Senator Bilyk!

Senator SMITH: because either the opposition do not understand it, or they are wilfully misrepresenting the facts. The minister or his delegate—in this case, his delegate; in the future, perhaps her delegate—will approve funding based on those independent recommendations. That is entirely consistent, and this is an important point, Mr Acting Deputy President Bernardi, with existing programs administered by the Department of Communications and the Arts. Indeed, it is also consistent with arrangements for funding in every state and territory government.

What is especially exciting about Catalyst is that it is consistent with this government's core policy objective of promoting innovation. This fund will provide financial resources to support projects conceived by galleries, by libraries and by the museum sector. Many of these are not usually eligible for grants from the Australia Council, so we are diversifying their funding sources. As the guidelines make clear, funding is only made available to organisations, not to individuals, and it is only for specific projects. It cannot be used by organisations for operational funding.

But, as I was saying earlier, these proposals have been developed following consultation with a wide range of people active in our arts and creative industries. Catalyst will recognise the important contribution made to the vitality of Australia's arts scene by small and medium-sized organisations, most particularly those active in regional communities around the nation—indeed, regional communities across my home state of Western Australia. Funds can also be used to attract further private sector investments for arts projects, including infrastructure. I think that is an important and valuable point. All too often in Australia we have overlooked the significant cultural investments made by businesses in the private sector, but they too play a crucial role.

Grants made will be capped at a maximum level of $500,000 a year, which will help to make certain that more projects from more regions can be funded. The program will have $12 million available to it each year. Of course, there is still significant financial support available to individual artists, as well, through the Australia Council. And as a result of the government's decision last week, $32 million will now be made available to the Australia Council over the period of the forward estimates, bringing a total of $783 million over the four years across the forward estimates so that the Australia Council can continue its work.

But what we did not hear today, what we did not hear this afternoon—or certainly not yet—in contrast to the belly-aching attitude adopted by those opposite, was that this measure has been welcomed by the Australia Council's chief executive, who said in a statement that these decisions would allow the council:

… to increase investment in the two core grant rounds for 2015-16, …
This is news that I am sure will be welcomed by individual artists who need support for their new works. Likewise, Nicole Beyer of ArtsPeak, a major representative body in the arts sector, said on ABC Radio last week, 'It's great. You know we're really pleased this is happening.'

I know these sorts of comments are intensely irritating to those opposite, because the Labor Party like to think that they are the party for the arts community. In Australian political mythology, which is stoked at every opportunity by those opposite, the nation was covered in darkness before December 1972. It was only when Gough Whitlam moved into the Lodge that the nation suddenly discovered its creative side. That is what Labor senators would have you believe. In actual fact it was the Liberal government under John Gorton that first provided prominent public funding support for the arts in Australia and really breathed life into the Australia Council that we know— (Time expired).

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (16:22): As much as I was enjoying that contribution by Senator Smith, time is up! It is ironic to have a coalition senator demanding to know from the opposition frontbenchers what their alternative plan is—he is leaving the chamber now—when the fact is: Senator George Brandis broke something that did not need fixing. The alternative plan is to have not established this $100 million vanity project which has been condemned from one end of the country to the other.

I have been to a lot of Senate inquiries in my brief time in this place, and I have never seen this degree of unanimity of representation from one end of this country to the other. Senator Bilyk and I have been chasing the inquiry that Senator Lazarus has been chairing for a couple of months now. I have never seen such a diversity of witnesses with such a unanimous of point of view. The NPEA, which has now been renamed, rebranded, as Catalyst, is uniformly despised. I should say that it is almost universally despised. We did find one witness, who gave evidence on a rainy afternoon in Parramatta a couple of weeks back, who had been knocked back for Australia Council funding a couple of years ago, who had a gripe and who thought this new thing could be good.

Apart from that, we heard from contemporary performing arts companies, dance companies, theatre companies, the local music industry, visual artists and designers, writers, digital artists, community and regional arts centres, practitioners and those who support them, arts lawyers, community arts centres, regional arts centres, peak representative bodies, publishers and teachers the length and breadth of the country and of Australia's extraordinarily diverse and powerful arts sector who thought that this should never have happened in the first place. In fact, they thought that they should not have been brought into the Senate inquiry, into this format where they had to defend something that had been broken when it simply did not need fixing—by Senator George Brandis or by anybody else.

This was an announcement that happened in May and the Australia Council found out about it on budget day, when Senator Brandis condescended to give the head of the Australia Council a phone call to let them know that the government had ripped this money out of the Australia Council's peer-reviewed process—which allows all comers to put forward their creative proposals—and put it into this isolated slush fund. There were a couple of draft guidelines that followed a few weeks later that simply made the problem worse and made the apprehension and the misgivings even worse.
We saw 2,260 submissions made to that inquiry. Senator Smith is right: if you comb through them, you will find a very small handful—you will find one or two; you will not find more than a dozen—of those 2¼ thousand submissions that supported the idea, for various reasons—that is fine; they have the right to submit to these inquiries as well—and an avalanche of dissent to this proposal. We have held 10 hearings across the country, and 218 organisations have presented, with this extraordinary opposition. We saw something last week from Minister Fifield—and, give him his due; there was a selective sigh of relief around the country when Senator Brandis lost that portfolio; go and concentrate on other stuff and leave the arts the hell alone. There was a bit of a sigh of relief because you could not miss the intent. The intent, laid on Senator Fifield's broad shoulders is: 'Fix this mess. Make this go away.'

So now, instead of a $20 million Senator Brandis slush fund, we have a $12 million Senator Fifield slush fund. They have clawed back a little over one-third of the funding and put it back into the Australian Council's peer-reviewed process, where it belongs. That still leaves $12 million in this new Catalyst entity that nobody can figure out what it is for. We held a hearing for a couple of hours this morning with some of the senior bureaucrats from Senator Fifield's department trying to explain where the idea had come from. Where did the name come from? Where did the idea come from? Where did the figure of 12 million bucks come from? Where did any of this come from? Why is this happening at all? They were not able to describe why, but we know what is going on here. This is damage control. This is just to throw the arts sector a bone: 'What is the minimum that we can get away with throwing at people that will just have them shut up and will stop the dissent to what's been going on and stop the opposition?'

The one-third of the funds going back to the Australia Council's process is welcome, but we cannot welcome it unreservedly and unconditionally. Other options were open to Senator Fifield. Those officers this morning were good enough to inform us a couple of times—they were asked a number of times—that all options were on the table. I and a couple of other senators pressed them on this. The options included reversing this ridiculous idea and just pretending it had never happened. We would have let it go. I would have been happy to pretend that this whole sorry episode had never happened. That indeed was an option that would have been put to the government. Senator Fifield had the opportunity of fixing this mess.

Now it is going to have to go into future budget rounds, when people suddenly realise that there is this duplication of bureaucracy going on. This new Catalyst entity, which still will not be able to fund individual artists, is going to be in the mix with its $12 million, duplicating the work of the Australia Council, without the peer-reviewed oversight, without the six-year funding cycle, without the ability to fund individual artists, without the ability, for some reason, to fund certain kinds of digital art, including interactive work. It is very, very strange. This thing that just fell out of the sky on top of the arts sector on budget night is still with us—make no mistake. They have changed the name—well, gold star for that; it is a good bit of rebranding there, but it is not going to fool people. They have taken some of the money back, which you might as well acknowledge. It is a shame that Senator Smith did not. This is an acknowledgement—it is not a tacit one; it is an open acknowledgement—that this was a mistake, that some of the money has been returned.
It is very firmly the view of the Australian Greens that all of the money should be returned so that the Australian artistic community can get on not with making Senate inquiries, not with doing submissions to parliament, not with lobbying, not with drafting petitions or responding to guidelines but with making art. People do not go into this community in order to interface with this place. They have done so in good faith over a period of many years in order to hone the way that the Australia Council disburses precious taxpayers’ money to creative endeavour. That engagement has been there, and we saw it come out and absolutely flourish. But that is not why people join the arts community, friends. That is not why they do it. So let us let them get back to it with as much money as this parliament, in its budget processes, can put to it, rather than establishing these vanity projects—a massive waste of people's time.

The only good thing that has come out of this process is that I think the arts community found its voice and found its strength. I thank all of those people from right across the country who took the time out from their work—and people working in this community do not earn huge amounts of money. This is a sector that runs on love not money—although the money is obviously appreciated. But they came out in numbers, and we discovered along the way that the arts sector is well represented. It is well informed. It is well and truly disgusted with the establishment of this fund but it is an extremely vibrant, lively community that spoke for itself very, very well.

The only good thing that has come from this process is that the sector got to link arms, see who it was and speak out. In all my time chasing Senate inquiries around the country, two things are very rare—one is rare and one is unique. The thing that was rare was that the public galleries were full. This is a community that supported its witnesses, advocates and people who came forward to give evidence. That was lovely, because we knew as senators—government senators certainly knew—that what we were doing was being watched, recorded and documented. That is good, because the last thing you want is for these processes to be happening in isolation. The second thing that happened, which is not merely rare but unique, was a warm round of applause after each of the witnesses had given their testimony for the heartfelt way in which they had put their point of view to the government: ‘Wrong way. Go back. This is not what we need. We don't need more bureaucracy. We don't need disguised funding cuts; we just need a simple peer reviewed six-year funding cycle that can fund all comers—the big companies, the majors, the small to medium enterprises that are the backbone of creative endeavour in this country and the individual artists working on unique pieces of work that are not going to see the light of day any other way’. That is what these people want to be doing. Let's let them get on with it.

This story, unfortunately, is not finished. I thank and congratulate the opposition for bringing this motion forward. It is important that we address this today at the first opportunity, but this story is not done yet because Senator Fifield blinked. He could have fixed this as Senator Brandis would certainly not have been able to do. Senator Fifield could have fixed this and he did not, so there is more to tell. But, in the short term, I want to thank all of those who have added their voices and the strength of their creative work to this debate while we restore a little bit of sanity to arts funding in this country.

Senator SINGH (Tasmania) (16:32): I rise today to contribute and support this motion via the opposition and to discuss the future of Australian creativity, and the uncertain fate of
many thousands of jobs, careers and community contributions in our community. Because, when we discuss this government taking $104 million from the Australia Council and returning only $32 million—or less than a third—as part of Minister Fifield's partial arts funding backflip, it is those many thousands of jobs, careers and contributions that are at stake.

When we discuss this government taking arts funding decisions out of the hands of qualified independent experts—a process that has worked very well for many, many years in this country—and, instead, making final decisions by ministerial decree, with all the political interference and favouritism that invites, it is those many thousands of jobs, careers and creative contributions that are at stake. Again, when we discuss this government's callous exclusion of individual artists from accessing its newly rebadged funding pool, it is those many thousands of jobs, careers and those individuals' contributions to our creative industries that are at stake.

The small to medium arts sector in Australia is currently on its knees. A huge swathe of the arts sector's federal funding through the Australia Council has been removed and instead placed in a separate fund, known as of last week as Catalyst, under the arts minister's ultimate control. While independent assessors will make recommendations—I think it is three independent assessors from a pool of 300 on that program—the guidelines for that program explicitly state 'the Minister for the Arts or delegate in the Department will make the final decision regarding any funding awarded'.

Thanks to these changes, small to medium arts groups are now racked with uncertainty and unable to plan ahead. Despite the so-called change from the NPEA process under the previous minister to this new program called Catalyst, there is still the minister's discretion to make the final decision on what arts programs and group funding will be provided. It deeply lacks any kind of accountability and transparency. It gives the minister an incredible amount of power to make decisions about funding to the arts in this country at whim.

On top of that not only are small to medium arts groups in an incredible space of uncertainty and lacking stability but they have also been pitted against each other, competing for significantly reduced Australia Council funding. When it comes to recovering that lost funding via the minister's new discretionary fund, they are faced with a restrictive and politicised new system they know little about and which seems unfairly stacked against them. These challenges are most severe in my home state of Tasmania, where virtually the entire arts community is threatened by these funding changes.

The new arts minister will now bear almost sole responsibility for the imminent collapse of any small to medium arts groups, following revelations in a Senate committee hearing with the Ministry for the Arts. We learnt this morning that Minister Fifield had one last chance to do the right thing by Australia's small to medium arts community and, inexplicably, failed to do so. The executive director of the Ministry for the Arts, Sally Basser, appeared today before the Senate Legal and Constitutional Affairs References Committee's inquiry into the Impact of the 2014 and 2015 Commonwealth budget decisions on the arts. Ms Basser informed senators about the new system imposed on her department by this government.

In considering how to unscramble the mess created by first the former minister and now the current minister, Minister Fifield, Ms Basser confirmed that Minister Fifield was presented
with a range of bureaucratic options. He was presented with a range of options, and one of those options was to return the funding to the Australia Council. We know that that is the option that some 300 or more submissions from the arts sector in this country put to this government and were calling for—that is, returning the full $104 million to the Australia Council; not having this separate administrated fund out of the ministry of the arts; and having the transparent and accountable process that the Australia Council provides by having independent experts evaluate each submission.

But, no, that was not the choice that the minister made. He decided to kind of tweak the former minister's NPEA and create his new program and give it a new name, Catalyst. And there we have it; we are pretty much in a similar position to that we were in under the previous minister. There may be some slight reprieve. Yes, the Australia Council has been given $8 million a year back to its bottom line, but that is in no way near the $104 million that it has lost and that it has been able to provide some to 148 small to medium Australian arts companies as well as 28 major organisations that have been funded by the Australia Council.

Despite evidence showing that, between 2010 and 2012, those 148 small to medium companies produced 2,897 new Australian works, which equates to 88 per cent of the body of work, while the majors produced 299 new works, which equates to 12 per cent, Basser again confirmed there are no guarantees that small to medium groups will receive the majority of the Catalyst funding. And despite being pressured to nominate a token budget restoration of $8 million, the Australia Council for the Arts still faces an incredible funding shortfall that will hit individuals and small applicants hard—particularly individuals because they have been left out of being able to apply for the Catalyst funding themselves. Australia's small to medium arts sector has made it very clear that funding decisions should be made by independent experts, not by a political slush fund at the minister's whim. Decisions that are made by independent experts is what is currently provided by the Australia Council through a very transparent process.

I do give some credit to Minister Fifield's for his partial backflip, but he has not gone far enough. It was a step in the right direction, Minister, but you need to take it a little bit further. It is not enough to restore certainty and stability to the small to medium arts sector. It is only returning to the Australia Council a third of the funding removed from the Australia Council, which will have a detrimental impact on individuals and on small to medium arts companies and groups, which are the backbone and the majority of contributors to our arts sector in this country. And, of course, the majority of that funding is still going to be allocated through the minister's final political whim, his own fund, known as Catalyst, instead of by independent experts and having a transparent process.

I agree that the arts community has found its voice and its strength through this process. But it should not have had to have gone through this. An incredible vibrant community came together with vigour, colour, love and passion for what they create and what they provide to Australia—a creative voice; our creative voice; our creativity—which makes Australia such a beautiful place to live. I do not want to see that creativity put in jeopardy. I am urging the minister to take this a step further and restore funding to the Australia Council for the Arts.

Senator IAN MACDONALD (Queensland) (16:42): I am pleased to be able to provide a reality check to this debate, which has so far been highlighted by deliberate misinformation and deliberate distortion of the facts of the matter. So I am delighted to be able to enter the
debate, in the same way that I am pleased that Senator Brandis was able to initiate a reality check of arts funding in Australia—after all, the hundred million dollars plus that goes to arts funding is taxpayers' money. Taxpayers elect governments to look after their money. They do not elect governments to hand the money over to non-elected, non-accountable groups like the Australia Council.

I hasten to add that I have the highest regard for Mr Rupert Myer, the chair of the Australia Council. I think, generally speaking, the Australia Council do a good job, and I am a fan of Mr Tony Grybowski, the CEO of the Australia Council. But what is so wrong about a government elected by the people, accountable to the voters, having just a little tiny bit of a say in which Australian artist or art groups and which region of Australia should actually get some benefit from the taxpayers largesse in the arts funding arena?

The totally political basis of this inquiry, set up by the Greens, the Labor Party and Independent senator, Senator Lazarus, was very obvious from the speeches today. It appears that, when state Labor governments in Victoria, South Australia and Queensland distribute their funds in a certain way, that is okay—and there is not one word of complaint from the Greens and Labor—but, when the Commonwealth government does it exactly the same way, all hell breaks loose and the world is coming to an end! That just shows the hypocrisy and the downright political nature of this inquiry. At today's hearing public servants said in answer to a question, 'We looked at what all the states did. This is how the states do it, and that is how we thought we would arrange this new direction of the Commonwealth program.'

I emphasise that more than 80 per cent of the funding for the arts is still going through the Australia Council. The representatives of the people, of the taxpayers, who are accountable to the taxpayers only deal with a small amount of funding. And I might say that some of that funding has already been with the government over many years under the Labor government, under the current government and under previous governments. So it was okay when the Labor government was doing it that way, but suddenly, because a coalition government wants to do it, it is the worst thing in the world. It shows the hypocrisy of the arguments raised.

I congratulate Senator Brandis for bringing this program forward and for issuing draft guidelines so that he could consult with people. People could have a look at them. If they did not like them or if they had suggestions they could get back to him, and that is exactly what has happened. I congratulate Senator Fifield on taking notice of the consultation. I know Senator Fifield involves himself in consultations with the arts community and he has listened to them and come to a conclusion—a conclusion which was actually suggested by the group of Australian artists who would have benefitted most from the NPEA that Senator Brandis proposed. They said, 'Let's have it. Let's introduce it incrementally, though. Not $20 million this year. A smaller bit this year and perhaps we can look at other things into the future.' That is what Senator Fifield has done.

You have heard others say that, 'Every witness came along and they all were as one in supporting the opposition to this.' Of course, again I should tell you that the witnesses are selected by the committee. The committee consists of Labor, Greens and a Green independent chairman. Usually, the meetings in the early stage were held on the days when neither of the two only government senators were available. So the people who were selected to come forward were those that the Greens and the Labor Party knew had a certain view on the issue. As it happened, a couple of others did come forward but—lo and behold!—their submissions
had not been published. It was only when they contacted a committee member that the submissions were actually made public and belatedly the committee agreed to hear just one of them. But to assume that the total arts community were against this is just as fatuous and false as the rest of the arguments.

During the many hearings we had into this I also raised the issue of the principle—the philosophy—behind funding the arts. We in Australia have a wonderful arts community. We have some very talented people across the range and across the spectrum. We also have talented scientists. We have talented sportsmen. We have talented people in many fields. But you have to ask the question: why is it in the arts community that these talented people say, 'Taxpayers, I have a passion for this art. I am desperately interested in this. I am good, but I want you to pay me for my passion. I want you to pay me for doing what I love doing.'?

During one of the hearings I raised the position of the chairman of this committee, Senator Lazarus. He was not a bad footballer, but I am sure he did not go out in his early days and say, 'Hey, government, I have a passion for football. Can you look after me for five or six years until I make the big time and start earning the big bucks as a national rugby league player?' You have to keep it in perspective.

There are many that say—not necessarily me—that the arts community is a little closed group. The same assessors look after the same people; they are all in the Sydney-Melbourne sort of group. Those of us who do not live in Sydney or Melbourne sometimes have a slightly different view on who should be getting arts funding and who should not be. I do not make this as a criticism of the board or the CEO of the Australia Council, but it is interesting that the same people pop up all the time.

We heard today that if you happen to get the job as an independent assessor for the Australia Council you get 400 bucks a day for the job plus travelling allowance—the same as parliamentarians get—and I am sure they work for it. But there is this little group of assessors—there is this little group in Sydney and Melbourne—who know each other, and some of us who live outside of those circles sometimes think that perhaps a government, and perhaps a minister who is accountable to all Australians and to all taxpayers, should have a little bit of a say in where the taxpayers' money goes.

As I said, it works in the Labor states of Victoria, South Australia and Queensland. It seems to work well there but suddenly it does not work in the Commonwealth. To hear Senator Singh, who I understand was once a minister in the last long-forgotten—thank goodness—Labor government in Tasmania, would have been part of the government that actually handed out the arts money in Tasmania all those years ago when she was a minister. But that was okay then because she comes from the Labor party and she is supported by the Greens—so that is okay. But if you have independently minded people, very competent ministers like Senator Brandis and Senator Fifield do it, suddenly it becomes a real problem, even although time after time the Greens and the Labor Party were told by public servants that most of the work done in these programs that the Commonwealth do are run by public servants with independent assessors. That is exactly the same, in many instances, as the Australian Council does and certainly exactly the same as happens with the state Labor governments that currently have the same sort of system.

This whole inquiry was a political farce organised by the Labor Party, the Greens and the Green independent in this chamber to try to build up a groundswell of support against the
coalition government. It will not work. Australian taxpayers want their money spent well and I am sure all sensible people in the arts community understand why these changes have been made.

Senator CAROL BROWN (Tasmania) (16:52): After listening to that contribution, I am sure there are people out there who would take what Senator Macdonald said at face value, but the reality is that every single senator in this place, other than the coalition senators, voted for the inquiry because they were concerned that there was outrage in the community about the slush fund set up by Senator Brandis. The other point I wish to make is that every single senator in this place can be a participating member of a Senate committee and to suggest—

Senator Canavan: Do they get a vote?

Senator CAROL BROWN: There would not have been a vote. Anyone who has been on a Senate committee here knows that people who want to go forward, to give evidence, are accommodated. Senator Canavan and Senator Macdonald would like you to think that the people who showed concern were somehow just naturally anti the government, but this is not the case. The case is there was overwhelming concern in the community, not only by those people who work in the arts sector but by those who support the arts sector, who enjoy going to events, going to look at the art being made all around Australia. There was concern all over the place. So for Senator Macdonald to come in here and to suggest that the Senate committee was stacked is an affront to the Senate. As I said, every single senator, other than members of the coalition, voted to establish the committee because of the slush fund that Senator Brandis put together. Senator Brandis has united every single non-government's senator in this place on this matter. He wanted to choose who was getting the money and that it was at his discretion. Not much has changed with Senator Fifield's new program, Catalyst.

We have seen rebranding and retooling of the Abbott-Turnbull government's arts slush fund as announced by Senator Fifield last Friday. That really says it all. They made the announcement on a Friday with not much fanfare either by Senator Fifield, who does not mind a bit of fanfare. When they put this out last week, we saw that it suffers the same fatal flaws as the program set up under Senator Brandis—I should say he sought to establish it because it was such a dud in the arts sector that they had to drag the portfolio from Senator Brandis to Senator Fifield to see if he could fix it up and he has fallen far short of that mark. What we had in Australia prior to the coalition coming to government was an arms-length peer-reviewed arts funding system.

The minister may have changed, the program name may have changed but at the end of the day the new arts program is still a ministerial slush fund under the personal and direct control of the Minister for the Arts. This has not changed and a significant proportion of the arts funding will remain the plaything of the Minister for the Arts. The arts sector is vital to our national cultural identity and they deserve better than this. I would say that we need more than a rebranded slush fund. We need this—(Time expired)

Senator REYNOLDS (Western Australia) (16:57): I rise today to speak on what I would call this so-called matter of public importance. Barely three hours ago in this place the leaders of all parties addressed a very serious issue of national security. It was a big disappointment that instead of addressing issues of national security and other genuine matters of public importance, we now have this issue again rehashed. Contrary to the shameless and blatant political scare campaign from those opposite, which absolutely and completely misrepresents
the facts, the government's new $12 million Catalyst arts and culture fund will in fact for
broaden the arts funding environment and will create more opportunities for the Australian
arts community. Using emotive and misleading word such as 'plaything', 'slush found', 'ripped
out', 'fallen from the skies' and 'reductions', none of those terms equate with the facts. Rather
than using emotional rhetoric, let us have the facts of this program.

Catalyst will in fact complement the work of other government arts funding organisations
by focusing on small and medium arts organisations and encouraging innovation and
collaboration in their programs. Contrary to the assertions of those opposite, it does not
duplicate the work of the Australia Council. Further, Catalyst will encourage recipients to
explore shared funding arrangements with the philanthropic and private sectors, which has to
be a good thing to help them find more funding for their programs. The program also aims to
forge new creative partnerships and to promote new ways to build participation by all
Australians in our rich cultural life. This is a good thing. If those opposite had put forward
this proposal in government, they would be saying exactly the opposite now. They would be
trumpeting this fantastic new program to help small to medium arts organisations in this
country. They cannot stand the fact that those on this side of the chamber put forward,
not only for the environment but also for the arts, positive, innovative new programs to broaden
support to the arts community. The Australia Council provided $175 million in funding in the
2012-13 financial year, while during that same period $21.2 million was provided to support
arts in regional and remote Australia. The Catalyst program is also seeking to address
inequitable per capita distribution of Australia Council funding to the states and territories.
Those opposite now say that, while the Australia Council does some fantastic things, it is not
equitable. For example, my home state of Western Australia receives $5 per capita per year
and Queensland receives $3.40 per capita per year in comparison to Victoria with $6.80 per
capita year and New South Wales with $7.80 per capita per year. That is not equitable and it
is not fair, and it needs to be addressed. This new funding model is a new approach designed
to support new artistic endeavours.

To highlight the absurdity of the opposition's claim that the government is attacking peer
reviewed arts funding—I think Senator Ludlam referred to it as 'the arts community run on
love, not money'—this government is committing $783 million to the Australia Council over
the forward estimates. That is over three-quarters of a billion dollars, so I would say to
Senator Ludlam; that is not just love; that is a lot of taxpayers' funding. As Senator
Macdonald said, it is absolutely critical that we make sure that this taxpayers' money is spent
as wisely as possible.

What are we doing? This government, despite its fiscal restraints, has not reduced arts
funding in this country. Despite the rhetoric that you hear day after day from those opposite,
from which you would think that that funding has been reduced, it has not. Almost $200
million per year still goes from the Australia Council to our many arts organisations. But it is
not just the Australia Council; I have examples of at least seven other programs that are
funded by this government. Screen Australia, as we all know, is a fantastic organisation that is
behind a lot of the blockbuster TV and film programs in this country, including our No. 1 film
at the moment, a wonderful film, *The Dressmaker*. There is the Regional Arts Fund, which
supports sustainable cultural development in regional and remote Australia. The Creative
Partnerships Australia is another program that helps to connect private, philanthropic and
social arts donors with the arts community. Sounds Australia, Arts Access Australia, the National Cultural Heritage Account, are other organisations that are strongly supported by this government—again, completely contrary to what those opposite have been saying. I would hardly call this government's policy an assault on arts funding. Not only have we maintained the funding but we are also providing a wider range of arts organisations within this country to access these funds.

Those opposite keep mentioning this inquiry by the Legal and Constitutional Affairs References Committee, which I also sat on for a while and I participated in the hearings. In my personal opinion, this inquiry is probably one of the most disgraceful abuses of the Senate committee process I have witnessed so far in this place. In the last budget the government maintained arts funding. What they did was reallocate just over 15 per cent of that funding from the Australia Council to another program—another program that is absolutely consistent with the way states and territories allocate their arts funding.

Instead of just introducing the program and saying, 'Here are the guidelines,' the government issued draft guidelines and made them open for the entire arts community to make submissions on, which they did. This Senate inquiry has had, I believe, up to 10 hearings around this country. I can think of no other inquiry in recent times that has had 10 hearings around the country, and on an absurd situation—on draft guidelines that had already been subject to public consultation. I do not think there is anything—national security, tax reform, health, education, welfare reform—that has had 10 hearings around the country. To me that is an abuse of the Senate process. Again, just because those opposite say it is unfair and use all of these emotive words, it does not make it so.

One of the things I particularly like in this program is that there is a specific international and cultural diplomacy funding stream which will further promote Australia's talents and interests overseas. It will also support Australian arts organisations to bring art and artists to Australia to broaden the range and the exposure Australian audiences have to overseas performers.

The Catalyst funding model is a welcome new concept, and one that aligns with the government's agenda to deliver innovative arts funding to provide the most public benefit. It does not conflict with the Australia Council funding. Just because it is different and just because those opposite have not suggested it, does not mean that it is a bad thing. The facts simply do not support the disingenuous rhetoric of those opposite. As much as it may gall those opposite, we are looking after the Australian arts community in a very tight fiscal environment. We have maintained arts funding and broadened it.

The ACTING DEPUTY PRESIDENT (Senator Back): The time for this discussion has now expired.

DOCUMENTS

Consideration

The government documents tabled today and general business orders of the day Nos 4, 5, 6, 7, 8, 9, 10, 11 and 12 relating to government documents were called on but no motion was moved.
Perth Freight Link Project
Order for the Production of Documents

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (17:06): I table documents relating to the order for the production of documents concerning the Perth Freight Link project.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Back) (17:06): The President has received letters requesting changes in the membership of various committees.

Senator RUSTON (South Australia—Assistant Minister for Agriculture and Water Resources) (17:06): by leave—I move:

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

Legal and Constitutional Affairs Legislation Committee—

Appointed—

Substitute member: Senator Hanson-Young to replace Senator McKim for the committee's inquiry into the provisions of the Migration Legislation Amendment (Cessation of Visa Labels) Bill 2015

Participating member: Senator McKim

Unconventional Gas Mining Select Committee—

Appointed—

Senator Waters

Participating members: Senators Di Natale, Hanson-Young, Ludlam, McKim, Rhiannon, Rice, Siewert, Simms and Whish-Wilson.

Question agreed to.

BILLS

Crimes Legislation Amendment (Harming Australians) Bill 2015

Returned from the House of Representatives

Message received from the House of Representatives returning the bill without amendment.

Australian Immunisation Register Bill 2015

Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015

Customs Depot Licensing Charges Amendment Bill 2015

Customs Amendment (Fees and Charges) Bill 2015

Social Services Legislation Amendment (Cost of Living Concession) Bill 2015

Social Services Legislation Amendment (Low Income Supplement) Bill 2015

Social Security Legislation Amendment (Debit Card Trial) Bill 2015

Statute Law Revision Bill (No. 2) 2015

Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015

Import Processing Charges Amendment Bill 2015

Tax and Superannuation Laws Amendment (Better Targeting the Income Tax Transparency Laws) Bill 2015

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.

Health Insurance Amendment (Safety Net) Bill 2015

Report of Legislation Committee

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (17:07): On behalf of the chair of the Community Affairs Legislation Committee, I present the report of the committee on the provisions of the Health Insurance Amendment (Safety Net) Bill 2015, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:08): We had the interesting spectacle today of Senator Cormann, who I notice is not handling this legislation, tabling a copy of a letter from Mr Morrison and Mr Joyce, co-signed by the Leader of the Australian Greens—and I see Senator Cormann has now arrived in the chamber. It is an interesting proposition because the government constantly rail against the Greens as being economic vandals and irresponsible and anti jobs. Witness Senator Brandis in question time today having a real go at Senator Waters about her question. These are the very people the government are doing a deal with when it comes to economic policy. Let us be very clear about what they have done a deal on. They have done a deal on a set of propositions that have been roundly condemned by the business community—the Business Council, ACCI, AiG—and a range of groups, including the Australian Food and Grocery Council and I think I saw one of the paper industry groups today also supporting the position Labor have taken on this.

Despite the government's rhetoric about the Greens being anti jobs—and really you cannot go through a question time in this place without listening to that particular lecture—we have seen that they are happy to sit down and do a deal with the Greens. Senator Whish-Wilson is grinning at me. I am not sure whether he is happy about the fact that the government are now welcoming the Greens into their arms, welcoming the Greens to the government's economic
policy fold, or whether he is uncertain about it. But certainly what we have seen today is an alliance between the Greens and the Liberal Party when it comes to the economic direction of the government.

So every time we hear Mr Morrison, or Senator Brandis in this place, tell everybody how the Greens are anti jobs, let us remember that the government have done a deal with the Greens in this lovely little co-signed letter I have here, that makes clear that their anti-jobs and anti-investment policy as set out in this bill, which has been roundly criticised by the business community, is being achieved with the support of the Australian Greens.

The point that we need to be clear about in terms of this deal is that, under the terms of the agreement with the Australian Greens, investors into this nation will be subject to a register of unknown application and unknown design. It is also clear that more red tape is coming because the government have committed to ongoing review and changes down the track. Not only do we have an agreement between the Greens and the government on this economic policy—a policy that is opposed by the business community and which has no public policy rationale; we also have a promise for more red tape and a promise for more uncertainty. The register which is the subject of the deal is of unknown application and unknown design.

It would be interesting to know from the minister whether or not these arrangements, or what he says is the register of foreign ownership of water entitlements, will extend to and if he can provide further detail of that policy which has just been announced. Further, what does Mr Morrison mean when he says that there will be a process for developing an implementation approach involving full public consultation? And, further, what does he say is meant by: 'Once the proposed register has been implemented and data is available on the level of foreign ownership of water entitlements in Australia, the government commits to undertake a review of the treatment of water under the foreign investment review framework'?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:14): I thank Senator Wong for her contribution and for those questions. Senator Wong read out quotes from a letter cosigned by the Treasurer, the Minister for Agriculture and Water Resources and the Leader of the Australian Greens, Senator Di Natale, and I have to say it means what it says, and it has been put very succinctly, clearly and precisely. I can read the letter out again, but I think that the Australian people well understand what is meant by what is on the table. Obviously there is a process that is set out in this letter, which the government will implement consistent with what is part of this agreement. I am not quite sure which bit of this letter is not clear for Senator Wong.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:15): Perhaps I will go through it in a bit more detail. Can the minister explain the mechanism by which a register of foreign ownership of water entitlements will be applied or be given effect, and how does that relate to the existing state, territory and federal registers or datasets of ownership of water entitlements?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:15): I thank Senator Wong. Senator Wong clearly was part of a government that did not ever engage in genuine consultation. She is asking me questions about something that we actually have not got to yet. As we say very clearly in the letter—and Senator Wong has quoted this—The government will shortly commence a process for developing an implementation approach involving full public consultation. We consider this
process important and necessary to ensure that technical issues can be addressed.' So the sorts of details that Senator Wong is asking me about are details that will be dealt with and addressed through the process that is outlined in the letter that I tabled earlier.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (17:16): Can the minister advise what consultation, if any, there has been with state or territory governments and industry in relation to the promise which is laid out in this letter.

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:16): As it says in the letter, 'The government will shortly commence a process for developing an implementation approach involving full public consultation.' 'Full public consultation' obviously means exactly that: full public consultation. That process is yet to occur. To this point, what there has been is consultation by the government with interested parties in the Senate and through the internal processes of government. But before we reach a final landing point in relation to relevant matters, as is envisaged in the agreement outlined in this letter, there will be further consultation—indeed, there will be full public consultation—on all relevant matters.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (17:17): Do I understand from that answer, Minister—and I will ask the question again—that there was no consultation with state and territory governments prior to this announcement?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:17): This is clearly a process that has gone through the proper internal processes of government. It is going through the proper democratic processes of the federal parliament. This is a government that is committed to appropriate consultation with all relevant stakeholders. That is why, openly and transparently and very clearly, we have committed ourselves—I am quoting again from the letter—to 'shortly commence a process for developing an implementation approach involving full public consultation'. This process, which we consider to be important and necessary, will ensure that relevant technical issues can be addressed, and of course that will involve, appropriately, consultation with the state and territory governments as appropriate.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (17:18): If we can cut through the kind of—I was going to say 'spin', but the minister might get offended by that, so—

**Senator Cormann:** I'm not easily offended.

**Senator WONG:** Then I will say 'spin'. It is a very simple question: was there any consultation with state and territory governments, who are the holders of this data, prior to this announcement being made.

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:18): I will try it again. I could not be clearer if I tried. This letter is cosigned by the Treasurer, the Minister for Agriculture and Water Resources and the Leader of the Australian Greens, Senator Di Natale—who, by the way, has brought a welcome and refreshing change to the approach by the Greens. Under his leadership, the Greens are now very much more constructively and much more positively engaged in finding common ground with the government on important areas of public policy and important areas in the national interest. What we have done on this occasion fits within that category. In
recent months, the government and the Australian Greens have been able to find common ground in relation to a number of important public policy matters.

In relation to the specific issue in front of us, the government fully appreciates that in the context of an internal policy development process within government through the appropriate processes of government, and in the context of the appropriate democratic process in the Australian parliament, including the process through the great institution that is the Australian Senate, not all the consultations that you might otherwise like to pursue can be conducted in the time available. That is why we were very keen to ensure that there would be a proper process involving full public consultation with all relevant stakeholders, something that is explicitly enshrined in this letter. In order to assist Senator Wong, I will just quote from this very clearly written letter to Senator Di Natale again: 'The government will shortly commence a process for developing an implementation approach involving full public consultation. We—the government and, given that he has cosigned it, Senator Di Natale as well—consider this process important and necessary to ensure that technical issues can be addressed.'

So we are really in a violent multipartisan consensus here. We—the Australian government and, I assume, the Greens—share Senator Wong's concern for appropriate levels of consultation in relation to this particular matter, which is why it has been enshrined in this letter and which is why it will take place. All of the specific issues that are in Senator Wong's mind will be dealt with in due course.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (17:21): This can be a very long discussion. It is a very simple question. The minister likes to put a lot of words into his answers, but he is actually not answering the question. It is a very simple question: were state and territory governments consulted before this policy decision was made by the federal government? That is all I am asking.

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:22): I say very clearly again that we, the government, have gone through all of the relevant and appropriate internal processes of government in determining our position in relation to this particular proposal, and this is now a matter to be considered by the Senate. If the Senate agrees with the amendments that have been foreshadowed by the Greens and which the government have indicated in this letter that we will support, there will be a full process of consultation including, if appropriate, with the state and territory governments. I might just add here, though, that the state and territory governments do not hold data on foreign ownership of water entitlements. So, while I understand that Senator Wong might be trying to prosecute a political point, I do not really understand how this question is motivated or where this question is coming from. But, given that we are committed to full public consultation, if any state or territory government has an interest in this matter, before any relevant decisions are finalised through this process envisaged in this letter, there will be consultation with relevant state and territory governments.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (17:23): Who does the minister say currently holds information about ownership of water entitlements?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:23): This falls into the category of technical issues to be addressed in the context of full public consultation.
Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:23): That is a pretty fantastic response. The government has agreed to a register of foreign ownership of water entitlements in a deal with the Greens—the 'job-destroying Greens' that this government cannot wait to point the finger at; now it embraces them—and the minister in the chamber cannot even tell the Senate who currently holds the information on ownership of water entitlements.

Senator Cormann interjecting—

Senator WONG: Well, apparently that is a technical issue! It is a minor decision! It is a minor technical policy issue—who actually holds the information on ownership of water entitlements. That apparently is a technical issue that the minister cannot tell us about. So I ask this question: why were the states and territories not consulted before the government determined to agree to a national register, or a register, of foreign ownership of water entitlements within 12 months?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:24): Chair—and, through you, to Senator Wong—as I have indicated now on several occasions, the state and territory governments will be consulted, and that is because this government is committed to proper and thorough consultation. The letter co-signed by the government and the Greens envisages full public consultation. Senator Wong obviously knows that.

Senator WHISH-WILSON (Tasmania) (17:25): I just want to highlight to the Senate that this issue has been looked at by the respective Labor and Liberal governments now for five years and that the Australia Bureau of Statistics conduct a survey called the Agricultural Land and Water Ownership Survey where they actually do collect the data on this issue. They collect the data on issues of water entitlements as well as agribusiness. That data was first released in 2013, and in it we could compare the figures from 2010 to 2013. That showed that we had seen an increase of 55 per cent on 2010 levels of the level of foreign ownership in water entitlements, as one example.

So this data is collected via a survey, the Agricultural Land and Water Ownership Survey, called ALWOS. It is being updated at the moment and may be due for release either next year or the year after. This is a really important point that I want to make here: the Bureau of Statistics has been collecting data around this. I am hopeful that it is going to be a reasonably easy process to compile the register because this information has been collected, and it makes sense for us to take that and add it to a register.

While I am on my feet, I will respond to Senator Wong's proposition that the government has been outsourcing its economic policy to the Greens. We are in this place to get good outcomes, as I am sure the Labor Party are as well. We have had a policy in place for some time now—in fact, for many years—to get a register of water holdings as well as agricultural land. Senator Milne would love to be standing here speaking on this today. This has been her area. She had a comprehensive policy on it, going into the 2013 election. And this is something that Australian farmers federations have been calling for as well. In fact, I do not think there would be a single farmer around the country who would not agree with the idea that we should have a register of foreign ownership in water holdings.
It goes to the old adage: you cannot manage what you do not monitor. It is actually a bit of a disgrace that we do not already have a register which takes a holistic view of the level of land ownership and water ownership in this country. This is something that the Greens have campaigned on for some time. We are quite proud that we have been able to do a deal with the government on this, and we have been able to see one of our policies put into practice. The agricultural register has been a policy of ours. The threshold is probably not as low as we would like to see. Nevertheless, $15 million is better than the $252 million and the spaghetti bowl of other thresholds that we see that have been negotiated through bilateral trade deals. There is not really much we can do about that once they have been negotiated. So this is something that we are proud to stand here today and say we have been able to negotiate with the government.

There is a sunset clause in the deal, of course, which says that if this is not done within 12 months the legislation will lapse and we can have the debate again. But, from our very fruitful discussions with the government, I think this is something I can say they are interested in and I would hope would have done on their own anyway. This is good policy, and it is going to be well supported round this country.

I would urge the Labor Party to stop playing politics with this. I know why you are doing it, but this is actually good policy. It is nowhere near far enough towards where we need to go. We need to get the register first, then we can work out what levels we need to apply to FIRB thresholds around water. Then, following that, we should have a bigger discussion about what is in the national interest. Things such as food security, for example, threats of climate change and these kinds of things that my party hold very, very dear to us can be addressed in a systematic and formal sense. So I would urge that the Senate support the Greens amendment on this water register and that we get on and pass it into legislation.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:29): I thank Senator Whish-Wilson for describing it as ‘doing a deal’. I think, despite what the government says, it is a deal. Secondly, I take with a grain of salt, as do all of us in the Labor Party, his professed commitment to action on climate change, because we sat here and watched him vote with Tony Abbott, Senator Bernardi, Senator Minchin and a range of others who did not want any action on climate change against the CPRS. And then, a few years later, we watched him vote for a scheme that was actually browner for politics, so I am not sure the lecture on ‘playing politics’ is apposite.

But, more importantly, what the Greens should understand about our position on this is that we are actually pro-jobs and we disagree with treating investment in agribusiness and agricultural land as being more sensitive than investment in defence industries and other sensitive areas. We just disagree with it. We appreciate that people have different views. Senator Williams is here, and I know he has a different view to me. I just think that dollars invested in this country is one of the ways we ensure, and have always ensured since the arrival of the First Fleet here, that we are able to create more jobs in Australia for Australians. I think that is not a bad thing. Can I say—

Senator Williams interjecting—

Senator WONG: I will take the interjections from that side, because what is fascinating about this is the economic policy from those opposite, many of whom I know agree with me, is being dictated by Senator Williams and Senator Whish-Wilson. And those in the Liberal
Party who profess themselves to be people who believe in sensible economic policy are 
signing up to a policy which has no rationale. I am happy to go through that in more detail in 
this committee stage, but right now I am trying to understand. And I think if you do a 'deal'— 
in your words, Senator Whish-Wilson—I think people are entitled to understand it. They are 
entitled to understand what this means.

Senator Whish-Wilson laid out what was, frankly, a smorgasbord of red-tape propositions 
which might come down the track in relation to this issue. The minister is a Western 
Australian, and I would have thought he understood the importance of the Federation and the 
interests of the states and territories. And I was asking him why there was no consultation 
with state and territory governments. That was my first question. And the second question 
is—I want to know what the cost of this promise is—what is the cost of this deal?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the 
Government in the Senate) (17:32): Firstly, I have to respond to some of the rhetoric in the 
opening remarks of Senator Wong before she got to her questions. This government is 
absolutely and totally focused on growth and jobs. We are pursuing a growth agenda. 
We are pursuing an agenda which will deliver stronger economic growth and more and better jobs. I 
am very happy to take you through that in great detail, but we have gone through that on 
many occasions in the past.

Of course the government recognises the absolute importance of foreign investment to our 
economic development and our future economic success. We are strongly in favour of foreign 
investment in order to ensure Australia can reach its full potential. We need further foreign 
investment from right around the world, and the more the better. But also, because we 
understand the importance of foreign investment, we also understand that it is very important 
to have public support and to maintain community support for the way these foreign 
investment flows are managed. We also understand that it is important to have integrity in the 
system such that people have confidence that, whenever a particular foreign investment 
proposition would be contrary to the national interest, there is a process to ensure that these 
sorts of proposals are properly scrutinised. And, where a foreign investment proposal is 
considered on reflection to be contrary to the national interest, it is important for the 
Australian government to be able to decide that that particular foreign investment proposal 
cannot proceed.

There are particular sensitivities when it comes to agricultural lands, which the government 
has long recognised. We took policies in relation to these matters to the last election, and they 
are widely understood and are reflected in this legislation. I understand that Senator Wong has 
always been against this policy, but it is a policy we took to the last election and it is a policy 
that was ticked off by the Australian people. We are now doing what we promised we would 
do, and that is to seek to implement that policy we took to the last election.

Incidentally, I note that in the past Senator Wong argued for and urged the maintenance of a 
$1 billion threshold for any Foreign Investment Review Board scrutiny or foreign 
investment proposal for Australian agricultural land, and now it appears that their proposed 
amendments actually recognise that that is way too high. They are proposing a $50 million 
threshold rather than the threshold that the government has put forward. In principle, you have 
actually conceded the point that we have been making all the way through, and the debate is
now just a matter of where the line in the sand should be appropriately drawn. Is it at $15 million or is it at $50 million? That is the argument we are now having.

In relation to the questions that Senator Wong has been asking again and again, as I have indicated in response to those same questions previously, the state and territory governments will be consulted as part of the full public consultation process, as has been envisaged. And, if this public consultation cannot come up with a proposal that the government—or for that matter the parliament—is satisfied with, I guess we then end up in the circumstance where the sunset clause would be triggered, and at that point in time we could be having this whole conversation about the government's original proposal again. Hopefully, it will not come to that. Hopefully, through the full public consultation process, we will be able to come up with a process that is as efficient and effective as possible, and that minimises the level of red tape but by the same token helps to achieve the objective pursued by the amendment foreshadowed by the Greens, which seeks to extend the information collected from agricultural land to also include relevant water entitlements.

Senator Wong asked me about the cost, and she knows that is just an attempt at a trick question. We have transparently put on the table, for the Senate's consideration, the terms of an agreement—and I am quite happy to call it an agreement—the government has reached with the Greens. That is another thing that Senator Wong seems to find quite exciting; that we concede we have reached an agreement. Clearly we have reached an agreement, and I have tabled the agreement we have reached. And the terms of the agreement are transparently there for all to see.

We have outlined the process for consultation and development, but the way this is going to work in detail will of course be worked out through that process. Questions in relation to actual costs would best be addressed at that point except to say that, as we do with all things, we will seek to ensure that this small extension to what the government put forward is managed in the most efficient and effective way possible.

**Senator Wong** (South Australia—Leader of the Opposition in the Senate) (17:38): I have a few points and some questions. I think Senator Whish-Wilson did the chamber a favour not only by confirming the deal but by making clear that from the Greens' perspective this agreement means that the water register is just the start. It is the first stage of a plan to roll out more red tape in relation to foreign investment, this time in water. That is certainly what his proposition was; if that is not what the government says it has agreed to, it probably should say so in the interest of transparency.

I also want to make a couple points in response to Senator Cormann's assertions about this government being all about jobs. I would like the minister to explain to the chamber how creating more red tape and more barriers to investment in this country is good for jobs.

**Senator Cormann** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:39): I explained this in my previous answer. Maintaining strong public support for a foreign investment review scheme that has integrity and where the public can have confidence that any foreign investment proposal that is contrary to the national interest is picked up through that process and does not proceed is actually an important part of making sure that all of the very good foreign investment that we attract to our country to facilitate development in agriculture areas, the resources sector, the economy as a whole, the services sector—you name it. In order to attract all of the very good foreign
investment and continue to be able to attract that, maintaining public confidence in the
tegrity of the foreign investment review arrangements is actually very important.

This government has made an absolutely unprecedented effort when it comes to cutting red
tape costs for business. So far we have been able to reduce red tape costs for business by more
than $2 billion a year over the past two years as part of an effort to bring down the cost of
doing business as part of the effort to improve our international competitiveness and to help
Australian businesses be even more successful moving forward. Of course, our free trade
agenda is very much part of our efforts to help Australian exporters be more successful in
some of these key markets with which we have been able to finalise agreements—for
example, China, Japan and South Korea. The Minister for Trade, Minister Robb, is now
working very hard to secure agreements over time with India and the European Union.

This government has a very clear and demonstrated record when it comes to pursuing
policies that deliver strong growth and more jobs. The evidence is there as well when you
look at what has been happening to the employment market even over this past year.

Senator Wong asked about some comments that Senator Whish-Wilson made about this
just being the start. Senator Whish-Wilson is of course entitled to express his aspiration in
terms of future policy action from the Greens' perspective. From the government's perspective
the extent of our agreement is reflected in this letter. That is not to say that there will not be
further conversations in good faith with senators from any party in the Senate. We as a
government are of course always keen to discuss public policy with well-
intentioned senators, whether they are from the Labor Party, the Palmer United Party, the Greens, Senator
Xenophon's party or whichever party or independent grouping they come from. We are
always all ears in the pursuit of common ground when it comes to advancing good public
policy.

To directly answer the question that was asked by Senator Wong: the extent of the
government's agreement is clearly spelled out in this letter co-signed by Treasurer Scott
Morrison, Minister Barnaby Joyce and the Leader of the Australian Greens, Senator Di
Natale. I think it is self-

explanatory.

Senator WHISH-WILSON (Tasmania) (17:42): I wanted to add to the debate on this. If
getting a good policy outcome that is in line with your long-held party policy is doing a deal
then I am quite happy to say that we have done a deal. So what? This is exactly what we are
in parliament for. We are in parliament to get deals for the people who vote for us, for our
members and for the people who share the same philosophies as us. As I have said, Senator
Milne has campaigned for a long time to get a land register and a register of water holdings.
We have managed to do that with the government, and I once again thank them for working
with the Greens in this respect.

In relation to what comes next, I am very hopeful that, once we build a database and we
have a register, we can then look at potential FIRB triggers or thresholds for water holdings.
But let's deal with this first. That is something I would like to see in the future; I have made
that very clear. The government has said that they would consider that, but they have not
agreed to that. Nevertheless, that is something we think would make perfect sense. I think we
need a bigger discussion around what is in the national interest. We all know that the national
interest test as it stands now can be highly politicised. I think that, if we can get better
parameters around that, so be it.
Unfortunately, I do not have the policy here in front of me. If I had printed it, I would read it word for word. Senator Milne in 2013 went to the election with a policy on what should be included in the national interest test. There were of course, as you would expect from the Greens, issues around food security and climate change that we would like to see included in this. We are up front. It is on our website. I encourage people listening to this to go there and have a look.

Once again, I think this really has nothing to do with xenophobia; this has got to do with collecting good data. As I mentioned earlier, you cannot manage what you do not monitor, and it is a shame that we do not have that in place at the moment.

Senator WILLIAMS (New South Wales) (17:43): I rise to make a brief contribution to this. I want to put some facts on the record here. In opposition, my now leader, or my then leader as well—we are pretty consistent with our leaders in the National Party!—Mr Warren Truss, chaired a committee which involved people like the now foreign minister, Julie Bishop, and the recent Treasurer, Joe Hockey. It was about this very issue of foreign investment and foreign ownership of land.

I want to put on the record that I am certainly not against foreign investment. I will give you an example: Chinese company, Shanghai Zhongfu, has won the bid to lease and develop 13,400 hectares of land in the north of the state. This refers to the Ord River scheme, where the state and federal governments—the Western Australian government and the federal government—spent some $500 million building the roads and irrigation channels et cetera. Kimberley Agricultural Investment, an Australian company owned by Shanghai Zhongfu, is set to construct a $250 million sugar mill near Kununurra, where it plans to produce and harvest four million tonnes of cane a year and about 500,000 tonnes of export sugar crystal.

This is investment. It is real investment that grows production and grows jobs. I think there are going to be some 450 jobs up there, mainly for Aboriginal people. It grows exports. It grows GDP. It grows tax-take for Canberra. It is an investment that grows the production of our country. When this was announced, I did not hear one National Party senator or MP complain about that one bit. It was a new investment, a growth in our country.

It is when we have fully-established farms and we simply sell them off—that is when I have a serious problem, because those farms are at peak production. They might be in the New England area, where I live, and they might be grazing country that is well-fenced and into holistic grazing. They have been pasture improved, they have been fertilised and they have been watered well. When we sell farms like that, where does the profit go?

I will give you an example. American super funds have been buying farms up in northern New South Wales. I have asked this question of many people. When an American super fund buys our farm, and that farm makes a profit—and I am well aware that they do not make profits every year; I have had a lifetime of that—that profit is taken back to America, instead of being spent in the town of Inverell. How is that good for Inverell? No-one has ever answered the question.

When it comes to the register, I think this is a very good idea. In fact, it was Mr Rudd, in a previous government, who said he would establish a national register of our land. That is what he said. Of course, what did he do? He did absolutely nothing. So the register needs to be set
up. It will be set up by the end of December. Foreign owners of land must register with the ATO by the end of December.

I want to make the point that I distinguish between foreign investment and foreign takeover. Cubby Station is at maximum peak production, maximum water allowance, maximum irrigation and maximum development. When the foreigners bought it, they could not increase production—it had already peaked; it is at its cap. They are not employing any more people, but they will take the profit out of that property when they make a profit on it. If they have water, they will certainly do that.

I want to quote Senator Wong from *The Australian*:

We will move in the Senate to amend the legislation to remove the requirements for FIRB screening of investments in agribusiness worth more than $55m.

Well, Senator Wong, it is currently at $37.8 million. That is what it is. If you want to buy a business in Australia—an agribusiness, or any business—the limit is $252 million; anything above that has to go to FIRB. But if you want to buy more than 15 per cent of, say, a $300 million business—15 per cent of $252 million is $37.8 million—so the level is actually $37.8 million now. When some foreign company wants to buy into an agribusiness, or any business here, once they get to $37.8 million dollars at 15 per cent it goes through FIRB. This bill is saying that for agribusinesses that might be worth $100 million that if it is a $55 million portion or more that they wish to buy—it might be a $100 million business and they want to buy 80 per cent, $80 million worth—that will go through FIRB under these new regulations. So there will actually be two criteria there.

I want to make it clear that I am not against foreign investment, so long as it increases jobs, increases production, increases exports, increases GDP and increases the tax take for Canberra. That it is a win-win all the way through. It is quite amazing. We need a lot of investment in our housing industry. We have these regulations, especially in the cities, of course, all across Australia, that foreigners cannot have a free for all buying houses. We have had it where they can just buy farms. Why the difference? That is what this bill does. The coalition, working in opposition, took this to the last election—that this would put in place this very criteria—to see that we actually monitor who owns our farms. We believe that about 12 per cent of our properties are now foreign owned—12 per cent of Australia. Qatar made it perfectly clear: they are buying prime land in Victoria—what for? To take food back to their country.

I want to see us grow the food and sell the food to those countries and keep the profits here. People will say, ‘You can't take the land with you. If they buy land they cannot take the land with them.’ No, you cannot. But you can take what you grow on the land. Then you can even go down the road of transfer pricing and avoiding the tax system. Ask Senator Heffernan about that.

We need to scrutinise. The real case we are facing, the real situation, is that by 2050 we are going to have more than nine billion people on this planet. The big issue is going to be food security. If you do not control your land, you do not control what you grow on that land and you lose control of your food supply. When we have to feed over 9.3 billion people—by 2050 is the estimation—food is going to be the big issue. We are seeing it now. Look at the price of cattle. Look at the price of land. Look at the price of mutton. They are magnificent, and finally bringing some good wealth to those hardworking people in rural Australia who
deserve it. It is about time they had their turn. They deserve to get a fair go. It is good to see they are getting it now.

So that is why I support this legislation. I thank Senator Whish-Wilson and others in the Greens for getting behind it. I appreciate it very much, because I am of the firm belief that if we want to have a willy-nilly sell-off of our farmland then look at other countries. Look at developing countries; go to Thailand—you cannot buy more than 49 per cent of any business there. You would only be a minor shareholder. Go to America. Who owns the land? America is controlled by the states in most respects. Many states say that unless you are an American citizen you cannot buy land. Or go across to New Zealand. Five hectares? You want to buy more than five hectares? You have to go through their foreign investment review board.

Senator Xenophon: Or less if it's by the sea or by a river.

Senator WILLIAMS: Or less, as Senator Xenophon says, if it is prime land by a river or whatever. We are tightening our control and monitoring of who owns our land and who is buying our land. Some people seem to disagree with that. I encourage foreign investment if they want to go up the Top End, set up dams, clear country and develop it. I would be keen to ask Senator Wong this: how do you look at foreign investment in farms? Is it about clearing country? You are not allowed to clear country in New South Wales because in 1996 we had a bloke called Kimberley Maxwell Yeadon, a minister in the New South Wales parliament, who brought in SEPP 46 and then the Native Vegetation Conservation Act. Who worked for him in those days? It was Senator Wong, of course. So her history goes back with what she thinks of Australian farmers, especially in New South Wales: 'We'll curtail you from investing and growing your production, and, if you knock a tree down in the wrong spot, we'll fine you.' Thank goodness those changes are soon to be completed by the coalition government in New South Wales.

If you are talking investment, often it is about clearing country and putting it into pasture, just like the Americans did: as Senator Back told me the other day, the Americans cleared and established the whole Esperance area. Sadly there have been some terrible fires there recently and four lives were lost. But the Americans took scrub country and converted it to good wheat and mixed farming country—sheep and cattle country as well, and very productive. That is investment. We want all this investment. Then they will tell you that you are not allowed to touch the land. You might breach some environmental plan. It is quite ironic, isn't it, Chair? That is my input. I support investment where it grows jobs, grows exports, grows production, grows income and grows tax take in Canberra. When you simply sell a fully established farm at peak production that has been looked after by generations of farmers, in most cases, who know the land better than anyone—when you sell off that land and the profits are taken out of your country, how is that good for your local community? I fail to see that.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (17:53): I have a couple of points and then another question to Senator Cormann. I think it is important to acknowledge that no-one in the government has ever, even in that contribution, articulated why we need a threshold so much lower for land and agribusiness than we do for other sectors in our economy. No-one has articulated the public policy rationale as to why we have to be so much more restrictive and have so much more red tape in relation to agribusiness. With Agribusiness you have set at a $55 million threshold, when sensitive sectors such as media, telecommunications, transport, defence, military related industries, uranium or plutonium
extraction and the operation of nuclear facilities would be at $252 million. All of a sudden we are much more frightened and we want to spend much more red tape on investment in agribusiness than we do in those more sensitive sectors.

The second point is: again, no-one has explained why more red tape and barriers are a good thing for jobs. The third point is: even if people agree with some of what is being said, the government's approach does not make investment more difficult or more subject to red tape across the board; it only makes it more difficult for certain investors in certain activities. Investors from the US, New Zealand and Chile will continue to have the higher thresholds.

Senator Williams: They need to be reviewed as well.

Senator WONG: That needs review too? Is that government policy—to renegotiate the USFTA?

Senator Williams: No; it's my opinion.

Senator WONG: It is your view. Okay. Well, the reality is we have got this ludicrous situation where, if you are an investor from the US, New Zealand or Chile, you have a $1 billion threshold. Under your policy, you would have a $15 million threshold for the rest of the world, and the $50 million threshold—which is what Mark Vaile thought was appropriate—would continue to apply in relation to Singapore and Thailand. So we are talking about a smorgasbord of thresholds.

I noticed in Senator Whish-Wilson's contribution that, like Senator Williams, he was talking about transparency and so forth. People might recall in relation to the register—which I think was in the other legislation; I cannot recall in which bill it was—that we supported that. So we are not opposed to more transparency. We are opposed to an ad hoc set of politically driven thresholds which make no economic sense. I appreciate others in the chamber may have a different view. I note Senator Lazarus has a set of amendments. I appreciate he has got a particular position. But we do not think this set of ad hoc thresholds that the government is proposing make sense.

Leaving that aside, because it is the government's policy and the government's bill, I have a question on this. Senator Whish-Wilson, in his articulation as to why the Greens have done this deal, said that he wanted to see—and I am paraphrasing, so I apologise if I have got it incorrect—a FIRB trigger in relation to water holdings and that the government had not yet agreed to it but they were prepared to consider it. I would like to ask the government to respond to that and to tell the chamber what the status of that is. I will just repeat that for the minister. Senator Whish-Wilson, in his contribution, indicated that the Greens would be looking at a FIRB trigger on water holdings. That was the note I took. He is nodding his head, so I do not think I am misquoting him. Given that that is not contained in the letter, I would like to understand what the government's commitment is to the Australian Greens and what deal is associated with the deal that has been tabled.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (17:58): I have actually answered that question previously. The way I answered this question was not by trying to speak for Senator Whish-Wilson. Senator Whish-Wilson, as the relevant spokesperson for the Australian Greens, is of course free to express his policy aspirations and the policy aspirations of his party. As far as the government's position is concerned, the government's position is clearly and transparently set
out in the letter that was co-signed by the Treasurer, the Minister for Agriculture and Water Resources and the Leader of the Australian Greens. It commits the government to a process to engage in full public consultation in relation to the proposed introduction of a register of foreign ownership of water entitlements within 12 months. If the government were not to follow through on the commitment that we have made, then the sunset clause which is part of the Australian Greens amendments would come into effect, which in practice would mean that we would have to talk again about the substantive provisions in this bill that is currently before us.

The government in good faith has committed to the Greens as part of the agreement that we have reached to engage in this process, which will involve full public consultation. At the end of it, the intention is to come up with a proposal to set up a register of foreign ownership of water entitlements, which is put forward in the most efficient and effective way possible.

Senator Wong also in her remarks talked about the fact that nobody in the government has ever articulated the need to change the threshold. We have articulated that need—

Senator Wong: In relation to agribusiness.

Senator CORMANN: In relation to agribusiness, of course. What we said in the lead-up to the last election—

Senator Wong interjecting—

Senator CORMANN: There was nothing ad hoc about it at all. It was part of our coalition pre-election policy. On this side of government, we have got this old-fashioned view that, once you get into government, having taken a policy to the election, you should implement it. And that is of course what we are doing. We took an explicit policy to the last election. We made decisions on where the appropriate threshold would be and we are now seeking to legislate that commitment that we took to that election. We are very grateful to the Australian Greens for engaging with the government and working with us to find common ground to help facilitate the passage of this legislation.

What I would say is there was a time when Senator Wong suggested that the screening threshold for all assets, including agricultural assets, for Foreign Investment Review Board purposes should be $1 billion. You would be hard pressed to find any piece of agriculture land that would ever be reviewed by the Foreign Investment Review Board under that sort of proposition. Clearly, Senator Wong realised the error of her ways—or maybe it wasn't Senator Wong; maybe it was the Labor Party that imposed a change in position on Senator Wong—because now we hear that, rather than propose a $1 billion screening threshold for agricultural land for Foreign Investment Review Board purposes, according to Labor, it should be $50 million. Labor went from $1 billion to $50 million. We say $15 million, so you are actually much closer to our position now than your original position, which I might loosely describe as the original Wong position.

This is just a debate at the margins. Clearly, you recognised, along with the government and other senators in this chamber, that there is a particular sensitivity when it comes to agriculture land. The economics are quite different. The values involved are quite different to some other sectors in the economy, and what the government is seeking to do by lowering the screening thresholds in relation to agriculture land to $15 million is to give proper recognition to this. This is all part of our broader effort to ensure that there is strong public confidence in
the integrity of the foreign investment framework, because we recognise the absolute importance of strong foreign investment flows to help us reach our full potential as an economy moving forward in the same way as foreign investment and foreign labour for that matter has helped us develop the economy successfully in decades gone by—indeed since well before Federation.

Senator WHISH-WILSON (Tasmania) (18:03): I have a question for the minister. The FIRB referral process has been around for a while now around different asset classes and different countries through different trade deals. Can the minister provide any evidence to the Senate that the FIRB process and the so-called red tape or cost of these FIRB assessments have led to any disincentives for foreign investment in this country?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:03): No.

Senator WHISH-WILSON (Tasmania) (18:03): In terms of the cost of this policy, is the minister aware of any cost-recovery processes that have been put in place? My understanding is that fees were dealt with in legislation a couple of weeks ago that would be levied on potential buyers to actually cover any additional costs to the administration of the scheme.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:04): Obviously, there are relevant fees for applications that come before the Foreign Investment Review Board—and I think that they are on the public record, so I am not going to list them. There are different fees, depending on the value of the asset involved and various other criteria.

When it comes to the amendment,—which I suspect is what Senator Whish-Wilson is getting at—and the cost of managing what is envisaged by the amendment that he is proposing to move to set up a register of foreign ownership of water entitlements, as I have indicated in response to a similar question from Senator Wong, the government will pursue this in good faith following proper, full and public consultation. We will be pursuing it with a view to setting this register up at the lowest possible cost while being effective, so we will seek to do it in a way that is efficient and effective.

Obviously, we are not in a position right now to give you specific details on what that cost will be, because the consultation has not yet taken place. If the Senate were to pass this amendment, the government will engage in a process, and part of that process will help us identify the specific costs of this part of the arrangements into the future. Any related matter, I would suspect, would be considered in that context.

Senator WILLIAMS (New South Wales) (18:05): I will be very brief—just a message for the minister. The inquiry we have got at the moment on the Murray-Darling Basin is very concerning when you hear from the irrigators. Senator Madigan and Senator Whish-Wilson and others will be well aware—Senator Day as well—that the price of water has been forced up by corporate intervention and dealing, and people can't buy water to finish their crops—

Senator Madigan interjecting—

Senator WILLIAMS: by the speculators, thank you, Senator Madigan. I believe even some superannuation funds—is that correct? Super funds buying water? It is crazy.

I just want to make a point to you, Minister Cormann, that when Senator Wong talks about buying and protecting land, don't forget Senator Wong's history of buying land. She has
bought a lot of land in our country. She bought 90,000 hectares—Toorale Station for $23 million. I do not think she ever looked at it. I do not think the department ever looked at it. They bought it to run water down the Murray and then paid $700,000 to get the cattle off the property. The problem is that the ring tanks there to hold the water back have a heritage order on them. So, I think, Minister, as you go through this bill, you need not pay much attention to Senator Wong when it comes to the history of farming, the involvement of farmers and the purchase of agricultural land.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (18:07): I am pleased that we are going personal in this debate—from a bloke who really is very good at it. I have a couple of points to make. I would remind the minister, who used to believe in open markets but apparently no longer does—he has been convinced by Senator Williams—that it was John Howard who had a billion dollar threshold. He had a billion dollar threshold for land under the US FTA and others, and the $50 million threshold in relation to Singapore and Thailand was clearly what the National Party's Mark Vaile thought was appropriate.

I have two questions which arose out of both Senator Williams and Senator Whish-Wilson's contributions. I may have misunderstood them, but I understand that Senator Williams was asserting that the US FTA, the New Zealand FTA and the Chile FTA ought to be reopened to lower the agricultural land threshold. I would ask: is that government policy? Does the government have any intention of doing so? Second, I again ask: is the government prepared to consider the Greens' proposition to create a FIRB trigger in relation to water holdings?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:09): Firstly, I would like to thank Senator Wong for referring to John Howard, who of course is truly a giant of Australian politics and a giant of the Liberal Party—and his government had many great policies. But every now and then there is a policy that, on reflection, we believe can be improved upon. The way this process works is that, particularly when you are in opposition, you spend a lot of time talking to a lot of people, reassessing why it is that you lost and thinking through how you can do things better the next time round. Obviously this is one of the areas where we identified a need for improvement, and we took not only the need for improvement but also a very specific policy proposal to the Australian people at the last election—one which we now seek to legislate.

I can reassure Senator Wong that I continue to be a great believer in free and open markets. I think being an open trading economy, exposed to the competitive pressures in the world, has been absolutely good for Australia's economic and our economic success, and I continue to hold that view. But I am also realistic enough to know that it is very important for us to maintain strong public confidence in foreign investment, which is important to maximise our future economic success. As such, there are improvements that can be made and should be made and which are the subject of this legislation. Senator Wong asked me whether we are proposing to renegotiate various free trade agreements. No, we are not. Finally, what was your last question in relation to something to do with the Greens?

Senator Wong: Considering a trigger in relation to water holdings.

Senator CORMANN: I have already indicated that the only thing that we have agreed to at this point in time, as is reflected in the letter that has been referenced on a number of occasions, is a process to establish a register of foreign ownership of water entitlements.
within 12 months and to commence shortly a process of public consultation in order to develop an implementation approach and to also ensure that all of the relevant technical issues can be properly addressed.

The government is very confident that it will be successful in this. We will be engaging in this process in good faith. There is, of course, a sanction in the amendments foreshadowed by Senator Whish-Wilson, and that is that, if the government is unsuccessful in what it has undertaken to do, the sunset clause will essentially render this bill, which may or may not be passed by the Senate, void.

Senator XENOPHON (South Australia) (18:11): I have a couple of questions. Firstly, on the billion dollar threshold for the United States and other countries we have FTA’s with—and I think as a result of the closer economic relationship with New Zealand and also with Chile, it is a billion dollar threshold—can the minister confirm either now or in the course of this debate that the same rules that apply for investment from, say, the United States into our prime agricultural land applies if an Australian company wants to invest in the US? My understanding is that it does not and that there are further barriers in the US as opposed to the lack of barriers that apply here—because a billion dollars could buy big swathes of the Riverland; I dare say it could by a significant proportion of the Riverland, given that billion dollar threshold—and that that would also apply to other countries that that billion dollar threshold relates to.

Secondly, with the proposed reduced of the threshold to $15 million—and I believe that is a step in the right direction but it should go further—given the FIRB has in the order of 30 to 35 staff in addition to its board, I wonder whether there will be additional resources for the FIRB with respect to the anticipated additional transactions. From an annual report of the FIRB of two or three years ago, there were about 13½ thousand transactions that they had to look at or that came within their purview. So will there be additional resources for the FIRB?

Finally, I have been speaking to a number of my colleagues about having a Senate inquiry into the port of Darwin deal. I note some encouraging comments by the Treasurer in terms of the need to look at these issues. Is the government currently reviewing the rules in the legislation that appear to exempt assets that are owned by state and territory governments, particularly strategic assets such as ports and other key infrastructure?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:14): Firstly, in relation to the questions about how the Australia-US free trade agreement works in the other direction, I think that well and truly takes us beyond the scope of this bill. In an abundance of helpfulness, I will seek to obtain the information, but I might have to provide that information outside the context of this debate.

As I have already indicated in answer to a question by Senator Wong, the government is not intending and does not propose to reopen any of the existing free trade agreements that we have with various countries around the world. The specific factual question that he is asking me there—about the matter relating to the trade relationship between Australia and the US—I will have to refer to Minister Robb. But it is, of course, not relevant to the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 that we are dealing with here.

Will there be additional resources? Yes, there will be. This is all reported in the budget, so it is public information. This is not new information. It is openly and transparently out in the
public domain. The government has allocated 10 to 15 additional staffing positions to Treasury for this purpose and about 50 to 60 additional staffing positions to the Australian Taxation Office in order to manage these arrangements.

In relation to the other matters that he has raised, these are matters, obviously, for the Treasurer to consider and to make comment on if that is warranted. It is not, again, directly relevant to this legislation and I am not proposing to go there today.

**Senator MADIGAN** (Victoria) (18:16): Minister, is the government aware of how much good cropping grazing country in the Western District of Victoria you can purchase for $15 million? You can pick up 5,000 acres of some of our prime grazing country in the Western District of Victoria. Not to mention that 5,000 acres at $3,000 an acre is $15 million. That is a huge swathe of our prime agricultural land. Not to mention what you can buy around Ballarat—prime volcanic soil with high rainfall. At 2007 prices, $10,000 an acre, it is 1,500 acres. Then, if you go to Gunbower in Victoria you can pick up 12½ thousand acres at $1,200 an acre, which gives you $15 million. Is the minister aware of how much of Australia's best agricultural land can be purchased for $15 million?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:17): I thank Senator Madigan for that question. Yes, the government is aware and, yes, I am aware. I might remind Senator Madigan and the Senate that the current threshold is $252 million. Labor initially thought that we should lift that threshold. Not reduce it but lift it from $252 million to $1 billion. Labor has now changed its mind to say that it should be brought down to $50 million. We think it should be brought down to $15 million. We think we have the balance right in relation to the line in the sand that we have drawn. It is based on extensive consultation, in particular in the lead-up to the last election.

I might add here that this $15 million threshold is a cumulative threshold, so if one foreign purchaser sought to purchase several lots of land it all adds up and if it reaches the $15 million screening threshold it would trigger Foreign Investment Review Board consideration under the terms of this legislation. Some people in the Senate are saying that we have taken the threshold too low and other people are saying that we are leaving it too high. We think that we have the balance right.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (18:18): I had a question, but I will first start by clarifying the minister's previous previous answer— I think it was three answers ago now. The nature of the commitment in the penultimate paragraph of the letter is that the government commits to undertake a review of the treatment of water under the foreign investment review framework. Does that leave open the possibility of separate FIRB thresholds for water holdings?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (18:19): As I have previously said, this letter is extraordinarily well written and it means what it says. It says here, as you have just read out that once the proposed register has been implemented—assuming that we can get to that point successfully after public consultation to enable the establishment of this register within 12 months—and data is available then the government commits to have a review on the level of foreign ownership of water entitlements, I guess to consider the data that is identified through that process to see whether there are any other further actions that should be taken. We are not
pre-empting any further action. We are not suggesting that there will be further action. We have not agreed with the Greens that there would be further action.

All we have agreed to is that assuming that we successfully get to the point that we are intending to get to, of having this register in place within 12 months, then what we are committing to do is to have a look at the data to see whether it means that we should be making any appropriate public policy decisions to use that data in an appropriate way.

You have been around long enough, Senator Wong: you know that that does not mean that we are pre-empting a decision and that there is a whole range of steps first. There is public consultation to deal with the implementation and any technical issues. And if we get to that point then we can cross the next bridge, and that is to start collecting relevant data. Once we have collected relevant data for a period I would have thought it stands to reason that you would consider that data, which is what we have committed to do, to see whether any further responses should be pursued.

At this stage, I cannot foresee what I do not know. I do not know what the data will show. I do not know where we will be at the successful conclusion of this process, after relevant data has been collected for a while. So let us cross that bridge when we get there is what I would say to Senator Wong.

Let me make this final point again: this whole debate has now come down to a disagreement about not whether we should keep the current threshold of $252 million, not whether we should increase it to $1 billion—as Senator Wong has previously argued—but whether it should be reduced from $252 million to $50 million, or $15 million or even lower. Now, what we would suggest to the Labor Party and to the Senate as a whole is that we have very carefully considered this. We took a particular commitment to the Australian people at the last election and we would respectfully ask the Senate to let us implement our policy.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (18:22): I think we all remember a number of the commitments the government took to the last election including no cuts to health, no cuts to education, no changes to the GST. Does everyone remember that? And what did we get. We got a range of cuts to health, a range of cuts to education and changes to the GST. And of course we all remember the 12 submarines to be built in Adelaide. So forgive us, Minister, if we take with a grain of salt your justification for this policy that it was an election commitment because it appears that there are some election commitments which are sacrosanct and there are some which are easily broken. The ones which are sacrosanct are the ones it appears you do with Senator Whish-Williams and the National Party but the ones that are broken are the ones the Australian people might actually care about, like making sure that their schools and hospitals were not cut and that they did not have to pay more for their food and for other items of necessity.

Leaving that aside, the minister said in his answer that Senator Wong has been around long enough to understand what these words mean. I know a fudge or, as one might save more acerbically, I know weasel words when I hear them and read them as well. The difficulty we have is that this letter is written to leave open a lot more changes to the foreign investment framework when it comes to the treatment of water. That is how it is written. We have Senator Whish-Wilson—and I do not criticise him for this—is clear about his position. I do not agree with it but he is clear about it. He wants a lot more regulation and a lot more red
tape in relation to investment in water and agriculture. He made very clear that his view is that
the government has agreed to consider FIRB thresholds for water holdings.

So, Minister, leave aside the fudging and the weasel words; I just want to understand
whether the government has agreed with Greens to leave on the table a FIRB trigger for water
entitlements. Is that what has been agreed? Is that the subject of this agreement or not?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the
Government in the Senate) (18:24): We can keep going around and around in circles. The
agreement is as stated in the letter that I have openly and transparently tabled in the chamber.
This letter envisages a process which, within 12 months, would seek to establish a register of
foreign ownership of water entitlements. There would be a process of public consultation to
make sure that that is done in the right way and in the best way. If we are unsuccessful, what
will happen is that the sunset clause envisaged in Senator Whish-Wilson's amendment will
come into effect and the legislation will lapse. If we are successful, certain data will be
collected and at some point down the track—you do not collect data in order to not even look
at it.

What the government is committed to do, once we have collected data through this register,
is that we will undertake a review of the treatment of water under the Foreign Investment
Review Board framework, given the data that is available to us at that point. It does not pre-
empt any finding; it does not pre-empt any decision. In fact, we cannot make judgments on
the basis of information that we currently do not have and things we currently do not know. I
see Senator Whish-Wilson nodding. I would not be surprised if even Senator Whish-Wilson,
who might have some instinct and some aspirations, would say, 'Let's wait for the evidence
before we get to the next step.'

I understand the political point that Senator Wong is seeking to make. I saw the gratuitous
commentary in relation to policy election commitments. We all remember the infamous line,
'There will be no carbon tax under a government I lead,' and we know what happened after
that. Let me just say for the record again that we of course made commitments in relation to
funding for health and education to keep a funding envelope in place that was the funding
envelope in the period of the forward estimates at the time of the last election. We have done
that in health and in education. In fact, during the election campaign, we were being attacked
by Labor because we would not commit to Gonski beyond the initial four-year period.
Because we stuck to that commitment of not committing to Gonski beyond the original four-
year period, we are now being attacked for cutting against some illusory, pie-in-the-sky
promise that Labor made on the never-never, mostly in the period beyond the published
forward estimates, but I get distracted.

I could also talk about the fact when it comes to the GST Labor is clearly obsessed. They
have come to a view about what necessarily will happen. Let me just say that what the
government is doing is precisely what we said we would do in the lead-up to the last election.
We said before the last election that we would scrub the mining tax and the carbon tax and we
have. We said before the last election we would reduce taxes for small business and we have.
We said we would initiate a tax reform discussion and consultation process about how the
Australian tax system could be further improved and how we can make it more growth
friendly into the future to ensure Australia is the most successful we possibly can be, to
ensure it is simpler, fairer and more efficient. That process is currently underway. We have not reached a landing point in relation to this.

We did say that there would not be any change to the base of the GST in this first term of a coalition government, that we would engage through in an extensive consultation with the Australian people on how the tax system could be improved and any proposals to improve the tax system would be taken to another election before being implemented so that the Australian people could pass judgment on it. I put our record when it comes to fulfilling election commitments against Labor's 'There will be no carbon tax under a government I lead' any day. But of course Senator Wong has tempted me here to go well beyond what is in front of us and what is in front of us is the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015. I think I have clearly articulated the government's position.

**Senator WHISH-WILSON** (Tasmania) (18:29): For the last 35 seconds, perhaps I could put Senator Wong's mind at ease on this issue. We got a commitment from the government about setting up a register of foreign holdings in water licences. We got a commitment in the legislation for a sunset clause, which the minister has already talked about. There was no commitment on FIRB triggers or on water thresholds on that register. Otherwise we would have asked for a commitment in the legislation but we did not. There was no commitment, but it is something we would like to see in the future.

**Sitting suspended from 18:30 to 19:30**

**The TEMPORARY CHAIRMAN (Senator Sterle):** The question is that the bill stand as printed.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (19:30): There were a few questions before the break. Could I clarify with the minister: in terms of the letter outlining the deal with the Australian Greens on this policy area—he described my asking him about costs as a 'trick question'; I do not know if it is a trick question to ask the finance minister how much something will cost—can he give us any further information on that? And, more particularly, who is responsible for conducting the review that is referred to in the penultimate paragraph, and who is in charge of designing the register and the process, as described, 'for developing an implementation approach'?

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:31): The reason I referred to it as a trick question was because Senator Wong was asking me to provide a costing for a proposal that had not yet been developed and that was to be subject to full public consultation. In relation to implementation arrangements and the relevant technical details, all of these matters are fundamental to costing and are being conducted at the appropriate time. What I also said to Senator Wong and what I indicated to the Senate is that, consistent with usual practice, the government would seek to implement this proposal in the most efficient and most effective way possible—that is, at the lowest possible cost to achieve the objectives as outlined in the letter.

In terms of who is responsible for this, this is going to be a joint effort between Treasury and the Department of Agriculture and Water Resources. Essentially, it is going to be a joint effort between the Treasurer and the Minister for Agriculture and Water Resources with the support of their relevant departments, who will conduct the consultation and ultimately the development of the register of foreign ownership of water entitlements within 12 months.
Senator WONG (South Australia—Leader of the Opposition in the Senate) (19:32): Is the government committed to undertaking a full RIS—regulation impact statement—in relation to this proposal?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:32): The government will go through all of the usual and established processes.

Senator LAMBIE (Tasmania) (19:33): In relation to the $15 million—can you tell me where you plucked that figure from? You have gone from $50 million down to $15 million. Exactly where has that figure come from? What made you decide that that is the figure that we are going to sit on?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:33): I thank Senator Lambie for that question. As I indicated during the debate earlier in the proceedings, this $15 million threshold is the proposal that we took to the last election, which was based on extensive consultation with relevant stakeholders. The current threshold is $252 million, so the current screening threshold in terms of agricultural land in the context of Foreign Investment Review Board considerations is $252 million. At various times Senator Wong has argued that it should be lifted across the board to $1 billion.

Labor is proposing a $50 million threshold; we are proposing the $15 million threshold that we took to the last election. Some other senators are proposing an even lower threshold. I think Senator Xenophon is proposing a $5 million threshold and Senator Lazarus is proposing a zero dollar threshold, which would mean that every acquisition of a piece of agricultural land would have to be put to an assessment by the Foreign Investment Review Board.

In the end it is a judgement call. In the end it is up to the Senate to decide whether the Senate supports the recommendation made by the government or whether it supports the recommendations made by the Labor Party, the Greens or one of the Independent senators. From the government's point of view we believe that we have got the line in the sand right, and that is the recommendation we are putting to the Senate.

Senator LAMBIE (Tasmania) (19:35): You have come up with $15 million and you still cannot give me a clear answer on exactly where you have plucked that from. You have just decided to pluck that and run that with everybody else. Forgive me if I am wrong, but you have done no modelling on the negative or positive impact of that $15 million, so can you answer: have you actually considered having this from zero—so any foreign investment into prime agricultural land should be looked at, no matter what the price is? Have you considered that at all, or did you just want to sit on the $15 million that you plucked from thin air?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:35): Obviously, I do not agree with the characterisation that we plucked this figure from thin air. As I indicated to Senator Lambie and to the Senate, we have determined this $15 million proposed screening threshold as a result of the public consultation that we undertook when we were putting our pre-election policy commitments together. This was a figure that we openly and transparently put to the Australian people at the last election. We do not think it would be in the national interest to implement a screening threshold of zero dollars, which would in effect mean that every single transaction involving a
foreign purchase and involving agricultural land would have to be screened by the Foreign Investment Review Board. We think that that would clearly not be a good use of taxpayers' resources, and it would not be good in terms of our approach as a country to foreign investment into Australia.

As I have indicated earlier, we do believe that foreign investment is important. We believe that the current threshold of $252 million is too high; we think it needs to be lower, so our proposal and our recommendation to the Senate is that $15 million is the appropriate threshold. As I indicated in answer to a previous question, it is a cumulative threshold. So any foreign purchaser who seeks to purchase agricultural land in Australia, once they reach the value of $15 million would trigger the Foreign Investment Review Board process.

Senator LAMBIE (Tasmania) (19:37): So you have done no modelling on a zero threshold; that is what I am asking you. You are just going on what you plucked out of the air at $15 million and said, 'That's it; that's what we're running with' and you have done nothing else. That is the figure you plucked out; you have looked at no other figure than the $15 million. This is where we are at today—we just pluck things out of the air in here now. What about the national interest? What about our prime agricultural land? Where is the modelling on the zero? That is what I am asking you.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:37): Well, I thought I put it as eloquently as I could. This $15 million figure is a figure that we identified in the course of our policy development process in opposition. It is the result of extensive consultation with relevant communities across rural and regional Australia. We do not believe that a zero-dollar figure is appropriate. It is not something that we have modelled because it is not something that we would entertain. In the end, it is a judgement call. Every individual senator, of course, is entitled to form their own judgement and vote accordingly. Our recommendation to the Senate is that the appropriate threshold is $15 million. There are alternative proposals in front of the Senate. Of course, if Senator Lambie is of the view that it should be zero dollars, there is an amendment circulated by Senator Lazarus that would give effect to her preferred proposition. The government do not think that it is in the national interest for us to go down that path.


Senator Wong: You can move an amendment.

Senator LAZARUS: I can do that. I rise to move the amendment on sheet 7792 revised.

The TEMPORARY CHAIRMAN: Is that amendment (1) on 7792?

Senator LAZARUS: Amendment (2) on 7792 revised.

The TEMPORARY CHAIRMAN: Down the bottom, okay. Amendment (2)?

Senator LAZARUS: Yes, revised amendment.

The TEMPORARY CHAIRMAN: Is it (1) or (2)?

Senator LAZARUS: Amendment (2).

The TEMPORARY CHAIRMAN: About the review?

Senator LAZARUS: Yes, the review. It has been added in.
The TEMPORARY CHAIRMAN: Sorry, Senator Lazarus. Senator Wong, if you can assist.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (19:40): If I could assist. Senator Lazarus, the amendments are separate. I understand this is the way the clerks have suggested that they be moved. On the running sheet, there is your amendment (1) to schedule 1, item 4; then there is your amendment (2), which is the review. The first is the agricultural land threshold and the second is the review. I am open to it, but it might be easier for you to move them both with leave, subject to the chair. We do not have a concern, but we would like to know which one is before the chamber.

Senator LAZARUS (Queensland) (19:40): by leave—I, and also on behalf of Senators Lambie and Madigan, move amendments (1) and (2) on sheet 7792 revised:

(1) Schedule 1, item 4, page 44 (lines 10 to 21), omit subsection 52(2), substitute:

Agricultural land

(2) The threshold test is met in relation to land if the land is agricultural land.

(2) Schedule 1, page 111 (after line 16), at the end of the Schedule, add:

5 Review of when the threshold test is met for agricultural land

(1) The Minister must cause an independent review of the operation of subsection 52(2) of the Foreign Acquisitions and Takeovers Act 1975, as amended by this Schedule, to be undertaken and completed within 2 years after the commencement of this item.

(2) The person who undertakes the review must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sittings days of receiving it.

The people of Australia want the sell-off of Australia to stop. So I stand here today to speak on behalf of all Australians who so desperately want real and strong leadership from their elected representatives to make the changes necessary to stop the sell-off of Australia.

I believe my amendment belongs to the people of Australia and it delivers what the people of Australia want. Australians have had enough. They have had a gut full of governments lining their own pockets and selling off our country to the Chinese and other overseas investors for short-term gain, just to make a quick buck at the expense of our country's long-term future. I am not singling out any one government; all governments on all sides at all levels are guilty of doing this. The people of Australia have had enough of having to deal with the increasing cost of living, price hikes in the cost of electricity, tax increases, increases in the cost of health care, cuts to pensions, cuts to family tax benefits and so the list goes on, while governments pander to the big end of town and sell-off to the Chinese the rights to our ports, allow the sale of our land, businesses and assets to foreign companies and allow foreign owned CSG mining companies to simply walk onto people's properties and farms and destroy their lives. The people of Australia have simply had enough.

At what point will governments actually stop, look around at what is happening to this country and how the people of Australia are really feeling and take a stand for the people of Australia and our country as a nation? At what point in time will governments realise that if we do not stop selling off our own country to the Chinese and the rest of the world, we are not going to have a country to govern and call our own in the future? I believe this time is now
and everyone in this chamber can join me in supporting the people of Australia by stopping the sell-off of Australia.

While I applaud the government for seeking to put in place improved mechanisms to assess the sale of Australian land to overseas investors, the people of Australia simply want more. The people want the sell-off of Australia to stop. This is why I have drafted this amendment, so we as a country can start to take control of who buys our land and how much we allow them to buy, and what we allow them to do with it. Currently, we have no idea how much of our land is owned by the Chinese or any other country or foreign owned corporation. The fact that current and past governments on all sides of politics have allowed this to happen is an absolute disgrace.

While the current government is now seeking to install a register of foreign ownership of Australian agricultural land, which I fully support, until our country gets the register up and running and fully understands how much of our land is actually foreign owned, I believe we should not be allowing any further prime agricultural land to be sold off to international investors without reviewing every single transaction to determine whether or not it is in our national interest to sell-off the land. This is what my amendment does. It puts in place protections to ensure every piece of agricultural land in this country sold off to overseas investors is subject to review before the sale is allowed to be completed.

We as a nation have to start putting Australia first. We have to start looking at where we are heading. As an Australian, I am angry that so much of our land is being sold off to the Chinese and to other countries. Our poor farmers are suffering as a result of drought, difficult business conditions and global challenges. In my home state of Queensland, 80 per cent of the state is in drought. Our farmers are being picked off one by one by foreign buyers who are circling our farms and eyeing off the agricultural opportunities that our great land offers. Currently, in my home state of Queensland, there are busloads of Chinese investors being carted around from farm to farm in rural and regional areas to look at and buy our farms.

So much of the world is overcrowded. In fact, overcrowding has become such a problem that many countries do not have enough land to grow produce to feed their own people. Australia has an abundance of land—land which we should be cultivating to generate produce to become the food bowl of the world. We should be selling our produce to the world, not selling off our land.

What happens when another country—let's say a Chinese business backed by the People's Republic of China—buys our agricultural land? I will tell you what happens. Firstly, that part of Australia is no longer owned by Australia; it is owned by the Chinese. Secondly, any produce grown on the land is no longer available to the people of Australia. Thirdly, the country that buys the land—in this instance, the Chinese—brings in its own people to farm and manage the land and any produce grown on it. Fourthly, the produce is then shipped directly out of the country and over to China. Australia not only loses the opportunity to sell produce to the Chinese but loses jobs, revenue, taxes and access to our own land. We lose out altogether. If this does not register alarm bells then I do not know what will.

I am in touch with what is happening in rural and regional Queensland because I am out and about visiting towns and talking with people on the land. Last week I visited a few areas in North Queensland, and everyone is concerned about jobs and the high unemployment which Queensland is experiencing. Meat-processing plants located in rural and regional
Queensland which employ hundreds of people and are important sources of local employment are having to close down early because they cannot get enough beef to process. Because our farms and our beef are being bought up by foreigners and being shipped overseas, we are losing the opportunity to process these products here in Australia, and so we are losing jobs and overseas export opportunities as a direct result. In Queensland, our meat-processing plants are slowly closing down one by one.

What does this do to rural and regional Queensland? It decimates our communities and our people. What does this do to Australia more broadly? It means we cannot even process and produce our own meat products. Instead we will have to import processed meat products from overseas at a premium and we will be reliant on the rest of the world to eat. What is worse is that the meat actually originated in Australia, and in the future we will have to import it back into our own country in the form of processed meat products at a high cost because the products are being processed overseas.

I am an old footballer and I have had my fair share of knocks around the head. In fact, my wife made me go to the gym during the dinner break. I am all over the place, but even I know that the path we are on is a very dangerous, damaging and stupid one. As I said, the people of Australia have had enough. They want the sell-off to stop. Everywhere I go in the state of Queensland, this is the first issue that comes up every time. This is concerning the people of Queensland no end. As I said, the people of Australia have had enough and they want the sell-off to stop.

Today we have a real opportunity to start changing things here in this country and to start standing up for our nation and for our people. My amendment puts in place a requirement for all purchases of Australian agricultural land by overseas investors to be assessed against our country's national interest. As part of this amendment, I also call on the government to increase funding and resources to the Foreign Investment Review Board to enable the expeditious processing of all sales of Australian agricultural land. My amendment also includes a review obligation which will require the government to review foreign investment sale arrangements in two years to determine their success.

I have received some objection to my amendment. It has been suggested that the requirement for all sales of agricultural land to foreign buyers will discourage foreign investment or place too much workload on the Foreign Investment Review Board. This is a load of rubbish. My response to this is simple. My amendment does not stop the sale of agricultural land to foreign investors. Rather, what it does do is ensure that Australia will now have control over what agricultural land we sell, how much, to whom and for what purpose. In this age, the age of computers and high-tech systems where we process every person who enters the country and process every property sale, we can easily assess every sale of agricultural land to a foreign buyer against our national interest.

Yes, we do have the resources to assess every purchase, and so we should. We are talking about the national interest of our country and the security of our country, the country that our diggers have fought and died for and continue to fight for. The term 'national interest' can mean many things, but at the end of the day it means something very simple to me and the people of Australia: it means that the Australian government will act in a way that ensures the safety, security, health, prosperity and wellbeing of our people in the long term.
I should add that, while this amendment will require the review of all sales of agricultural land to foreign buyers against our national interest, free trade agreements such as ChAFTA will overrule this and give the Chinese the scope to buy up our land to the value of $15 million without any review or assessment against our national interest. My only hope is that future governments will fix this mistake.

As I have said, this amendment belongs to the people of Australia, and we as the representatives of the people should ensure that we put our country first. Minister Cormann said the $15 million figure was a judgement call. I think your judgement was way off. No-one else in the world is going to look after Australia as we will. I thank Senator Lambie and Senator Madigan for cosponsoring this with me, and I commend this amendment to the Senate.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:52): Firstly, on behalf of all governments of Australia, current and past, let me reject this assertion that governments have been lining their pockets, as Senator Lazarus was suggesting, in the process of selling off agricultural land to various foreign interests. That is not a very serious proposition, and it is one that I have to reject on the record. I would also say that all governments of both political persuasions in Australia, whether they are coalition governments or were Labor governments in the past, are motivated by putting Australia first. We might have a different perspective on how you put Australia first, but let me just say that, if you look at our history as a nation, given that we are a large continent with a small population, attracting foreign investment and attracting foreign labour have been an integral and central part of our economic success in the past and will be a central part of our economic success in the future.

Yes, the government agrees with the proposition that, when it comes to agricultural land, the current screening threshold of $252 million is too high, but to go down to zero is not serious. To suggest that the Foreign Investment Review Board should review every single transaction in relation to every single parcel of agricultural land is just not practical and it is not sensible, because, in the end, it would make us a very unattractive destination for foreign investment, and that is not something that this government would want to be part of. We have made a judgement call based on extensive consultations across rural and regional Australia, and we are recommending to the Senate that we adopt a new screening threshold of $15 million. You, Senator Lazarus, along with Senators Madigan and Lambie, suggest it should be zero. Senator Xenophon suggests it should be $5 million. The Labor Party suggests it should be $50 million. We are not the highest; we are not the lowest; we are sort of middle of the road. We think that the government have the balance right. We agree it ought to be lowered from where it is. We think that $15 million is a sensible threshold, and that is why we oppose amendment (1).

For the record, let me also say that we will not be supporting amendment (2), in relation to the review. Obviously the government as a matter of course will continue to monitor the adequacy of thresholds and asset classes, but it should be considered by the Foreign Investment Review Board. In the end, these will always be judgement calls, and in the circumstances we think it is more efficient for this to be monitored as a matter of course rather than to legislate a separate and special review.
**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (19:55): On the amendments that are before the chair only, can I indicate—unsurprisingly, as I have indicated to Senator Lazarus and Senator Lambie; I do not think I have had an opportunity to speak to Senator Madigan—that, given our policy position, we are not in a position to support amendment (1). We would ask that the question be divided, though, because we are inclined to support amendment (2) on sheet 7792. Obviously we might have a different view about what that review should do, but in principle an independent review, particularly given how many anomalies there are in the current framework, we think has some merit.

I would make the point that the minister's assertions about why he does not want this review are inconsistent with the assertions he made about why the Greens review in relation to the water entitlements was a good idea. I am a little confused as to why the government thinks this review is such a bad thing but the review that Senator Whish-Wilson and Senator Di Natale have got a deal on is such a good thing. But, leaving that aside, that is the opposition's position.

**The TEMPORARY CHAIRMAN (Senator Sterle):** In view of Senator Wong's proposal to split the amendments, I propose that we will and will vote on them separately.

**Senator WHISH-WILSON** (Tasmania) (19:56): I would just like to say that, whereas I agree with much of the sentiment expressed tonight by Senator Lazarus, the Greens' longstanding policy has been a threshold of $5 million. That was arrived at by extensive consultation with stakeholders. Basically, to put it in a nutshell, we felt that agricultural acquisitions underneath that size would more likely be hobby farms and not necessarily substantial production, and that is the number that we arrived at. As I mentioned earlier, we will be supporting Senator Xenophon's amendment. We will not be supporting Senator Lazarus's amendment.

**Senator LAZARUS** (Queensland) (19:57): I just have to say that $15 million buys a lot of land. If you triple that—so, every time you buy something, $15 million, $15 million and $15 million—you can end up with a lot of land. Senator Cormann spoke about practicality. I think it would be fairly practical that we know exactly who is buying our land and who owns it. The tax office does not even know the names of some of the people who own land in this country. Surely that is not in the best interests of this country.

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:57): Just to clarify something for Senator Lazarus: the government will know who owns land because all foreign investments in agriculture will be recorded, but they will not trigger a Foreign Investment Review Board process unless the cumulative purchases for one purchaser exceed $15 million. So the proposition that somehow you can have $15 million multiple times is not right. It is cumulative. It does add up. And the proposition that we will not know who owns the land is not right either, because the Agricultural Land Register will record all foreign investments in agriculture from zero dollars.

**Senator LAZARUS** (Queensland) (19:58): I agree with most of that, but what I am suggesting is that, if a foreign investor comes over here and wants to buy property worth $14,900,000, the country does not have to review that against the Australian interest. I just hope we know what we are doing here.
Senator LAMBIE (Tasmania) (19:59): I just want to know: is the register retrospective? Is everything going to go on that from the past as well so it is all going to be transparent?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (19:59): Everything will go onto the register, yes. All foreign investments in agricultural land will be on the Agricultural Land Register.

Senator XENOPHON (South Australia) (19:59): I would like some clarification in relation to Senator Lambie's very good question. Is it prospective or retrospective? I understand that it applies to any further transactions, but if it applies to all foreign ownership, presumably it will be quite an exercise to determine who will be on that register. How will that be determined?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:00): That is exactly what I have just said, and that is exactly the case. There will be a stocktake initially. I will just say it again. The Agricultural Land Register will record all foreign investments in agricultural land from zero dollars onwards, and there will be a $15 million cumulative threshold, if this legislation is passed by the Senate, which would apply for the purposes of Foreign Investment Review Board screening. We do not think it is sensible to apply the screening threshold from zero dollars onwards. It would capture a whole range of very small transactions and would swamp the Foreign Investment Review Board with a whole range of transactions that would never trigger the question of whether or not something is or is not contrary to the national interest. So the government is of the view that we have the balance right in determining $15 million as the appropriate threshold, and that is what we are commending to the Senate.

Senator LAZARUS (Queensland) (20:01): I realise that when we talk about multiple purchases we may not see that all that often with individuals. But what about multicorporations, where they can put things in different business names? We see a pattern where a corporation is buying multiple properties worth just under $15 million. Is there a process in place where we can review that against Australia's interests?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:01): What Senator Lazarus is referring to are associated corporations, and I can confirm that there is a process in this legislation that would capture any sort of associated corporations for the purposes of determining the $15 million cumulative screening threshold.

Senator XENOPHON (South Australia) (20:02): This is relevant to the amendment, and I would like to put on the record that I do not support the first part of the amendment. I think the $5 million threshold is a reasonable threshold. The reason I say that is—and I am not sure if any of the advisers' hair is grey enough to have a corporate memory going back to the 1960s and 1970s. I doubt it, I think—

Senator Cormann: There are some grey people there, though.

Senator XENOPHON: No, the grey hair in the advisers box.

Senator Wong interjecting—

Senator Cormann: Penny and I are going grey.

Senator Wong: But I am older than him.
Senator Cormann: Only just!

The TEMPORARY CHAIRMAN: I cannot stop the love in the air. It is just a nice change!

Senator XENOPHON: My understanding is that up until about 1970s—about 1973, 1974—the threshold was $1 million. And the rationale behind a $5 million threshold now is that it is in the order of about $5 million if you allow for inflation. It works out to be about a factor of four or five. The rationale has served us well to have that $1 million threshold for many years, but I do think it is very worthwhile to have a review of the section, and I commend my crossbench colleagues for putting up that amendment. I will be supporting the second part of that amendment and I think it will get up, which is going to be very useful.

The minister says there will be a stocktake. I appreciate that. That is very welcome. I think Senator Lazarus, Senator Lambie and many of us welcome that stocktake. Firstly, approximately how long do you think that stocktake will take? Secondly, will the result of that stocktake be in a form that is easily accessible to members of the public, such as published online? Thirdly, how do you determine what is in a stocktake if a foreign company has a minority shareholding in a multimillion dollar, large agribusiness enterprise? Does that have to be registered, or is it only for majority shareholdings of a foreign company that it ends up in the register?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:04): Firstly, the Australian Tax Office actually commenced the stocktake of foreign ownership in agricultural land on 1 July 2015, and our expectation is that we would start to have aggregate data available early in the new year, 2016. Obviously, progressively, we will be able to work our way through that in some more detail.

Just because you have a shareholding—a minority shareholding as you put it—in another company, that does not make you an associated company. There is a range of elements. Majority shareholding would be an indication, and control through relevant directorships is a relevant indication. But there is the usual definition of ‘associated companies’ that captures this for the purposes of the cumulative $15 million screening test.

The TEMPORARY CHAIRMAN (Senator Sterle): The question is that amendment (1) on sheet 7792, moved by senators Lazarus, Lambie and Madigan, be agreed to.

The committee divided. [20:09]

(The Temporary Chairman—Senator Sterle)

Ayes ..................... 3
Noes ...................... 44
Majority................. 41

AYES

Lambie, J
Lazarus, GP (teller)
Madigan, JJ
NOES

Back, CJ
Bullock, JW
Canavan, MJ
Cormann, M
Day, RJ
Gallacher, AM
Johnston, D
Lindgren, JM
Ludlam, S
McAllister, J
McKenzie, B
McLucas, J
Muir, R
Peris, N
Reynolds, L
Rice, J
Ruston, A
Siewert, R
Smith, D
Urquhart, AE (teller)
Waters, LJ
Wong, P

Brown, CL
Cameron, DN
Colbeck, R
Dastyari, S
Di Natale, R
Hanson-Young, SC
Ketter, CR
Lines, S
Ludwig, JW
McGrath, J
McKim, NJ
Moore, CM
O’Neill, DM
Polley, H
Rhiannon, L
Ronaldson, M
Ryan, SM
Simms, RA
Sterle, G
Wang, Z
Whish-Wilson, PS
Xenophon, N

Question negatived.

The TEMPORARY CHAIRMAN (20:13): The question before the chair is that amendment (2) on sheet 7792, moved by Senators Lazarus, Lambie and Madigan, be agreed to.

The committee divided. [20:18]

(The Temporary Chairman—Senator Sterle)

Ayes .................... 25
Noes .................... 39
Majority .................. 14

AYES

Bilyk, CL
Bullock, JW
Carr, KJ
Dastyari, S
Gallacher, AM
Lambie, J
Lines, S
Madigan, JJ
McLucas, J
Muir, R
Polley, H
Urquhart, AE (teller)
Xenophon, N

Brown, CL
Cameron, DN
Conroy, SM
Day, RJ
Ketter, CR
Lazarus, GP
Ludwig, JW
McAllister, J
Moore, CM
O’Neill, DM
Sterle, G
Wong, P
The TEMPORARY CHAIRMAN (Senator Sterle) (20:21): The question is that the bill stand as printed. Senator Xenophon.

Senator XENOPHON (South Australia) (20:22): Tricky, Chair. Let Hansard record that you clicked your fingers in disappointment! I move amendment (1) on sheet 7782 revised:

(1) Schedule 1, item 4, page 44 (lines 15 and 16), omit "the total value of the following is more than the value prescribed for the purposes of this paragraph", substitute "the total value of the following is more than $5 million".

Essentially this amendment relates to the threshold test for agricultural land. It was traversed earlier. Essentially this says that the threshold ought to be $5 million, not $50 million. As I indicated earlier, in relation to Senator Lazarus, Senator Madigan and Senator Lambie's amendment, back in the 1960s and 1970s the threshold was, as I understand it, in the order of $1 million. It then jumped up exponentially, and going to a $5 million threshold is like the threshold that was in place in the 1960s and 1970s, where there was still foreign investment but it was a much more stringent threshold, particularly for agricultural land.

So this amendment seeks to reduce the threshold to $5 million. It is a policy position I have had for a number of years. It is one that I know the Australian Greens have had. In fact, then-
Senator Milne and I introduced legislation a number of years ago, a private senators' bill, that put up this very proposal of a $5 million threshold, which strikes that balance in having investment without the need for regulatory approval. That threshold of $5 million seems to be much more realistic, although I do have some real sympathy for the amendment that my colleagues just put up. So this amendment takes the threshold from $15 million down to $5 million. It is consistent with previous legislation I have introduced.

By way of contrast, in New Zealand any purchase of agricultural land where the size of the land is five hectares or greater is subject to review by their Overseas Investment Office. I think that the New Zealanders can teach us a thing or two about having a sensible foreign investment framework. As much as it hurts me to say it, I think the Kiwis have got it right, not just in their thresholds overall but in having a much more comprehensive test that spells out what the national interest is. Indeed, it is a zero threshold if the land is by the sea or on a river. That is in another category altogether.

That is what this amendment is about. I will be seeking to divide on it, for the simple reason that I think it is an important principle, and as I respected the right of my colleagues to divide on the previous amendment. Five million dollars is in keeping with what New Zealand is doing, and we ought to adopt it as a threshold here. Fifteen million dollars is still on the high side.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:25): For the reasons previously outlined during the debate, the government opposes this amendment. We think that the $15 million proposed screening threshold for FIRB purposes is the appropriate threshold for agricultural land.

In relation to the other amendments, which Senator Xenophon has not moved yet but appeared to be speaking to, in relation to enshrining national interest in legislation, the government also opposes inserting the national interest criteria within the legislation. National interest is already set within policy and does not need to be embedded within the legislation. Legislating the national interest test may weaken the foreign investment regime. Currently the Treasurer may take into account any factor he deems relevant to whether an application is in the national interest.

The foreign investment framework strikes an appropriate balance between maintaining community confidence in foreign investment by protecting the national interest and ensuring that Australia remains an attractive destination for foreign investment by providing certainty for investors. Consistent with this objective, the government reviews foreign investment proposals on a case-by-case basis, to ensure they are not contrary to the national interest. The case-by-case approach is a fundamental part of the foreign investment framework here in Australia, because the national interest can change over time.

A codified national interest test with a rigid set of criteria would be inflexible, prescriptive and require ongoing revisions or additions. Further, it might expose the government to the possibility of judicial review of foreign investment decisions as well as provide an additional avenue for opponents of an investment to challenge it and hence undermine investor certainty.

In practice, the government typically considers a range of factors when assessing foreign investment proposals, including national security, competition, taxation, impact on the economy and the community and the character of the investor. These are outlined in the
policy to provide sufficient guidance to applicants but sufficient flexibility to protect the national interest. A relevant updated policy document will be released prior to 9 December, to reflect the reform package.

**Senator WHISH-WILSON** (Tasmania) (20:27): Very quickly I want to once again put on record that the Greens will be supporting this amendment. We have had a longstanding policy of a $5 million threshold for referral to FIRB, and we will be voting for Senator Xenophon's amendment on that basis.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (20:27): I understand we are currently dealing only with amendment (1) on Senator Xenophon's sheet—

**The TEMPORARY CHAIRMAN**: We are.

**Senator WONG**: so I will restrict my remarks to that amendment. For the reasons I have previously outlined and our articulated policy position, we are not in a position to support Senator Xenophon's amendment.

**The TEMPORARY CHAIRMAN (Senator Sterle)**: The question is that amendment (1) on sheet 7782 moved by Senator Xenophon be agreed to.

The Senate divided. [20:30]

(The Temporary Chairman—Senator Sterle)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>16</th>
</tr>
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<tbody>
<tr>
<td>Noes</td>
<td>33</td>
</tr>
<tr>
<td>Majority</td>
<td>17</td>
</tr>
</tbody>
</table>

**AYES**

- Day, RJ
- Hansons-Young, SC
- Lazarus, GP
- Madigan, JJ
- Muir, R
- Rice, J
- Simms, RA
- Whish-Wilson, PS
- Di Natale, R
- Lambie, J
- Ludlam, S
- McKim, NJ
- Rhiannon, L
- Siewert, R (teller)
- Waters, LJ
- Xenophon, N

**NOES**

- Back, CJ
- Brown, CL
- Bushby, DC
- Canavan, MJ
- Cormann, M
- Gallacher, AM
- Lindgren, JM
- Ludwig, JW
- McEwen, A
- McKenzie, B
- Moore, CM
- Peris, N
- Reynolds, L
- Scullion, NG
- Singh, LM
- Bilyk, CL (teller)
- Bullock, JW
- Cameron, DN
- Colbeck, R
- Dastyari, S
- Ketter, CR
- Lines, S
- McAllister, J
- McGrath, J
- McLucas, J
- O'Neill, DM
- Polley, H
- Ruston, A
- Seselja, Z
- Smith, D
Question negatived.

Senator XENOPHON (South Australia) (20:35): by leave—I move amendments (2) and (4) on sheet 7782 revised.

(2) Schedule 1, item 4, page 54 (after line 16), after subsection 67(1), insert:

(1A) If:
  (a) the significant action is to acquire an interest in Australian land; and
  (b) the land is agricultural land;
  then, in determining whether taking the significant action would be contrary to the national interest for the purposes of subsection (1), the Treasurer must have regard to each of the following matters in so far as the matter is relevant:
  (c) national security issues, including Australia's ability to protect its strategic and security interests;
  (d) the impact the significant action will have, if any, on the following:
    (i) competition, global industry or market outcomes;
    (ii) Australian tax revenues;
    (iii) Australia's food security;
  (e) the impact the significant action will have, if any, on the Australian economy, including whether the significant action will, or is likely to, result in;
    (i) the creation of new job opportunities in Australia, or the retention of existing jobs in Australia that may otherwise be lost; or
    (ii) the introduction into Australia of new technology or business skills; or
    (iii) increased export receipts for Australian exporters; or
    (iv) additional market competition, greater efficiency or productivity, or enhanced domestic services, in Australia; or
    (v) the introduction into Australia of additional investment for development purposes; or
    (vi) increased processing in Australia of Australian primary products;
  (f) whether Australia's economic interests are adequately safeguarded and promoted;
  (g) whether the significant action will, or is likely to benefit Australia generally, or any part of Australia or group of Australians;
  (h) whether the foreign person has demonstrated financial commitment to the interest;
  (i) whether the foreign person has business experience and acumen relevant to the interest;
  (j) whether the foreign person is of good character;
  (k) any other matter the Minister considers relevant.

(4) Schedule 1, item 4, page 59 (after line 36), after subsection 71(1), insert:

(1A) If:
  (a) the variation or revocation is of an order under section 67; and
  (b) the significant action to which the order relates is to acquire an interest in Australian land; and
(c) the land is agricultural land;
then, in determining whether the variation or revocation is contrary to the national interest for the purposes of paragraph (1)(a), the Treasurer must have regard to each of the following matters in so far as the matter is relevant:

(d) national security issues, including Australia's ability to protect its strategic and security interests;

(e) the impact the variation or revocation will have, if any, on the following:

(i) competition, global industry or market outcomes;

(ii) Australian tax revenues;

(iii) Australia's food security;

(f) the impact the variation or revocation will have, if any, on the Australian economy, including whether the result will, or is likely to, result in:

(i) the creation of new job opportunities in Australia, or the retention of existing jobs in Australia that may otherwise be lost; or

(ii) the introduction into Australia of new technology or business skills; or

(iii) increased export receipts for Australian exporters; or

(iv) additional market competition, greater efficiency or productivity, or enhanced domestic services, in Australia; or

(v) the introduction into Australia of additional investment for development purposes; or

(vi) increased processing in Australia of Australian primary products;

(g) whether Australia's economic interests are adequately safeguarded and promoted;

(h) whether the variation or revocation will, or is likely to benefit Australia generally, or any part of Australia or group of Australians;

(i) whether the foreign person has demonstrated financial commitment to the interest;

(j) whether the foreign person has business experience and acumen relevant to the interest;

(k) whether the foreign person is of good character;

(l) any other matter the Minister considers relevant.

Amendment (2) relates to the Treasurer's power to make orders in respect of a significant action. If a significant action is in relation to agricultural land, then the Treasurer is required to have regard to Australia's national interest when deciding whether or not to make the order. The current bill does require the Treasurer to have regard to the national interest but there is no detail as to the kinds of factors that should be considered in the context of the national interest.

Item 2 of my amendment removes this ambiguity by clearly setting out what factors the Treasurer can have regard to. This is based on New Zealand's Overseas Investment Act of 2005, which has worked very well for our neighbour. New Zealand is open to foreign investment but also considers very clearly a national interest test, which they exercise on a regular basis because—and it is much more prescriptive, which I think is desirable to the current rules, which are as clear as mud.

The Treasurer will need to have regard to each of the listed matters in so far as a matter is relevant to the order being made in respect of the agricultural land The types of matters include national security issues, the impact the significant action will have on Australian tax
revenues and food security and whether the significant action will result in the creation of Australian jobs or if it will result in increased export receipts for Australian exporters. These are very clear, key issues that ought to be considered, by setting out in the act what matters are relevant to the national interest—again, modelled on New Zealand, which has a tried and proven method and one that has worked. I know that Prime Minister Turnbull is a close friend and an admirer of John Key and the New Zealand government. This amendment proposes that we do what they have been doing for a number of years under both New Zealand Labour and New Zealand Nationals administrations. We are safeguarding Australian agricultural land by ensuring that any purchases will not be against our national interest. It will mean that purchases will not be affected by any political whims of the time but have the same criteria that will be applied to a prospective purchase of agricultural land in relation to the threshold.

I will also speak to amendment (4), which relates to orders made in respect of agricultural land, except in this instance the Treasurer must have regard to the national interest criteria if the Treasurer is considering whether to vary or revoke the order. Once again, this amendment sets out what matters should be included in any consideration of Australia's national interest. Amendment (4) is necessary because it ensures that the national interest is taken into account when varying or revoking an order in respect of agricultural land. So it is a technical amendment in nature.

These are sensible amendments, with a threshold value of $15 million—notwithstanding my preference of $5 million—to activate the Treasurer's obligation to analyse purchases of agricultural land. These amendments also provide clear advice as to what matters need to be considered in the context of the national interest. I have given a number of examples of that. As much as it hurts me to say so, the Kiwis have got it right. The Kiwis have had it right for a number of years. They have a better system—one that is efficient, one that is clear and one that genuinely considers the national interest in a much clearer fashion.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:39): The government opposes these two amendments, and I explained the reasons for that in my previous contribution.

Senator WHISH-WILSON (Tasmania) (20:39): I mentioned earlier in my contribution that we hope that the next step will be looking at Foreign Investment Review Board thresholds and triggers for water holdings, and part of that of course will be a discussion about what should be in the national interest. I mentioned earlier that the Greens went into the last election with a clear policy on what we believe should be in the national interest. Climate change considerations were, of course, first and foremost in our thinking there. We agree in principle to the amendments that Senator Xenophon has moved, but it is going to take a lot more work. We would like to see this develop, but we will not be voting for the amendments tonight.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (20:40): First, in relation to the amendments moved, I understand Senator Xenophon's motivation and I think he has picked up in part, as he said in his contribution, the New Zealand national interest test—which I think he also referenced in the Senate inquiry report. So he is consistent on this.

We have a view that, in any area of regulation, you always have to judge whether or not being more prescriptive will yield more benefits or more problems. I think the issue here, which Senator Cormann alluded to, in that there may be unintended consequences from being
too prescriptive in relation to the national interest test, is that it may have the perverse effect of making the foreign investment regime more open to legal challenge. I understand that is an arguable proposition, but on this issue we are not in a position to support Senator Xenophon's amendments.

In relation to Senator Whish-Wilson's comments, I have to say that, to suggest that somehow the broad consideration on water entitlements that you have got in the deal you have done with the government means that you can consider the national interest test in that context and therefore not vote for Senator Xenophon's amendments, is a very interesting argument.

Senator XENOPHON (South Australia) (20:41): Can I just put on the record that, if you look at the Overseas Investment Act and what New Zealand have had for a number of years, which was modelled on the Overseas Investment Act, it is sensible to look at the potential for new job opportunities with foreign investment. It looks at the introduction of new technology or business skills, increased export receipts, added market competition, greater efficiency or productivity, additional investment for development purposes and increased processing of primary products. It also looks at a whole lot of issues, including a character test and what their link is to New Zealand in terms of New Zealand legislation. So I think we ought to look at that.

This is not a criticism of Senator Whish-Wilson. The Greens are on the record as not supporting these amendments, but these amendments on the national interest test are actually picked up from the bill that Senator Milne and I co-sponsored. So I hope this issue can be revisited sooner rather than later, because I think it was sound policy. Our neighbour across the Tasman has worked with this. It has not impeded foreign investment, but it has acted as a check on foreign investment that would not be in that country's interest. I think we can learn from the Kiwis.

The TEMPORARY CHAIRMAN (Senator O'Neill): The question is that amendments (2) and (4) on sheet 7782 moved by Senator Xenophon be agreed to.

The Committee divided. 20:47
(The Temporary Chairman-Senator O'Neill)

Ayes .................5
Noes .................39
Majority ..............34

AYES
Lambie, J
Madigan, JJ
Xenophon, N (teller)

NOES
Bilyk, CL (teller)
Bushby, DC
Canavan, MJ
Cormann, M
Day, RJ
Gallagher, KR

Bullock, JW
Cameron, DN
Colbeck, R
Dastyari, S
Gallacher, AM
Hanson-Young, SC
Question negatived.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (20:51): I have two questions to ask the minister. The first is: in response, I think, to Senator Lazarus he was making reference to the fact that the $15 million is cumulative—that is, if a particular investor continues to purchase land the value of all of their holdings is assessed to assess whether or not the $15 million threshold has been met. Can he tell the chamber if there is any other threshold in the foreign investment regime which is cumulative?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:52): No.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (20:51): Can the minister explain why the government is intent on having a cumulative approach to agricultural land but not a cumulative approach to agribusiness, telecommunications, defence and military related industries, uranium and plutonium extraction or the operation of nuclear facilities?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:52): This in essence is the debate we have been having all night. The threshold used to be $252 million. We thought that was too high. That was at a time when Senator Wong thought the threshold for agricultural land should be the same as for all the relevant assets—that is $1 billion. Of course, you would struggle to find any foreign acquisition that would reach a $1 billion threshold. Labor has moved down from that $1
billion proposition to $50 million. Some people in this chamber, Senator Lazarus in particular, supported by Senator Lambie and Senator Madigan, suggested a zero dollar threshold, which we do not agree with. Senator Xenophon suggested a $5 million threshold. We suggested a $15 million threshold which should be cumulative. That is openly and transparently what we have put on the table because that is what we believe is appropriate in the context of agricultural land. That is our recommendation to the Senate.

We can go around and around in circles. Some people would say the threshold should be higher; some people say it should be lower. We think our recommendation to the Senate is well founded and it is based on obviously extensive public consultations in opposition before the last election.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (20:54): Two points: one is, this is not the debate we have been having all night. I am asking a specific question about why it is cumulative in respect to land but not in relation to any other sectors of the economy. I assume when the minister says he has had a lot of consultation that he has consulted with the very many business groups who have come out opposing the government's policy on this.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:54): The truth is that the coalition has a better understanding of business realities across rural and regional Australia than the Labor Party. That is the reality of it. The Labor Party is essentially a cities party and we have made a judgment that, when it comes to foreign investment in relation to agricultural land, a $15 million cumulative arrangement is the appropriate arrangement.

During this debate, as I have indicated before, some senators suggested it should be zero; some senators suggested it should be five. We do not support those propositions but we do appreciate the proposition which says, when it comes to investment in agriculture, as opposed to investment in resources or in other sectors of the economy, that transactions are comparatively smaller, that there is more a tendency when it comes to investment in agricultural land to have successive transactions involving small individual parcels of land but the accumulation of interest obviously creates a more significant interest. In the circumstances, the judgment we have made—and it is there for all to see—is that the threshold should not be $252 million, it should not be $1 billion, it should not be $50 billion; it should be $15 million and it should be applied on a cumulative basis based on all holdings.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (20:56): The minister has not addressed why this is cumulative. He avoids the questions when he does not want to answer them but the reality is there is a special deal here in relation to agricultural land that does not apply to any other sector of the economy. There is no public policy rationale that the minister has articulated other than that it is their judgment. I think we have traversed many of the issues in this debate but before I move our amendments I will make the point that the minister sought to say that the Liberal Party knows a lot more about business than the Labor Party. Certainly it appears in this debate that that is not the case because we have seen the Business Council, the Food and Grocery council, the AiG and other business groups be highly critical of the government's approach and it does not appear that the government has listened.

Senator Cormann: Let us test it at the next election.
Senator Canavan: It was tested at the last one.

Senator WONG: Who is speaking for the government—Senator Canavan or Senator Cormann?

Senator Canavan: We are together.

Senator WONG: Senator Canavan, I know you have to vote with the Greens. I know the Greens are who you have gone with and I know that must be an interesting experience for you.

Senator Canavan: We have had a good run with the carbon tax and the mining tax. They were top of the poll.

Senator WONG: It is interesting, isn't it, Senator Canavan? We are trying to have a debate in here and until you came in we were having a sensible one. Trust Senator Canavan to make sure that debate goes off the rails. Trust him to do that. That is probably why he is where he is and we have Senator Scullion at the front of the party, and good on him. I make this point, too. If he wants to know what business thinks, I invite the minister to read the BCA's press releases and the public comments from the Food and Grocery Council and from other business groups. I would also point this out. As I said at the start, our starting point is jobs and ensuring that we have investments that create jobs for Australians. The minister has said—I cannot recall precisely the words but essentially that there would not be any impact on foreign investment activity in this country. Just today, since the Greens deal has come to light, we see Colliers head of agribusiness that the new laws would slow business down: 'This will slow activity.' So the government is voluntarily engaging in a proposition which will ensure this slows activity. We know slower economic activity means fewer jobs for the people who send us here. We do not see why that is in the national interest. With that, I seek leave to move items (1) to (10), (12) to (14) and (16) to (21) on sheet 7778.

Leave granted.

Senator WONG: I move opposition amendments (1) to (10), (12) to (14) and (16) to (21) on sheet 7778:

(1) Schedule 1, item 3, page 5 (lines 14 and 15), omit the definition of agribusiness in section 4, substitute:

agribusiness has the meaning given by section 26A.

(2) Schedule 1, item 3, page 5 (after line 27), after the definition of Australia in section 4, insert:

Australian and New Zealand Standard Industrial Classification Codes means the Australian and New Zealand Standard Industrial Classification Codes, as in force from time to time, published by the Australian Bureau of Statistics.

(3) Schedule 1, item 3, page 26 (lines 21 to 33), omit subsection 19(3), substitute:

This section does not apply for the purpose of determining under paragraph 47(2)(b) (meaning of notifiable action—general) whether a foreign person acquires a substantial interest in an Australian entity.

(4) Schedule 1, item 3, page 30 (lines 30 and 31), omit subsection 26(1), substitute:

A business is a sensitive business if the business:

(a) meets the conditions specified in the regulations; and

(b) is not an agribusiness.

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CHAMBER
(5) Schedule 1, item 3, page 31 (after line 5), after section 26, insert:

26A Meaning of agribusiness

(1) An Australian entity or Australian business is an agribusiness in the circumstances set out in the following table.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>This kind of Australian entity or Australian business …</td>
<td>is an agribusiness if …</td>
</tr>
</tbody>
</table>
| 1    | an Australian entity | (a) any one or more of the following entities (the agribusiness entities) derive earnings from carrying on a business of the kind mentioned in subsection (3):
|      |              | (i) the entity;
|      |              | (ii) a subsidiary of the entity; and
|      |              | (b) the amount of those earnings before interest and tax, derived by the agribusiness entities in the most recent financial year for which the financial accounts of the entity have been audited, exceeds 25% of the amount of the total earnings for the entity. |
| 2    | an Australian entity | (a) any one or more of the following entities (the agribusiness entities) use assets in carrying on a business of the kind mentioned in subsection (3):
|      |              | (i) the entity;
|      |              | (ii) a subsidiary of the entity; and
|      |              | (b) the value of those assets exceeds 25% of the total asset value for the entity. |
| 3    | an Australian business | (a) the business uses assets in carrying on a business of the kind mentioned in subsection (3); and
|      |              | (b) the value of those assets exceeds 25% of the value of the total assets of the business. |

Meaning of total earnings

(2) The total earnings for the entity is the total of all earnings before interest and tax derived in Australia in that year by any one or more of the following:

(a) the entity;

(b) any subsidiary of the entity that carries on a business of a kind mentioned in subsection (3).

Classes of business

(3) The business must be carried on wholly or partly in any of the following classes of the Australian and New Zealand Standard Industrial Classification Codes:

(a) any of the classes in Division A (agriculture, forestry and fishing);

(b) any of the classes in Subdivision 11 of Division C (food product manufacturing), other than any of the following:

(i) class 1113 (cured meat and smallgoods manufacturing);

(ii) class 1132 (ice cream manufacturing);

(iii) class 1162 (cereal, pasta and baking mix manufacturing);
(iv) a class in group 117 (bakery product manufacturing);
(v) class 1182 (confectionery manufacturing);
(vi) a class in group 119 (other food product manufacturing).

Mixed earnings and mixed-use assets

(4) Earnings that are derived from carrying on a business that is not wholly in a class mentioned in subsection (3) may be apportioned, on the basis of publicly available information, between the part of the business that is in the class and the other parts of the business.

(5) The value of assets that are used in carrying on a business that is not wholly in a class mentioned in subsection (3) may be apportioned, on the basis of publicly available information, between the part of the business that is in the class and the other parts of the business.

(6) Schedule 1, item 4, page 35 (lines 23 to 25), omit "A different threshold test applies for certain significant actions taken in relation to agribusinesses."

(7) Schedule 1, item 4, page 36 (lines 11 and 12), omit paragraph 40(2)(a).

(8) Schedule 1, item 4, page 36 (lines 28 to 30), omit the note.

(9) Schedule 1, item 4, page 37 (lines 30 and 31), omit paragraph 41(2)(a).

(10) Schedule 1, item 4, page 38 (lines 3 to 5), omit the note.

(12) Schedule 1, item 4, page 40 (lines 7 and 8), omit:

<table>
<thead>
<tr>
<th>A notifiable action is a proposed action by a foreign person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) to acquire a direct interest in an Australian entity or Australian business that is an agribusiness; or</td>
</tr>
<tr>
<td>(b) to acquire a substantial interest in an Australian entity; or</td>
</tr>
<tr>
<td>(c) to acquire an interest in Australian land.</td>
</tr>
</tbody>
</table>

Generally, the action is only notifiable if the entity, business or land meets the threshold test.

A different threshold test applies for certain notifiable actions taken in relation to agribusinesses.

Substitute:

<table>
<thead>
<tr>
<th>A notifiable action is a proposed action by a foreign person:</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
<tr>
<td>(b) to acquire an interest in Australian land.</td>
</tr>
</tbody>
</table>

Generally, the action is only notifiable if the entity, business or land meets the threshold test.

(13) Schedule 1, item 4, page 41 (lines 3 and 4), omit paragraph 47(2)(a).

(14) Schedule 1, item 4, page 43 (table item 1), omit the table item.

(16) Schedule 1, item 4, page 54 (table item 1), omit "a direct interest in an Australian entity that is an agribusiness, or".

(17) Schedule 1, item 4, page 55 (table item 5), omit "a direct interest in an Australian business that is an agribusiness, or".

(18) Schedule 1, item 4, page 55 (table item 1), omit "a direct interest in an Australian entity that is an agribusiness, or".

(19) Schedule 1, item 4, pages 55 and 56 (table item 2), omit "a direct interest in an Australian business that is an agribusiness, or".

(20) Schedule 1, item 4, page 57 (table item 1), omit "a direct interest in an Australian entity that is an agribusiness, or".
(21) Schedule 1, item 4, page 57 (table item 4), omit "a direct interest in an Australian business that is an agribusiness, or".

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:59): The government has extensively explained the reason we oppose these amendments. The government will not be supporting these amendments.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (21:00): I know the crossbenchers' views on this are probably clear. I would like to remind the government of what the Australian Food and Grocery Council said, as these are amendments that go to the agribusiness threshold. The council warned that the government's amendments would have 'a chilling effect on foreign investment'. They said the government's barriers to investment 'would discourage investment', are 'not based on a clear public policy objective', are 'inconsistent with the government's efforts to attract foreign investment and undermine efforts to build stronger economic relationships through trade agreements'. The council also said that the chilling effect on foreign investment 'is particularly relevant to high-growth, often mid-tier food manufacturers seeking access to foreign investment to fund rapid expansion, including to meet export growth potential'.

These are salient propositions that the government would do well to listen to. I would again make this point: the government has taken the approach whereby we have the extraordinary and bizarre position where the threshold for foreign investment in sectors like uranium extraction and defence industries is five times higher than the threshold for investments in food manufacturing. Labor's proposition is a sensible proposition: to treat agribusiness the same as other non-sensitive sectors of the economy rather than to single it out for more restrictive investment barriers.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (21:01): Firstly, we disagree with the grocery council's position on this. We took our position to the last election, and the people of Australia will have an opportunity to pass judgement on the way that we have dealt with this at the next election as well. Clearly Senator Wong has not really listened to my extensive answers to her various earlier questions. The difference between agriculture and some of the other sectors she mentioned is that the transactions are inevitably much smaller. If the threshold for agriculture were the same as, for example, for defence industries and the resources sector, as she is suggesting, then essentially no foreign investment transactions in Australia would be likely to be captured by that.

It seems that Senator Wong was talking against her own amendment by suggesting that the threshold between agriculture and defence industries and the resources sector should be the same because, according to her own amendments, that would not be the situation if Labor's amendments were to pass.

The government is pursuing this because there is a very clear policy rationale for it—that is, that we recognise the importance of foreign investment for our future economic success. We think it is very important that the Australian community can have confidence in the integrity of our foreign investment review screening arrangements. That is why, consistent with our pre-election policy, we are putting this legislation forward.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (21:03): I do not quite understand what the minister is saying. This amendment plus No. 11 are seeking to
put agribusiness on the same footing as other areas. As yet I am still waiting to hear from the government as to what their logic is in having so much more a restrictive a position in respect of agribusiness than for a whole range of other more sensitive sectors, which I have previously outlined. I am interested in that. I see Senator Smith here—he and others are very happy to write columns for *The Australian Financial Review* calling for a more open economy, more rational economic debate, less protectionism, less populism. Well, you are going to come in here and vote with the Australian Greens! I hope that you and Senator Seselja and Senator Ryan and a range of others who, I think, call yourselves 'the modest members', who pride yourselves on being the carriers of the Liberal tradition of economic rationalism, are enjoying the fact that you have done a deal with the Greens on economic policy, because that is what you are voting for.

**The TEMPORARY CHAIRMAN (Senator Edwards):** The question is that opposition amendments (1) to (10), (12) to (14) and (16) to (21) on sheet 7778 be agreed to.

The committee divided. [21:09]

(The Temporary Chairman—Senator Edwards)

Ayes ......................21
Noes ......................42
Majority.................21

**AYES**

Bilyk, CL (teller)  
Cameron, DN  
Collins, JMA  
Gallacher, AM  
Ketter, CR  
Lines, S  
McEwen, A  
Moore, CM  
Peris, N  
Sterle, G  
Wong, P

**NOES**

Back, CJ  
Birmingham, SJ  
Canavan, MJ  
Cormann, M  
Di Natale, R  
Fawcett, DJ  
Hanson-Young, SC  
Lambie, J  
Lindgren, JM  
Macdonald, ID  
McGrath, J  
McKim, NJ  
Nash, F  
Payne, MA  
Rhiannon, L  
Ruston, A  
Bernardi, C  
Bushby, DC  
Colbeck, R  
Edwards, S  
Fifield, MP  
Johnston, D  
Lazarus, GP  
Ludlam, S  
Madigan, JJ  
McKenzie, B  
Muir, R  
Parry, S  
Reynolds, L  
Rice, J  
Ryan, SM
Question negatived.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (21:12): I move opposition amendment (11) on sheet 7778: (11) Schedule 1, item 4, page 38 (lines 16 to 19), section 42 to be opposed.

The TEMPORARY CHAIRMAN: The question is that section 42 in item 4 of schedule 1 stand as printed.

The committee divided. [21:14]

(11) Schedule 1, item 4, page 38 (lines 16 to 19), section 42 to be opposed.

The TEMPORARY CHAIRMAN: The question is that section 42 in item 4 of schedule 1 stand as printed.

The committee divided. [21:14]

(11) Schedule 1, item 4, page 38 (lines 16 to 19), section 42 to be opposed.

The TEMPORARY CHAIRMAN: The question is that section 42 in item 4 of schedule 1 stand as printed.

The committee divided. [21:14]
Question agreed to.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (21:17): I move opposition amendment (15) on sheet 7778:

(15) Schedule 1, item 4, page 44 (lines 15 to 20), omit paragraph 52(2)(b), substitute:

(b) the value of the interest in the land is more than:

(i) $50 million; or

(ii) if a higher value is prescribed for the purposes of this paragraph—that higher value.

The TEMPORARY CHAIRMAN (Senator Edwards): The question is that amendment (15) on sheet 7778 be agreed to.

The committee divided. [21:19]

(21:19) (The Temporary Chairman—Senator Edwards)

Ayes ...................... 21
Noes ...................... 42
Majority .................. 21

AYES

Bilyk, CL (teller) 
Cameron, DN
Collins, JMA
Gallacher, AM
Ketter, CR
Lines, S
McEwen, A
Moore, CM
Peris, N
Sterle, G
Wong, P

Bullock, JW
Carr, KJ
Dastyari, S
Gallagher, KR
Leyonhjelm, DE
McAllister, J
McLucas, J
O’Neill, DM
Singh, LM
Wang, Z

NOES

Back, CJ
Birmingham, SJ
Canavan, MJ
Cormann, M
Di Natale, R
Fawcett, DJ
Hanson-Young, SC
Lambie, J
Lindgren, JM
Macdonald, ID
McGrath, J
McKim, NJ

Bernardi, C
Bushby, DC
Colbeck, R
Day, RJ
Edwards, S
Fifield, MP
Johnston, D
Lazarus, GP
Ludlam, S
Madigan, JJ
McKenzie, B
Muir, R
Question negated.

Senator WHISH-WILSON (Tasmania) (21:21): by leave—I move Greens' amendments (2) and (1) on sheet 7809 together:

(2) Schedule 5—Sunset provision for the Register of Foreign Ownership of Agricultural Land Act 2015

Register of Foreign Ownership of Agricultural Land Act 2015

1 Section 31

After:

The Commissioner must give the Minister periodic reports, at least annually, for presentation to Parliament.

insert:

This Act ceases to have effect at the end of 1 December 2016 unless, before then, an Act has provided for a register of foreign ownership of water entitlements.

2 After section 34

Insert:

34A Sunset provision

(1) This Act ceases to have effect at the end of 1 December 2016 if an Act, or the provisions of an Act, providing for a register of foreign ownership of water entitlements do not commence before that time.

(2) The Minister must announce, by notifiable instrument, the day an Act, or the provisions of an Act, providing for a register of foreign ownership of water entitlements commence.

[sunset provision]

(1)

5. Schedule 5

The later of:
(a) the start of the day after this Act receives the Royal Assent; and
(b) immediately after the commencement of the Register of Foreign Ownership of Agricultural Land Act 2015.

[sunset provision]

Senator DAY (South Australia) (21:22): by leave—I move amendments (1) and (2) on sheet 7810, amending Senator Whish-Wilson's amendment (2) on sheet 7809, together:

(1) Amendment (2), item 2, subsection 34A(1) omit "register of foreign ownership of water entitlements", substitute "register of foreign ownership of water entitlements".
(2) Amendment (2), item 2, subsection 34A(2) omit "register of foreign ownership of water entitlements", substitute "register of water entitlements".

I suspect that I am in the same boat as many in this place in that I only learned this morning about the agreement between the Greens and the coalition to implement a register of foreign ownership of water in Australia within two years. Already colleagues in this debate have indicated that there are questions about how that is to be implemented.

I do not profess to be an expert on these matters, but I have heard exhaustive evidence on this in the Senate select committee inquiry into the Murray-Darling Basin. Many witnesses have spoken about the detachment of water from land entitlements in the basin, and the most active and significant trade in water is in the Murray-Darling Basin. Let me be clear about this point, and I have told the Greens this: Family First supports their register of foreign ownership; however, I flag that I have now moved to remove the word 'foreign'. Family First is not a xenophobic party. We welcome foreign investment. The very strong point being made in the Murray-Darling Basin inquiry is that there is more concern about domestic firms speculating on water than about foreign ownership of water.

I support the public finding out these facts. As I said in my second reading contribution, the same applies to water. A little light dispels a great darkness, it has been said. We have speculation and front bar talk at the moment but very little by way of fact to put on the record on land or water. A step in that direction would of course be a register of all ownership, and it may turn out that it is not so much foreign raiders who are speculating but domestic water barons.

There is still time for the government and the Greens to support this amendment. We are not legislating the minute detail of what this register books like. We are legislating a commitment to establish a register within two years. The question is: will it be a register of all ownership or just foreign ownership? I urge the Senate and parties to support this amendment.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (21:25): The government understands and acknowledges the amendments being put forward by Senator Day. They do go beyond the scope, though, of the overall bill. Whilst the government cannot agree to the amendments as stated, Senator Day's intentions are noted, and the government will more than happily engage with Senator Day down the track, bearing in mind that there will be full public consultation on the establishment of this register. That is not within two years, as Senator Day indicated. The intention would be for that register of foreign ownership of water entitlements to be established within 12 months.

The TEMPORARY CHAIRMAN (Senator Edwards): The question is then that Senator Day's amendments (1) and (2) on sheet 7810 to Greens' amendment (2) on sheet 7809 be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: The question now is that amendments (2) and (1) on sheet 7809 be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.
Third Reading

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (21:28): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Migration Amendment (Charging for a Migration Outcome) Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator KIM CARR (Victoria) (21:28): I rise to speak on the Migration Amendment (Charging for a Migration Outcome) Bill 2015. Labor supports this bill, which implements the recommendations of the independent review of the 457 visa program, chaired by John Azarias. Labor is broadly supportive of the review. We did not agree with all of its recommendations, but it has made important proposals for reforming the 457 visa system. Most notably, the review recommended the establishment of a tripartite ministerial council with government, employer and union representatives. The council would advise on the skills gaps in the Australian Labor market and in effect become the custodian of the 457 visa system. Although the present bill concerns only one specific recommendation of the Azarias review, Labor believes its scope should be expanded to include more of the recommendations, and we therefore intend to propose to amend the bill accordingly.

When foreign citizens reside in Australia, they hold visas that grant them the right to work, and a fundamental principle should apply. That is that anyone working in this country should do so under Australian conditions of employment. That principle should not only apply to holders of the 457 visas, but also to international students and to visitors on working holiday visas as well. Visas that give foreign citizens the right to work must not be used as a pretext for importing cheap labour, nor should the reasons for which these visas were instituted be undermined. For example, international students are granted the right to work so that they can support themselves while studying. It is the study that should take priority, not the work. The provision of international education services has become one of Australia's major export industries. It is worth $17 billion a year to the economy, so it is vital that the integrity of this industry should not be threatened by unscrupulous employers who underpay their workers and try to intimidate them into silence because they are on a student visa. We simply cannot have a situation where people are able to generate businesses which become visa factories. Of course, the point of that whole education scheme is in fact education, not an employment program.

We can look also at the working holiday visas, which bring tourists to Australia who contribute to the economy and often develop an affinity with the country during the time they are here. These visas build relationships between nations. Many young Australians are the beneficiaries of similar visas in other countries, especially in the United Kingdom. It is a longstanding arrangement that usually works well. However, that is all the more reason to prevent the flouting of visa conditions by employers who do pray on the vulnerable. Similarly, 457 visas are intended to be issued when there is a skills gap in the labour market.
Their purpose is to allow enterprises to continue so that more Australian jobs will ultimately be generated. But, clearly, the visa gaps must be real and not contrived.

Senators will be aware that foreign citizens are not always employed under the conditions laid down in their visas. For example, recent investigations by Fairfax and the ABC uncovered the systematic underpayment of staff in the 7-Eleven convenience store chain, which had some 620 outlets across the country. These media reports found that thousands of international students whose visas gave them the right to work were in fact being exploited. A Four Corners program also found that many of the people with 417 visas who are employed in the fruit picking and packing industry had been routinely abused in their workplaces. These workers were frequently assaulted or were subjected to sexual harassment. In some cases women were asked to perform sexual services in exchange for a visa. These revelations in these reports are of course matters of profound concern, and that is why Labor moved to establish a Senate inquiry into temporary work in Australia. I know that in the meat industry there have been reports of abuse of these visas schemes for many years. It is particularly prevalent in regard to the backpacker visas.

You will note that no sooner is there an attempt made to draw attention to this than the unscrupulous, particularly labour hire companies, will move onto another visa class. We saw, for instance, some material put to air on 7.30 last year which indicated there were 19 different abattoirs across three states employing more than 1,100 people and misusing various visa classes. They were particularly employing people from China, Taiwan, Japan and Korea who work in abattoirs at much reduced rates, under a complete abuse of the visa schemes that they had actually been attracted to. These companies were not paying Australian wages and conditions, and there is very great concern about whether or not they were paying appropriate taxation as well.

So for all of these reasons it is important that the measures in this bill now before the Senate be examined and supported. The Migration Amendment (Charging for a Migration Outcome) Bill 2015, now before the chamber, prohibits one practice that potentially undermines the 457 visas. The Azarias review recommended:

That it be made unlawful for a sponsor to be paid by visa applicants for a migration outcome, and that this be reinforced by a robust penalty and conviction framework.

This activity occurs when an inducement is sought or received or offered or provided in return for a migration outcome, and at present the Commonwealth has no specific legal power to act against this sort of corrupt practice.

With regard to the 457 visas, the sponsor will typically be an employer, and it is an employer sponsored visa program, so it is quite clearly inappropriate for the employer of a worker on a 457 visa to seek or accept a payment or other inducement in return for providing a job, which is why Labor supports this bill.

But there are other measures that Labor believes should also be included. We therefore intend to propose various amendments, as I have indicated, at the committee stage. These amendments would provide for a more vigilant enforcement of visa conditions and allow for better coordination of the immigration and industrial relations systems.

Firstly, this bill's provisions should not only apply to workers on 457 visas; they should be extended to international students and to people on working holiday visas as well. I make it
clear that the penalties for sponsors who breach visa conditions should be strengthened. The specific penalties we propose will be set out in the amendments. Our amendments will also increase protection for visa applicants. In some circumstances employees could be subject to penalties for offering inducements of the type that I have referred to. The bill's penalty regime should not apply, however, to employees who have been coerced into offering payments, whether by employers or by third parties. Nor should it apply to visa applicants who have been victims of human trafficking, forced labour or slavery offences under the Criminal Code. It might be extraordinary for some people's minds that these things occur in this country. Clearly these are exceptions that need to be spelt out.

Further, to enhance the integrity of the visa system people employed under student or working holiday visas should not have Australian business numbers. In other words, if they are working under visa conditions, they should do so as part of a contract of employment. Labor also believes there should be legal protection for whistleblowers who reveal abuses of the visa system and the exploitation of those employed under it. I have already made reference to the 7-Eleven stores. An amnesty for whistleblowers was in fact given in that instance, and there should be a general legal protection provided as well. Workers who can provide evidence of abuse or corruption might be reluctant to do so if they fear that they will lose their visas or, of course, be deported. Further, in the interest of protecting exploited workers, unions should be able to initiate prosecution of companies breaching visa conditions.

Finally, the minister should be required to table an annual report on the operation of the measures implemented by this legislation. The bill in the form that we have it is a necessary first step in preventing the exploitation of vulnerable workers, but it will be a much better bill if the measures that Labor is proposing by way of amendments are adopted, and I urge the Senate to undertake such a course of action.

**Senator HANSON-YOUNG** (South Australia) (21:39): The Australian Greens broadly support the Migration Amendment (Charging for a Migration Outcome) Bill 2015 as outlined: making it unlawful for unscrupulous employers and sponsors to solicit vulnerable workers in exchange for visas and associated payments and take advantage of them in their applications for skilled or permanent visas. I concur with a number of the comments made by Senator Carr.

However, the bill does go far beyond the recommendations of the recent independent review, which the bill, through the explanatory memorandum and the government's response through the inquiry into this bill, claims to be based on. It goes beyond those recommendations in penalising visa applicants and the visa holders rather than just the employers and the sponsors as the original independent report suggested needed to be done. It is all very well and good, and I think it is important for us as a parliament to do what we can to ensure that people who are taking advantage of the situation are given the full brunt of the law and are not able to exploit the situation, but the visa holders who are caught up in this circumstance are the ones we need to be thinking a little more carefully about.

Visa applicants should not be penalised. I am concerned about a situation where visa applicants have participated in all the things that they should and been unknowingly exploited by this process. Under this legislation there is really no catch-all to ensure that applicants are not going to be unfairly penalised when in fact they have done nothing wrong.
Many visa applicants and holders, particularly those in the areas of migrant work, are vulnerable. They may very well not even know that they have engaged in conduct that is unlawful. It is therefore essential that a mental element be included in any offence seeking to penalise visa applicants and holders. There must be some element of proof of intent to ensure that we are not unfairly catching people who by no fault of their own have found themselves in this circumstance.

The bill may also extend to particular vulnerable workers coerced into a scheme against their knowledge. In this sense we need a little bit of grace for these people. Yes, by all means go after those who have created a business model for themselves based on the abuse of vulnerable people, particularly those on student visas, skilled migrant visas or working holiday visas. Go after the people who have knowingly created a business model for themselves by exploiting others, but let's have a little bit of a fair go for the individual visa holders caught up in the middle of this.

Of course, I am particularly concerned with the impact that this heavy-handed approach as outlined currently under this legislation will mean particularly for people who have been trafficked to Australia as workers. We know that the issue of people trafficking, particularly for domestic and other work based professions, is on the rise. It is on the rise across the world, including in Australia. All you need to do is listen to the rising statistics from the Australian Federal Police to know that there has been a rise in people being trafficked as workers, particularly domestic workers. I would hate to see a bill like this used to exploit the vulnerable, first by those who have contracted in a way to set up this visa scheme to exploit these people and then through the double-whammy for the visa holders themselves of being caught in the middle of a heavy-handed change to the law.

Finally, the bill affords the minister broad discretionary power to cancel a visa, regardless of whether or not the sponsorship event in question actually took place. I am sorry, but I find that a little difficult to stomach. I am not a big fan of giving this minister any more powers than he already has, particularly in relation to broadening his powers to take action when there is no proof as to whether a sponsorship event took place. I am not going to be taking the minister's word for it. There needs to be a little more evidence than that. Of course, when we are talking about the vulnerable people—migrant workers, people who perhaps do not speak English as their first language, those who are unaware of Australia's workplace laws in terms of conditions and those who have unwittingly found themselves in a situation where they have been trafficked—overwhelmingly those people are young people and women. That puts them in an even higher risk category of vulnerability. I am concerned that this bill, without amendment, will make it more difficult for those people to get the support and assistance that they need.

We know that there are some people who obviously are taking advantage of the situation. We do need to tackle that, which is why, broadly speaking, we support the legislation. But we want to see some changes in relation to ensuring that workers—visa holders—are not caught in the middle of this.

As I said, the independent review which made the recommendation that these legislative amendments occur was very clear that it too was concerned, particularly, that people who had been trafficked or those who have limited or no English language skills would cop the brunt of these changes if they were not handled sensitively. To that point, the Greens will be
supporting the amendments put forward by the opposition. We think they go some way to dealing with these concerns and we look forward to having that debate in the committee stage.

Senator IAN MACDONALD (Queensland) (21:47): I speak to the Migration Amendment (Charging for a Migration Outcome) Bill 2015 as chairman of the Legal and Constitutional Affairs Legislation Committee, which inquired into the bill. The committee looked at a number of the submissions, and I thank those who made submissions. We invited 151 people to submit and out of that we got I think 11 submissions. I thank those who did make a submission. I thank the secretariat and particularly the secretariat staff, who, as always, do a wonderful job in assisting the committee in reporting on these bills.

The committee made two recommendations, one of which was to ensure that a comprehensive consultation process was established and implemented with current and potential visa holders, employer groups and the migration advice profession to ensure that the changes proposed by the bill are well understood. The second recommendation of the committee was that the bill be passed.

This is another in the suite of bills proposed by the government intending to tighten entry into our borders. I think it is a very important part of the whole suite of measures coming forward. The committee recommended the adoption of the bill, and I also recommend to my colleagues that it should be adopted. I am pleased to see that the Labor Party is supporting the bill, as the Labor Party now do understand the importance of these measures. I appreciate their support. Because time is limited, perhaps I will not say much more except to repeat that the committee looked at all aspects of the bill and, subject to the recommendation that we have made, we recommended that the bill be passed.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Edwards) (21:50): Order! I propose the question:

That the Senate do now adjourn.

Bourke, Dr James Raymond, MG, AM

Senator IAN MACDONALD (Queensland) (21:50): Last week, Dr James Raymond Bourke MG, AM, Doctor of Philosophy and a retired Lieutenant Colonel, would have turned 73. I know not many of my Senate colleagues would be familiar with his name, but there would be more than a few who would be aware of his remarkable, honourable and courageous efforts as the initiator and driver behind a highly successful, emotional journey in the early 2000s to bring home the bodies of six Australian soldiers who never made it back from the Vietnam War.

Unfortunately, the Vietnam veteran and war hero, who dedicated his later years to repatriating bodies of his fallen comrades, died just two months short of his 73rd birthday. Tonight I would like to honour his memory and reflect on his wonderful achievements, most notably Operation Aussies Home.

The story of retired Lieutenant Colonel Jim Bourke began in my own home town of Ayr in 1943. Jim was only a few years older than I and, similarly, was raised and educated in the Burdekin. In fact he was school captain in 1961 at the Ayr State High and Intermediate
School, a role that I was privileged to hold two years after Jim. He also achieved two other significant awards at the school, awards which I confess I could never have achieved: the coveted Burstall Award for all-round academic and leadership excellence and the Award for the Best Senior—read grade 12—Pass.

As an older boy, Jim Bourke was a bit out of my sphere of personal contact, but I do remember him as a quietly spoken, very much understated leader, in all aspects of the word, and a real gentleman. In later years I certainly became more than familiar with his achievements as one of the country's most respected war veterans. It was in 1963 that the then 19-year old joined the Army. He served in various postings, rising to the rank of Lieutenant Colonel before retiring in 1986. In 1988 he was awarded the Medal of Gallantry—more than 30 years after an act of bravery in which, as platoon leader, he rescued injured comrades while under enemy fire in Vietnam as a member of the 1st Battalion of the Royal Australian Regiment. He was himself severely injured at the time; he was shot in the face, the bullet tearing through his mouth and exiting below his left ear.

That was not to be his last mission, of course. He served a second tour of duty in Vietnam in 1968. And four decades later he led a privately funded team to locate and retrieve the remains of six missing Australians—Richard Parker, Peter Gillson, David Fisher, Michael Herbert, Robert Carver and John Gillespie—who were left behind in Vietnam where they fell. This mission was to become the renowned 'Operation Aussies Home'. Jim spent many thousands of hours researching every last detail ahead of this final journey and almost as much time lobbying politicians and bureaucrats for support. When his pleas fell on deaf ears, he went ahead with his plans anyway. Together with a small team, he set off to Vietnam once more in an effort to find the remains of those six soldiers who never made it home.

Operation Aussies Home was by all accounts highly successful, achieving what many now admit governments at the time had not be willing or able to. When asked why he dedicated his later years to Operation Aussies Home, investing so much of his own time and money, Jim admitted that the pain, loss and suffering of not being able to witness the funeral of his own father, his 'best mate', who died when Jim was just 13 years of age, had played heavily on his mind for many decades and may in some way have triggered his need to return to Vietnam to provide some sense of finality for the families of those missing soldiers.

After successfully completing his final mission, which the government did eventually support and fund, Jim turned his attention to his thesis, which he was able to finish shortly before his death. 'Living with Unresolved Grief and Uncompleted Tasks: Achieving Closure around Ambiguous Loss and Traumatic Events During Wartime' was a 110,000-word thesis that Jim dedicated to his father. In it, he documented the story of Operation Aussies Home—the many interviews with the families of those soldiers he helped to repatriate, along with his own thoughts, experiences and memories.

Along the way, the accolades continued. Jim was named Anzac of the Year in 2009. In the same year, he was recognised with an Order of Australia award for his service to veterans and their families. According to journalist Hedley Thomas of The Australian, who had the honour of doing one of the last interviews with Jim before he died, Jim's one and only regret before his death was that he was not able to undertake the same mission for the 42 Australians who went missing in the Korean War, who, similarly, never made it home. Vale Jim Bourke. Not
only has our nation lost a distinguished, honourable veteran, but my own community mourns the loss of a legend.

Western Sydney Airport: Draft Environmental Impact Statement

Senator CAMERON (New South Wales) (21:56): I rise in support of my local Blue Mountains community, who are angry and concerned about the potential noise and environmental impacts of the proposed Western Sydney airport. I want to acknowledge the work being done to protect the community by the member for Blue Mountains, Trish Doyle; the Blue Mountains City Council; Mayor Mark Greenhill; the Labor candidate for Macquarie, Susan Templeman; and hundreds of local citizens.

I have written to the Deputy Prime Minister, Warren Truss, and to the Minister for the Environment, Greg Hunt, seeking a meeting so that I can express the concerns of my community. If the coalition government accepts the flight plan proposed in the flawed environmental impact statement it would be an act of social and environmental vandalism. It would also mean a decade of uncertainty for Blue Mountains residents. The EIS does not take into account the current residential amenity of the Blue Mountains. Nor does it properly account for the fact that the Blue Mountains lies within a World Heritage Area. An airport in Western Sydney must not be built under the conditions of the flawed EIS.

The test for any Western Sydney airport must be that it contributes to employment and economic growth in an environmentally and socially sustainable manner. According to the draft EIS, the Blue Mountains will 'suffer a negative impact with major consequences of a very high significance rating'. In terms of lifestyle and amenity disadvantage, the EIS rates the lower Blue Mountains the same as Badgerys Creek and other communities in very close proximity to the proposed airport. Residents in the lower Blue Mountains are bewildered that all landings at the airport will be funnelled into a merge point above Blaxland and surrounding villages. These are areas of comparatively high residential density. They are also calling for an extension of the consultation period so that detailed submissions can be made. Around 600 residents met in Blaxland this month as a result of the arrogant disregard for their welfare in the draft environmental impact statement.

People live in and visit the Blue Mountains for the unique environment, the peace and quiet and the clean air. By 2030 the effect on lower mountains residents arising from the flight tracks and merge point would mean 70 audible overflights per day. No one expected that the residential amenity of Blaxland would be destroyed by up to 275 overflights each day by 2050. That is up to 150 flights during the day, up to 50 flights in the evening and up to 75 flights during the night. This would mean no respite for families under the merge point and flight path.

The issue of flight noise must be understood in the context of the extremely low background noise in the Blue Mountains. Moving from minimal background noise to up to 60 decibels—initially 20 to 30 times per night—is a massive impact on Blue Mountains residents. The World Health Organization notes that an external 55 decibels is when people start to become annoyed with aircraft noise.

In recognition that aircraft noise is more intrusive at night, the European authorities enforce a 10-decibel penalty for night flights and a five-decibel penalty for evening flights. This means that the effective noise level in the Blue Mountains at night would be the equivalent of
65 decibels. This is well above the European annoyance level and twice as loud as 55 DBA. According to the EIS, the landing flight paths are designed to optimise the productivity and efficiency of the airport and reduce fuel costs for the airlines. These interests should never override the amenity, lifestyle and health of the community.

I have spent most of my working life representing blue-collar workers and fighting for their jobs. I understand the importance of employment creation and economic growth. Nevertheless, a good society must consider environmental and lifestyle issues associated with economic growth. The Blue Mountains community should not be the dumping ground for the problems associated with an airport that we are told will benefit the whole of Australia. Airport and airline efficiency and profitability must be balanced against the lifestyle and amenity of existing long-established communities.

The Minister for the Environment, Greg Hunt, should reject the draft environmental impact statement. I call on the government to propose flight paths that share the noise more equitably and enforce a night-time curfew on landings. The proposals that I am advocating are not unique in either Australian or international airport operations. It is not beyond the technological capacity of Airservices Australia to devise flight plans that minimise the noise impact on Blue Mountains residents, protect the World Heritage area and are consistent with their own published principles and commitments.

It is very important that claims about noise mitigation and technological advancements are viewed with a sceptical eye and are subject to critical analysis. The optimistic assertions contained in the draft EIS of reductions in future aircraft noise pollution are not backed up by technological evidence. The reality is much of the current and new fleet will be operating within their existing noise footprint for many decades to come.

I am of the view that the Abbott government decision to build at Badgery's Creek cannot be a blank cheque to proceed at any cost to the community. The community should be given more time to make submissions on the environmental impact statement. The EIS does not fairly or equitably balance the needs and concerns of Blue Mountains residents against the needs of the airport. The flight-path proposals contained in the EIS do not meet Airservices Australia's published commitment and principles, including the need for proactive community engagement, consultation and information.

The EIS is inconsistent with Airservices Australia's stated objective of the alignment of actions and processes to the International Civil Aviation Organization Balanced Approach to Noise Management. ASA has failed to apply ICAO principles on noise concentration, noise management, and night and weekend sensitivity. Changes to the flight plan and merge points need to be made and become compulsory in any future airport operation. The low ambient noise in the Blue Mountains means that aircraft noise involves a significant degradation of the quality of life for residents. The operational plan must include a curfew for Badgerys Creek airport consistent with the Sydney Airport curfew that provides the Eastern Suburbs and the inner west respite from airline noise.

It is unacceptable that the final decisions on flight paths and merge points could be left unresolved for up to a decade. Furthermore, the government should establish a Western Sydney community aviation consultative forum to ensure that the views of the community are considered when implementing decisions. They should provide financial support to affected...
councils to fund independent analysis of environmental impact statements. They should implement a decibel weighting system for evening and night flights similar to the European, Canadian and New Zealand approach.

They should implement aircraft noise monitoring and aircraft mitigation measures that deal with community concern over noise, emissions, operating assumptions and air space design parameters. The government should make information available to the public as to the level and duration of noise and the distance noise will travel from these overflights. They should establish an independent dispute-resolution body to consider policy and operational issues arising from the construction and operation of the airport. They should build a rail link from Penrith to the airport. They should bring forward the rollout of the NBN to the lower mountains.

The negative impacts of the proposed Western Sydney Airport should not be disproportionately borne by the community of the Blue Mountains as a result of inadequate environmental impact statements or a political determination to build the airport at any cost. I do not oppose a new airport. I oppose an airport built on the flawed assumptions, conclusions and recommendations of the EIS.

**Royal Australian Air Force Base Williamtown**

**Senator RHIANNON** (New South Wales) (22:06): Water is truly the stuff of life. But if that water is coming out of Williamtown air base, then it might be making you very sick. That might be occurring because of the toxic contamination in the surface water and groundwater and the soil. One resident said to me when I visited there last week: 'I love the area, but I don't want to die because I live here.' The residents are feeling stressed and uncertain about their future, and when you hear their story you certainly understand how serious this is. Local residents coping with a potential health crisis are not certain and are not feeling confident about what they are hearing from state and federal governments.

The problems are exacerbated by the lack of support and transparency from the Defence department. The Defence department is responsible for Williamtown RAAF air base, and they had some interesting information to reveal at the estimates hearing in October. Again, they were not that forthcoming but, when you read it overall, you see many worrying contradictions. And this has further angered the local residents.

You would think that the federal government—the Department of Defence, specifically—would act on their duty of care to all who are impacted by their actions associated with this base. What is the situation for residents, not just in the hot zone but in other surrounding areas, for the staff who work there, for contract workers who come to the base and for the many visitors to this area?

Also, I have to give particular emphasis to the situation for the young children of many of the staff. Some of the stories that I was told when I was visiting were of how the children would play in these toxic chemicals because they actually make the surface of an area slippery, and it is understandable that kids would find that fun. So this was just one more disturbing aspect of this increasingly worrying saga.

Some of the dangers were revealed in the estimates. It was put on record by people from the Department of Defence that the Hunter Water Corporation has decided not to source any water from three of their pumping stations in the Williamtown area. The New South Wales
EPA has advised that nobody should drink cow's milk or eat eggs or chicken from the area. We also understand that similar warnings have been given about fishing in the area and about eating oysters or meat from cattle in the area. It was also revealed that the run-off continues into Lake Cochran.

So the health and environmental problems have been put on the record. But then there is the way the people who live there are being treated and the lack of clear information and direction in terms of how they should act in the face of this worrying information: that the water that they had relied on—the water that up until recently they used to water their vegie gardens; the water that many of their animals would drink from—is now off limits. Yet there is still a refusal to undertake health studies, and, again, this lack of support from the Department of Defence is quite extraordinary.

In terms of some of the chemicals that we are talking about here, perfluorinated compounds or PFCs have long been used in firefighting foam, and those were some of the products that had been stored at Williamtown base for a long time. The chemicals include perfluorooctanoic acid and perfluorooctane sulfonate.

Last week when I met these residents, some of them explained how they had only been told about the contamination in September this year. I give emphasis to that point because, when I questioned the Department of Defence representatives at estimates, it came out that they had been aware of the issue of the potential for contamination from these chemicals since 2003.

When you look at the literature, it is in 2002 that the largest manufacturer of the PFOS chemicals, the 3M company, stopped producing them due to environmental and long-term health effects. So: in 2002, the company that produces these stops. In 2002, an OECD hazard assessment found that PFOS is toxic to mammals. In 2003 both PFOA and PFOS were declared emerging contaminants globally.

This is very relevant for when you, Senators, go—and I hope you will; some senators here surely should do that—and visit the people at Williamtown. I understand they might come here in the next couple of days. People should meet them and talk to them. Many of them did not find out until September this year, just a couple of months ago.

But, to continue with the time line: in 2006, the US Environmental Protection Agency began working with eight of the largest perfluorinated compound manufacturers with the goal of achieving a 95 per cent reduction in levels of PFOA in their products and waste. In 2009, PFOS was listed as a persistent organic pollutant under the Stockholm Convention. Australia was one of 160 countries that undertook to join a global effort to eradicate some of the most toxic chemicals known to humankind. Since 2002, Australia's National Industrial Chemicals Notification and Assessment Scheme has worked to reduce the importation of some PFCs and has issued six alerts specifically relating to PFOS and PFOA chemicals.

So can you imagine how the locals feel, when it has been documented how serious this is and the world has been alerted to it, and they, still, are largely in the dark about their future? I heard stories of people being told that their property no longer has value. They are not allowed, as I said, to eat local food products. Meanwhile, nobody will entertain giving their children blood tests. There is no commitment to have baseline health studies done to work out what is going on here.
With regard to those six alerts that I mentioned, I understand that none of the locals at the time were informed of those alerts. It is clear that the government has been aware of the potential dangers of PFCs for at least 13 years, and the Department of Defence, from their own admission at the October estimates, nominated the year 2003 as the year when they became aware. After a while, in the estimates, as the questions went along, they said, 'That was in the literature.' Whether it was in the literature or not, they were aware of it then. And 12 years later, in 2015, the locals find out.

CRC CARE, an environmental organisation partnered with the Department of Industry, Innovation and Science, notes that PFOS and PFOA are known to enter ecosystems and move up the food chain, accumulating in animal and human tissue, including the liver and blood. A 2007 study noted on CRC CARE's site found that PFCs have been linked to bladder and liver cancer, endocrine disruption and developmental and reproductive toxicity, including neonatal mortality, and are potentially lethal to animals. Is it little wonder people are angry? Also, we see the passing of the buck between the Defence department and the New South Wales Environment Protection Authority. Again, this adds to the uncertainty of locals.

We must ask why remediation has not been taking place at Williamtown RAAF base. Given how long both state and federal governments have known of the dangers, why has a clean-up operation not been undertaken? We know that Williamtown is the RAAF's premier fighter jet base. We know that most of the new F35A Joint Strike Fighters will be based there. We also know that the base is in the middle of a $1.5 billion upgrade in preparation to host the new jets. Perhaps full disclosure of the contamination problem would have endangered the base's pitch to host the fighters. Perhaps a clean-up of the pollutant would have interfered with the upgrade. These are the questions the community put to me. They have every right to ask them, because state and federal governments have not been forthcoming with the answers and the information. They deserve a response. I think it is telling that the environmental impact statement for this upgrade at Williamtown had no reference to the contamination. It was not covered.

The way the Defence department conducted itself in estimates is very concerning. Contradictory information was given. It is time that the department came clean for the rights of the people of this area. Businesses are suffering. People are very concerned about their children. Surely, the starting point should be full information and a clean-up of that base.

**Drought: Queensland**

*Senator CANAVAN (Queensland—Nationals Whip in the Senate) (22:16):* I rise tonight to speak again about the drought in Queensland, primarily. I believe it was the last topic I spoke about in an adjournment speech in this place. In my short time in this place so far, it has been an issue that has dominated a fair amount of my time, because, unfortunately, 80 per cent of Queensland remains drought declared. Although there has been some very welcome rain in certain areas in the last couple of months there still remain substantial parts of Queensland that have not received significant rainfall for three wet seasons, and they are now facing a fourth wet season. If it does not rain soon, those communities and towns will be facing some serious hardship—or more serious hardship than they are.

I will start out tonight by complimenting the government for the extensive packages that they have announced during this time. So far, $400 million worth of concessional loans have been provided to farmers and graziers. About 740 farmers and graziers have benefited from
those loans. In the agriculture white paper, $250 million a year has been made available for additional concessional loans over the next 10 years, if they are required. The government has also provided money for upgraded water infrastructure, pest eradication and wild dog fences. These build on the support and assistance, fodder and freight subsidies in particular, that have been provided by the Queensland state government. Most of that assistance has been directed at the farming and grazing sector primarily. Obviously, that is where the direct impact of any drought first arises. However, this drought is so severe—indeed, in some parts of Queensland it is the most severe drought on record—that there have been extensive indirect impacts on local towns and communities. They are manifesting in lower business turnover and also population decline and a lack of hope about what the future holds for businesses and people who live in these communities.

The only thing that we can hope for to get those towns back on track is for it to rain. There is no solution in the long term but rain. I would like to hope that we could do all we can to try to sustain population levels in western Queensland, in particular, to help these towns through the drought and to try to make sure that there is a community and that there are businesses and people there, once it does rain, to re-establish the sheep and cattle industries in these areas.

The government has responded to that issue with a unique and very innovative program. In May, the government announced the Drought Communities Program, a $35 million package to fund stimulus projects in local communities to create jobs and to get the economic activity circulating in the towns. I want to recognise that my colleagues Senator Barry O’Sullivan and Mr Bruce Scott, the member for Maranoa in the other place, did more work than I to get these programs up. Seventeen councils have already been declared under these programs, and new projects are being funded. Notwithstanding that generosity, two councils in Western Queensland have not been declared at this stage—Quilpie Shire Council and Boulia Shire Council—even though, on a prima facie assessment, those two councils appear to be suffering just as much as any other area. Indeed, in the case of Quilpie, every other shire surrounding Quilpie has been declared. It looks like a bit of a doughnut at the moment with Quilpie being right in the middle of this drought but not having been declared under this program for any funding. That has obviously perplexed and frustrated the people and local government of Quilpie. They came down to Canberra about a month ago, saw me and others in this place and put their case. I thought they did have a strong case. I promised I would look more into it. I have done that. I have looked at how they failed to receive a declaration. Today I have handed a report on my analysis to the Deputy Prime Minister, who is in charge of this particular area. I would like to explain briefly what I think are the factors that have led to Quilpie, at least, missing out.

The government has primarily determined eligibility for this program based on rainfall data from the Bureau of Meteorology. Specifically, a council area needs to have at least 20 per cent of its area subject to a one-in-20-year drought, according to that data. In the case of Quilpie, however, around 70 per cent of the Bureau of Meteorology sites—20 of the 28 sites that are relevant for Quilpie—do not have full data; they have less than 95 per cent rainfall data. An interesting aside that I discovered during this process is that many of these sites have excellent data going back to the 1890s, and then in the last 10 or 15 years the data becomes all patchy. People do not seem to be recording it, and the locals put that down to consolidation.
and more corporate farms in the area that are not keeping the data up to the same quality that perhaps family farms did in the past.

Be that as it may, we have eight sites where there is full and complete data, and when you drill down at those eight sites, some issues arise. Obviously because there are only a few sites that the Bureau of Meteorology is using for Quilpie, they can be subject to particular anomalies or particular weather events that tip them one way or another. In the case of Quilpie there was a storm in February last year. That is evident in all the data at these eight sites. That storm hit Quilpie pretty hard, and of course it is evidence in a peak. I know we are not meant to use props, Mr President, and I cannot really speak to this graph I have here, but it shows that in the last couple of years Quilpie had a quick little push-up there, because of this particular storm. However, if you took the storm out it would actually meet the one-in-20-year trigger and would qualify, and that is the case at all of these sites. I am told—and certainly this is normally the case—that an isolated storm often does more damage in a drought-affected area than good, because it is heavy rain and can wash away soil, and if it is not followed up with other rains in leads to no pasture growth. That is certainly evident on the ground in Quilpie. It is still very dry and deserted.

I believe that because of those deficiencies the rainfall the data cannot be reliably used to judge Quilpie's eligibility for this program, so I decided to look at other measures. There is not a lot of ABS data at Quilpie's sort of level, and it is too far in between censuses. So I and my office conducted a survey of Quilpie businesses. We identified 55 businesses with contact details—non-farm businesses, because we were looking primarily at the indirect impacts of this drought. We ultimately received responses to that survey from 42 businesses, for a response rate of 75 per cent, which is pretty high. We observed that 90 per cent of those businesses recorded a negative impact from the drought, with an average downturn in their retail turnover of 44 per cent, which is pretty high. We observed that 90 per cent of those businesses recorded a negative impact from the drought, with an average downturn in their retail turnover of 44 per cent on an annual basis. Many, many businesses recorded a downturn of more than 50 per cent, and 40 per cent of businesses have had to lay off employees—clearly a very stark impact on the Quilpie region from this drought.

I believe that evidence is sufficient and is clearly indicative of the impact of this drought on Quilpie. It shows a serious downturn in their business conditions, and I believe it is sufficiently powerful for them to be declared under this program. I make the point that the guidelines of this program do not specify that councils must meet the one-in-20-year metrics. They were simply measures that the government used to help inform their declaration of various councils, and I make no criticism of using that particular data in general terms. However, I think when you drill down to the data, like all statistics they are not necessarily perfect and they certainly are not in this case. And in that environment we should use a more multi-criteria framework to ensure that we are not being biased by the particular deficiencies in a statistical series.

Finally, I would like to thank the mayor of Quilpie Shire Council, Stuart Mackenzie, who hosted me out there a couple of weeks ago and has helped us with this report, as well as the state member for Gregory, Lachlan Millar, who has also helped and been very vociferous in campaigning for his local area to be declared under this program. And I would like to say that while I did not have an opportunity to look in detail at the Boulia Shire Council and its case, nothing in this report says that it may not be declared. Indeed, there may be similar data deficiencies in its circumstances.

Senate adjourned at 22:27
DOCUMENTS
Tabling
The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

**Aged Care Amendment (Independent Complaints Arrangements) Act 2015**—Aged Care Amendment (Independent Complaints Arrangements) Commencement Proclamation 2015 [F2015L01792].


**Australian Bureau of Statistics Act 1975**—
- 2016 Supplementary Disability Survey—Proposal No. 12 of 2015.

**Australian Citizenship Act 2007** and **Migration Act 1958**—

**Australian National University Act 1991**—
- Programs and Awards Statute 2013—Higher Doctorates Rule 2015 [F2015L01799].


**Bankruptcy Act 1966**—Bankruptcy Amendment (National Personal Insolvency Index) Regulation 2015—Select Legislative Instrument 2015 No. 179 [F2015L01800].

**Census and Statistics Act 1905**—

**Civil Aviation Act 1988**—Civil Aviation Safety Regulations 1998—
- Exemption—carriage of children suffering from a serious medical condition (Virgin Australia)—CASA EX187/15 [F2015L01813].
- Exemption—carriage of Mode S transponder equipment (Toll Aviation)—CASA EX170/15 [F2015L01814].
- Exemption—refuelling in Ordnance Loading Areas (Gojet)—CASA EX190/15 [F2015L01812].

**Defence Act 1903**—Woomera Prohibited Area Rule 2014—Determination of Exclusion Periods for Amber Zone 1 and Amber Zone 2 for Financial Year 2015-2016 Amendment No. 3 [F2015L01784].

**Environment Protection and Biodiversity Conservation Act 1999**—
- Amendment—List of Specimens taken to be Suitable for Live Import (22 October 2015) [F2015L01807].
- Amendment of List of Exempt Native Specimens—New South Wales Sea Urchin and Turban Shell Restricted Fishery (30 October 2015)—EPBC303DC/SFS/2015/32 [F2015L01779].
- Amendment of List of Exempt Native Specimens—South Australian Scallop and Turbo Fisheries and South Australian Specimen Shell Fishery (23 October 2015)—EPBC303DC/SFS/2015/40 [F2015L01776].
Amendment of List of Exempt Native Specimens – Western Australian South Coast Crustacean Fishery (23 October 2015)—EPBC303DC/SFS/2015/41 [F2015L01778].

Amendment to the lists of threatened species, threatened ecological communities and key threatening processes under sections 178, 181 and 183 (184) (30 October 2015) [F2015L01798].


Financial Framework (Supplementary Powers) Act 1997—


Migration Act 1958—

Migration Amendment (Clarifying Subclass 457 Requirements) Regulation 2015—Select Legislative Instrument 2015 No. 185 [F2015L01808].


Mutual Recognition Act 1992—

Mutual Recognition (Equivalence of Driving and Property Occupations) Declaration 2015 [F2015L01785].

Mutual Recognition (Equivalence of Gaming and Other Occupations) Amendment Declaration 2015 [F2015L01802].


Private Health Insurance Act 2007—Private Health Insurance (Prostheses) Amendment Rules 2015 (No. 4) [F2015L01803].

Public Governance, Performance and Accountability Act 2013—
Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2012-2013 (No. 3) [F2015L01782].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2013-2014 (No. 4) [F2015L01794].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 4) [F2015L01781].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2014-2015 (No. 5) [F2015L01795].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2015-2016 (No. 2) [F2015L01780].

Public Governance, Performance and Accountability (Section 75 Transfers) Amendment Determination 2015-2016 (No. 3) [F2015L01793].

Safety, Rehabilitation and Compensation Act 1988—
Section 34S – Approval of Form of Application for Approval as a Workplace Rehabilitation Provider (5 November 2015) [F2015L01774].

Section 34S – Approval of Form of Renewal Application for Approval as a Workplace Rehabilitation Provider (5 November 2015) [F2015L01783].

Sections 34D and 34E – Criteria and Operational Standards for Workplace Rehabilitation Providers 2015 (5 November 2015) [F2015L01777].

Social Security Act 1991—

Social Security (Class of Visas – Qualification for Special Benefit) Amendment Determination 2015 [F2015L01805].

Social Security (Class of Visas—Qualifying Residence Exemption) Determination 2015 [F2015L01815].


Therapeutic Goods Act 1989—

Therapeutic Goods (Medical Devices) Amendment (In Vitro Diagnostic Medical Devices) Regulation 2015—Select Legislative Instrument 2015 No. 188 [F2015L01791].

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were authorised for publication on the dates indicated]

Auditor-General—Audit report no. 8 of 2015-16—Performance audit—Administration of the National Rental Affordability Scheme: Department of Social Services. [Received 18 November 2015]

Australian Crime Commission (ACC)—Report for 2014-15. [Received 18 November 2015]


Foreign affairs—Sustainable Development Goals—Letter to the President of the Senate from the Minister for Foreign Affairs (Ms Bishop), dated 13 November 2015, responding to the resolution of the Senate of 13 October 2015.


Office of Parliamentary Counsel—Report for 2014-15. [Received 13 November 2015]

Primary industries—Agricultural exports—Letter to the President of the Senate from the Minister for Agriculture and Water Resources (Mr Joyce), dated 10 November 2015, responding to the resolution of the Senate of 27 November 2014.

Surveillance Devices Act 2004—Commonwealth Ombudsman's reports on inspections of surveillance device records for the period 1 January to 30 June 2015—Australian Commission for Law Enforcement Integrity, Australian Crime Commission and Australian Federal Police for the period 1 January to 30 June 2014—Crime and Corruption Commission and Western Australia Police for the period 1 July 2013 to 30 June 2014—South Australia Police for the period 1 July 2012 to 30 June 2013.


Women—Domestic violence—Letter to the President of the Senate from the Premier of New South Wales (Mr Baird), dated 9 November 2015, responding to the resolution of the Senate of 15 September 2015.

Tabling

DOCUMENTS PRESENTED OUT OF SITTING SINCE 12 NOVEMBER 2015

Government documents (pursuant to Senate standing order 166)
10 Office of Parliamentary Counsel—Report for 2014-15. [Received 13 November 2015]
11 Australian Crime Commission (ACC)—Report for 2014-15. [Received 18 November 2015]

Reports of the Auditor-General (pursuant to Senate standing order 166(2) (a))
12 Audit report no. 8 of 2015-16—Performance audit—Administration of the National Rental Affordability Scheme: Department of Social Services. [Received 18 November 2015]

COMMITTEE REPORTS AND GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE

REPORTS PRESENTED OUT OF SITTING SINCE 12 NOVEMBER 2015
[reports and responses will be recorded in the Journals of the Senate and available for consideration on Tuesday under standing order 62(4)]

Committee reports (pursuant to Senate standing order 38(7))
13 Environment and Communications Legislation Committee—Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015 [Provisions]—Report, dated November 2015, additional information and submissions. [Received 18 November 2015]