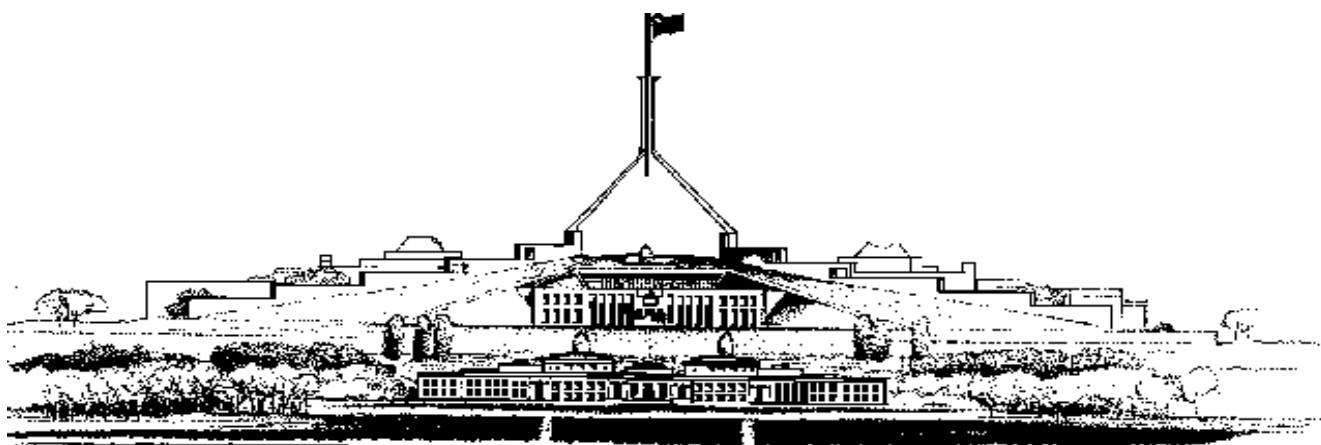




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate
Official Hansard

No. 14, 2017

Wednesday, 29 November 2017

FORTY-FIFTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD

BY AUTHORITY OF THE SENATE

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SITTING DAYS—2017

Month	Date
February	7, 8, 9, 13, 14, 15, 16
March	20, 21, 22, 23, 27, 28, 29, 30
May	9, 10, 11
June	13, 14, 15, 19, 20, 21, 22
August	8, 9, 10, 14, 15, 16, 17
September	4, 5, 6, 7, 11, 12, 13, 14
October	16, 17, 18, 19
November	13, 14, 15, 16, 27, 28, 29, 30
December	4, 5, 6, 7

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**FORTY-FIFTH PARLIAMENT
FIRST SESSION—FOURTH PERIOD**

Governor-General

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

Senate Office Holders

President—Senator Hon. Scott Ryan

Deputy President and Chair of Committees—Senator Susan Lines

Temporary Chairs of Committees—Senators Bernardi, Fawcett, Gallacher, Ketter, Kitching, Leyonhjelm, Marshall, McCarthy, O'Sullivan, Reynolds, Sterle, Whish-Wilson and 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. Don Farrell

Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield

Manager of Opposition Business in the Senate—Senator Katy Gallagher

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 Parliament—Senator Hon. Nigel Scullion

Leader of the Opposition in the Senate—Senator Hon. Penny Wong

Deputy Leader of the Opposition in the Senate—Senator Hon. Don Farrell

Leader of the Australian Greens—Senator Richard Di Natale

Acting Deputy Leader of the Australian Greens in the Senate—Senator Rachel Siewert

Chief Government Whip—Senator David Christopher Bushby

Deputy Government Whips—Senators David Julian Fawcett and Dean Anthony Smith

The Nationals Whip—Senator John Williams

Chief Opposition Whip—Senator Anne Elizabeth Urquhart

Deputy Opposition Whips—Senator Jennifer McAllister

Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate

Members of the Senate

Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2022	LP
Anning, Fraser ⁽⁸⁾	QLD	30.6.2019	IND
Bartlett, Andrew ⁽⁶⁾	QLD	30.6.2019	AG
Bernardi, Cory	SA	30.6.2022	IND
Bilyk, Catryna Louise	TAS	30.6.2019	ALP
Birmingham, Hon. Simon John	SA	30.6.2022	LP
Brandis, Hon. George Henry, QC	QLD	30.6.2022	LP
Brockman, Slade ⁽⁴⁾	WA	30.6.2019	LP
Brown, Carol Louise	TAS	30.6.2019	ALP
Burston, Brian	NSW	30.6.2019	PHON
Bushby, David Christopher	TAS	30.6.2019	LP
Cameron, Hon. Douglas Niven	NSW	30.6.2019	ALP
Canavan, Hon. Matthew James	QLD	30.6.2022	LNP
Carr, Hon. Kim John	VIC	30.6.2022	ALP
Cash, Hon. Michaelia Clare	WA	30.6.2022	LP
Chisholm, Anthony David	QLD	30.6.2022	ALP
Collins, Hon. Jacinta Mary Ann	VIC	30.6.2019	ALP
Cormann, Hon. Mathias Hubert Paul	WA	30.6.2022	LP
Dastyari, Sam	NSW	30.6.2022	ALP
Di Natale, Richard	VIC	30.6.2022	AG
Dodson, Patrick	WA	30.6.2019	ALP
Duniam, Jonathon	TAS	30.6.2019	LP
Farrell, Donald Edward	SA	30.6.2022	ALP
Fawcett, David Julian	SA	30.6.2019	LP
Fierravanti-Wells, Hon. Concetta Anna	NSW	30.6.2019	LP
Fifield, Hon. Mitchell Peter	VIC	30.6.2022	LP
Gallacher, Alexander McEachian	SA	30.6.2019	ALP
Gallagher, Katherine Ruth	ACT		ALP
Georgiou, Peter ⁽³⁾	WA	30.6.2019	PHON
Gichuhi, Lucy Muringo ⁽²⁾	SA	30.6.2019	IND
Griff, Stirling	SA	30.6.2022	NXT
Hanson, Pauline Lee	QLD	30.6.2022	PHON
Hanson-Young, Sarah Coral	SA	30.6.2019	AG
Hinch, Derryn Nigel	VIC	30.6.2019	DHJP
Hume, Jane	VIC	30.6.2019	LP
<i>Vacancy</i> ⁽¹²⁾	SA	30.6.2019	NXT
Ketter, Christopher Ronald	QLD	30.6.2019	ALP
Kitching, Kimberley ⁽¹⁾	VIC	30.6.2022	ALP
<i>Vacancy</i> ⁽¹¹⁾	TAS	30.6.2022	JLN
Leyonhjelm, David Ean	NSW	30.6.2019	LDP
Lines, Susan	WA	30.6.2022	ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2019	LP
Marshall, Gavin Mark	VIC	30.6.2019	ALP
McAllister, Jennifer	NSW	30.6.2022	ALP
McCarthy, Malarndirri Barbara Anne	NT		ALP
McGrath, Hon. James	QLD	30.6.2022	LNP
McKenzie, Bridget	VIC	30.6.2022	NATS
McKim, Nicholas James	TAS	30.6.2019	AG
Moore, Claire Mary	QLD	30.6.2019	ALP

Senator	State or Territory	Term expires	Party
<i>Vacancy</i> ⁽⁷⁾	NSW	30.6.2022	NATS
O'Neill, Deborah Mary	NSW	30.6.2022	ALP
O'Sullivan, Barry James	QLD	30.6.2019	NATS
Paterson, James	VIC	30.6.2019	LP
<i>Vacancy</i> ⁽¹⁰⁾	TAS	30.6.2022	LP
Patrick, Rex Lyall ⁽⁹⁾	SA	30.6.2022	NXT
Payne, Hon. Marise Ann	NSW	30.6.2022	LP
Polley, Helen Beatrice	TAS	30.6.2022	ALP
Pratt, Louise Clare	WA	30.6.2019	ALP
Reynolds, Linda Karen, CSC	WA	30.6.2019	LP
Rhiannon, Lee	NSW	30.6.2019	AG
Rice, Janet Elizabeth	VIC	30.6.2019	AG
Ruston, Hon. Anne Sowerby	SA	30.6.2019	LP
Ryan, Hon. Scott Michael	VIC	30.6.2022	LP
Scullion, Hon. Nigel Gregory	NT		CLP
Seselja, Hon. Zdenko Matthew	ACT		LP
Siewert, Rachel Mary	WA	30.6.2019	AG
Singh, Hon. Lisa Maria	TAS	30.6.2019	ALP
Sinodinos, Hon. Arthur	NSW	30.6.2022	LP
Smith, Dean Anthony	WA	30.6.2022	LP
Steel-John, Jordan ⁽⁵⁾	WA	30.6.2022	AG
Sterle, Glenn	WA	30.6.2022	ALP
Urquhart, Anne Elizabeth	TAS	30.6.2022	ALP
Watt, Murray Patrick	QLD	30.6.2022	ALP
Whish-Wilson, Peter Stuart	TAS	30.6.2022	AG
Williams, John Reginald	NSW	30.6.2019	NATS
Wong, Hon. Penelope Ying Yen	SA	30.6.2022	ALP

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

Territory	Senator	Party	Senator	Party
Australian Capital Territory	Gallagher, K.	ALP	Seselja, Z.M.	LP
Northern Territory	McCarthy, M.B.A.	ALP	Scullion, N.G.	CLP

⁽¹⁾ Chosen by the Parliament of Victoria to fill a casual vacancy (vice S Conroy), pursuant to section 15 of the Constitution.

⁽²⁾ Chosen by the Court of Disputed Returns to fill a disqualification (vice B Day), pursuant to section 44(v) of the Constitution.

⁽³⁾ Chosen by the Court of Disputed Returns to fill a disqualification (vice R Culleton), pursuant to sections 44 and 45 of the Constitution.

⁽⁴⁾ Chosen by the Parliament of Western Australia to fill a casual vacancy (vice C Back), pursuant to section 15 of the Constitution.

⁽⁵⁾ Chosen by the Court of Disputed Returns to fill a disqualification (vice S Ludlam), pursuant to section 44(i) of the Constitution.

⁽⁶⁾ Chosen by the Court of Disputed Returns to fill a disqualification (vice L Waters), pursuant to section 44(i) of the Constitution.

⁽⁷⁾ Vacancy created by a disqualification.

⁽⁸⁾ Chosen by the Court of Disputed Returns to fill a disqualification (vice M Roberts), pursuant to section 44(i) of the Constitution.

⁽⁹⁾ Chosen by the Parliament of South Australia to fill a casual vacancy (vice N Xenophon), pursuant to section 15 of the Constitution.

⁽¹⁰⁾ Vacancy created by the resignation of Senator Stephen Parry on 1 November 2017.

⁽¹¹⁾ Vacancy created by the resignation of Senator Jacqui Lambie on 14 November 2017.

⁽¹²⁾ Vacancy created by the resignation of Senator Kakoschke-Moore on 22 November 2017.

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party;
CLP—Country Liberal Party; DHJP—Derryn Hinch's Justice Party;
IND—Independent; JLN—Jacqui Lambie Network; LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia;
NATS—The Nationals; NXT—Nick Xenophon Team; PHON—Pauline Hanson's One Nation

Heads of Parliamentary Departments

Clerk of the Senate—R Pye
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—R Stefanic
Parliamentary Budget Officer— J Wilkinson

TURNBULL MINISTRY

Title	Minister
Prime Minister	Hon. Malcolm Turnbull MP
Minister for Indigenous Affairs	Senator the Hon. Nigel Scullion
Minister for Women	Senator the Hon. Michaelia Cash
<i>Minister Assisting the Prime Minister for the Public Service</i>	<i>Senator the Hon. Michaelia Cash</i>
<i>Minister Assisting the Prime Minister for Counter-Terrorism</i>	<i>Hon. Michael Keenan MP</i>
<i>Minister Assisting the Prime Minister for Cyber Security</i>	<i>Hon. Dan Tehan MP</i>
<i>Assistant Minister to the Prime Minister</i>	<i>Senator the Hon. James McGrath</i>
<i>Assistant Minister for Regulatory Reform</i>	<i>Senator the Hon. James McGrath</i>
<i>Assistant Minister for Cities and Digital Transformation</i>	<i>Hon. Angus Taylor MP</i>
Minister for Agriculture and Water Resources	Hon. Malcolm Turnbull MP
<i>Assistant Minister for Agriculture and Water Resources</i>	<i>Senator the Hon. Anne Ruston</i>
<i>Assistant Minister to the Deputy Prime Minister</i>	<i>Hon. Luke Hartsuyker MP</i>
Minister for Foreign Affairs	Hon. Julie Bishop MP
Minister for Trade, Tourism and Investment	Hon. Steve Ciobo MP
Minister for International Development and the Pacific	Senator the Hon. Concetta Fierravanti-Wells
<i>Assistant Minister for Trade, Tourism and Investment</i>	<i>Hon. Keith Pitt MP</i>
Attorney-General (Vice-President of the Executive Council) (Leader of the Government in the Senate)	Senator the Hon. George Brandis QC
Minister for Justice	Hon. Michael Keenan MP
Treasurer	Hon. Scott Morrison MP
Minister for Revenue and Financial Services	Hon. Kelly O'Dwyer MP
Minister for Small Business	Hon. Michael McCormack MP
<i>Assistant Minister to the Treasurer</i>	<i>Hon. Michael Sukkar MP</i>
Minister for Finance (Deputy Leader of Government in the Senate)	Senator the Hon. Mathias Cormann
Special Minister of State	Senator the Hon. Mathias Cormann
Minister for Infrastructure and Transport (Deputy Leader of the House)	Hon. Darren Chester MP
Acting Minister for Regional Development	Hon. Darren Chester MP
Acting Minister for Local Government and Territories	Hon. Darren Chester MP
Minister for Urban Infrastructure	Hon. Paul Fletcher MP
Minister for Defence	Senator the Hon. Marise Payne
Minister for Defence Industry (Leader of the House)	Hon. Christopher Pyne MP
Minister for Veterans' Affairs	Hon. Dan Tehan MP
<i>Minister Assisting the Prime Minister for the Centenary of ANZAC</i>	<i>Hon. Dan Tehan MP</i>
Minister for Defence Personnel	Hon. Dan Tehan MP
Minister for Immigration and Border Protection	Hon. Peter Dutton MP
<i>Assistant Minister for Immigration and Border Protection</i>	<i>Hon. Alex Hawke MP</i>
Minister for Health	Hon. Greg Hunt MP
Minister for Sport	Hon. Greg Hunt MP
Minister for Aged Care	Hon. Ken Wyatt AM MP
Minister for Indigenous Health	Hon. Ken Wyatt AM MP
<i>Assistant Minister for Health</i>	<i>Hon. Dr David Gillespie MP</i>

Title	Minister
Minister for Industry, Innovation and Science	Senator the Hon. Arthur Sinodinos AO
Minister for Resources and Northern Australia	Senator the Hon. Matt Canavan
<i>Assistant Minister for Industry, Innovation and Science</i>	<i>Hon. Craig Laundy MP</i>
Minister for Communications	Senator the Hon. Mitch Fifield
Minister for the Arts (Manager of Government Business in the Senate)	Senator the Hon. Mitch Fifield
Acting Minister for Regional Communications	Senator the Hon. Mitch Fifield
Minister for Employment	Senator the Hon. Michaelia Cash
Minister for Social Services	Hon. Christian Porter MP
Minister for Human Services	Hon. Alan Tudge MP
<i>Assistant Minister for Social Services and Disability Services</i>	<i>Hon. Jane Prentice MP</i>
<i>Assistant Minister for Social Services and Multicultural Affairs</i>	<i>Senator the Hon. Zed Seselja</i>
Minister for Education and Training	Senator the Hon. Simon Birmingham
<i>Assistant Minister for Vocational Education and Skills</i>	<i>Hon. Karen Andrews MP</i>
Minister for the Environment and Energy	Hon. Josh Frydenberg MP

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases. Assistant Ministers in italics are designated as Parliamentary Secretaries under the *Ministers of State Act 1952*.

SHADOW MINISTRY

Title	Shadow Minister
Leader of the Opposition	Hon. Bill Shorten MP
Shadow Minister for Indigenous Affairs and Aboriginal and Torres Strait Islanders	Hon. Bill Shorten MP
<i>Shadow Assistant Minister for Indigenous Affairs and Aboriginal and Torres Strait Islanders</i>	<i>Senator Patrick Dodson</i>
<i>Shadow Cabinet Secretary</i>	<i>Senator the Hon. Jacinta Collins</i>
<i>Shadow Assistant Minister for Preventing Family Violence</i>	<i>Terri Butler MP</i>
<i>Shadow Assistant Minister to the Leader (Tasmania)</i>	<i>Senator Helen Polley</i>
Deputy Leader of the Opposition	Hon. Tanya Plibersek MP
Shadow Minister for Education and Training	Hon. Tanya Plibersek MP
Shadow Minister for Women	Hon. Tanya Plibersek MP
Shadow Minister for Skills, TAFE and Apprenticeships	Senator the Hon. Doug Cameron
<i>Shadow Assistant Minister for Schools</i>	<i>Andrew Giles MP</i>
<i>Shadow Assistant Minister for Universities</i>	<i>Terri Butler MP</i>
<i>Shadow Assistant Minister for Equality</i>	<i>Terri Butler MP</i>
Leader of the Opposition in the Senate	Senator the Hon. Penny Wong
Shadow Minister for Foreign Affairs	Senator the Hon. Penny Wong
Shadow Minister for International Development and the Pacific	Senator Claire Moore
Deputy Leader of the Opposition in the Senate	Senator the Hon. Don Farrell
Shadow Special Minister of State	Senator the Hon. Don Farrell
Shadow Minister for Sport	Senator the Hon. Don Farrell
Shadow Treasurer	Hon. Chris Bowen MP
Shadow Assistant Treasurer	Hon. Dr Andrew Leigh MP
Shadow Minister for Competition and Productivity	Hon. Dr Andrew Leigh MP
Shadow Minister for Charities and Not-for-Profits	Hon. Dr Andrew Leigh MP
Shadow Minister for the Digital Economy	Ed Husic MP
Shadow Minister for Consumer Affairs	Tim Hammond MP
<i>Shadow Assistant Minister for Treasury</i>	<i>Hon. Matt Thistlethwaite MP</i>
Shadow Minister for Environment and Water	Hon. Tony Burke MP
Shadow Minister for Citizenship and Multicultural Australia	Hon. Tony Burke MP
Shadow Minister for the Arts	Hon. Tony Burke MP
Manager of Opposition Business in the House of Representatives	Hon. Tony Burke MP
<i>Shadow Assistant Minister for Citizenship and Multicultural Australia</i>	<i>Senator the Hon. Jacinta Collins</i>
<i>Shadow Assistant Minister for Citizenship and Multicultural Australia</i>	<i>Julie Owens MP</i>
Shadow Minister for Families and Social Services	Hon. Jenny Macklin MP
Shadow Minister for Housing and Homelessness	Senator the Hon. Doug Cameron
Shadow Minister for Human Services	Hon. Linda Burney MP
Shadow Minister for Disability and Carers	Senator Carol Brown
<i>Shadow Assistant Minister for Families and Communities</i>	<i>Senator Louise Pratt</i>
Shadow Minister for Infrastructure, Transport, Cities and Regional Development	Hon. Anthony Albanese MP
Shadow Minister for Tourism	Hon. Anthony Albanese MP
Shadow Minister for Regional Services, Territories and Local Government	Stephen Jones MP
<i>Shadow Assistant Minister for Infrastructure</i>	<i>Pat Conroy MP</i>
<i>Shadow Assistant Minister for External Territories</i>	<i>Hon. Warren Snowdon MP</i>

Title	Shadow Minister
Shadow Attorney-General	Hon. Mark Dreyfus QC MP
Shadow Minister for National Security	Hon. Mark Dreyfus QC MP
Deputy Manager of Opposition Business in the House of Representatives	Hon. Mark Dreyfus QC MP
Shadow Minister for Justice	Clare O'Neil MP
<i>Shadow Assistant Minister for an Australian Head of State</i>	<i>Hon. Matt Thistlethwaite MP</i>
Shadow Minister for Employment and Workplace Relations	Hon. Brendan O'Connor MP
Shadow Minister for Employment Services, Workforce Participation and Future of Work	Ed Husic MP
<i>Shadow Assistant Minister for Workplace Relations</i>	<i>Lisa Chesters MP</i>
Shadow Minister for Climate Change and Energy	Hon. Mark Butler MP
<i>Shadow Assistant Minister for Climate Change</i>	<i>Pat Conroy MP</i>
Shadow Minister for Defence	Hon. Richard Marles MP
Shadow Minister for Veterans' Affairs	Hon. Amanda Rishworth MP
Shadow Minister for Defence Personnel	Hon. Amanda Rishworth MP
<i>Shadow Assistant Minister for the Centenary of ANZAC</i>	<i>Hon. Warren Snowdon MP</i>
<i>Shadow Assistant Minister for Cyber Security and Defence</i>	<i>Gai Brodtmann MP</i>
<i>Shadow Assistant Minister for Defence Industry and Support</i>	<i>Hon. Mike Kelly AM MP</i>
Shadow Minister for Innovation, Industry, Science and Research	Senator the Hon. Kim Carr
<i>Shadow Assistant Minister for Manufacturing and Science</i>	<i>Hon. Nick Champion MP</i>
<i>Shadow Assistant Minister for Innovation</i>	<i>Senator Deborah O'Neill</i>
Shadow Minister for Health and Medicare	Hon. Catherine King MP
<i>Shadow Assistant Minister for Medicare</i>	<i>Tony Zappia MP</i>
<i>Shadow Assistant Minister for Indigenous Health</i>	<i>Hon. Warren Snowdon MP</i>
Shadow Minister for Agriculture, Fisheries and Forestry	Hon. Joel Fitzgibbon MP
Shadow Minister for Rural and Regional Australia	Hon. Joel Fitzgibbon MP
<i>Shadow Assistant Minister for Rural and Regional Australia</i>	<i>Lisa Chesters MP</i>
Shadow Minister for Resources and Northern Australia	Hon. Jason Clare MP
Shadow Minister for Trade and Investment	Hon. Jason Clare MP
Shadow Minister for Trade in Services	Hon. Dr Andrew Leigh MP
Shadow Minister Assisting for Resources	Tim Hammond MP
<i>Shadow Assistant Minister for Northern Australia</i>	<i>Hon. Warren Snowdon MP</i>
Shadow Minister for Immigration and Border Protection	Hon. Shayne Neumann MP
Shadow Minister for Finance	Dr Jim Chalmers MP
Shadow Minister for Small Business and Financial Services⁽²⁾	Senator Katy Gallagher
Manager of Opposition Business in the Senate	Senator Katy Gallagher
<i>Shadow Assistant Minister for Small Business</i>	<i>Julie Owens MP</i>
Shadow Minister for Communications	Hon. Michelle Rowland MP
Shadow Minister for Regional Communications	Stephen Jones MP
Shadow Minister for Ageing and Mental Health⁽³⁾	Hon. Julie Collins MP
<i>Shadow Assistant Minister for Ageing</i>	<i>Senator Helen Polley</i>
<i>Shadow Assistant Minister for Mental Health</i>	<i>Senator Deborah O'Neill</i>
Shadow Minister for Early Childhood Education and Development⁽¹⁾	Hon. Amanda Rishworth MP

Each box represents a portfolio except for ⁽¹⁾ which is in the Education portfolio, ⁽²⁾ which is in Treasury portfolio and ⁽³⁾ which is in the Health portfolio. **Shadow Cabinet Ministers are shown in bold type.**

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Wednesday, 29 November 2017

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

DOCUMENTS

Tabling

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

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

COMMITTEES

Meeting

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

Education and Employment Legislation Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 11.30 am.

Environment and Communications References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 30 November 2017, from 1.05 pm.

Standing Committee of Senators' Interests—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 11 am.

The PRESIDENT (09:31): I remind senators that the question may be put on any proposal at the request of any senator.

BILLS

Marriage Amendment (Definition and Religious Freedoms) Bill 2017

In Committee

Consideration resumed.

The CHAIR (09:31): The question is that the bill, as amended, be agreed to.

Senator HANSON (Queensland) (09:32): by leave—I, and also on behalf of Senator Burston and Senator Georgiou, move the One Nation amendments on sheet 8332:

- (1) Clause 2, page 2 (table item 4), omit the table item.
- (2) Schedule 1, item 1, page 4 (line 8), omit "civil", substitute "authorised".
- (3) Schedule 1, item 2, page 4 (line 27), omit "(iv) a religious marriage celebrant; or".
- (6) Schedule 1, item 21, page 11 (lines 13 and 14), omit the heading to section 47A, substitute:

47A Authorised celebrants (other than State and Territory officers) may refuse to solemnise marriages

(7) Schedule 1, item 21, page 11 (line 15), omit "A religious marriage celebrant", substitute "An authorised celebrant (other than a State or Territory officer)".

(8) Schedule 1, item 21, page 11 (line 19), omit "a religious", substitute "an authorised".

(9) Schedule 1, item 63, page 17 (lines 11 to 19), omit subsection 40(2AA), substitute:

(2AA) An authorised celebrant (as defined in subsection 5(1) of the *Marriage Act 1961*) may refuse to solemnise marriage despite anything in Division 1 or 2, as applying by reference to section 5A, 5B, 5C or 6, if the circumstances mentioned in subsection 47A(1) of the *Marriage Act 1961* apply.

We also oppose schedule 1 in the following terms:

- (4) Schedule 1, item 5, page 5 (lines 13 to 17), **to be opposed**.
- (5) Schedule 1, items 8 to 17, page 5 (line 22) to page 10 (line 6), **to be opposed**.
- (10) Schedule 1, item 64, page 18 (lines 5 to 13), **to be opposed**.
- (11) Schedule 1, Part 4, page 19 (lines 1 to 13), **to be opposed**.

These are very simple amendments. The Marriage Amendment (Definition and Religious Freedoms) Bill 2017 seeks to create two new categories of marriage celebrant. One is called a civil marriage celebrant. The other is called a religious marriage celebrant. The purpose of the two categories of marriage celebrant is to allow couples to make informed decisions about whether to engage the services of a celebrant, in the knowledge that a religious marriage celebrant may refuse to solemnise their marriage for religious reasons. This distinction between civil and religious marriage celebrant creates unnecessary division in the Marriage Act, which refers only to authorised celebrants. Why create two new divisive definitions to replace one uncomplicated and uncontroversial definition?

The difference in definition between religious marriage celebrants and civil marriage celebrants is unnecessary. If a marriage celebrant wants to refuse to solemnise a marriage, they should be entitled to do so without recrimination. If a marriage celebrant wants to refuse to provide their services, they should not be required to give their reasons. One Nation's amendments would remove the distinction between religious marriage celebrants and civil marriage celebrants and revert to the single-definition term 'authorised celebrant', which has stood the test of time in the Marriage Act. There is no justification for requiring someone to give their reasons for refusing to solemnise a marriage, whether those reasons are religious, ethical or conscientious objections, or that the marriage celebrant has had a better offer or is simply having a bad day.

I have listened to the debate in this chamber from both sides—well, no; virtually it's only from one side, because the other side, mainly Labor, have not even spent time in the chamber. They have rarely risen to their feet to debate this. They are not listening to those nearly five million people that voted no in the survey. Another 21 per cent didn't cast a vote at all, for whatever reason, and I've heard that some people never even got their vote. There is also an argument about whether it was done lawfully, meaning that votes were thrown out in the trash and people were coming along and picking them up. Votes were sent to places where others were collecting them out of their mailboxes. So was the vote really true and a clear reflection of what a lot of Australians wanted?

We see here this argument about the religious and the non-religious. I notice in the morning every day when we stand up to say the Lord's Prayer in this place that the majority of those on the opposite side don't even say the Lord's Prayer, so their regard for religion is non-existent. It is of great concern to me that this legislation is being pushed through the chamber, and I don't believe there's a choice in this chamber at all.

The CHAIR: Senator Hanson, please resume your seat. Senator Pratt?

Senator Pratt: My point of order is that it is out of order for the senator to refer to another senator's religion.

The CHAIR: That is correct, although I don't believe Senator Hanson referred to particular senators but to the party as a whole. But I will remind senators to be respectful in the debate. Senator Abetz?

Senator Abetz: Can you clarify for the benefit of the chamber your ruling that you are not allowed to refer to another senator's religion?

The CHAIR: Thank you, Senator Abetz. I'm not making a ruling; I'm referring to what has happened previously, where it is disrespectful to reflect on the religion of a senator in this place. Senator Hanson, please resume.

Senator HANSON: Let me make it quite clear: I did not refer to any particular senator's religion. I referred to the fact that those on the opposite side, and most of those on the Labor side, do not say the Lord's Prayer. We are discussing in this bill—

Senator Pratt: A point of order, Chair: Senator Hanson is again reflecting on the religious practice of senators on this side of the chamber.

The CHAIR: Senator Hanson, I did make a statement that you are going close to reflecting. Whilst you haven't named a particular senator, you have named a particular party, so, in a sense, you are reflecting on all senators. I've made the statement. It's your role as a senator to accept the statement that I've made, otherwise it could be that you are dissenting. The other practice is not to repeat what has been ruled on, so I'd ask you now to be mindful of the comments that I've made.

Senator Hinch: On a point of order: I support Senator Pratt on this. For anybody to stand in this chamber and say you do not—

The CHAIR: Senator Hinch, that's not a point of order. I've ruled on that. I'd ask you to resume your seat, please. Senator Hanson, please continue.

Senator HANSON: The bill does reflect on religious grounds, and we are actually now debating the rights of a religious celebrant or a non-religious celebrant. I also reflect that, as I said, nearly five million people have voted no. We are making decisions for the future of this country. Actually not everyone—and it's quite reflective—is agreeable with same-sex marriage. I see there is a lot of intolerance that is happening in this chamber. The whole fact is those people who are marriage celebrants are not taken into consideration for whatever reason, whether it be for religious or non-religious reasons. If they don't wish to marry a couple, they are going to be left wide open, because they may be sued or open to litigation. Surely there are going to be enough people out there who wish to marry couples of the same sex. Why is it not the case that you can't be a bit tolerant on this and accept those wishes of the people? I'm sure that there are a lot of people in your electorates who would agree with what I am saying.

We have allowed political correctness and minorities to start taking our country, and the people have not got the right to even have a view or an opinion. Have we got to a stage in this country where the thought police are actually controlling our views? We are not saying, 'Okay, you went to the plebiscite, and you asked the question: do you agree with same-sex marriage?' The public have voted, those who did vote, and 61 per cent said yes. Now, you are actually saying that you can't have an opinion if you are a marriage celebrant and that you

must marry everyone; you must marry the same sex. What are you so worried about? Why are you so concerned about this? Why don't you give those people those rights? Is it because you want to control people and put them down? These people have a right to say no. They have a right to an opinion. Has it come to us losing our democracy in this country? That is what is happening. And it will flow on to other areas. I'm talking about the education system and everything. It's happening here. We don't have any control any longer.

You make it in regard to religion too. I refer you to section 116 of the Constitution:

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion—

basically its saying that you can't control anyone over their religious beliefs—

and no religious test shall be required as a qualification for any office ...

Under that category, you are saying that people can only be religious to deny that right to marry a couple. But under our Constitution, it says there cannot be any religious test. Regardless of whether anyone wants to put themselves down and say, 'I am of a religion', under our Constitution they can't do that, because you are forcing a religious test on them. That is under our Constitution, so you want to think clearly about this. You can't force anyone to have a religious test. So if a marriage celebrant says they are not of a certain religion, they have the right then to deny marrying a same-sex couple.

I go back to it again: it is clear the way it is under the act now that it is an authorised celebrant. Leave it at that. Let the people make their own choices and you will get the support of the people. If you go out and impose it on people, you are going to open it up to litigation. There are going to be concerns for those people, even for the rights and benefits of same-sex married people. You are going to have people in this country who will actually advertise they are quite happy to marry same-sex couples. But for the ones who don't want to marry them, give them the right to deny it. I'm sure that if a couple wants to get married and they know that a celebrant really doesn't want to marry them, they wouldn't want to have them anyway. Give them that right from both sides to have that choice. Thank you.

Senator HINCH (Victoria) (09:44): Senator Hanson has spent a lot of time talking about intolerance in this debate. The intolerance has come from the 'no' vote. The intolerance has come from people like the Lyle Sheltons of the world and some of our own members of the Senate. They have tried to filibuster this debate. They've tried to push it away as fast as they can and as far as they can, which is why I made the move earlier this week to push two more hours into the debate session yesterday so that we can get this vote done and dusted by about 11.30 this morning.

Last week on Sky we had Senator Bernardi, who was boasting that there would be 62 amendments to this issue. I said at the time: 'Well, there'll be 60 of them, obviously, for you. I'll be voting against.' The other side, Senator Hanson, have been listening to you. We've been listening to you for months and months and months. The issue has been going on for months. For gay people, it has been going on for years and years. The Prime Minister says that this issue has brought Australia together, has united Australia, because we voted 62 to 38 in favour of same-sex marriage. It didn't unite Australia. It did in one way, I'll grant that, but I think of the LGBT people in this country this Christmas. When Christmas comes along and they are sitting there at the table, and suddenly a gay man finds out that his own dad voted no,

how's that going to be at their Christmas table in all the bonhomie of the Yuletide season? That's what angers me about this.

I voted the plebiscite down. My vote was one of the ones that killed the plebiscite, and I'm proud of it. I was opposed to the postal ballot. The one thing the postal ballot has done is show that the majority of Australians do want same-sex marriage. I recall the day the vote came up. The man from the Bureau of Statistics did his Rob Oakeshott impersonation and went on for minutes and minutes. Coincidentally, I was standing next to Penny Wong. I looked at her and I said to her: 'Do you want time by herself? It's going to be a terrible time for you. Do you want to be alone?' She said, 'No.' Then I said to Senator Wong, 'I apologise.' I said: 'This is a disgrace—the fact that we are standing here now, at four minutes to 10, and your life is being decided by strangers. People you don't even know are deciding how you should live your life, how you should either have or not have the same rights as every other Australian, whether you get married or don't get married.' And there are gay people who won't get married, who don't want to get married and they won't, but at least they'll have the same rights.

I've said before that it's a shame that it took us so long. Who would have thought that Ireland and New Zealand, across the ditch, would get there before we did? I'm proud to be here today. I'm proud we're going to do this. We talk about religion and tolerance—and I'll stay away from the specifics—but, as an atheist, I find it offensive for anybody to stand and lecture me because in the mornings I do not stand up here to recite the Lord's Prayer. I do put my head down to acknowledge the Indigenous people in this country, but that is my right and my lot. It's offensive for you, Senator Hanson, to even allude to it.

Senator ABETZ (Tasmania) (09:47): On behalf of a loose but quality group of senators that supported the Fawcett and Paterson amendments, I have the privilege of rising to express certain views in relation to further amendments that will be moved today. I just want to place that on the record.

In relation to Senator Hanson's contribution, can I acknowledge that the postal survey may have had its certain weaknesses, but I think, at the end of the day, we can accept—and this is coming from me as a 'no' voter—that the will of the Australian people was, regrettably, to allow same-sex marriage in the Marriage Act. And whilst we can argue around the margins, and it's an interesting debate, at the end of the day I don't think it makes, with respect, any material difference to the outcome. It might have been 59 per cent instead of 61 or 62, but, at the end of the day, I think there was a clear expression by the Australian people. I want to place that on the record and move onto Senator Hinch's very stereotypical commentary.

He assumed and presumed to talk on behalf of gay people. As Senator Hinch and others in this place know, there are many gay people who voted no and advocated for the 'no' vote. So this attempt to pigeonhole everybody that might be gay or lesbian into a particular category does a great disservice to our fellow Australians. Just as much as there were good straight or heterosexual—to use those terms—men and women who voted yes for same-sex marriage, there were same-sex attracted people who voted no and advocated for the 'no' vote. That is where genuine tolerance comes into this debate—recognising that there are heterosexuals and homosexuals who do not fit your stereotypical view of the world. That is where I would just invite Senator Hinch to acknowledge that there are those varying views in the Australian

community—and they are all valid views. They are all views that ought be allowed to be given expression.

If, as I suspect, the definition of marriage is changed later on next month when the House of Representatives deals with it, I trust that the same tolerance will continue to be allowed for people to say that this was a regrettable change. That is what a free democracy is all about, not trying to shut down people and say, 'We've heard too much of them' or 'Senator Bernardi allegedly boasted that there would be a lot of amendments.' Well, in this place, a lot of people who are genuinely motivated want to move amendments to make legislation better. It happens each and every day. To say to somebody who's done a lot of work and put a lot of thought and consideration into amendments that they are just doing it so they can boast on Sky, I think, once again, displays an intolerance. It has been amazing to me how often those who preach tolerance are often the most intolerant to people who disagree with them.

I will now turn to the actual amendments moved by Pauline Hanson's One Nation party and indicate support for them. As a Liberal, I think the less bureaucracy the better. There is no need to categorise people into two different categories. On human rights, as I have said through this debate—and I will continue to say it—there are certain human rights where religious freedom, conscientious objection or conscientious freedom are just as vital. So men and women of no religious disposition should be given just as much right as people of a religious disposition in relation to these matters. I have said previously that, just as there ought be rights given to the person standing at the front of a congregation clothed in clerical garb—if that is what their particular denomination is—why should those rights then be denied to the people sitting in the congregation and in the pews? Why should a minister of religion be clothed with extra rights than the congregants or, indeed, those that never darken the doorstep of a church but have conscientious beliefs? Their rights should be protected in a tolerant society.

To try to categorise and pigeonhole certain people, saying, 'We will register you because of your religious beliefs and, therefore, we need a special register,' is, I think, unnecessarily divisive and unnecessarily bureaucratic, and no case has genuinely been made out as to why a change such as that being suggested in the original bill is needed. That is why we support Senator Hanson's amendments.

Whilst we are talking about percentages, I would note that over 50 per cent of the Australian population still identify as Christian, and there are a host of other religions as well. When you start adding them all up, dare I say it, you get close to that magic figure that Senator Hinch always likes to announce—namely, 62 per cent—in relation to the postal survey. But, all of a sudden that 62 per cent in the postal survey—you know that survey that was non-binding, irrelevant, of no value at all—is cast iron; it has to be absolutely followed to the letter of the law. But, of course, we're not doing that in this bill, because the only question that was asked was about same-sex marriage as opposed to all the other things.

That aside, when there is a 62 per cent majority of Australians that are of a religious belief, people like Senator Hinch don't want to hear that 62 per cent figure, nor do they want to hear the figure in the same polls that were taken, which predicted the outcome of the survey, of an even greater majority in favour of protecting people's freedoms. Those percentages, those figures, are conveniently discarded, ignored, as though they don't exist. The simple fact is you can be a 'yes' voter—and I know many who did vote yes—but still believe in religious

freedom, in freedom of speech, in conscientious objection, in parental rights and especially protections for charities which this Senate so arrogantly threw out last night. In so doing, a lot of 'yes' voters will feel aggrieved.

Coming back to the amendment, the amendment makes sense. There should only be one category—and that is the authorised celebrant—and the need to try to categorise two different lots is completely unnecessary. In a society that celebrates—dare I use the words—diversity and tolerance, we should say to people, be they celebrants of a religious disposition or celebrants not of a religious disposition, 'You are free and able to celebrate those marriages that you seek to solemnise and, should you wish not to, there is no pressure on you.' Some, for example, religious celebrants are of the view that you should not be celebrating the remarriage of a divorced individual. That is something that is understood. I'm not sure that I necessarily agree with it, but that is their right. In a free and tolerant society, they should be able to say, 'Unless you are part of our congregation, unless you subscribe to our beliefs, unless these characteristics apply, because of our faith or because of my beliefs as a civil celebrant, I'm sorry, I cannot assist you on this occasion.' This is, in fact, about tolerance. This is, in fact, an amendment about giving individuals their fundamental freedoms and rights, and the group of senators that I have the honour of speaking on behalf of support these amendments.

Senator IAN MACDONALD (Queensland) (09:58): In this debate, I'm exercising my conscience, as our party decided long ago. I speak for myself. Nobody else speaks for me on these issues, and I've made my position very clear on this all the way along. I support Senator Hanson's amendments. I think they are probably not as good as some of the others that have been proffered and voted against, but they do provide certain protections. They do make sense, and they are ones that I support. That's my position as an individual senator exercising a conscience vote.

I'm very, very disappointed that the Labor Party, for all of their rhetoric about a conscience vote, have come to this debate locked in as a political party. The Greens, of course, are the same. As I said yesterday, I don't, fortunately, know the Greens very well. I don't know of any of their religious or other beliefs—I suspect they have few beliefs apart from themselves—but I do know that there are a number of members of the Labor Party who have deeply held religious beliefs. I do know that many of the members of the Labor Party do not say the Lord's Prayer in the morning, and I say that as a matter of fact. That is something that I don't have to tell the Senate. Most of the Labor Party people who don't say the Lord's Prayer would tell the Senate themselves. Australia used to be a place where you could have these sorts of conversations. Within this chamber, we are even more encouraged to speak openly about factual matters, as long as we're not personally attacking or impugning motives of other senators. So I repeat Senator Hanson's statement that many in the Labor Party are not Christians and do not say the Lord's Prayer.

Senator Pratt: The senator is reflecting on the religion of senators in this place.

Senator Steele-John: I join with Senator Pratt in reflecting that the senator is himself reflecting in contravention of your ruling.

Senator IAN MACDONALD: Can I be given a chance to talk? I assume that was a point of order. Of course, Senator Pratt didn't say it was a point of order.

The CHAIR: Senator Macdonald, please resume your seat. It was a point of order, and I intend to—

Senator IAN MACDONALD: She didn't say that. Can I speak to the point of order?

The CHAIR: No, because that would be debating with Senator Pratt. Let me put what I—

Senator IAN MACDONALD: When a point of order is raised, it allows people to have a different view on the point of order.

The CHAIR: Senator Macdonald, please resume your seat.

Senator IAN MACDONALD: That's been the ruling for the 27 years that I've been here.

The CHAIR: Senator Macdonald, please resume your seat. It is up to me how many points of order I entertain, and I'm sure that you're aware of that.

Senator IAN MACDONALD: Mine is not a point of order. I was talking on her point of order.

The CHAIR: I am going to remind senators in this place that standing order 79 says:

... it is not in order to refer to a senator's religion in debate.

I beg your pardon—it's a ruling of the Senate. Senator Macdonald, when you first started to speak you were fairly general, and then you became more specific. I would ask senators in this place not to reflect on the religion of senators in particular or senators from particular parties. And I ask you, Senator Macdonald, to also not do that.

Senator IAN MACDONALD: Which standing order says that?

The CHAIR: I beg your pardon, Senator Macdonald. I inadvertently called it a standing order and then I said it's a ruling.

Senator IAN MACDONALD: Which one?

The CHAIR: It's No. 79, and it's from President Calvert. It's in *Odgers* at page 261.

Senator IAN MACDONALD: And that says you can't refer to anyone's religion in this chamber?

The CHAIR: I will read it to you. I did read it. Perhaps you were distracted, looking at something else. It says:

... it is not in order to refer to a senator's religion in debate.

That's from President Calvert in 2005, and it's in *Odgers*, 13th edition, at page 261.

Senator IAN MACDONALD: If you listened to me, I haven't referred to anyone's religion. I've referred to the fact that a number of Labor Party people quite openly say that they are not religious, that they are atheists. And in fact Senator Hinch just said he was an atheist.

The CHAIR: Senator Macdonald, please resume your seat! I have explained what I heard you say. I've asked you to consider carefully what you continue to say, because, whilst in the beginning you were fairly general in your comments, you became more specific. This debate has largely been quite respectful. It is a debate, like many we have in this place, that creates a lot of emotion from senators, and I would ask you to continue on without referring to what people may or may not do at the beginning of the Senate.

Senator IAN MACDONALD: This chamber should be the bastion of free speech. We used to have free speech in Australia. Senator Hinch, in his contribution, said he was an atheist. Does that mean that you should have stopped Senator Hinch from saying that he was an atheist? I'm not talking about anyone's religion as such.

The CHAIR: I've made my point of view clear. I would ask you to respect that point of view, and I'm now going to go to Senator Pratt, who stood presumably on a point of order.

Senator Pratt: On a point of order, Senator Macdonald has directly reflected on Senator Hinch's religious practice.

Senator IAN MACDONALD: On the point of order, Madam Chair: as I just indicated, Senator Hinch himself said that. You didn't stop him from saying that, but you're stopping me from repeating what Senator Hinch said in this debate. Please make a ruling that is within the standing orders and in accord with the high traditions of this particular chamber where people are able to speak their mind with some protection from the chair about what can and cannot be said. This is the most ridiculous ruling I have ever heard. Most of the Labor Party will tell you they are not Christians and they don't support Christianity. I am simply repeating that fact, and that is not against standing orders.

The CHAIR: Senator Macdonald, you are now verging on dissenting against the ruling I have made. I have read you the rule from *Odgers*. I have asked you, respectfully, to refrain from referring to people's religion. I would ask you now to continue the debate.

Senator IAN MACDONALD: Madam Chair, respect is a very two-way street—

The CHAIR: Senator Macdonald, please resume your seat. I've asked you to please continue the contribution that you are making about the amendments as put by Senator Hanson.

Senator IAN MACDONALD: Respect, I say, to my colleagues in the chamber, is a very two-way street, and people's opinions should be respected. I respect Senator Hinch's opinion—not his opinion, his statement of fact, that he is an atheist, and he chose to tell this chamber that in this debate.

Senator Steele-John: On a point of order, Madam Chair: the senator is continuing to reflect upon the religious beliefs of my colleague, Senator Hinch, in contravention of your continued ruling. I would ask that he now be brought to order in some more substantive sense.

The CHAIR: Thank you, Senator Steele-John. Senator Macdonald on that last occasion was simply reflecting what had been said by Senator Hinch. Senator Macdonald, please continue your contribution.

Senator IAN MACDONALD: I support these amendments proposed by Senator Hanson, but in doing so I repeat what Senator Hinch said about himself, and I repeat what many Labor Party people will tell you in this chamber about not their religion but the fact that they don't follow Christianity. That's not talking about their religion, because they don't have a religion and they're the first to admit it. I make no judgement about that. I'm not being judgemental in saying they don't have a religion. A lot of my friends don't have religions, a lot of my friends will not say the Lord's Prayer, but I think when this chamber and this whole debate get to a curtailment of speech where you're not even able to reflect on a fact that people themselves talk about, then Australia, I'm sorry, is heading down a very, very sad path. It's a matter of regret for me that there are many in this chamber who would urge that that happen.

In this whole debate, my position has always been very clear. From my upbringing, my position as a Christian and as a member of the Anglican Church—I challenge anyone to say that I cannot tell this chamber or the world that I am a Christian and a member of the Anglican faith—I've had a view about marriage as being a religious ceremony that I have grown up with. I have found it very difficult to bring together the thoughts of my gay friends having a marriage which I understand to be a religious ceremony.

As I have said many a time, I have many gay friends, including a very loving, personal couple. My argument with them was why they needed to use the word 'marriage'. I could never understand that. I have been a member of a parliament which, over the years, has removed all discrimination against gay people—all discrimination. It was on that basis that I decided I would vote no in the plebiscite. But I also indicated that, as a parliamentarian and one who believes in democracy, if the majority of my fellow Australians had a different view from me then I would be the first to support the ability for same-sex couples to marry. That's what I intend to do and that's what I've made clear all along. But I do think that people who have religious convictions—and there are many in the Labor Party who don't and there are some on my side of politics who don't have religious convictions as well, and that's a matter for them; it's a free country—should, like Senator Hinch, who said that he was an atheist, be able to tell the world their convictions. He should be able to tell the world and tell this parliament that he is an atheist, just as I am able to tell this chamber that I am a Christian—not a very good one, I have to say, but I am a Christian and a member of the Anglican Church. In this chamber, speech should be as free, if not freer, than anywhere else in Australia, and I challenge anyone to say that they can prevent me from telling this chamber my religion and my belief in Christianity.

Madam Chair, this whole debate has, I have to say with regret, shown a lot of disrespect and intolerance. In fact, one of our colleagues who acts in your position when you're not here actually wore an insignia while sitting in the chair indicating a partisan view on this debate. To his credit, when I raised it, he did remove the badge. But I see other senators in this chamber, contrary to standing orders, which seem to be not quite as visible as they are on other occasions, wearing insignias that clearly indicate a position in this debate. I know that's against standing orders, because I once wore a hi-vis shirt that said I supported the coal industry. At the call of those who now think it's okay for them to wear insignias, I was made, on a ruling by the President, to remove that hi-vis shirt. Yet it seems to be in this intolerant age which we are living in that there is one set of rules for some people but a different set of rules for other people, depending on their political philosophy. That intolerance and the intolerance I see in this debate, in fact, saddens me and makes me despair for the future of this great country—a country which, worldwide, is renowned for its freedoms.

We talked about this country having removed several years ago every single discrimination against people who were gay or of that disposition. We've removed every single discrimination from the laws of Australia. I've been one of those who have strongly supported that all of my public life. I raised in the Senate—and you never hear the Greens political party in particular raising this issue—that I recently attended the Inter-Parliamentary Union conference in St Petersburg, where a female Italian delegate berated the Russians for having discrimination against gay people. She said that in Russia they have detention camps—and she named five—where gay people are put. In those international forums, those who are

spoken about always have a right of reply. In response, the Russian delegate didn't particularly address that accusation but said to the Italian lady, 'Why are you attacking us? There are parliamentarians in this room who belong to parliaments who have legislated to put to death people who are gay for no other reason than the fact that they are gay.' Do you hear the Greens ever berating those countries—many of them in the Middle East—that have these particular issues? They'll talk about Manus Island. They will work with GetUp! against coalmines, but do they ever raise their voice about the ultimate discrimination of gay people, which is the putting to death of them because of their being?

So, in Australia, when we talk about discrimination, those discriminations of any sort were removed from the Australian laws many years ago. I'm proud to say that, in some small part, I was involved in those pieces of legislation. But it does distress me that we now have this position that, apparently, it seems to some that being religious, being a Christian, suddenly makes you a second-rate citizen, with not the same rights and entitlement to respect that other Australians have. I despair for the future of our country if that intolerance is going to continue to be displayed in the way it has been in some instances in this debate—and, certainly, has been in relation to some of the matters that Senator Hanson mentioned in moving her amendment.

I come back to the point before the chamber. I support Senator Hanson's amendments. As I say, I think there were other amendments that were better framed, but they haven't achieved support in this Senate. So I will be supporting these amendments by Senator Hanson.

The CHAIR: May I just remind senators that advisers need to be in the advisers' box and not on the floor of the Senate.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:17): I will be brief. I do say the Lord's Prayer, Senator Hanson, when I'm in this chamber, and I do so as a personal act of faith. Second, we have a ruling from actually a Liberal president which discusses the way in which people can debate religion and other's religious beliefs in this place, in the same way that we have rules on reflections on other members and senators or members of the other place. And it was a ruling, I think, of President Calvert, who was not a Labor President but a coalition President. Anyway, that has all been very interesting, but we do have a number of people here in the public gallery who are here to watch the Senate vote—to do what we are paid to do, which is to debate and vote. I, for one, think it's probably a good thing if we get to vote on Senator Hanson's amendment soon and continue to progress the bill.

Senator LEYONHJELM (New South Wales) (10:18): I rise to indicate my support for the One Nation amendments on sheet 8332. All non-government celebrants should be free to refuse to solemnise a marriage. A secular state should not give privileges to religion. Celebrants who wish to specialise in solemnising same-sex marriages should be free to do so. Religion should not be afforded a privileged place in a secular state. People who are not religious still have convictions and they still have freedom of conscience, as much as people who have religious convictions do. People who are not religious should not be treated as second-class citizens. If we refuse to extend the freedom to refuse to solemnise a marriage to all non-government civil celebrants, we'll be left in a situation where celebrants who only want to solemnise straight marriages can do so under the cover of religion, but celebrants who

only want to solemnise same-sex marriages will not be able to do this, as there's no religious cover for such a decision. We will, in fact, be hurting the gay community.

There is another aspect about Senator Hanson's amendment that I think no-one has yet drawn attention to, and that is item (2) on sheet 8332. It amends the objects clause in Senator Dean Smith's bill, replacing the reference to 'civil celebrants' with a reference to 'authorised celebrants'. 'Authorised celebrants' is the term used in the Marriage Act. There is no reference to civil celebrants in the Marriage Act. For anyone who wants to oppose this amendment, including item (2), you need to say why you prefer a reference to civil celebrants rather than authorised celebrants. In particular, I ask Senator Wong: why do you prefer the term 'civil celebrant' to 'authorised celebrant', which is what Senator Smith's bill will introduce? Where is the term 'civil celebrant' defined? Does a civil celebrant include a state or territory officer authorised to solemnise a marriage? If not, why would you support an objects clause that excludes marriages solemnised by state and territory officers? Does a civil celebrant include a Defence Force chaplain? If so, doesn't this turn the term 'civil' on its head? If not, why would you support an objects clause that excludes marriages solemnised by Defence Force chaplains? I prefer my amendment, which permits civil celebrants to refuse to solemnise a marriage, but I think this particular amendment of Senator Hanson's does address this issue of definitions well. If it were to succeed, I would withdraw mine, because it does address this issue of the definition.

The CHAIR: Before I move to the amendments, I will just explain that there are two parts to the amendments that Senator Hanson moved. The first question I am going to ask is whether or not senators agree with amendments (1) to (3) and (6) to (9) on sheet 8332. The second question would go to items (5), (8) to (17) and (64) and part 4 of schedule 1—that they stand as printed—and those items are (4), (5), (10) and (11) on sheet 8332. We are dealing with the first part. The question is that amendments (1) to (3) and (6) to (9) on sheet 8332 be agreed to.

The committee divided [10:27]

(The Chair—Senator Lines)

Ayes17
Noes36
Majority.....19

AYES

Abetz, E
Bernardi, C
Bushby, DC (teller)
Duniam, J
Georgiou, P
Leyonhjelm, DE
McGrath, J
Paterson, J
Seselja, Z

Anning, F
Burston, B
Cash, MC
Fierravanti-Wells, C
Hanson, P
Macdonald, ID
O'Sullivan, B
Ruston, A

NOES

Bartlett, AJJ
Birmingham, SJ

Bilyk, CL
Brown, CL

CHAMBER

NOES

Cameron, DN
 Chisholm, A
 Di Natale, R
 Hanson-Young, SC
 Hume, J
 Kitching, K
 McAllister, J
 McKim, NJ
 O'Neill, DM
 Payne, MA
 Pratt, LC
 Rhiannon, L
 Siewert, R
 Smith, D
 Urquhart, AE (teller)
 Whish-Wilson, PS

Carr, KJ
 Collins, JMA
 Griff, S
 Hinch, D
 Ketter, CR
 Lines, S
 McCarthy, M
 Moore, CM
 Patrick, RL
 Polley, H
 Reynolds, L
 Rice, J
 Singh, LM
 Steele-John, J
 Watt, M
 Wong, P

Question negatived.

Senator IAN MACDONALD (Queensland) (10:28): (*In division*) Chair, I want to raise a point of order. I'll be very precise about what's in the standing orders. I draw your attention to a senator in this chamber who is breaching the orders made by a number of Presidents, one in relation to the order about wearing insignias supporting any particular approach in this chamber.

The CHAIR: Senator Macdonald, I am happy to come back to this, but at this point we are in a division and you can only raise a point of order in relation to the division.

Senator Ian Macdonald: Well, the division might not be accurate—

The CHAIR: Senator Macdonald, I have suggested that you raise that point of order once this division has concluded.

Senator HINCH (Victoria) (10:29): (*In division*) Chair, point of order—

The CHAIR: I'm sorry; I can't hear you. I have said that the point of order that Senator Macdonald wishes to raise is not to do with the current division. So Senator Macdonald may choose to raise that point of order once the division has concluded. The question is that items 5, 8 to 17 and 64 and part 4 of schedule 1 stand as printed.

The committee divided. [10:34]

(The Chair—Senator Lines)

Ayes36
 Noes17
 Majority.....19

AYES

Bartlett, AJJ
 Birmingham, SJ
 Cameron, DN
 Chisholm, A
 Di Natale, R
 Hanson-Young, SC

Bilyk, CL
 Brown, CL
 Carr, KJ
 Collins, JMA
 Griff, S
 Hinch, D

AYES

Hume, J
Kitching, K
McAllister, J
McKim, NJ
O'Neill, DM
Payne, MA
Pratt, LC
Rhiannon, L
Siewert, R
Smith, D
Urquhart, AE (teller)
Whish-Wilson, PS

Ketter, CR
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Polley, H
Reynolds, L
Rice, J
Singh, LM
Steele-John, J
Watt, M
Wong, P

NOES

Abetz, E
Bernardi, C
Bushby, DC
Duniam, J
Georgiou, P
Leyonhjelm, DE
McGrath, J
Paterson, J
Seselja, Z

Anning, F
Burston, B (teller)
Cash, MC
Fierravanti-Wells, C
Hanson, P
Macdonald, ID
O'Sullivan, B
Ruston, A

Question agreed to.

The CHAIR (10:37): Senator Macdonald on a point of order.

Senator Ian Macdonald: Chair, I want to raise a point of order. You've been very precise in enforcing the standing orders. There is a senator in this chamber who is clearly breaching the rule about wearing insignia supporting a cause here. I ask you to exercise the same rigour that you've used on other points of order on all senators in this chamber and not allow one senator to think he or she is better than anyone else and there are special rules for him or her just because of some inflated view of their own importance.

The CHAIR: Senator Siewert?

Senator Siewert: Chair, I'm wondering if Senator Macdonald is referring to my badge for Family Matters.

The CHAIR: Senator Macdonald, did you wish to add anything to your point of order?

Senator Ian Macdonald: I want you to enforce the standing orders, as you have been so diligent in doing this morning.

The CHAIR: I certainly heard you say that, Senator Macdonald. I was simply asking you if you wish to clarify because there are a number of senators who are not clear on what it is that you are objecting to in particular.

Senator Ian Macdonald: It would be inappropriate for me to reflect on their inability to understand, as that would be a reflection. We always wear badges supporting various charitable causes. You look around, Chair. You're in charge of the joint. If you see anyone

who is breaching a standing order that has been enforced by past presidents, including against me, then I ask you to enforce those standing orders again. If you can't see them, then perhaps you should go to Specsavers.

The CHAIR: Thank you, Senator Macdonald. It wasn't a matter of whether I could see them or not; it was seeking further clarification. I thank you for adding that clarification. As senators would be aware, and as Senator Macdonald alluded to in his point of order, there is a practice in the chamber that we wear small badges and pins to recognise particular days and so on. That's been a longstanding custom in the Senate.

Senator Macdonald is also correct in that we do have standing orders and rulings by Presidents that go to something more than that. There is a distinction, and the distinction is, where it is obvious that the message reflects on the views of the senator or is broad enough to be interpreted, the senator is called to order about the prop or the message that they are wearing. On the point of order that you've raised this morning, Senator Macdonald, I don't believe that the range of badges and pins that are being worn today in the Senate are a breach of that particular ruling. Thank you.

Senator Bernardi: Madam Chair, may I ask that you, in your ruling, consider the ruling of Temporary Chair Senator Whish-Wilson which required both me and I think a member of the Greens party to remove from display the political campaigning for the 'yes' and 'no' campaigns as demonstrated by the rainbow flag and 'It's O.K. to Vote No.' That was upheld by Senator Whish-Wilson—I accept that—but I do make the point: there are badges signifying the political campaign we've gone through in this place. We're just looking for consistency.

Senator Hinch: I suspect that I'm the person that Senator Macdonald is referring to, and I think I'm entitled to have something to say here. The previous President of the Senate, Senator Parry, made no comment at all when Senator Hanson turned up here wearing a burqa.

The CHAIR: Thank you, Senator Hinch. I don't believe you are the person being referred to.

Senator Hinch: I'll leave that alone and go to the badges. Yesterday Senator Macdonald said, 'We all wear badges in this chamber; we're all entitled to,' and yet he challenged Temporary Chair Senator Whish-Wilson for wearing a badge inadvertently yesterday.

The CHAIR: Senator Hinch, please resume your seat.

Senator Ian Macdonald interjecting—

The CHAIR: Thank you, Senator Macdonald. Please resume your seat.

Senator Ian Macdonald interjecting—

The CHAIR: Can you resume your seat, Senator Macdonald. Thank you. I've indicated to the chamber my interpretation of the standing order in relation to the point of order that you have made.

Senator Wong: On the point of order—

Senator Hinch: Which point of order?

Senator Wong: I'm just actually clarifying; I think it's Senator Macdonald's point of order. Can I respectfully—

Senator Ian Macdonald interjecting—

The CHAIR: Senator Macdonald, resume your seat, thank you. We will hear Senator Wong's point of order in a respectful way.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:43): I am happy to make this contribution as a committee contribution, if that would make you feel better, Senator Macdonald.

Senator Ian Macdonald: Well, it would abide by the standing orders.

Senator WONG: Senator Macdonald, a little courtesy this morning, I think, would be good. This is a bill that has been the subject of a national vote, and there are many people across the country who are observing this—not a national vote, a national survey. Does that make you feel better? There are many people who are watching the behaviour of this chamber. People are entitled to their different views, but having an unseemly and, frankly, discourteous argument about badges is less than this Senate ought be doing. If Senator Macdonald or Senator Bernardi believe that the attire of one of the senators is inconsistent with the standing orders, I think it's incumbent upon them to raise that. I indicate, from the opposition's perspective, regardless of who is in the chair, we have respected the ruling of the chair in relation to dress code.

Senator IAN MACDONALD (Queensland) (10:44): On the debate, as Senator Wong well knows, I have not raised the issue about a badge, and Senator Wong contributes—

An honourable senator interjecting—

Senator IAN MACDONALD: This is not a point of order, if you'd opened your ears; I'm talking in the debate as Senator Wong did. Madam Chair, you've allowed Senator Wong to speak in the debate on a matter that wasn't particularly germane to it. There was direct misrepresentation by Senator Wong of what I said, when I particularly mentioned that it didn't refer to badges. What I was saying was that, if this chamber is going to work, the people in the presiding officers' chairs need to enforce the rules. There is a senator in this chamber, to anyone's view, who is not complying with those rules. What I'm asking, in my contribution to this debate, is that whoever is in the chair enforces the rule, as you, Madam Chair, have so rigorously done so far in the debate today.

The CHAIR: Thank you, Senator Macdonald. Please resume your seat. I believe there is a point of order. Senator Whish-Wilson?

Senator Whish-Wilson: Madam Chair, if Senator Hinch were to remove his scarf, Senator Hanson-Young would have to remove her dress, because it's a rainbow dress!

The CHAIR: Senator Whish-Wilson, that is not a point of order. Frankly, it does not contribute to the debate before us. Senator Macdonald, did you wish to continue?

Senator IAN MACDONALD: Senator Hanson-Young, I will give you my handkerchief—not to cover the dress but to deal with the flood of tears that would no doubt come. Madam Chair, continuing the debate, Senator Wong talks about this being a respectful debate. Senator Wong, of course, as we all know, is the worst offender in respect and disrespect at question time. I have made very clear in this debate what my position is. I have actually achieved this in ways Senator Wong hasn't done, by voting for the removal of discriminations against gay people, and I stand proudly on that record. I have indicated my own personal view, respectfully. What I am asking is that tolerance be shown in this debate and throughout Australia, but particularly in this chamber, for those who don't have the

corporate view. I know there are many members of the Labor Party with deep religious convictions who are very uncomfortable about being corralled into supporting a Labor Party majority vote. That needs to be exposed to anyone. I don't care what their view is, I don't care what their religion is and I don't care whether they have religion or not—those are matters for them. In a debate that was intended to have a conscience vote by all senators, it's clear that some senators are not able to follow their conscience. That disturbs me.

Madam Chair, on the debate before the chamber that Senator Wong was speaking to, I'm not quite sure what contribution Senator Wong made in relation to the debate, but I have made my position clear. I agree this debate has to be respectful but, regrettably, the way others in this chamber have performed today shows that respect is not universal.

The CHAIR: Thank you, Senator Macdonald. Senator Fierravanti-Wells?

Senator Fierravanti-Wells: Madam Chair, I think in the interests of progressing this debate and getting on with what we are required to do, Senator Hinch, could I kindly ask you if you would remove your scarf? I think that would enable this matter to progress. I appreciate and I respect the situation, but I think otherwise we're just going to be bogged down in this debate. I just think that might be a sensible way of moving on in this debate.

The CHAIR: Thank you, Senator Fierravanti-Wells. Senator Hinch?

Senator Hinch: Nobody stood and complained when Senator Hanson wore a burqa in this chamber.

The CHAIR: Senator Hinch—

Senator Hinch: Everyone else has had their say, Chair.

The CHAIR: Senator Hinch, are you raising a point of order? If not, I have made the comment about your attire.

Senator Hinch: I thought it was just a debating point still.

The CHAIR: We are debating, but I have made my comment in relation to your attire.

Senator Hinch: Madam Chair, with respect, I was asked by another senator to take a certain action, which I will not do, and I agree with Sarah Hanson-Young who says, 'I'm wearing a rainbow dress.'

The CHAIR: I am in the hands of the Committee of the Whole. We have a number of amendments before us. Senator Leyonhjelm?

Senator LEYONHJELM (New South Wales) (10:49): I move amendment (1) on sheet 8321 revised:

(1) Schedule 1, page 5 (line 21), after item 7, insert:

7A At the end of section 39

Add:

(4) A person who is authorised by subsection (1) or under subsection (2) to solemnise marriages must not refuse to solemnise a marriage unless section 99 or 100 of this Act applies.

[State and Territory officers]

The Marriage Act 1961 authorises certain state and territory officers to solemnise marriages. This includes officers with the duty of registering marriages. The Marriage Act outlines numerous circumstances where these state and territory officers must not solemnise a

marriage. They must not solemnise a marriage where insufficient notice of the marriage is given, there are insufficient witnesses to the marriage, the parents have not given consent for a 16- or 17-year-old to be married, an interpreter to help solemnise the marriage has not declared their competence as an interpreter or the parties are already married to each other, or the marriage would be void. Reasons why the marriage would be void include that one party is already married, one party is the descendant of another, the parties are siblings, the state or territory officer is not authorised to solemnise a marriage at the place where the marriage takes place, a party fails to say words to the effect that they take each other as their wife or husband, there is an absence of real consent, or either of the parties has not reached marriageable age, being 18 or 16 in exceptional circumstances.

Where none of these legal impediments to a state or territory officer solemnising a marriage arises, section 39 of the Marriage Act states that a state or territory officer 'may' solemnise a marriage. But nothing in the Marriage Act requires a state or territory officer to solemnise a marriage in these circumstances. So the Marriage Act allows a state or territory officer to refuse to solemnise a marriage for personal reasons such as a dislike of interracial or interfaith marriage. This is perverse. State and territory officers, including officers with the duty of registering marriages, represent us all. They should carry out their duties. If for personal reasons they feel they cannot carry out their duties, they should quit.

The issue I identify will have greater significance once we legalise same-sex marriage because then the Marriage Act would allow a state or territory officer to refuse to solemnise a marriage because of a personal dislike of same-sex marriage. My amendment would fix this issue. It would insert a provision stating that a state or territory officer who is authorised to solemnise a marriage must not refuse to solemnise a marriage where there are no legal impediments to the officer solemnising the marriage. These legal impediments are captured in section 99 and section 100 of the Marriage Act. The specific wording of my amendment is that state and territory officers 'must not refuse to solemnise a marriage unless section 99 or 100 of this Act applies'. Allowing state and territory officers to refuse to solemnise same-sex marriages would undermine the purpose of legalising same-sex marriage. Surely, if we are to legalise same-sex marriage, then a same-sex couple should be able to go to a government marriage registry office with confidence that they will have their marriage solemnised—even an opponent of same-sex marriage should agree to that. We have separately debated the issue of whether and which non-government celebrants should be free to refuse to solemnise a same-sex marriage. But let me point out that it would be topsy-turvy to restrict any non-government celebrant from refusing to solemnise a same-sex marriage while allowing state and territory officers to refuse to solemnise a same-sex marriage.

Finally, let me pre-empt an excuse that may be given for opposing this amendment. Some left-leaning senators may argue that state and territory officers who refuse to solemnise a marriage for personal reasons would be breaching laws beyond the Marriage Act so we do not need to rule out such refusals in the Marriage Act. But it's far from clear that any other law would be breached. For instance, state and territory officers who refuse to solemnise a marriage would not be breaching the Commonwealth Sex Discrimination Act in its current form. Through its use of the word 'may', the Marriage Act provides a discretion to state and territory officers. Using that discretion would seem to be in direct compliance with the

Marriage Act, and acts done in direct compliance with the Marriage Act currently enjoy an exemption from the Sex Discrimination Act.

It is true that Senator Smith's bill is winding back the exemption from the Sex Discrimination Act. There will no longer be an explicit exemption of acts done in direct compliance with the Marriage Act, but there is no provision in either act giving the Sex Discrimination Act precedence over the Marriage Act, so, if a state or territory officer refuses to solemnise a marriage, it would be a lawyers' picnic trying to work out if that was legal. The responsible course is to amend the Marriage Act so that state and territory officers cannot refuse to perform their duties. I suspect that left-leaning opponents of this amendment know that this would be the responsible course, but their current siege mentality means that they will say no to all amendments, even from supporters of the legalisation of same-sex marriage like me. This is a dereliction of duty. I commend my amendment to the House.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:55): There is no siege mentality, Senator Leyonhjelm, although it's a very flamboyant set of words there. I think we have taken a sensible approach to a bill that has gone through a cross-party process. We have also taken the principled position that we want to deliver marriage equality within the context of Australia's existing antidiscrimination laws. That has been a consistent position, whether it's in relation to Senator Fawcett's amendments, Senator Hanson's amendments or your amendments.

In relation to amendment (1), which I think is the only amendment at this stage you are speaking to and which you've moved, I want to thank you for the constructive way in which you've sought to deal with these amendments. We note your rationale for its introduction. It's an amendment which seeks to explicitly prevent authorised officers under state and territory law from refusing to solemnise marriages. You were right to pre-empt the proposition I'm about to make. We are of the view, and we have a different legal view about the interaction of the two laws, that the existing protections under the Sex Discrimination Act provide sufficient protection against discrimination in such cases. There are obviously substantive protections in the Sex Discrimination Act, and it is our view that the provision of the Marriage Act to which you've referred does not derogate from those. If we are wrong in that, obviously that will be something that can be considered down the track. For that reason, Labor will not be supporting this amendment.

The TEMPORARY CHAIR (Senator Bernardi): The question is that Liberal Democrat Party amendment (1), on sheet 8321 revised, be agreed to.

A division having been called and the bells being rung—

The CHAIR: Senator Bernardi, on a point of order?

Senator Bernardi: I do note that the person who called the division is no longer present in the chamber, and I wonder whether the division stands, or the request for it, given those circumstances?

The CHAIR: Senator Bernardi, I'm informed that Senator Leyonhjelm called for the division.

Senator Bernardi: I was in the chair, Madam Chair, and the voices I heard did not include Senator Leyonhjelm's.

The CHAIR: I remind senators that when divisions are called for, the people who call divisions need to remain in the chamber. Thank you, Senator Bernardi.

The committee divided. [11:02]

(The Chair—Senator Lines)

Ayes3
Noes36
Majority.....33

AYES

Anning, F
Leyonhjelm, DE (teller)

Bernardi, C

NOES

Bartlett, AJJ
Birmingham, SJ
Cameron, DN
Chisholm, A
Di Natale, R
Hanson-Young, SC
Hume, J
Kitching, K
McAllister, J (teller)
McKim, NJ
O'Neill, DM
Payne, MA
Pratt, LC
Rhiannon, L
Siewert, R
Smith, D
Urquhart, AE
Whish-Wilson, PS

Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Griff, S
Hinch, D
Ketter, CR
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Polley, H
Reynolds, L
Rice, J
Singh, LM
Steele-John, J
Watt, M
Wong, P

Question negatived.

Senator BERNARDI (South Australia) (11:02): (*In division*) This is about upholding the standing orders. You've just made a ruling that those who call a division need to remain in the chamber. That's what you've just said. I'm telling you that the voices that called for the division are not here in the chamber. So, does the division stand or not?

Senator Wong: I rise on a point of order. Standing order 100(2) states very clearly:

A senator calling for a division shall not leave the chamber until the division has taken place.

I didn't see who called the division, but Senator Bernardi was in the chair. If that senator has left, I'd ask you to consider, and perhaps take advice, as to whether the division should proceed.

The CHAIR: Senator Leyonhjelm, on the same point of order?

Senator Leyonhjelm: On the point of order: Senator Bernardi was in the chair, at the other end of the chamber from me. There were several voices calling for it, including Senator Anning's.

The CHAIR: Thank you. I believe that we have met the two required voices, Senator Bernardi.

Senator LEYONHJELM (New South Wales) (11:07): I move item 2 on sheet 8321 revised, standing in my name:

(2) Schedule 1, page 11 (line 20), after item 47A, insert:

47AA Authorised celebrants (other than State and Territory officers) not bound to solemnise marriages etc.

Subject to subsection 39(4), nothing in this Part:

- (a) imposes an obligation on an authorised celebrant to solemnise any marriage, or
- (b) prevents such an authorised celebrant from making it a condition of his or her solemnising a marriage that:
 - (i) longer notice of intention to marry than that required by this Act is given; or
 - (ii) requirements additional to those provided by this Act are observed.

[authorised celebrants (other than State and Territory officers)]

This amendment extends the freedom to refuse to solemnise a marriage to all civil celebrants who are not state government employees. This similar amendment has been moved a couple of times previously. I know that senators have voted against that, but, because mine is the best way of achieving this, I know you are waiting to vote for my amendment. This is a freedom currently enjoyed by ministers of religion. Senator Smith's bill before us today only proposes to extend this freedom to religious celebrants.

Let me outline two arguments for my amendment that should appeal to left-leaning supporters of legalising same-sex marriage. Firstly, religion should not be afforded a privileged place in a secular state. As I have said previously on Senator Hanson's version of this amendment, people who are not religious still have convictions and they still have freedom of conscience, as much as people who are religious. People who are not religious should not be treated as second-class citizens.

Secondly, if we fail to extend the freedom to refuse to solemnise a marriage to all non-government celebrants, we will be left in a situation where celebrants who only want to solemnise straight marriages can do so under the cover of religion but celebrants who only want to solemnise same-sex marriages will not be able to do this as there is no religious cover for such a decision. We will be hurting the gay community. For left-leaning senators still planning to vote against my amendment, even though voting in this way would represent an unequal treatment between religious and non-religious celebrants, please do not use the dubious excuse that the Constitution requires special treatment of religious celebrants. The Marriage Act need not have any reference to religion, just as occupational licensing laws have no special category for religious architects, religious financial planners or religious mechanics. In fact, such an approach would have a sound constitutional basis, given that section 116 states that no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

If certain senators do not want any celebrant recognised by the state to be able to discriminate, they should have the courage to put forward amendments that would make this the law. The substance of my amendment aligns with the substance of One Nation's amendment which we previously considered and is similar to the Attorney-General's

amendment of yesterday which we also considered. I didn't mind which one got up, but, since neither of those two have got up so far, I am proceeding with mine.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (11:10): The Labor Party will not be supporting this amendment, consistent with our position in relation to other similar amendments. The bill before the chamber already permits ministers of religion and the new category of religious marriage celebrant not to be required to solemnise a same-sex marriage if it offends their religious beliefs. We have accepted this as a reasonable protection of religious freedom. The amendment goes further than the protection that was considered by the select committee and included in the legislation. In fact, my recollection—although others might have a more direct recollection—is that this proposal was expressly rejected by the Senate committee.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (11:11): This is intended, as I understand it, to ensure that the protection in section 47 of the Marriage Act currently covering religious celebrants is extended to all celebrants. That was the substance and effect of the second amendment that I moved last night. For the reasons I explained last night, which were also explained by Senator Leyonhjelm in his contribution a few moments ago, I agree with the principle. If it is right in law to allow a conscientious exemption for celebrants on religious grounds, then I do not believe that it is right to deny a conscientious exemption for other celebrants, whose conscientious objection may be on grounds other than religious faith. In a country where more than a quarter of people say that they do not have a religious faith, it seems to me, frankly, absurd to say we should respect the conscience of the three-quarters of the population who are religious but not respect the conscience of the quarter or so of the population who do not profess a religious faith.

As I say—and I expanded at greater length on the point last night and I won't delay the Senate by doing so again—I agree with what Senator Leyonhjelm is trying to achieve here, but for one thing. Senator Leyonhjelm, by proposed paragraph (b)(ii) of your amendment, nothing would prevent an authorised celebrant from making it a condition of his or her solemnising a marriage that requirements additional to those provided by this act are observed. Unfortunately, that requirement is expressed in unlimited terms. If your proposed amendment were to operate according to its terms, nothing could prevent, for example, a civil celebrant from making it a condition for solemnising a marriage that the couple who wish to be married acquired a good or service from a company associated with the celebrant, for example. Now, I don't think that's your intention, Senator Leyonhjelm, from what I've heard you say, but that's the effect of your amendment. In other words, it goes beyond conscientious grounds of objection. If proposed paragraph (b)(ii) were not part of your amendment, I could agree with it and I would agree with it, but because of the open-ended and unlimited nature of proposed paragraph (b)(ii) of your proposed new section, I cannot do so.

Senator RICE (Victoria) (11:15): The Greens also won't be supporting these amendment, and it's on two grounds. One is the principle that civil celebrants who are performing the solemnising of marriages according to the laws of the state should not be able to discriminate against LGBTIQ people. They are there to solemnise weddings according to the laws of the land. There is no justification for those civil celebrants to be able to discriminate. That's the first reason. The second one is on being able to discriminate on the basis of conscientious as

well as religious beliefs. We will go into that a bit further when we debate the amendments that I am going to propose shortly.

In one way I have some level of agreement with Senator Leyonhjelm. We don't think people should be able to discriminate on the basis of their individual beliefs. Our current antidiscrimination law allows for exemptions based on religious organisations and on the tenets and doctrines of a religion, not on an individual's religious beliefs. So we absolutely don't think it would be appropriate to extend that—not just to be able to discriminate on the basis of religious beliefs but to extend it on the basis of people's conscientious beliefs. To be able to do that would be expanding our antidiscrimination law exponentially to allow the grounds on which people could discriminate against other people.

Senator ABETZ (Tasmania) (11:16): Senator Leyonhjelm's very eloquent appeal to left-wing senators won me over. I can indicate support for his amendment, but might I respectfully suggest, having listened to the Attorney's comments in relation to this, that when the vote is put, if that is necessary, that the amendment be put in two parts? I think that 47AA(a) would cover the field in any event. I would be happy, and I think the Attorney as well, to vote for that, without the need for proposed paragraph (b).

I take the Attorney's point that requirements additional to those provided by this bill would, for example, mean: I will celebrate your marriage if you use my florist, from whom I get a kickback, and the baker and the reception centre et cetera. So I was thinking of inserting an amendment: 'requirements other than of a commercial nature'. But, on reflecting more, just 'imposes an obligation on an authorised celebrant to solemnise any marriage' is not bound. I think that covers the field, without going into the suggested detail. So that would be my respectful suggestion, unless Senator Leyonhjelm were minded before the vote to seek to amend his amendment (2) by deleting the letter (a) and then proposed paragraph (b) in its entirety.

The TEMPORARY CHAIR (Senator O'Sullivan): In response to the question to the chair, there is only one amendment before the chamber; therefore, it's not possible to separate elements of that amendment. It would require an amendment to the amendment to be put. We can assist you with some language on that, if you would like to do that.

Senator ABETZ (Tasmania) (11:19): I was of the view that, if a proposition were before the Senate and there were elements of it where senators would vote in a different way, the question in fact could be split. So could I have some guidance on that?

The TEMPORARY CHAIR: The question is that amendment (2) be agreed to. It is the question which the chamber will be confronted with. Do you wish to seek to amend the amendment?

Senator ABETZ: Before we get bogged down in the detail—I know what the question before the chamber is, but I was of the view, rightly or wrongly, that, if there was a proposition being put that had a number of components to it, any senator who might want to vote differently could ask for the question to be split. But all this might be a very academic argument in the event that Senator Leyonhjelm is prepared to delete paragraph (b) of his proposal; one assumes the Senate would give leave to that if he were so minded.

The TEMPORARY CHAIR: We should hear from Senator Leyonhjelm on that point before we respond to your point. It's not a divisible amendment otherwise.

Senator LEYONHJELM (New South Wales) (11:20): This section is, I think, applicable already to religious celebrants. I'm mindful that the Catholic Church and other religions—various churches—that place various conditions on those who want to be married in their churches. I think that was just carried across. But it is fairly obvious that Senator Brandis's comments are influential, and I don't feel particularly strongly about retaining section (b). If there is provision in the procedure to delete section (b), as I'm the mover of the amendment, I would be happy to seek leave for my amendment to be amended to delete 47AA(b) and to vote on it accordingly.

Senator Brandis: At the risk of being a pedant, Senator Leyonhjelm, if you do that, you'll want to remove both the colon after the word 'part' on the first line and subparagraph (a), replace the comma after the word 'marriage' on the second line with a full stop and omit the word 'or'.

The TEMPORARY CHAIR: Thank you, Attorney-General; they're technical changes that will accompany the intent of the amendment.

Senator LEYONHJELM: I note those changes, Senator Brandis, and I trust your judgement on them entirely.

Leave granted.

Senator LEYONHJELM: I move:

Schedule 1, page 11 (line 20), after item 47A, insert:

47AA Authorised celebrants (other than State and Territory officers) not bound to solemnise marriages etc.

Subject to subsection 39(4), nothing in this Part:

(a) imposes an obligation on an authorised celebrant to solemnise any marriage

The CHAIR: The question is that Senator Leyonhjelm's amendment (2) on sheet 8321 revised, as amended by leave, be agreed to.

The committee divided. [11:26]

(The Chair—Senator Lines)

Ayes23
Noes34
Majority.....11

AYES

Abetz, E
Brandis, GH
Burston, B
Canavan, MJ
Cormann, M
Fawcett, DJ
Georgiou, P
Leyonhjelm, DE (teller)
McGrath, J
O'Sullivan, B
Ruston, A
Seselja, Z

Anning, F
Brockman, S
Bushby, DC
Cash, MC
Duniam, J
Fierravanti-Wells, C
Hanson, P
Macdonald, ID
McKenzie, B
Paterson, J
Scullion, NG

NOES

Bartlett, AJJ
 Birmingham, SJ
 Cameron, DN
 Chisholm, A
 Di Natale, R
 Hanson-Young, SC
 Ketter, CR
 Lines, S
 McCarthy, M
 Moore, CM
 Patrick, RL
 Polley, H
 Rhiannon, L
 Siewert, R
 Smith, D
 Urquhart, AE
 Whish-Wilson, PS

Bilyk, CL
 Brown, CL
 Carr, KJ
 Collins, JMA
 Griff, S
 Hinch, D
 Kitching, K
 McAllister, J (teller)
 McKim, NJ
 O'Neill, DM
 Payne, MA
 Pratt, LC
 Rice, J
 Singh, LM
 Steele-John, J
 Watt, M
 Wong, P

Question negatived.

Senator LEYONHJELM (New South Wales) (11:29): I move amendment (3) on sheet 8321 revised standing in my name:

(3) Schedule 1, Part 2, page 17 (lines 1 to 29), omit the Part, substitute:

Part 2—Amendment of the Sex Discrimination Act 1984

Sex Discrimination Act 1984

63 After section 38

Insert:

38A Marriage

Nothing in Division 1 or 2, other than section 26, renders it unlawful for a person to discriminate against another person on the ground of the other person's sexual orientation, gender identity, intersex status, marital or relationship status in the course of providing, or offering to provide, goods, services or facilities for, or in connection with:

- (a) the solemnisation of a marriage under the *Marriage Act 1961*; or
- (b) the preparation for, or celebration of, such a marriage; or
- (c) the preparation for, or celebration of, events associated with such a marriage, including:
 - (i) an event announcing or celebrating the engagement of the parties to be married; and
 - (ii) an event celebrating the anniversary of the marriage.

[allowing non-government discrimination regarding marriage]

This amendment does three things. First, the amendment preserves the existing exemption from the Sex Discrimination Act for anything done by a person in direct compliance with the Marriage Act 1961—this is subsection 40(2A) of the Sex Discrimination Act. My amendment does this by opposing Senator Smith's bill's repeal of this existing exemption.

Secondly, my amendment rejects the replacement exemption proposed in Senator Smith's bill. The replacement exemption is narrower than the existing exemption. The replacement exemption would only cover refusals to solemnise. The existing exemption covers anything

done in direct compliance with the Marriage Act. This includes, for instance, a decision to solemnise a marriage on the condition that a longer notice of intention to marry is given. The replacement exemption would only cover ministers of religion, religious marriage celebrants and chaplains in the Defence Force. The existing exemption covers any person. This could include someone assisting a minister of religion, a religious marriage celebrant or a chaplain in the Defence Force. Senator Smith's bill clearly narrows the exemption from the Sex Discrimination Act. Such a winding back of protections was not in the question that was put to Australian voters. It is not what they voted for. In fact, voters were told there would be no winding back of protections, and whenever an extension of protections has been proposed in this debate it has been voted down on the grounds that this bill should not deal with matters beyond the Marriage Act. If you do not want the existing exemption from the Sex Discrimination Act to be wound back, you need to support my amendment. Currently, there is no other amendment that prevents this winding back of the existing exemption.

However, at the outset I mentioned that my amendment does three things. The third thing it does is insert a new, broad exemption from the Sex Discrimination Act that would cover the same things as the existing exemption but go well beyond that. The new exemption would cover discrimination by any person in the course of providing or offering to provide goods, services or facilities for or in connection with a marriage. This covers a wedding as well as events celebrating an engagement or anniversary. This new exemption does not cover section 26 of the Sex Discrimination Act. Section 26 states that:

It is unlawful for a person who performs any function ... under a Commonwealth law or for the purposes of a Commonwealth program ... to discriminate ... on the ground of ... sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding ...

As such, my amendment allows people to discriminate in the private sphere but does not allow discrimination by the government which represents us all. I do not argue that there are a significant number of bakers or florists who are inclined to refuse to service a same-sex marriage—indeed, I do not know if there are any—but it is not the role of the government to dictate to such people who they must do business with. I note also that refusing to service a same-sex marriage would be an odd business decision and may well prompt other consumers to boycott that business, which they're free to do.

My amendment may be more relevant to people whose line of work exclusively relates to marriages, such as wedding planners. It could be that people will want to specialise in servicing same-sex marriages. It could even be that the number of people wanting to specialise in servicing same-sex marriages could exceed the number of people wanting to specialise in servicing straight marriages. My amendment does not trample on state rights. If people see issues with state discrimination law, the appropriate forum to address this is the relevant state's parliament. My amendment does not allow discrimination by the Commonwealth. Government represents us all, and the job of public servants is to serve everyone. My amendment allows, in a limited way, individuals to discriminate in the private sphere. This will assist people specialising in servicing same-sex marriages as much as it will assist opponents of same-sex marriage. My amendment is modest, and I commend it to the Senate.

The CHAIR: I remind senators, once again, that advisers are not to be on the floor of the Senate.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (11:34): I will be opposing this amendment in particular because of the third of the observations made by Senator Leyonhjelm, relating to the introduction of a new section 38A into the Sex Discrimination Act. This is the so-called bakers and florists amendment. It seems to me to be, in a sense, almost an academic argument—like the search for the bunyip, the search for the homophobic florist goes relentlessly and unavailingly on. Honourable senators have heard my position in relation to conscientious objection. For reasons I explained before, I believe that those who officiate in a marriage ceremony, whether they be religious celebrants or civil celebrants, ought to have the benefit of a conscientious objection—that matter has now been resolved against my view—but I do not believe that a right of conscientious objection can sensibly go beyond the act of officiating at the ceremony itself.

What Senator Leyonhjelm's amendment would essentially say to commercial goods or service providers—bakers, florists, wedding caterers; anyone from whom a commercial good or service may be purchased—is that you are free to discriminate against people on the basis of their sexuality and specifically you are free to discriminate against people in relation to the fact that they are entering into a ceremony of same-sex marriage. In my view, there is no justification for extending conscientious objection purely to a commercial relationship. I know, and Senator Abetz and I were discussing this a moment ago, there have been some cases in America where the Supreme Court has held that a commercial relationship may be protected, but that's because of the jurisprudence of the First Amendment. It is nothing to do with Australian law. If you say that any commercial service provider, any vendor of a good, is able to discriminate against people because they are conducting a same-sex marriage, then you are striking at the heart of the very principle that this bill seeks to establish—that is, the equality of people of the same sex in relation to marriage with people of opposite sex.

I respect Senator Leyonhjelm's libertarian principles. This amendment reflects a pure, almost absolutist libertarian point of view which would, taken to its extreme, see the repeal of all antidiscrimination law. Plainly the parliament does not want to do that, and it ought not to do that. In the balancing of rights, the idea that we should not protect categories of people from discrimination is I think an extreme position. We should protect people from discrimination, as the Sex Discrimination Act does, and, given the will of the parliament to amend the law to allow same-sex couples to marry is evident, then there is absolutely no reason, in my view, why antidiscrimination law should not apply to same-sex couples as it does to other protected categories. As I said in a television interview the other day, under the existing law it is unlawful to refuse to sell a good or a service to a person because they are gay, and if it's wrong to refuse to sell a good or service to a person because they are gay then it cannot be right to refuse to sell that same good or service to two people because they are gay. So, Senator Leyonhjelm, I understand where you're coming from. At least there is a certain crystalline purity about Senator Leyonhjelm's absolute positions. But this is not a position I would wish to adopt. It does attack, really, the heart of what the parliament is seeking to achieve here, and for that reason I will be opposing the amendment and I would urge other senators to do likewise.

Senator PRATT (Western Australia) (11:40): This amendment would wind back hard-fought protections against discrimination, and Australians have voted to prevent discrimination under Australian law in voting for marriage equality. Labor will not be supporting this amendment.

Senator HANSON (Queensland) (11:40): It was very interesting to listen to the comments of the Attorney-General, Senator Brandis, with regard to discrimination: 'We should protect people against discrimination.' Let me take you back to section 51(xxvi) of the Australian Constitution, which says, 'the people of any race for whom it is deemed necessary to make special laws'. This in itself is discrimination, because we do have laws in Australia that state that people of a certain race will get special benefits—and it is the Aboriginal and Torres Strait Islander people—in health services, housing, jobs and education. There is a difference, and there is discrimination.

When the people of Australia had the vote on this plebiscite, the question was: do you agree with same-sex marriage? The people agreed to it. We are debating this whole issue in this chamber now. Having the plebiscite before we debated this legislation was putting the cart before the horse in the eyes of the Australian people. They had no understanding of the impact it would have on them.

What we are asking here is for people not to be discriminated against based on their views and their opinions of what they want to do. If they have a conscientious objection to marrying those of the same sex or a religious obligation due to their beliefs, why is that such an issue? Why can't there be tolerance in this chamber from both sides? The people have decided they are not against same-sex marriage. They have voted for that. But, with this amendment, you are taking away the rights of the Australian people. This is about thought police; this is about control. The sex discrimination laws are in place, but you are not allowing people to have the right of a conscientious vote here, and there is going to be, time and time again, a lot of litigation against these people. So there is discrimination, and it's in our Constitution. It's happening every day in our lives. So don't reflect on it in what is being debated here today. I'm just reflecting that we should have a look at our own Constitution.

Senator RICE (Victoria) (11:43): The Greens will be opposing this amendment. This amendment would result in an absolute explosion of discrimination against LGBTI people, and it's exactly the opposite of why we are here. We are here to be debating marriage equality. We are here to be removing discrimination against lesbian, gay, bisexual, transgender, intersex and queer people, not to be introducing amendments and changes to the act that would result in a massive increase in discrimination.

Senator ANNING (Queensland) (11:43): This is not my first speech. I rise to speak to amendment (3) moved by the Liberal Democrats to the Marriage Amendment (Definition and Religious Freedoms) Bill 2017. I have already foreshadowed that I will be voting against the bill which this amendment would alter. As I previously indicated to the Senate, I strongly believe marriage is a sacred union of a man and a woman for the purpose of having children. Because of this, I oppose a change to the definition of this institution to allow the solemnising of same-sex unions to be called 'marriage'. However, in anticipation that the marriage amendment bill will pass anyway, I rise to support this very necessary amendment by Senator Leyonhjelm.

As the marriage amendment bill stands, apart from its questionable merits as a radical social change, same-sex marriage risks being a Trojan horse for yet another wave of political correctness. Without this amendment, once the bill is passed, those who object to participating in same-sex marriage activities will face the full force of the Sex Discrimination Act. The fact is that, if we really valued personal freedom in this country, we wouldn't have the Sex Discrimination Act or the Racial Discrimination Act at all. However, if anything can be done to stop yet another restriction on freedom and choice being imposed by these acts, we should grab the opportunity with both hands.

The purpose of the same-sex marriage bill does, of course, contain limited provisions to prevent ministers of religion being forced to solemnise same-sex unions against their religious beliefs. This, at least, is mildly reassuring. However, no protection is afforded to those who simply have a conscientious objection to participating in same-sex marriage activities. Australians who object need to be protected from the sex discrimination commissars and same-sex marriage extremists. We know from past experience that these radicals will seek to use legal recognition of same-sex marriage as a way to try to force others to validate their personal lifestyle choices. This has happened overseas. For instance, a cake maker in Colorado who refused to make a wedding cake for a same-sex couple ended up before the Supreme Court. A 72-year-old florist who declined to provide flowers for a same-sex wedding was found to have violated Washington state antidiscrimination laws. The owners of a farm in upstate New York who didn't want a lesbian couple married on their family-friendly property were fined \$13,000 after the state legalised same-sex marriage in 2012.

We need to make sure that this kind of politically correct oppression does not occur here. As an independent-minded Aussie, your conscientious objection to participating in solemnising same-sex marriage should not require you to take holy orders in order to avoid being hauled in front of the courts. Senator Leyonhjelm's amendment will exempt objection to involvement in same-sex marriage celebrations from the Sex Discrimination Act. This will give protection not only for civil celebrants but also for the cake makers, florists and venue operators who may not want their services or venues to be used for these purposes. As a former publican myself, I particularly appreciate this. It is one thing to pass a law to allow consenting adults to solemnise their relationships, but it is quite another to pass a law to force the rest of us to be solemnised as well.

Senator ABETZ (Tasmania) (11:48): I will make a brief contribution to this debate. I acknowledge that it is a vexed question, and I think that this issue may well be one of those issues that could be provided to the Ruddock committee—for want of a better term or description—to consider in detail. If I may, I might take issue with what the Attorney said when he referred to a homophobic florist. The celebrated case in the United States was of a florist that had continuously served a homosexual individual without any difficulties whatsoever. It was only once the florist was asked, 'Would you provide flowers for our wedding?' that the florist said, 'I cannot be engaged in that particular activity.' So, with great respect to the Attorney, what we have there is a very clear delineation between nonservices because of an attribute as opposed to nonservice because of an activity. Saying to somebody, 'I'm not going to serve you because of your particular attribute,' is something to which a tolerant, diverse society would hopefully respond, 'Well, that's not up to muster.' But to say to somebody, 'Because you are engaged in the provision of flowers to the community at large,

you will then have to assist in the celebration of an activity that you conscientiously disagree with,' is a matter that, I confess, I grapple with. If we do allow the civil celebrant—or, indeed, it should be an 'authorised celebrant', but we've been there and done that—or a marriage celebrant to say, and I believe this is a right that they should have, 'Yes, I am a marriage celebrant but, because of my conscientious belief as to what marriage is, I cannot assist you on this occasion,' then why not also extend that to, if I might say, very respectfully, the non-homophobic florist or any other service provider?

However, I do accept and understand that there are some vexed issues here. I think most people know that, when it comes to these matters, I usually seek to make a determination one way or the other. But, on this very rare occasion, I and, I suspect, some of my colleagues will actually be abstaining on this because we understand both sides of the argument. But I did want to get to my feet just to make the, I think, very valid and important distinction between saying to somebody, 'I'm not going to serve you because of your attribute,' as opposed to saying, 'Sorry, I cannot be of assistance because of the activity that I will, in fact, be assisting with on this particular occasion.'

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (11:51): I've heard it said that it's hazardous to answer rhetorical questions but I'm going to try and answer Senator Abetz's rhetorical question: what is the difference? The difference, in my view, Senator Abetz, through you, Madam Chairman, is this: I believe there ought to have been a conscientious objection or ground of exemption for celebrants for the same reason that there is a conscientious exemption for ministers of religion. I believe it is wrong to force a person to officiate in a ceremony the nature of which violates their conscientious beliefs, whether those beliefs be the product of the teachings of a religion or whether those conscientious beliefs arise from other considerations.

But when it comes to purely commercial or transactional relationships, the matter is entirely different. A gay couple are not asking a service provider or the vendor of goods to participate in or to officiate their ceremony. All they are seeking to do is to purchase an article of commerce. If the only relationship between the ceremony and the third party is purely commercial then, in my view, there is no conscientious reason why the commercial good or service provider should fall within a conscientious exemption.

The CHAIR: The question is that amendment (3) on sheet 8321 revised, as moved by Senator Leyonhjelm, be agreed to.

The committee divided. [11.58]

(The Chair—Senator Lines)

Ayes	5
Noes	37
Majority.....	32

AYES

Anning, F
Georgiou, P
Leyonhjelm, DE (teller)

Burston, B
Hanson, P

NOES

Bartlett, AJJ
Birmingham, SJ
Brown, CL
Carr, KJ
Collins, JMA
Griff, S
Hinch, D
Ketter, CR
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Polley, H
Reynolds, L
Rice, J
Singh, LM
Steele-John, J
Watt, M
Wong, P

Bilyk, CL
Brandis, GH
Cameron, DN
Chisholm, A
Di Natale, R
Hanson-Young, SC
Hume, J
Kitching, K
McAllister, J (teller)
McKim, NJ
O'Neill, DM
Payne, MA
Pratt, LC
Rhiannon, L
Siewert, R
Smith, D
Urquhart, AE
Whish-Wilson, PS

Question negatived.

Senator RICE (Victoria) (12:00): by leave—I move amendments (1) to (4), (6) to (7) and (9) to (12) on sheet 8299:

(1) Clause 1, page 1 (lines 6 and 7), omit "Marriage Amendment (Definition and Religious Freedoms) Act 2017", substitute "Marriage Amendment Act 2017".

(2) Schedule 1, item 1, page 4 (lines 12 to 14), omit all the words from and including "their religion" to the end of paragraph 2A(b), substitute "their religion or the views of their religious community; and".

(3) Schedule 1, page 5 (after line 17), after item 5, insert:

5A Section 6

Omit "This", substitute "(1) This".

5B At the end of section 6

Add:

(2) This Act is not intended to exclude or limit the operation of a State or Territory law dealing with anti-discrimination, to the extent that that law is capable of operating concurrently with this Act.

(4) Schedule 1, item 8, page 6 (line 21), omit "(1) The", substitute "The".

(6) Schedule 1, item 20, page 11 (lines 6 and 7), omit paragraph 47(3) (c).

(7) Schedule 1, item 21, page 11 (lines 15 to 17), omit subsection 47A(1), substitute:

Refusing to solemnise a marriage on the basis of religious beliefs

(1) A religious marriage celebrant may refuse to solemnise a marriage despite anything in this Part if:

(a) the refusal conforms to the doctrines, tenets or beliefs of the religion of the celebrant's religious body or religious organisation; or

(b) the refusal is necessary to avoid injury to the religious susceptibilities of adherents of that religion.

(9) Schedule 1, item 48, page 14 (lines 29 and 30), omit paragraph 81(2) (c).

(10) Schedule 1, item 63, page 17 (line 10), omit "47(3) (a), (b) or (c)", substitute "47(3) (a) or (b)".

(11) Schedule 1, item 63, page 17 (line 18), omit "the circumstances mentioned in subsection 47A(1)", substitute "any of the circumstances mentioned in paragraph 47A(1) (a) or (b)".

(12) Schedule 1, item 63, page 17 (line 23), omit "81(2) (a), (b) or (c)", substitute "81(2) (a) or (b)".

The Greens also oppose schedule 1 in the following terms:

(5) Schedule 1, item 8, page 7 (lines 1 to 17), subsection 39DD(2) (including the subheading) **to be opposed**.

(8) Schedule 1, item 21, page 11 (line 21) to page 12 (line 11), section 47B **to be opposed**.

I will talk to each of these amendments and then hopefully we'll be able to move through this fairly quickly so we can achieve the historic outcome that we are looking forward to achieving today.

The first ones that I want to talk about are about the issue that we have heard a lot about over the last two days, about civil celebrants and the role of civil celebrants. Our amendment here seeks to amend this legislation so that civil celebrants, including existing civil celebrants, would not be able to discriminate. I want to start by going back to our Senate inquiry and our exploration of the role of civil celebrants. What we found out during that Senate inquiry was that our current marriage law is very complex and mixed up. Particularly, the role of civil celebrants mixes up two quite separate groups of people. There are in that category the people that you think of as the ordinary civil celebrants that you go to in order to solemnise your marriage, but the category also includes ministers of religion from what are called the non-recognised or independent religions—they are not listed as recognised religions. These people are all sort of lumped in currently in the 'civil celebrant' category.

One of the really important recommendations we developed as part of the Senate inquiry earlier this year was to say, 'Let us create this category called "religious marriage celebrants".' It was primarily for these independent ministers of religion, so that they could be identified as being separate from the ordinary individual civil celebrants and so that people would know that these religious marriage celebrants would be solemnising marriages on a religious basis. As I said, that category was created primarily so that people who are independent ministers, ministers of non-recognised religions, could be religious marriage celebrants.

That then left the people whom you think of when you think of individual marriage celebrants. What we considered was: what should be their role? If those civil celebrants have particular religious beliefs or conscientious beliefs, particularly over the solemnising of equal marriages, should they have the right to decide that they don't want to do that? After hearing lots of evidence from across the spectrum—we heard from religious organisations, from academics, from LGBTI advocates and from mental health advocates about what the impacts of discrimination were—we came down, as a group, with a consensus recommendation that we felt that civil celebrants should have to uphold the law of the land and should have to marry any couple who are capable of being married who come to them and ask to be married. In our consensus report, we said:

The committee considers that such celebrants perform a function on behalf of the state and should be required to uphold Commonwealth law (including anti-discrimination laws).

That, in a nutshell, is what this amendment seeks to do. It says: no ifs, no buts; civil celebrants should have to uphold the law, including our antidiscrimination law.

In practice, it removes from this bill what has been called the 'transitional' provision or the 'grandfathered' provision. What we have been told is that about three per cent of existing civil celebrants thought they had advised their civil celebrants associations that if marriage equality became a reality they would have difficulty solemnising same-sex marriages because of their religious beliefs. In the findings of our Senate inquiry, we thought: 'Okay, it's only a small number. If it is a situation that just those existing civil celebrants are allowed to discriminate, maybe that is the compromise position.' So those existing civil celebrants would be grandfathered and be able to identified as religious marriage celebrants. This was a compromise which we agreed to at the time on the basis that it was grandfathered and it was only going to be a small number of celebrants.

However, in the time since our Senate inquiry report came out, there has been a lot of discussion about this group of civil celebrants who would then be able to discriminate. In particular over the last two months, since Senator Smith's bill has been made available for people to look at, it has been identified particularly as a concern by many members of the LGBTIQ community and beyond. Importantly, it's because it does go against this principle that, if you are a civil celebrant solemnising marriages according to the law of the land, you should marry anybody who comes before you. You shouldn't be able to discriminate. So for that reason, after hearing from people, we thought: 'Yes, that's reason enough for us to decide that there is a principle at stake here. Civil celebrants shouldn't be able to discriminate.' Even though we've got this three per cent, we thought, 'They are there in their role as civil celebrants, solemnising marriages according to the law of the land, and that's what they need to do.'

There was a second reason why we were keen to put this amendment and it goes to the next lot of things I'm talking about—that is, this legislation says that those civil celebrants who opt to be identified as religious marriage celebrants would be able to choose to not solemnise a marriage on the basis of their individual religious beliefs. That, too, is a very substantial shift in our antidiscrimination law. Currently, when it comes to religion and antidiscrimination law, we give exemptions for religious organisations, and we give exemptions for religious beliefs that are based on the tenets, doctrines and beliefs of a religion, not on an individual's personal religious belief.

That goes to the second lot of amendments I am moving, which is on the issue of personal religious belief and whether people should be able to discriminate regardless of who they are—in fact, regardless of whether they are even a minister on the basis of personal religious belief. Putting this provision in makes a very significant difference from what our current antidiscrimination law allows. It means that, rather than having something that is on the basis of a religion, you are making a decision just on the basis of a person's personal beliefs. You are at the top of a very slippery slope there. We've already had the debate here, 'Well, if you're going to allow discrimination on the basis of a person's personal religious belief, what's the difference between that and a person's personal conscientious belief?' I agree, because where does the line get drawn? What is a religious belief? What's a conscientious belief? But if

you're going to allow discrimination on the basis of someone's religious or conscientious belief, it basically allows anybody to say: 'Well, it's my conscientious belief that I don't want to marry you for whatever reason I want. That's my personal conscientious belief.' It is really a very substantial and very significant change to our antidiscrimination law. So it would be a new development, a new principle, that we don't think is warranted. It certainly isn't warranted before we go through the process, as I am hoping that we as a parliament do, of looking at the issue of religion both through the Ruddock process started up by the Prime Minister and through what I hope will be the process of developing our antidiscrimination laws into a much more comprehensive and coherent set of laws governed by a charter of rights.

The third group of amendments we're moving today involve the provision of goods and services. In this bill before the chamber, as it stands, there's a restatement of the exemptions for religious groups that are laid out in the Sex Discrimination Act. These exemptions give religious organisations a right of refusal in the provision of goods and services according to the doctrines, tenets and beliefs of their religion or the religious susceptibilities of their adherents. We don't think it is necessary to restate these provisions in the Sex Discrimination Act in this bill, because it has been pointed out that including these provisions in the marriage equality bill is explicitly targeting LGBTIQ marriages for discrimination. We don't need to do that. The provisions are already there in the Sex Discrimination Act; we don't need to put up in lights in the Marriage Act that, hey, marriages between same-sex people or gender diverse people are likely to be explicitly targeted for discrimination. It doesn't make a substantial change but it is a really important principle that we don't want to be flagging that LGBTIQ people are going to be explicitly discriminated against. So, it takes away that symbolic indicator of the intent to discriminate against LGBTIQ couples, it removes unnecessary duplication in the bill and it would potentially remove any future adverse legal implications of the section, because there has been some concern that by restating it in the bill there would be further discrimination acts beyond those already in the Sex Discrimination Act.

In the next amendment we propose to introduce an objects clause into the legislation to say how this legislation would interact with state and territory laws, because we've noted some concerns that have been raised about the consequences of this bill passing and whether it is going to impact on existing state and territory laws. We wanted to make sure that there wouldn't be any adverse impacts—that the state and territory laws as they currently stand would continue to have the power they had. This objects clause states that this changed law doesn't intend to limit or exclude the operation of a state or territory law dealing with antidiscrimination.

The final amendment in this package of amendments is a change to the title. The bill's current title refers to marriage equality and religious freedoms, but that is not what we're actually talking about today. This bill is coming from a huge desire in the community for equality—to achieve marriage equality. This bill is about broadening the institution of marriage and allowing same-sex-attracted and gender-diverse couples to get married. It's about marriage. Yes, it includes provisions to deal with religious sensibilities, but fundamentally it's about marriage. So, we're proposing to change the title to make it as simple as possible: it would just be the Marriage Amendment Act 2017. That would be much more appropriate and certainly it would much better reflect the view of the Australian community

that what we are legislating for is about equality—marriage equality and LGBTIQ people being able to marry the person they love.

Senator PATERSON (Victoria) (12:13) I rise to urge senators to reject all of the Greens amendments because they do the extraordinary thing of watering down even the limited protections in the bill before us. These amendments reveal that all the platitudes the Greens have contributed to this debate so far about free speech are just that: they are platitudes. The Greens do not sincerely believe in free speech; they even think the very targeted and measured protections—limited protections, as they are—that are in the Smith bill go too far and should be watered down or removed, and that is an extraordinary admission that they're making with these amendments so far.

What particularly worries me about this is that we've seen in recent years in politics in this country that, if you want to know what the Labor Party's position on an issue is going to be in five years time, look at what the Greens' position on the issue today, because, as sure as night follows day, the Labor Party ultimately adopts the Greens' position. I'm sure Senator Di Natale would agree with me on that. The Greens have led the Labor Party by the nose on so many issues to so many of the points that they have eventually come to, and I don't doubt that there are members of the Labor Senate team today who would quite like to vote for some of these amendments that the Greens are proposing but will not do so, because, as we know, the Labor Party is only having a Claytons conscience vote, not a real conscience vote, on these issues.

What this shows is that, inevitably, when this law is passed, with the limited protections it has, it will be no time at all before other parties in the Senate, led by the Greens and eventually, I suspect, supported by Labor, will try and unpick, undermine and remove those protections. That means we will be returning to these issues after this bill has passed, in time to come, and those limited protections could be watered down or removed. I think the Senate should make a very strong statement about this today. We should vote as powerfully and as strongly as possible to indicate that is not the path we want to take and that is not the path we will be taking. I urge all senators to vote against these amendments.

Senator PRATT (Western Australia) (12:16): The reason we're here today is that there are enough of us who were able to work together to get a consensus to have a bill ready, straight after the nation said yes, so we can get this done. This means that we've worked through issues like transitioning arrangements for civil celebrants and, indeed, affirming within the existing antidiscrimination law and within the Marriage Act the right of religions to practice their own doctrine within the way they practice marriage. For those reasons, Labor will not be supporting the Greens amendments today.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (12:16): If anyone wanted a demonstration that this bill was sensible and balanced, this is it. I continue to argue that the bill that's before the chamber is an accurate reflection of the extensive work that was done through the Senate committee process. I argue that the religious protections and other elements of the bill are necessary and appropriate, and I won't be supporting these amendments.

The CHAIR: The question is that amendments (1) to (4), (6) and (7), and (9) to (12) on sheet 8299 be agreed to.

The committee divided. [12:22]

(The Chair—Senator Lines)

Ayes9
Noes49
Majority.....40

AYES

Bartlett, AJJ
Hanson-Young, SC
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

Di Natale, R
McKim, NJ
Rice, J
Steele-John, J

NOES

Abetz, E
Bilyk, CL
Brandis, GH
Brown, CL
Bushby, DC
Canavan, MJ
Cash, MC
Collins, JMA
Duniam, J
Fierravanti-Wells, C
Griff, S
Hume, J
Kitching, K
Lines, S
McAllister, J (teller)
McGrath, J
Moore, CM
O'Sullivan, B
Patrick, RL
Polley, H
Reynolds, L
Ryan, SM
Singh, LM
Urquhart, AE
Wong, P

Anning, F
Birmingham, SJ
Brockman, S
Burston, B
Cameron, DN
Carr, KJ
Chisholm, A
Cormann, M
Fawcett, DJ
Fifield, MP
Hinch, D
Ketter, CR
Leyonhjelm, DE
Macdonald, ID
McCarthy, M
McKenzie, B
O'Neill, DM
Paterson, J
Payne, MA
Pratt, LC
Ruston, A
Seselja, Z
Smith, D
Watt, M

Question negatived.

The CHAIR (12:25): We now move to the second part of that. The question is that subsection 39DD(2) in item (8) and section 47B in item (21) of schedule 1 stand as printed.

Question agreed to.

Senator ABETZ (Tasmania) (12:26): Madam Chair, as indicated to Senator Smith, I have a brief bracket of questions about his bill that I would like to put to him.

The CHAIR: Continue, please, Senator Abetz.

Senator ABETZ: Thank you. I just want clarification that the bill that Senator Smith has put before the parliament in fact does not reflect the postal survey question, which was: should the law be changed to allow same-sex couples to marry? Is it correct that his bill takes this a lot further and potentially will allow—if we were to take the Australian sex survey, for example—33 different gender types to also marry?

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (12:27): My view has been, since 15 November, that the Australian people spoke clearly—I've used the word 'emphatically'—in calling for marriage equality to be incorporated into Australian laws. This bill does that. This bill accurately reflects the will of the Australian people, and it does one other thing: I think it sensibly, carefully and in a considered way also ensures that same-sex marriage laws are introduced and imported into Australia's legal architecture with suitable religious protections.

Senator ABETZ (Tasmania) (12:27): I do ask again—I would have thought it would be a relatively simple question to answer—whether the bill accurately reflects the question in the postal survey, which was, very simply: should the law be changed to allow same-sex couples to marry? Does your bill, in fact, extend that? I think that has been admitted in your explanatory memorandum, but I would like it on *Hansard* to have that issue confirmed.

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (12:28): There's nothing further to add to my answer to Senator Abetz's first question.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator WONG (South Australia—Leader of the Opposition in the Senate) (12:29): I move:

That this bill be now read a third time.

This day has been a long time coming—a day for which many of us have worked in our parties, a day for which many in the Australian community have worked, a day many of us have hoped for. It was not long ago in this country that gay and lesbian Australians were targeted by the criminal law for who they were. It wasn't that long ago that it was legal to discriminate against us simply for who we are. But equality is a remarkably persistent principle. It is a defining principle, a principle that springs from the simple and powerful precept of the inherent dignity of every individual, of every human being, and so it has been through human history. The aspiration for equality is the hallmark of our progress.

So today we stand on the cusp of a remarkable achievement and an historic event, and we pause briefly to reflect, just for a moment, on what we are a part of. We are part of an act of acceptance, an act of inclusion, an act of respect, an act of celebration: day when this Senate declares our acceptance of our LGBTIQ brothers and sisters.

The bill that passed in this chamber was negotiated across party lines. It reflects an appropriate balance between delivering marriage equality and the protection of religious freedom. The Australian people voted to lessen discrimination, not to extend it, and we, the Senate, have respected that vote by rejecting amendments which sought to extend discrimination or derail marriage equality through debates which are better had elsewhere. I acknowledge the senators who have participated in this debate, which, for the most part, has

been respectful. It is disappointing that the House won't be able to progress this until next week, but I do hope that, when it does so, it follows the example set by this chamber and ensures this parliament delivers on the promise to the Australian people and legislates for marriage equality.

Laws matter; they endow rights. But they do more than this. They express our values: who we are and what we believe as a nation. I'm often asked what this law means for me and my family. This law matters to loving couples across the country. But what is more important is what it means for all of us—what it says to young LGBTIQ Australians, what it says to the young man struggling with who he is or the young woman who feels alone and ashamed, what it says to the children of same-sex couples who feel ostracised. It says to so many Australians: this parliament and this country accept you for who you are; your love is not lesser and nor are you. It says: you're one of us.

This day would not have come without the courage and dedication of all who have campaigned, and it would not have come without the decision of the Australian people to vote yes. In that vote, the grace and decency of our country men and women shone through, and, in voting yes, they have pushed our parliament to do what should be done. We may be their representatives but, in this, they have been our leaders. Every day it is a great privilege to stand in this place, but there are some days which are of great moment, which change our country for the better. This is such a day.

Honourable senators: Hear, hear!

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (12:33): At the 2016 election, the Prime Minister, Mr Turnbull, made a commitment to the Australian people that they would have the ultimate say on the question of whether the reform of the Marriage Act to enable same-sex couples to marry should be agreed to. We in the coalition took the view that a social change as profound as this was unique and therefore, unusually, should be the business of the people to be the final arbiters. We sought last year to give them a say through a plebiscite. That was opposed. I'm sorry it was opposed, because, had it not been opposed, those of us who were committed to marriage equality would have been celebrating this event at the beginning of this year, not at the end of it. But, nevertheless, for political reasons, it was opposed.

The government found a way, nevertheless, through a postal marriage survey to deliver on Malcolm Turnbull's promise to have a de facto plebiscite, and that de facto plebiscite, as we all know, was an outstanding success. Eighty per cent of the Australian people participated. Almost 62 per cent of them voted yes, as the Prime Minister and I and others had urged them to do. So, today, in this Senate, and next week in the House of Representatives, we will see this historic change accomplished.

Mr President, it is well known that some years ago, some time ago, I was not a supporter of the plebiscite. But I am so glad it happened this way. I am so glad that we involved every man and woman in Australia in this historic decision. I am so delighted that the result was an overwhelming yes. I am so grateful for the grace and decency of those who were not persuaded to change in the way that they have accepted the result. I am so proud of Australian democracy today—more proud than I have ever been. Nobody owns this result but the Australian people themselves. I'm not going to repeat the remarks I made yesterday. I merely

say that we should acknowledge the historic nature of this occasion in respecting it. We should respect those who decide that they do not want to support this bill. But, as it's evident a clear majority of the chamber do, we should rejoice in what the Australian people have achieved this year.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (12:37): This is indeed a great moment in history. Today the nation is consigning discriminatory laws to the dustbin of history. Today this parliament has said yes to equality; it has said yes to love. There are so many people to thank right across the country. I won't thank them by name, but there are many of those people here today. I want to thank you so much for your wonderful work and for all the hope you have given us through this campaign. I want to thank those people right across the country who have knocked on doors, who have had conversations—many of them difficult conversations—and who have helped us as a community to come together. I want to thank my Greens colleagues and those who have gone before me: Senator Bob Brown and Christine Milne. I want to thank my current team, and particularly Janet Rice for stewarding us through this great moment. Thank you, Janet. I want to thank my entire team. I want to thank so many Australians. I am so proud of my team. I am so proud of this parliament. Today I am so proud of my country.

The PRESIDENT: I take this opportunity to remind senators that at 12.45, under the order, we will be moving to other items of business, if senators weren't aware.

Senator HINCH (Victoria) (12:38): I will be very brief. I stand here as a person who was opposed to same-sex marriage. Ten years ago, I would have said, like many Australians, that marriage is between a man and a woman because that's just the way it is—the way my mother would say about any argument we had. That was until I realised how hollow my arguments were, how shallow they were and how unfair they were to fellow Australians.

I said to people like Senator Wong, as I did four minutes before the vote was announced the other day, I thought it was a disgrace we had a plebiscite. I didn't think it was right that we should have a postal vote that had total strangers deciding on how you should live your life. But I now actually agree with Senator Brandis when he said that the postal vote was a great advantage because it showed that the majority of Australians are decent people and did want this to happen, and it did happen. I just say one thing to gay Australians: be a little charitable to the people who opposed it, to the 'no' voters. When it comes to Christmas and if you're sitting at the Christmas table and you find out, to your shock, that your dad or mum voted against it, they came from a generation that had a different view. Just be a little bit tolerant. I know how it hurt and how it hurt schoolkids through this long period, but I just want to say: congratulations, Australia, and all you people who have fought this for so many years—and going back to Bob Brown's days. I think this country now is wonderful.

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (12:40): I want to put on record my warm congratulations for those who are joyously celebrating today a change that they have long campaigned for. I echo the remarks of the Leader of the Government in the Senate, who has indicated the success of this process to deliver this change.

I said in my contribution to the second reading debate that I hoped I would be able to vote for a bill that amended the Marriage Act in favour of same-sex marriage. I always said I would recognise and respect the wishes of the Queensland people but I would not vote for a

bill that compromised human rights in my view. I, unfortunately, cannot support this unamended bill because I do not think we have made these changes in a way which advances rights fully through this process. In particular, I think the failure to fully protect celebrants who may have a conscientious or non-religious objection to solemnising a same-sex marriage is a missed opportunity for our parliament to unify here.

I want to thank some of my colleagues who have put forward these viewpoints respectfully during this debate. Those five million Australians who did vote against a change to the Marriage Act have had a voice in this parliament, but, unfortunately, I do not think they have been listened to. I think it's unfortunate that we have had a situation where we have not had the ability for all senators to vote with their conscience in this place. I said during the campaign that I was sceptical. I was sceptical that we could trust the political process to get all of these protections right and I, unfortunately, believe that my fears have been proven true. It is clear that a political fix was in before we debated these amendments and issues on this floor. A political fix was in between those in the Labor Party who voted as a bloc, despite some, I know, having different conscientious views on these issues, some in the Liberal and National parties and the Greens. It's unfortunate that we have not been able to proceed in a debate that has allowed every senator to vote with their conscience. I truly believe that, if that had been the process, we might have made some small adjustments to this bill which would have allowed many more of us in this chamber to vote for this change and to do so in a way which would have truly unified our nation in a way that respected all Australians and all views rather than take a winner-takes-all approach, which has been what has happened here in the last 24 hours.

I do, again, congratulate those who will see this change occur. It is unfortunate I cannot join them in support of this bill. I thank the Senate.

Debate interrupted.

BUSINESS

Rearrangement

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (12:43): I seek leave to move a procedural motion about the consideration of a bill.

Leave granted.

Senator BRANDIS: by leave—I move:

That—

- (a) consideration of the bill may continue until not later than 2 pm; and
- (b) any division on the bill may be taken between 12.45 pm and 2 pm today.

Question agreed to.

BILLS

Marriage Amendment (Definition and Religious Freedoms) Bill 2017

Third Reading

Consideration resumed of the motion:

That this bill be now read a third time.

Senator ABETZ (Tasmania) (12:44): Marriage as a social institution pre-existed the nation state. Therefore, it was appropriate to give the Australian people as a whole the opportunity to debate, discuss and vote on whether such a fundamental foundational institution of our society ought be changed. As we know from the postal survey result, the Australian people voted for change. But let's not forget what the question was. The question very simply was: should the law be changed to allow same-sex couples to marry?

The polls taken in relation to that question indicated very closely what the actual survey result was: that the Australian people want change. The interesting thing is that those same polls when asking the question, 'Do you think parliament should provide guarantees in law for freedom of conscience, belief and religion if it legislates for same-sex marriage?' showed that the Australian people, by a margin of 62 per cent to 18 per cent, answered yes. Sadly, I believe, in a rush of hubris, this Senate has voted to deny those fundamental rights that the Australian people actually do hold dear just as much as they hold dear the idea of changing the definition of marriage.

This Senate had the opportunity to ameliorate and alleviate the concerns not of some nasty fringe of the Australian community but of 38 per cent. In anybody's language, that is a significant number of our fellow Australians. That's the sort of support, with respect, that the Greens, One Nation and, at the moment, even my side of politics would dream about having in a primary vote. This is a substantial body of men and women of Australia who are entitled to have their voices heard in this place and also in the division that is about to occur. It should be noted that those of us on the 'no' side at no stage sought to filibuster and did not vote against the second reading of the bill because we were conscious of the fact that the Australian people had voted. But the Australian people did not vote to block freedom to charities to continue to hold their views in relation to how marriage should be defined. The Australian people did not vote to restrict people's freedom of speech. The Australian people did not vote to restrict people's conscientious beliefs. The Australian people did not vote to restrict people's freedom of religion. All of those, might I add, are fundamental freedoms guaranteed under international law. They are written into treaties and covenants and signed off around the world. They are human rights that now have been diminished by the establishment of a new right, which is to allow people of the same sex to marry and for people of variations of gender to marry as well, something which, I repeat, the Australian people did not vote for.

In relation to charities, for example, last night, we were told, 'Just trust the experts.' When the Senate had the opportunity to put the situation of charities beyond any doubt whatsoever, the Senate, regrettably, voted against protecting those charities that represent hundreds of thousands, if not millions, of our fellow Australians engaged in good work in the service of the community of Australia for those who are less well off. We are prejudicing their capacity and their ability to continue to deliver those services on the basis of an unfortunate vote which saw that amendment for protecting charities defeated. I repeat: when asking the Australian Labor Party and the Greens whether, in principle, they supported such a proposition—that charities should be allowed to continue with their views in relation to marriage—they remained silent, not once, not twice, but three separate times. Here was an opportunity for the Senate to bring the Australian people together and say to the 38 per cent that voted no, 'You are decent Australians; you do count; you are important to the body politic.' Sadly, what we

have had with this debate is the railroading of this particular bill without consideration for the other 38 per cent of our fellow Australians, all of whom are good, decent individuals. Can I say to the 'no' campaigners all around Australia, to the men and women who committed themselves to the 'no' campaign: I continue to salute you and I continue to acknowledge you as good, decent Australians.

The taste of defeat is always bitter, and nobody likes it. When the survey result was announced, I indicated that I regretted the decision but respected the decision. That's the way our democracy works. But if we want to have social cohesion then I believe it would have been of very real benefit for this place to have considered some of the amendments. It is my hope that the House of Representatives in considering this bill, which I assume will soon be passed, will seek to ameliorate and alleviate the very real concerns of nearly five million of our fellow Australians. They deserve to be heard. They deserve to be listened to. Their concerns can be incorporated into this legislation without in any way diminishing the right of same-sex-attracted people to marry, as the Australian people have voted for.

Having indicated that I would be guided by what the people of Tasmania thought on this issue, I believe, especially in a house that is based on proportional representation—not a winner-takes-all house—that it is important that that 30-plus per cent of my fellow Tasmanians be given a voice and a vote, knowing that I will be in the minority. But it is important, I think, in public life to acknowledge that on some occasions you're in the minority and stand by that position. That is what I intend to do in solidarity with those over 100,000 Tasmanians who voted no.

Senator PRATT (Western Australia) (12:52): I feel enormously privileged today to have been a voice for lesbian, gay, bisexual, transgender, intersex and queer Australians in this debate. It has been an enormous privilege to be your agent in this place. We are here at this moment in time because of decades of activism by our community. Without those activists who stood up against terrible adversity and the criminalisation in our laws to fight discrimination and stigma in our community, we would not be here today passing a law that signifies that the status of our relationships is equal to all others.

From that activist movement, there has been a campaign of more than 15,000 volunteers attached to the 'yes' campaign. There have been a million phone calls and 100,000 doors have been knocked on, creating a movement where we've had millions of Australians resoundingly support the right of our relationships to be equally recognised before the law. Our relationships have existed for a long time. Our families have existed for a long time. Our love is true. Our children are cherished. Our families are precious. It is time that we were equal.

Senator LEYONHJELM (New South Wales) (12:54): I'll be brief. Libertarians, in which I include Liberal Democrats members as well, have always said the government has no right to tell us who we can marry. My view is the plebiscite was always going to win. I don't think the campaign changed anything. Australians are very fair and decent people. I don't think a free vote prior to the plebiscite would have passed. That raises the question of whether this parliament is sufficiently representative. Nevertheless, this is a day of joy because we are winding back the powers of the government. But let's not forget that marriage is an important institution to many people. It is an important institution full stop. Just as we do in this chamber, most of the time, let's respect that and agree to disagree with civility and tolerance.

Senator O'SULLIVAN (Queensland) (12:55): My contribution, too, will be short. I voted no in the plebiscite and will vote no here in the chamber today, but that's not in conflict with me as an individual acknowledging the courage of those people who have campaigned for this change in our national law, in our social structure, for so many decades. I always admire the courage of people who pursue their conviction. I can disagree with them but I admire their effort. I want to congratulate our chamber—I think we have dealt with this debate in a very respectful manner. I was one of the people instrumental in lobbying, eventually successfully, for a plebiscite, which eventually was a postal plebiscite. I do think it aided our parliament by indicating to us the will of the Australian people on the fundamental and substantive question of marriage equality. I have always said that I would be guided by that vote and would vote yes to the eventual legislation subject to, I felt, moderate protections, if you like, or adjustments to the legislative environment brought on by a significant change to fundamental and longstanding law in this country.

I'm not going to labour this because I know so many people are waiting to get to the point with the third reading; I just didn't feel, myself, satisfied that those protections had been put in place. I, too, have the courage of my convictions and that will drive me to vote no for the bill, even though, and I underline this, I want to recognise the change in the law and all those millions of Australians who will be affected positively by this and just call out to Australians on both sides of this debate and say it's up to us to now go forward respectfully. I said in a previous speech that we need to behave in a way that will bring our nation back as one around this social change rather than divide it. I say to those on behalf of whom I have pursued my conviction in this that they ought to go steadily forward and pay due respect now to these circumstances that I anticipate will be carried by this parliament.

Senator HANSON (Queensland) (12:59): My comments are mine alone and are not a reflection of the views of my colleagues. The party stance was that we have a conscience vote. I didn't agree with the plebiscite; I have always said this issue should have gone to a referendum and been addressed under section 51 of the Constitution. But the people have had their chance to vote and overwhelmingly they have voted in the affirmative for the proposal: 'Do you agree with same-sex marriage?'

I said then that I would respect the vote. I have also said that I do believe that it was putting the cart before the horse because people were not told about the legislation and what it would mean.

During the debate that has gone on in this chamber, with reflection on marriage celebrants, charities and other areas, I have seen the views of the opposite side—Labor, the Greens and other political parties, but especially Labor. Senator Wong said no-one had asked for a conscience vote. I noticed that in every vote, even though we've heard that some people in this chamber in the Labor Party actually are very Christian minded and possibly against this bill, that people have not been allowed to have a conscience vote. I think that's a shame.

This bill is going to have a huge impact on the country. Let me just say that I do believe that people of the same sex should be married. I have no problem with it. I have homosexual friends and people who work for me. So I always believe that people have a right to live their life as they want to and to be happy. But what I'm reflecting on now is that I do not believe there has been enough tolerance in this chamber of the nearly five million people that did not vote for this. Those people were not forewarned what impact this will have on them, and I

believe that should have been taken into consideration. If only the chamber had passed some of the amendments to this bill and allowed marriage celebrants to decide whether they want to marry a same-sex couple—that it would be their choice. Section 116 of the Australian Constitution clearly states that there cannot be religious observance forced upon people, and that is exactly what we are doing in this chamber. Because of that, I will be abstaining from voting. I am torn because I do agree with marriage for same-sex couples, but, on the other hand, I do not agree with the impact of the legislation.

Senator PATERSON (Victoria) (13:02): Despite my own failure to achieve any amendments to Senator Smith's bill, I will be voting in favour on the final vote in a few moments' time. I will be voting yes not just because I respect the will of the Australian people, clearly expressed in the survey, but because I have long believed that gay couples deserve the freedom to be married. I will be proud to support that here in this chamber, just as I was proud to vote yes in the postal survey.

I genuinely hope that the fears and concerns I've aired in the chamber during this debate do not come to pass. I hope that those concerns are misplaced and misguided and that we don't see them in reality after this law changes. But if they do come to pass, as I fear they might, I suspect we will be back here in the chamber dealing again with the issues of religious liberty, freedom of speech and freedom of conscience, and I will be the first to say that we will need to put in place stronger protections for the individual freedoms of all Australians.

But today is a day for celebration, and my heart goes out to all the gay couples who have been waiting for too long to get married. I look forward to seeing your joy at being able to finally do so.

Senator RICE (Victoria) (13:04): I feel incredibly proud and humbled to be here in this chamber today as we are about to pass this historic legislation. I am proud to be here as a representative of the Greens and to be here representing those millions of Australians who have been working for equality for so long, for whom it has been such an important issue, who voted for equality and who are going to be so overjoyed when this legislation finally passes through the House of Representatives, hopefully next week. And I feel humbled because I am here at this place in time and it's been a campaign that has gone on for so long.

The Greens, as you know, were the first party in this parliament to introduce legislation for marriage equality, very soon after the law was changed in 2004. As Greens parliamentarians, every vote, every parliament, every time, we have voted for equality. So, for all of the Greens representatives who are here today, particularly Senator Hanson-Young, who had the equality portfolio before I did, and for the Greens that have come before us in this parliament, particularly former senator Bob Brown, who fought so hard, who campaigned so hard and who raised the issue of equality and ending discrimination against lesbian, gay, bisexual, transgender, intersex and queer people for so long, I really feel grateful and thankful that I have now got the privilege of being the representative. It is momentous, and I feel very privileged and humbled to be the one here in this Senate chamber as we are about to pass this legislation.

In particular, not only do I feel that I stand on the shoulders of giants when it comes to those from within the Greens; I absolutely feel that I stand on the shoulders of giants when it comes to the community, to all of those campaigners who, over so many years, have been fighting for equality. So many of them are in the chamber with us today. We have got people

from Australian Marriage Equality—Alex Greenwich is here, as well as Tom Snow and Anna Brown, who have played a leading role—along with so many other community organisations who have been so much the face of this campaign. We have Equal Love, who had rally after rally in Melbourne and Sydney, fighting for this. I think of their determination to work and fight for equality and their belief that we were going to get there one day. We've got the Parents and Friends of Lesbians and Gays, and particularly the work that Shelley Argent has led over so many years, fighting on behalf of their families. We've got Rainbow Families, who played such a significant role when we worked to defeat the proposal for a compulsory plebiscite, knowing how hurtful that was going to be to rainbow families across the country. They played an incredibly important role and continue to do so. I want to pay special tribute to Felicity Marlowe.

The person who is in the chamber today who I really want to acknowledge in particular is Rodney Croome. I am glad he was able to be with us today. Rodney is here, along with Ivan Hinton-Teoh from Just Equal. Rodney has been this absolute, stalwart campaigner who hasn't given up, who has kept campaigning with people from right across the country to achieve what we know we are on the cusp of achieving today. And it's going to be a massive achievement.

I've been proud to stand up in this chamber for the whole rainbow spectrum: for lesbian and gay people, for bisexual people, but particularly for trans people and gender-diverse people as well as intersex people. Trans people and gender-diverse people have suffered incredible vilification and hatred being directed to them, particularly over the last two months. In fact, the attacks on them have continued in this chamber right up until this morning. So, yes, trans people deserve to be loved as well. Trans people are normal; trans people are equal. They are part of our wonderful family. I am very privileged to be here representing trans people in particular.

I know that, once the legislation gets through the Senate today and through the House next week and passes and finally becomes the law of this country, it is going to be a massive difference. We are going to wake up the next morning and realise that things have changed, that our legislation now reflects the views of the Australian community, that we are respected, that we are equal, that there is fairness and dignity, but, above all, that we are loved and that our relationships, our loves, are considered equal and that we are loved by the Australian community as equals. And that is going to be a beautiful thing when we achieve it after this legislation has been passed.

Senator GRIFF (South Australia) (13:09): The Nick Xenophon Team is thrilled to see resolution of this issue and, Senator Rice, we agree 100 per cent with everything you said. You have said it very, very well, and I think everyone in this chamber would echo your comments. I speak for all of my colleagues, including former Senators Xenophon and Kakoschke-Moore, in thanking all who are here for allowing loving relationships to finally be formalised. This is a proud day for all of us here and a proud day for Australia.

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (13:10): I too will be brief. Yesterday, the Scanlon Foundation released its 2017 social cohesion report, and it shows that Australia remains one of the most socially cohesive yet culturally diverse nations on earth. There is an overwhelming support for our multicultural society but, in doing that, we must accept that our culturally diverse and

religiously diverse Australia has a set of values and beliefs. I think that is very important in this, as I said a couple of years ago at the National Press Club. I do not believe that the polls actually took into account the views of an ageing, culturally diverse and religiously diverse Australia. I congratulate those who will today achieve their objective, but I think in this it's really important to remember a very large part of our Australia, and this has been so clearly demonstrated in the vote that occurred, particularly in Western Sydney. For many people of different backgrounds and religions, this will be a very difficult day. This will be a difficult day in Australia. As we talk about respect, I think it's very important to remember this respect across this divide.

As somebody who has spent a lot of time in these communities, I would like to have seen religious freedoms—even the most basic of religious freedoms proposed by the Attorney-General's amendments—passed in this chamber. Unfortunately, that didn't happen. And therefore, for me, this is indeed a very difficult choice. I cannot support this bill in its current form for these reasons, because there are many people—like my parents, who came to this country—who just cannot. For them, it's very difficult, and I think that they deserve our respect as well.

Senator BARTLETT (Queensland) (13:12): I know everyone is keen to see this come to a vote, so I will be brief. I just want to speak on behalf of those who have been campaigning since 2004. As I said in the second reading debate, I was in this chamber when this discrimination was directly and deliberately inserted into the Marriage Act, and it's by a quirk of fate that I find myself back here just in time for this vote to reverse that wrong. I won't name any people; all the names have been said. But, as was said at that time, parliament or governments enacting something you believe is unjust and wrong is no reason to give up. You do not give up and you continue to fight until that injustice is reversed. I really want to note on the record those people. Some of the people in the gallery today were here on that day in 2004, such a black day. They watched that vote with such sadness and horror, and they did not give up. They continued to fight, and that injustice has been overturned, and I really wanted to congratulate all those people who didn't give up, and to remind all of us: when you see all of the other injustices that we witness, do not give up, and continue to fight. You can win, and you can have it overturned. That injustice is now being reversed, and it will never reappear. Congratulations to those people.

Senator REYNOLDS (Western Australia) (13:14): I too will be very brief, but it would be remiss of me not to say two things. One is that this is absolutely the proudest day I have had in this chamber since I have been in this place. It not only reaffirms my faith in democracy and in the ability of the Australian people to have their say and conduct robust but respectful debates but also demonstrates that we can do it in this chamber as well. I'm so glad that the rest of the country today will see that we can come together.

Secondly, somebody who has not yet been acknowledged is my good friend Senator Dean Smith. I've never been prouder to stand up in this place than I have been to stand with you, Dean. It has not been easy on you, but you are a great Christian and you are a great Liberal. You have stood up for everything that you believe in. I could not have been prouder to stand up for something that we both believe in as Liberals together. Together, as coalition MPs, we have dealt with this issue with good grace and, I think, with great honour, as with all in this

chamber. Dean, certainly on my behalf, and I know on the behalf of many others, thank you for your courage and your perseverance in getting us to this vote.

Honourable senators: Hear, hear!

Senator SMITH (Western Australia—Deputy Government Whip in the Senate) (13:16): Just under three years ago, I moved from no to yes. At 30,000 feet on a flight from Perth to Albany, I reflected on the life of Tori Johnson. Tori lost his life in the Lindt Cafe siege. He was brave, he was courageous and he had a partner named Thomas. On that flight, I thought of their love, I thought of their loss, and it changed me. I realised that people with real lives deserve their love to be blessed and affirmed by the institution of marriage if they so choose.

I am, as many of you know, a man who draws strength from institutions. They are the structures that bind us as communities and as a nation. So I begin by acknowledging my pride in this institution, the Australian Senate. Every senator has brought honour to their state and to the pillar of democracy to which we all belong. This has been a respectful debate—but, I should add, not an insipid one. It has drawn out intellect, wisdom, judgement and compassion. In this debate, we saw the soul of the Attorney; the lived experience of Senator Wong, Senator Rice and Senator Pratt; the conscience of those who oppose this bill; and the conviction of those who supported it. In a time when institutions are questioned, we have seen in this debate how our parliament was meant to work—where life experiences inform decisions, where amendments are weighted and assessed against good argument and where we debate according to an argument's merits rather than taking the political shortcut of questioning each other's motives or integrity. The real question out of this debate is: why isn't our parliament like this more often?

Over the past few years, there have been times when it has been tough to not be part of the majority of my party on this issue. I had to find my place where my conscience and my duty could be reconciled. So I say to all in this chamber: be kind to those who, in following their conscience, choose a different path. They have my respect, and I ask you to give them yours. There it is a cost that accompanies the privilege of service, but that cost should never include giving up one's conscience. It is for that reason that the bill includes protections for religious liberty. I am a conservative. A true conservative does not believe that they are the embodiment of all wisdom. Conservatives are not supposed to resist change; they are simply supposed to weigh change. We weigh change by considering the past as well as listening to our contemporaries. I acknowledge all in this debate.

The debate confirmed the evolutionary nature of this bill. The lack of substantive amendments indicates we got the balance correct. The bill expresses a faith in the current architecture of Australia's religious protections. The architecture is precise. It has allowed a multitude of faiths to thrive, and that will not change. The bill is the fulfilment of the people's will to extend equality to all citizens and it takes away no religious or civil right from anyone.

To those who have opposed this bill, I say: there is enormous goodwill to ensure that this is not the triumph of one group over another but the advancement of the sum of freedoms for all of us. Unlike so much of what characterises modern politics, this is not the triumph of one politician over another or even one party over another. Instead, it has restored faith in our parliament and in this Senate. Maybe, again, there's a broader lesson to be learned.

Like much of what we do here, most of the real winners we will never meet. We will never truly know what it means for the young Australian boy or girl who is working out that they are gay, lesbian, intersex or transgender and who quickly realises they have nothing to fear. We will never meet the thousands of families that will bless their children at marriage ceremonies that will occur because of this bill. Those parents do not think of their children as LGBTI; they think of them by their names. To their parents, they have no rainbow initial, because they see them as flesh and blood. They are kin, and that is what matters most.

And this house, the embodiment of the states, and the other place, the embodiment of our citizens, want the very same thing. We want the very best for our citizens: that they are loved and can be loved. We want them to experience joy and hope, and to experience exhilaration and its companion, heartache, because that is what it means to be human.

In a world where there are more tensions between people than ever, our country has offered a loving embrace to its own. As the Attorney-General said, in the course of a generation, we have seen the LGBTI community move from rejection to tolerance, from tolerance to acceptance, and now from acceptance to embrace. We should be proud of that. I certainly am.

This debate has demonstrated that the bill proposed is evolutionary in nature. There are no substantive changes. Is it perfect? No. As senators Di Natale and McKim admitted in their second reading speeches, it is a compromise. As Senator Kitching reminded us, it even brings together senators Rhiannon and Leyonhjelm—at least for a few brief moments. But a few brief moments of joy is what our country has ached for, because we know it will result in a lifetime of joy for so many others.

As we prepare to vote, we should recall this has been a very long path. Some have put this case for a decade and a half; others, like myself, are latecomers. For all, it has been an accepting and welcoming cause. The Good Book says:

Hope deferred makes the heart sick, but a longing fulfilled is a tree of life.

We can say today, after so long, that our hopes are no longer deferred.

Most in this chamber came from a party, and our parties are in so many ways the modern tribes of our nation. And let me, for a brief moment, express my pride in my party. Liberal and National voters voted yes—71 out of 76 coalition seats voted yes—because coalition voters understand that this reflects the best of our Liberal and conservative traditions.

It is correct to say many people across this chamber can take pride in their role in bringing this to a successful conclusion at this historic juncture. I especially want to thank my coalition Senate colleagues Senator Birmingham, Senator Payne, Senator Reynolds and Senator Hume.

If there is a lesson for my party from this debate, it is that we should not fear free debates. We should not fear conscience. The more the debate was resisted, the more the strength was found to fight for it. At some later point, we should reflect on how we can avoid that tortured process from ever having to happen again.

This debate has been good for the soul of the country, it's been good for the soul of this chamber and it will be good for the souls of LGBTI children throughout our great country. It's been good for us all, no matter whether you were a 'yes' senator or a 'no' senator, because we lived out the call of the saint: in essential things, unity; in important things, diversity; in all things, generosity. Unity, diversity, generosity—they are the hallmark of this bill, they are the

hallmark of this chamber and they are the hallmark of our shared great country, Australia. I commend the bill.

Honourable senators: Hear, hear!

The PRESIDENT: The question is that the bill be read a third time.

The Senate divided. [13:30]

(The President—Senator Ryan)

Ayes43
 Noes12
 Majority.....31

AYES

Bartlett, AJJ
 Birmingham, SJ
 Brown, CL
 Cameron, DN
 Chisholm, A
 Di Natale, R
 Fifield, MP
 Hanson-Young, SC
 Hume, J
 Leyonhjelm, DE
 Macdonald, ID
 McCarthy, M
 Moore, CM
 Patrick, RL
 Pratt, LC
 Rhiannon, L
 Ruston, A
 Scullion, NG
 Singh, LM
 Steele-John, J
 Watt, M
 Wong, P

Bilyk, CL
 Brandis, GH
 Bushby, DC
 Carr, KJ
 Cormann, M
 Duniam, J
 Griff, S
 Hinch, D
 Kitching, K
 Lines, S
 McAllister, J
 McKim, NJ
 Paterson, J
 Payne, MA
 Reynolds, L
 Rice, J
 Ryan, SM
 Siewert, R
 Smith, D (teller)
 Urquhart, AE
 Whish-Wilson, PS

NOES

Abetz, E
 Bernardi, C
 Burston, B
 Fierravanti-Wells, C
 Ketter, CR
 Polley, H

Anning, F
 Brockman, S
 Canavan, MJ
 Gichuhi, LM
 O'Sullivan, B
 Williams, JR (teller)

Question agreed to.

Bill read a third time.

STATEMENTS BY SENATORS

Doszpot, Mr Steve

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (13:36): I rise today to pay tribute to my great friend and colleague Steve Doszpot. Steve—or Dozzy, as he will forever be known—died last week after a battle with liver cancer at the age of 69. Steve was a remarkable servant to Canberra and Australia, and I'm proud to have worked with him in the ACT Legislative Assembly.

Steve's story begins when he was born in 1948 in Hungary—then a communist puppet of the Soviet Union. In October 1956, what began as a student protest against the Soviet occupation of Hungary became a popular armed revolution. The revolution deposed the communist government, disbanded the state police and formed a temporary Soviet withdrawal from the country. These few precious days of freedom were a struggle for faith, freedom and democracy, and these values guided Steve throughout his life.

Steve's father was a young Catholic activist at the time and had previously been interned by the communist government for speaking out in defence of his faith and his heritage. His family was forced to flee their home country at the end of 1956, and Steve would often recount their journey through the snow covered mountains to Yugoslavia. This is something that Steve and I shared as part of our family histories, as my uncle Stipan had experienced similar treatment in the Socialist Federal Republic of Yugoslavia.

Steve's family arrived in Sydney in 1957, and Steve brought with him a Hungarian accent, little English and a love of soccer. It was this love of soccer that first demonstrated Steve's love for and commitment to serve our community. Over the 40 years Steve and his wife Maureen lived in Canberra, Steve served as a player, coach, administrator and commentator and, from 1995 to 2002, as president of Soccer Canberra. Steve was a regular fixture at soccer matches in Canberra at all levels, from the juniors to the A-League. Steve designed the club logo of the Canberra City Football Club and served as the club patron in countless clubs and across many codes.

It was this dedication to the community that led Steve to pursue public life. He first ran in the 2001 territory election but was unsuccessful. He ran again in the 2004 territory election but again was unsuccessful. For most people, those two setbacks would be enough to turn them off—but not Steve. If anything, it redoubled his resolve. He ran again as part of my team in the 2008 territory election and he was elected as the member for Brindabella. As a member of the class of 2008, Steve was joined by Jeremy Hanson and Alistair Coe—both of whom would go on to become leaders of the Canberra Liberals in the ACT Legislative Assembly.

The tenacity and perseverance Steve showed on his path to public life he continued throughout it. No issue was too big or too small to catch Steve's attention and make him ask how he could help achieve a better outcome for his constituents, whether that was as a shadow minister pursuing justice for the family of an autistic child who was put in a cage at his school, or securing continued funding of disability services in the ACT, or being a strong local member ensuring that footpaths were maintained and adequate parking was available at local shops. I remember well his support for The Shepherd Centre. As a shadow minister, Steve fought hard to make sure the Shaddock review into ACT students with complex needs and challenging behaviours covered independent schools, to get justice for victims of bullying

at CIT and to get nurses into the ACT's four special schools. As a local member, Steve was a strong advocate for better planning in his electorate. He continued his strong support for local sporting clubs to alleviate parking woes at Manuka Oval and Yarralumla shops.

Steve would go on to be re-elected at the 2012 territory election, this time in the seat of Molonglo, and again at the 2016 territory election, this time for a third seat, Kurrajong. This gives Steve the distinction of being the only member of the Legislative Assembly to have represented three different seats in three different assemblies—a record that will probably never be beaten. In the assembly, Steve earned a reputation as a ruthless inquisitor in the committee system. He served as chair of the Standing Committee on Justice and Community Safety and the Standing Committee on Health, Community and Social Services and as deputy chair of the Standing Committee on Environment and Transport and City Services and the Standing Committee on Education, Training and Youth Affairs. Steve's committee work was not defined by party political pointscoring, but by a desire to work on real community issues. He held many shadow portfolios and, from 2012 to 2014, served as the Deputy Speaker of the assembly.

Outside of the assembly, the Steve Doszpot trivia night was an annual fixture on the Canberra social calendar. What started out as one of Steve's harebrained schemes became an event with hundreds of people coming together to dig deep for a good cause. Steve would call in favours, hit the phones, do deals and even convince local Labor and Greens members to attend as well. This work raised thousands and thousands of dollars for charities. As Prime Minister Malcolm Turnbull said just last week in relation to Steve: 'There has been no greater champion of our party here in Canberra and no greater servant to the community in his work for our party than Steve Doszpot. I know Steve is unable to be with us tonight, but let us take a moment to reflect on his extraordinary contribution.' Steve died just a couple of days later.

The greatest testament to who Steve was came in this valedictory speech in the ACT Legislative Assembly. Steve could be forgiven for using that opportunity to settle old scores or reminisce on times gone by, but instead he chose to remain a strong advocate to the end, this time for early diagnosis and prevention of liver cancer. Primary liver cancer is the most rapidly rising cause of cancer death in Australia, with death rates almost doubling in the last two decades. Treatments for liver cancer are dependent on the stage of cancer at diagnosis, and early diagnosis can lead to improved survival rates. It was Steve's sincere hope that research would develop new diagnostic and treatment strategies so that fewer and fewer people would have to go through what Steve and his family have been through in recent times.

Steve Doszpot is survived by his wife, Maureen, their children, Adam and Amy, and their five grandchildren. It was a privilege to have worked with Steve. I want to salute his service to our party, our city and our nation. It was an honour to have known him. May God bless Steve and his family. May Steve be welcomed into his eternal home.

Defence Facilities: Chemical Contamination

Senator McCARTHY (Northern Territory) (13:43): I rise to speak about a very important issue that's affecting one of the most iconic towns in my electorate: Katherine. On the Stuart Highway, a three-hour drive south of Darwin, sits the town of Katherine. As I've said here so many times, because I'm so proud to speak about the Northern Territory, I want to share that Katherine is home to more than 10,000 people, and, on the outskirts of the town, is RAAF

Base Tindal. Tindal sits on top of the water aquifer that has been a water supply for many families and services in the area for decades.

It's been over a year since the residents of Katherine were first alerted to the PFAS situation. In November 2016, the Department of Defence reported that PFAS from the use of firefighting foam on the base in the 1970s and 1980s had contaminated the water. This was a shock to all Territorians, especially those living in Katherine, and the contamination in the aquifer caused precautionary measures to be taken. Residents who relied on bore water were told to stop drinking the water. By Christmas, 40 properties around Tindal and Katherine had been supplied with drinking water by the Department of Defence.

If we jump forward almost 12 months to October 2017, the ABC *Four Corners* program featuring Katherine aired across Australia, and the name of the program was 'Contamination'. I do want to read the introduction to the chamber because it really goes to the heart of this issue that still deeply concerns the residents of Katherine:

Imagine being told you can't drink the water in your own home or swim in the local pool or finding out that your home may be effectively worthless because your water supply has been contaminated for years by toxic chemicals.

Just imagine that. The people of Katherine are like the rest of the Territory: they're tough, resilient and prepared to fight. Understandably, the people of Katherine are anxious about the widespread nature of the PFAS contamination and the unknown consequences of ingesting or recreationally coming into contact with PFAS. Since the contamination was detected, Katherine residents have been told not to drink the water and not to swim in the town pool. They face water restrictions, have been told that they have to wait for blood tests and have had new water tanks installed. All of these things they've taken in their stride, but they are looking for answers. They're attending the information sessions, but, often, the questions they have can't be answered because the right government agency isn't there to answer them.

Since PFAS was found in Katherine, residents have been dealing with numerous government agencies. Through the Senate estimates process and asking questions of various government departments, my colleagues and I were able to gain a bit more of an understanding of the progress of the Turnbull government's response to the affected areas. A single point of contact for government agencies working on the PFAS issue in Katherine is what people need. It's incredibly frustrating. There are all these questions, and I have them asked so many times. I have also asked them here in the chamber of Minister for Defence Payne and been told that I should ask the Minister for Health or ask questions in estimates and been referred on to the PFAS taskforce at PM&C. I ask the minister and the cabinet to take into consideration that the inability to find answers is really at the heart of my concerns as a senator for the Northern Territory but also the concerns of residents of the Northern Territory. This frustration is tenfold in Katherine, because it's incredibly frustrating to be caught in a web of bureaucracy about something incredibly vital to the health and wellbeing of the residents there. So I ask again: why can't the residents of Katherine have a single point of contact on PFAS for federal government agencies?

Another thing that residents of Katherine have asked for is blood tests. We've heard ministers and senior public servants dismiss the value of blood tests. We've been told by the Chief Medical Officer, Professor Murphy:

... there is no proven value in doing blood tests ...

And:

The only concern would be creating unnecessary anxiety in the community ...

Another quote is from Minister Payne:

But, when that data is available, the health experts will make the assessment on whether and how, if that is appropriate, blood testing is made available.

It's not good enough. It is not good enough to keep telling the people of Katherine to wait. I know, and so do the people of Katherine, that the blood tests offered to people in other jurisdictions were offered at the same time as other environmental testing was being undertaken. For anyone who wants to argue that point, I refer you to the estimates *Hansards*. If blood tests will give the people of Katherine some peace of mind and reduce anxiety and confusion, why does the government insist on denying them this process? Why? Why are they denying the people of Katherine the process of blood testing?

If the refusal for blood tests wasn't bad enough, at the beginning of November the Turnbull government delivered another blow to the residents dealing with PFAS. After dragging its feet on the establishment of an expert health panel to provide advice on potential health impacts associated with PFAS, the government gave residents just 19 days to make a submission during the consultation process. Next week, I will be welcoming the Mayor of Katherine Town Council, Fay Miller, to Canberra, and she'll be joined by the council CEO and residents of Katherine. They are coming to Canberra. Katherine residents have had enough. The Katherine Town Council has had enough. They want to be heard. They want to be met with. They want these questions around blood testing and other incredibly serious matters dealt with. They want to meet with government ministers to get moving on a PFAS solution.

Earlier this year, Northern Territory member for Katherine, Sandra Nelson, came to Canberra to meet with government ministers about PFAS. The member for Lingiari, Warren Snowdon, and I, together with Mayor Miller and local member Sandra Nelson, just want what is fair for the residents of Katherine. If a blood test and a single point of contact for the government agencies working on the PFAS issue will give the residents of Katherine some peace of mind then the least the government can do is give it to them before Christmas.

Housing Affordability

Senator BARTLETT (Queensland) (13:50): I would like to speak to the Senate today about the latest release of the Rental Affordability Index, which has been produced by National Shelter and Community Sector Banking. As the name indicates, the Rental Affordability Index gives a snapshot of how affordable or otherwise rental housing is across Australia. Not surprisingly, I'll focus on my home state of Queensland. As to the method used in this and previous reports, I will quote from the report:

It is generally accepted that if housing costs exceed 30 per cent of a low income household's ... gross income, the household is experiencing housing stress—

that is, housing is unaffordable and housing costs consume a disproportionately high amount of housing income.

The Rental Affordability Index uses the 30-per-cent-of-income rule as a benchmark in calculating affordability, and that basically equates to a score of 100 for people who spend about 30 per cent of their income on rent. Once it gets down to a score of about 80, you're looking at severely unaffordable. With a score of 50, you are looking at extremely

unaffordable, where people are spending 60 per cent or more of their income on housing. That is a very baseline measure. As I will address in a moment, plenty of other factors can be involved that can indicate that people are in a much more difficult financial situation as a result of the high cost of rental housing.

I should say that, with regard to the national trends and the state based trends, there is some good news in my state of Queensland. There has been a slightly positive trend in affordability of rental housing on average across Queensland since the previous report. Obviously, any improvement is to be welcomed. But, as the report makes clear, it's one thing to say that on average there is a slight improvement on affordability of rental accommodation overall; it's another thing when you move beyond the statistics to the human reality of what so many people, so many Queenslanders, are experiencing from the financial stress they're under in trying to keep a roof over their head.

It's particularly the second part of the report that I encourage people to have a full look at, because it doesn't just give a single statistical average benchmark; it looks at what those figures mean, what the reality of housing costs means for groups in community, particularly people who are on income support, who are on pensions, who are carers, who are unemployed, who are part-time workers, who are students and on student payments, or who are in casual or insecure and low-paid work. As we all know, that is a huge proportion of our community, and it is a growing proportion.

Last week I spoke in this chamber about the latest figures on corporate profits and the continuing, massive growth in those compared with the absolute flatlining when it comes to wages growth—and that's just for people who do have a stable, secure job. For so many others who are in insecure or casual jobs where they are earning different amounts of money from week to week or where they are continually unsure about whether or not they will have a job in a few months time, the situation is so much worse.

If we look at the basic statistical measure for Queensland, you could think, 'Well, it doesn't seem quite so bad in Brisbane.' It's just on the 120 mark for Greater Brisbane, which indicates some degree of unaffordability but not at the extreme level. But when you get into particular areas of Brisbane, or particular parts of regional Queensland, that affordability gets much worse. On top of that, if you look at the reality for people in lower income households, the situation is far more dire, particularly if you look at the example on page 21 of the report of people who are single pensioners—often age pensioners but also people with disabilities on pensions. Their rent as a share of their income in Greater Brisbane on average is 67 per cent—two-thirds of their total income just goes on housing. That is before you get to food, to transport and to medical costs. People with disabilities often have significant other costs. If you're a sole parent, you can have issues in regard to children's health costs, child care, transport, all of those other costs, and yet 67 per cent of your income goes on housing. Similarly, for pensioner couples, it's still 44 per cent in Greater Brisbane and 35 per cent for the rest of Queensland. That's just an average—in some areas of Brisbane and some areas of regional Queensland that proportion is much higher. Let's look at a single person on benefits. People talk about wages flatlining but, if you look at people on the unemployment benefit or other pensions, the cutbacks in pensions have pushed people off pensions and onto allowances, which are much lower. The real value of their benefit has gone down—they have

not even kept up with the rate of inflation while, as these reports continue to show, housing costs go higher and higher.

The Greens want to emphasise that we need to put much more focus on reducing the cost of housing, and we can do it. In the state election in Queensland the Greens particularly focused on significant government investment in rebuilding housing stock in the public and community housing area. We can pay for it, if we accept that we will need to raise revenue from others who are not paying their fair share at the moment—and in the housing area that is particularly developers. We have the ridiculous situation where people invest money in a house and just let it sit there, hoping it appreciates in value—they make more profit keeping a house vacant than even renting it in many cases. As I have said previously, there are more vacant houses just in the city of Brisbane than there are homeless people across Queensland. So the market has clearly failed in this regard. The developers and those who reap significant profits purely from investing in housing for asset appreciation need to be paying more, they need to be paying their fair share, and that revenue can be invested directly into housing or it can be a requirement that affordable housing be created as a part of developments. It can be done if the political will is there, and I believe there is a great public appetite for this. We all know the inequality is getting greater. We all know about those not paying their fair share—whether it's the large corporations dodging tax, the mining companies getting royalty holidays or the developers getting windfall profits. That revenue can be raised and redistributed and invested in infrastructure that generates jobs and reduces the cost of housing.

Alongside that, we need to look at all of those other cost-of-living pressures. Public transport costs is another area. The Greens have demonstrated you can pay to reduce public transport costs to make it more affordable for people. Instead of spending a billion dollars to add an extra lane for one kilometre of road so you can transfer the traffic jam from one spot to another one a kilometre further down, you can invest that money and massively drop public transport costs, which would reduce traffic pressures on the roads in any case. You can also more directly invest and reduce costs in energy and in child care. It is a political choice if that is not done.

Alongside that, when we're talking about housing affordability for renters, we cannot avoid the corresponding reality that rental law in most states in Australia is tilted very heavily in favour of the property owner. We are talking about people's homes here. The Greens very much welcome the small changes that were made by the Victorian Labor government, such as changing tenancy laws to give people a more immediate right to have a pet—a pretty simple thing. Pet ownership is very widespread in this country, and all the statistics demonstrate the huge health benefits that it gives, particularly for people who are single, older and lower income. And yet those people who rent often have to pay more for a place simply because many places won't allow that basic right to have a pet, or other basic aspects that enable security in the home. That range of policy measures can be implemented if there is the political will to do it. That is something the Greens are committed to doing—redistributing the income from those who are not paying their fair share, and reforming unjust laws so that people who have insecure housing and insecure jobs get the justice they deserve and get security, whether it is the security of employment or the security of somewhere affordable to live.

The PRESIDENT: It being 2 pm, we will move to questions without notice.

QUESTIONS WITHOUT NOTICE

North Korea

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:00): My question is to the Minister representing the Minister for Foreign Affairs, Senator Brandis. I refer to North Korea's latest launch of a missile, which occurred early this morning and is reported to have travelled higher than any previous North Korean ICBM launch. Can the minister provide an update on this provocative and dangerous development and on the Australian government's response?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:01): Yes, Senator Wong. Thank you for that important question. North Korea poses a grave and increasing threat to regional and global security. Its test this morning of another ballistic missile further highlights its disregard for the safety and security of our region. Australia will not accept North Korea's illegal nuclear and ballistic missile tests and its threats. Increased diplomatic and economic pressure is an essential pillar of the collective strategy to put pressure upon Pyongyang. It is vital that all members of the international community fully implement the United Nations Security Council resolutions, and Australia is moving quickly to do so.

Australia, as honourable senators will be aware, has its own autonomous sanctions regime aimed at limiting North Korea's ability to develop weapons of mass destruction. The foreign minister has agreed to designate another 11 individuals and nine entities under the autonomous sanctions for their association with North Korea's illegal weapons program or for flouting the United Nations Security Council resolutions. We constantly review our autonomous sanctions to ensure that they are coordinated with those of the United States and other like-minded partners. We will continue to work with those partners, including the Republic of Korea, the United States, Japan and China, to maintain pressure on North Korea to change its behaviour.

The PRESIDENT: Senator Wong, a supplementary question.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:03): The minister referred to the grave and increasing threat that is posed by North Korea. Can the minister provide a further update on that and how the Australian government is contributing to international peace and stability?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:03): Senator Wong, I really addressed that issue in my answer to your primary question. We are working with our partners. We are observing the United Nations Security Council resolutions—in particular, the sanctions regime—and we have our own autonomous sanctions regime, which has included, as I said in answer to your initial question, the designation of another 11 individuals and nine entities under that sanctions regime. Australia now has sanctions against 31 entities and 37 individuals under the autonomous sanctions regime. When the designations to which I have referred come into effect, those numbers will rise to 40 entities and 48 individuals.

The PRESIDENT: Senator Wong, a final supplementary question.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:04): Can the minister provide an update on any further action that the global community is taking to reduce the threat posed by North Korea to international peace and stability?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:04): The global community, of course, remains very concerned about the threat, and that concern has only been ramified by this morning's testing of another ballistic missile. The international community—in particular the partners whom I have mentioned with whom Australia works—are concerned to enforce the United Nations sanctions regime; to adopt, as Australia has done, their own autonomous sanctions regime; and, through diplomatic and other means, to maintain pressure on North Korea to change its behaviour. Obviously, as you know, Senator Wong, China in particular is a very important actor here. Not only China but also other nations with whom Australia works in partnership all seek to put pressure on North Korea to change its behaviour.

National Security

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:05): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General update the Senate on the national security implications of media reports this morning in relation to foreign political interference?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:05): Yes, I can. I might say that the reports in this morning's Fairfax papers are extremely serious. This morning Fairfax reported that:

... Sam Dastyari warned Chinese Communist Party-linked political donor Huang Xiangmo last year that his phone was likely tapped by government agencies ... Mr Dastyari gave Mr Huang counter-surveillance advice, saying they should leave their phones inside and go outside to speak.

On 1 September last year, I stood in this place and called upon Senator Dastyari to answer 47 specific questions about the payment of his personal debts by his foreign benefactor. His response to those questions was so woefully inadequate that the opposition leader was left with no option but to demote him to the backbench. Today there are even more questions to be answered, and they are even more serious.

As I said this morning, if the allegations reported in Fairfax papers are true, then Senator Dastyari has serious questions to answer about the extent to which he is under the influence of foreign interests. Why would an Australian senator warn a foreign national, who has been reported as being of security interest, to conduct a clandestine conversation out of fear that they may be being listened to by Australia's security services? Why would an Australian senator wilfully engage in activity aimed at impeding a suspected national security investigation? If Senator Dastyari cannot satisfactorily explain these matters then his position has become untenable.

The PRESIDENT: Senator Bushby, on a supplementary question.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:08): Can the Attorney-General advise the Senate of the importance of handling national security allegations such as these with honesty and transparency?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:08): Senator Bushby, very important indeed. Just as in September last year, Senator Dastyari's response to the Fairfax allegations has been woefully inadequate. In his press release this morning, he completely failed to address the claim that he and Mr Huang held a covert conversation at Senator Dastyari's suggestion, separated by their phones in order to avoid surveillance. He failed to explain why he would take deliberate countersurveillance measures to conduct a covert conversation with Mr Huang. In stating that he had not received briefings from security agencies, he completely failed to address the claim that he had been counselled by his own party leadership after the initial report surfaced last year. That is the sort of chicanery we have come to expect from Senator Dastyari, but this time the allegations are much more serious. *(Time expired)*

The PRESIDENT: Senator Bushby, a final supplementary question.

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (14:09): Can the Attorney-General further advise the Senate of the importance of ensuring our political process is free from political interference, conducted with integrity and in Australia's national interest?

Senator Cameron interjecting—

Senator Kim Carr interjecting—

The PRESIDENT: Order! Senators Carr and Cameron, can we please hear the question before the commentary begins?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:09): As I stated this morning, this matter is a serious test for Mr Shorten, who last year dealt with Senator Dastyari by a slap on the wrist, benching him for less than five months, only then to reward him with a senior parliamentary position in this chamber.

This morning, rather than calling for Senator Dastyari to provide a full account to the public and the parliament, Mr Shorten has issued a statement that appears to excuse Senator Dastyari's deliberate concealment of his conversations with Mr Huang because:

... he did not pass on any classified information ...

The opposition leader has so spectacularly failed to grasp the importance of the situation that he appears to consider it acceptable for one of his senior colleagues to advise foreign nationals on how to conceal their conversations from Australian security agencies.

Senator Jacinta Collins interjecting—

The PRESIDENT: Order! Senator Collins, your colleague is on his feet and waiting to ask a question.

Senator Jacinta Collins interjecting—

The PRESIDENT: Senator Collins! I've called you to order on a number of occasions. Your colleague is on his feet. Senator Cameron.

Donations to Political Parties

Senator CAMERON (New South Wales) (14:11): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to reports that Mr Turnbull dined with a Chinese political donor, Mr Liu, four days after one of Mr Liu's companies donated \$40,000 to the Queensland Liberal-National Party. On what date was the Prime Minister or his office aware that Mr Liu's company had made or was going to make a generous donation to the Queensland Liberal-National Party?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:11): I am not familiar with the details of those reports. But, since you raised the issue of foreign influence, Senator Cameron, what I can tell you is that this morning your senior colleague Senator Dastyari has been the subject of very, very serious allegations.

The PRESIDENT: Senator Cameron, on a point of order?

Senator Cameron: Yes, a point of order on relevance. There was a simple question here: on what date was the Prime Minister or his office aware that Mr Liu's company had made or was going to make a generous donation?

The PRESIDENT: I urged you last week to be somewhat more creative in attempting to restate the question when you are making a point of order. I am aware of the point you are making. Do you want to continue on the point of order without re-reading the question?

Senator Cameron: I'm happy to do that. I'm simply saying the minister's attention should be drawn to the question.

The PRESIDENT: Thank you, Senator Cameron. Your question also included a preamble. I can't instruct the minister how to answer the question, but I remind him of the question.

Senator BRANDIS: As I say, I'm not familiar with the details of that report. But since you raised the issue, Senator Cameron, of foreign interference and foreign influence, then, look to your own. Look to the conduct of Senator Dastyari last year, when, at last, belatedly and under pressure, the opposition leader's hand was forced to demote Senator Dastyari to the backbench, but only briefly, only for less than five months, before he was restored to the opposition Senate leadership team. Now, this morning, as I said in response to the question from Senator Bushby, Senator Dastyari is once again the subject of very grave allegations.

The PRESIDENT: Senator Cameron.

Senator Cameron: Again, on relevance: there may have been a very small introduction, but this was a very clear, specific question about a \$40,000 donation and the Prime Minister being at a dinner with that person. I have simply asked about when it took place and when the Prime Minister knew.

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

Senator BRANDIS: I was going to observe that it is Senator Cameron who chose, no matter how brief his preamble may have been, to open the question of foreign interference.

The PRESIDENT: I was going to rule. Senator Cameron, as you are aware, ministers—

Senator Cameron: Can you draw his attention to the question at least.

The PRESIDENT: Senator Wong.

Senator Wong: Mr President, on the point of order, Senator Brandis's assertions are a misstatement of the question. The only preamble, as you are describing it, is a reference to the report that Mr Turnbull dined with a Chinese political donor after a \$40,000 donation was made. That is the only preamble, which is absolutely germane to the question.

The PRESIDENT: Senator Williams, on a point of order?

Senator Williams: A point of order, Mr President. When the question was asked of Senator Brandis, he immediately said he was not familiar with any gathering whatsoever. It was answered in the first statement.

The PRESIDENT: On the point of order, I thank Senator Wong for her assistance. In my view, that did introduce the issue. The minister is allowed to address issues raised in the question. I have previously reminded the minister of the question. I will do so again, but I believe he is addressing an issue raised in the question.

Senator BRANDIS: Thank you, Mr President. Let us take at face value what Senator Cameron claims was asserted in this press report as nothing but the fact that, if it be true, the Prime Minister dined with a foreign national. I am advised that any such occasion was organised by the Queensland LNP. It does not bear comparison with Senator Sam Dastyari's conduct in deliberately and covertly concealing a conversation with a Chinese donor for the very purpose— *(Time expired)*

The PRESIDENT: Senator Cameron, a supplementary question.

Senator CAMERON (New South Wales) (14:16): Can the minister confirm that the Prime Minister was seated next to Mr Liu at the 12-person dinner? What did they discuss? Did the Prime Minister's office make inquiries as to who invited Mr Liu prior to the dinner?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): No, Senator Cameron, I cannot confirm any of those matters. I cannot confirm any of those matters. But let us take at face value what you say. How does that compare with a senior Labor senator—a member of your own Senate leadership team—as has been alleged by credible journalists in Fairfax media this morning, actually advising a foreign donor to take countersurveillance measures to ensure that a conversation between Senator Dastyari and that foreign donor could not be overheard in the event that there was intelligence surveillance of a mobile phone? Why on earth would anyone advise a foreign donor who has been reported to be a person of national security interest to conceal a conversation from the possibility of surveillance?

The PRESIDENT: Senator Cameron, a final supplementary question.

Senator CAMERON (New South Wales) (14:17): Does the Turnbull government still oppose banning foreign donations to political parties?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:17): Yes, Senator Cameron, we do. We do. As I have told the chamber before, this is a matter within Senator Mathias Cormann's immediate responsibility as Special Minister of State. As you know, Mr President, as his predecessor in that portfolio, the preparation of legislation in that regard is very well advanced indeed. When that legislation is introduced, it will deal with situations including the

apparent relationship between Senator Sam Dastyari and Mr Huang. But what it will not be able to deal with is to explain why it is that a senior Labor senator would say to a person of security interest, as has been reported, 'Let us make sure that our conversation cannot be surveilled by the intelligence agencies.'

Senator Jacinta Collins interjecting—

The PRESIDENT: Order, Senator Collins. I have called you to order a number of times. There are opportunities after question time to raise issues.

DISTINGUISHED VISITORS

The PRESIDENT (14:19): I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from the National Assembly of the Socialist Republic of Vietnam led by Her Excellency Madam Nguyen Thi Kim Ngan, President of the National Assembly. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I invite the President to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

Mrs Nguyen Thi Kim Ngan was seated accordingly.

QUESTIONS WITHOUT NOTICE

Sexual Harassment

Senator HANSON-YOUNG (South Australia) (14:20): My question is to the Minister for Communications, Senator Fifield. Minister, yesterday you told the ABC that you'd be raising the issue of sexual harassment within the media industry. I assume you've treated this issue with the urgency that it deserves and, as such, I would like the minister today to inform the chamber of the outcome of these conversations, of what steps have been taken and of what steps have been committed to by the broadcasters and media industry players.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Acting Minister for Regional Communications) (14:20): I thank Senator Hanson-Young for her question. In an interview yesterday on ABC Radio National with Fran Kelly, she raised the recent coverage that there has been in relation to harassment in the media industry. I said to Ms Kelly that there was never an excuse for harassment, that there was never a justification for harassment and that anyone who was in that situation should bring that forward to the relevant management of the organisation and, where appropriate, bring it forward to relevant law enforcement agencies. In the conversation with Ms Kelly, she asked if this was something that was taken seriously, and I said that absolutely it was and that, in the meetings that I have frequently with media executives, I would be emphasising that this is a serious and important matter. I should note that a number of media organisations have, over recent days, indicated that they have appropriate workplace policies in these areas and that they take these matters extremely seriously.

The PRESIDENT: Senator Hanson-Young, a supplementary question.

Senator HANSON-YOUNG (South Australia) (14:22): I find it disappointing that the minister hasn't had these conversations as yet. I ask a supplementary question: when will the

minister hold these meetings? We know already that Mr Don Burke has been named, but we also know—

Senator Ian Macdonald interjecting—

Senator O'Sullivan interjecting—

Senator HANSON-YOUNG: I will take some of the interjections from over there. We are talking about the sexual harassment of women. What is the minister going to do about it? *(Time expired)*

Honourable senators interjecting—

The PRESIDENT: Order on my right. Order around the chamber, from the rear corner and on my right. Senator Fifield is on his feet.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Acting Minister for Regional Communications) (14:22): I thank Senator Hanson-Young for the supplementary question. As I've indicated, I meet frequently, as you would expect, with media executives in the country, and these will be matters that I will be discussing with them, and I will be emphasising the importance of having appropriate workplace policies and saying that there are appropriate responses when these matters are raised.

The PRESIDENT: A final supplementary question, Senator Hanson-Young.

Senator HANSON-YOUNG (South Australia) (14:23): We know, Minister, that Mr Don Burke has already been named, but we also know that another 65 names within the media industry are yet to be released. What role do you have, as Minister for Communications, in overseeing the broadcasting rules and regulations? What are you going to do? What powers will you use to stamp out this incessant, toxic culture of sexual harassment and hush?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications, Minister for the Arts and Acting Minister for Regional Communications) (14:24): In my portfolio areas, I have legislative and policy responsibilities, obviously, in relation to media organisations, telecommunications organisations, arts organisations and organisations that have responsibility for copyright law, and I would observe that, no doubt, there are inappropriate practices by individuals in a range of organisations across portfolios. There are, as you would know, at both the state and federal levels, laws that deal with some of the sorts of issues that have been raised, and I think every colleague in this place, and every minister across every portfolio area, obviously has an interest in ensuring that there are good and appropriate practices in the portfolios for which they have responsibility.

Child Care

Senator REYNOLDS (Western Australia) (14:25): My question is to Senator Birmingham, the Minister for Education and Training. Will the minister please update the Senate on implementation of the government's new childcare package, particularly in relation to parental rights?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:25): I thank Senator Reynolds for her question today and, indeed, for her commitment to ensuring that Australian families receive the best possible deal for their childcare support—

the best possible deal that encourages them and assists them to work the hours that suit, to do so in a manner where they receive support for their childcare fees commensurate with their income and earnings as a family, and to do so at the lowest cost to both themselves and the Australian taxpayer. Indeed, all of those things are what the Turnbull government's sweeping childcare reforms accomplish.

Our reforms will ensure that a new model for childcare payments takes effect in Australia next year—a new model that delivers the greatest level of support to those Australians who work the hardest and who work the longest hours but who earn the least amount of money. We will increase the rate of subsidy across low- and middle-income-earning Australians. Those Australians will see, often, thousands upon thousands of dollars of benefits in increased support for their childcare fees throughout the course of the year. Those Australians will see, as well, abolition of the \$7,500 childcare rebate cap that constrains the working hours and working decisions of so many Australian families. It will liberate Australian families to be able to decide to work the hours that best suit them and their needs and to know that childcare costs will not be an impediment to doing so.

Families can indeed now access clearer information about the Turnbull government's reforms to see how they will benefit and to be able to plan for next year. They should visit the estimator tool we've made available on the education.gov.au website. Indeed, they will also be provided with more transparent information when our childcare rules come into effect. They will be able to see clearly not just what they have been billed for but the childcare attendance hours they have used, making the whole system more transparent as well as more affordable for hardworking Australians.

The PRESIDENT: Senator Reynolds, supplementary question.

Senator REYNOLDS (Western Australia) (14:27): I thank the minister for his answer. Could the minister also advise the Senate: what other provisions of the childcare package are being confirmed and detailed in the minister's rules currently before the Senate?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:27): The childcare reforms aren't just about childcare; they're also about ensuring continued support for quality early childhood education. The minister's rules that have been tabled to give effect to the operation of our new childcare system ensure continued support for Australian families who access preschool services through the childcare system. Parents with a child in the year before formal school, usually four years of age, who access preschool for 15 hours in long day care will not need to meet the activity test that we have put in place. They will have a clear exemption enabling them to access childcare subsidies to support the quality early education of their children in a preschool setting via long day care services. This is, importantly, in addition to our continued funding and support for the universal access agreement, providing preschool services for all children across Australia and making sure they can access quality early childhood education.

The PRESIDENT: Final supplementary question, Senator Reynolds.

Senator REYNOLDS (Western Australia) (14:28): Can the minister also advise the Senate what families will most benefit from the government's new childcare package?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:28): Nearly one million Australian families will benefit—many, of course, in Senator

Reynolds's home state of Western Australia, but also families right across Australia. To take one microcosm of Australia—the electorate of Bennelong, for example—some 6,000 hardworking Australian families will benefit in the electorate of Bennelong. Yet Mr Shorten, the Leader of the Opposition, who loves to spend time in Bennelong at present, voted against these reforms. He voted against reforms that will benefit 6,000 hardworking families in the electorate of Bennelong—6,000 families who, in many cases, will receive thousands of dollars extra in support for their childcare fees, who may well choose to work more hours because the government's supporting them to make that choice and who will access quality early childhood education. They're the people the Labor Party have said no to. They're the people the Turnbull government is helping.

Murray-Darling Basin Plan

Senator PATRICK (South Australia) (14:30): My question is to the Minister representing the Minister for Agriculture and Water. Over the weekend, the South Australian Premier announced that a royal commission will be established into the Murray-Darling Basin Plan, following well-publicised allegations that upstream irrigators are stealing water. With respect to jurisdiction and comity, is it within the power of or appropriate for a state-initiated royal commission to compel a Commonwealth minister, official or employee of a Commonwealth authority to appear before it, to subpoena Commonwealth documents, to enter and conduct inspections on Commonwealth property or to make recommendations relating to Commonwealth governance? Would royal assent of the South Australian Royal Commission (Application of Act) Amendment Bill, which is before the South Australian parliament, change that situation?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:31): I thank Senator Patrick for his question and I also thank him for a short period of notification of this question. I note that the South Australian royal commission, which was announced on the weekend, has not come with terms of reference at this stage. So I'm unable, Senator Patrick, to provide specific advice or legal advice on the issues you have raised in your question, or precisely raised in your question. We, of course, will wait for more details from the South Australian government about how they intend to establish this inquiry. However, I can assure Senator Patrick that the Commonwealth government will cooperate with any inquiry that the South Australian government conducts, including a royal commission if it so chooses to go down that path. We are already cooperating with five different inquiries and another inquiry in Queensland as well—six in total—into various aspects of the Murray-Darling Basin Plan.

So the specific questions that Senator Patrick has asked will not be specifically enlivened in this case, because the Commonwealth will cooperate and make sure that we involve ourselves in any inquiries—because we have nothing to hide, Senator Patrick. We are committed to delivering the plan and we're committed to making sure that the plan is delivered in full and on time. We realise and recognise that we have to work with the basin jurisdictions to do that—we don't have all the powers or involvement to deliver the plan ourselves—and we're committing to doing that. That is why we are working with all the inquiries, including the two that we've established at the Commonwealth level, some at the New South Wales government level and one at the Queensland government level. If the South

Australian government chooses to establish its own review and inquiry, we'll cooperate with that as well.

The PRESIDENT: Senator Patrick, a supplementary question.

Senator PATRICK (South Australia) (14:32): It has been reported through the media that the Commonwealth is willing to cooperate. Can you advise what communication the South Australian government have had with the Commonwealth and what request they have made to date?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:33): Senator Patrick, I do not have that information on me at this stage—I'm sorry—but I'm happy to take that on notice. I would say that, while we are happy to cooperate, we would also ask that this inquiry is not turned into yet another stunt, which does often bedevil opportunities to unite the basin jurisdictions on these matters. From the involvement that I've had on these matters in the past, it is unfortunate that right across the basin there is a tendency to blame all the problems on another part of the basin and a witch-hunt often prevails. At the Commonwealth government level, we recognise that we have to work together to deliver the plan. That requires working together across all jurisdictions to make sure that we deliver the environmental, the economic and the social outcomes that are required under the plan to get this thing right. As I say, we are happy to cooperate, but I hope that this does not turn into another stunt where they blame each other and do not work together.

The PRESIDENT: Senator Patrick, a final supplementary question.

Senator PATRICK (South Australia) (14:34): Following on from your answer, Minister, there are numerous Murray-Darling inquiries running at the moment—in New South Wales, an ICAC investigation, an ombudsman review and the Matthews review; in Queensland, the metering review; now in South Australia, a royal commission; a Senate inquiry; a Murray-Darling Basin Authority review; and an Auditor-General review. This all seems very inefficient. Does the Commonwealth government concede that this could all have been avoided had a federal royal commission been established?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:34): No, Senator Patrick, the Commonwealth government does not support that view. The response from the Commonwealth government to the allegations that have arisen has been a measured one. Of course, it's important to try to resolve these matters as soon as possible, given the time frame for the Basin Plan's conclusion. I note that some of these reviews have already produced interim reports, as in the case of the Ken Matthews review in New South Wales, and/or have reported back to the Commonwealth government, including the MDBA compliance review over the weekend. That's allowed timely information to come back to the Commonwealth government so it can take the action that is necessary to rectify the issues that have emerged. The Commonwealth government's view is that a royal commission in this area would not be fit for purpose to respond to the issues that have arisen and to make sure we keep on track with the Basin Plan.

Health Care

Senator BROCKMAN (Western Australia) (14:35): My question is to the Minister for International Development and the Pacific representing the Minister for Health, Senator

Fierravanti-Wells. Will the minister outline to the Senate the Turnbull government's commitment to public hospital funding?

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (14:35): I thank Senator Brockman for his question. The Turnbull government is delivering continued funding growth for state and territory hospitals. Since coming into government we have delivered \$13.8 billion, and will deliver up to a record \$22.7 billion in 2020. This is a 64 per cent increase—

Senator Cash interjecting—

Senator FIERRAVANTI-WELLS: I'm coming to that, Senator Cash. This is a 64 per cent increase over that period that will take spending to a record of \$103 billion over the next four years. Now, Kristina Keneally, in the case of New South Wales, can't get it right, and, of course, she hasn't got it right on hospitals—

Opposition senators interjecting—

The PRESIDENT: Order! Order! Senator Fierravanti-Wells, please resume your seat.

Senator FIERRAVANTI-WELLS: and can't work out if the investment in our hospitals in New South Wales has been—

The PRESIDENT: Senator Fierravanti-Wells, please resume your seat! It's getting ridiculous when I've got to shout to be heard when Senator Hinch has been on his feet for 20 seconds. Senator Hinch—

Senator Hinch: You know the complaint.

The PRESIDENT: I know, and I was trying to draw the chamber to order before you rose. Can we please allow our colleagues down the rear of the chamber to hear questions, answers and even the occasional interjection.

Senator FIERRAVANTI-WELLS: Under this government, funding for New South Wales hospitals is 43 per cent higher than during the Rudd-Gillard-Rudd years. Let's look at that record. There was the so-called hospital reform—remember? At least Stephen Conroy had a coaster to talk about his NBN. As far as the so-called hospital reform was concerned, there wasn't even a back-of-an-envelope plan. So what did we see during that period? We saw over 10 bureaucracies created and a 27 per cent increase in staff. But the most momentous thing was all of those hospital visits. Remember those? That's all your legacy was—

The PRESIDENT: Senator Fierravanti-Wells, you know—

Senator FIERRAVANTI-WELLS: That's all your legacy was: Dr Rudd and—

The PRESIDENT: Order! Senator Fierravanti-Wells, when I call your name, please cease. You know better than most, from your service here, that props have no place in this chamber.

Opposition senators interjecting—

The PRESIDENT: If someone wishes to raise a point of order, they shouldn't do it through an interjection.

Senator Cameron interjecting—

The PRESIDENT: Senator Cameron!

Senator FIERRAVANTI-WELLS: In those six years of fiscal vandalism, all we saw was Dr Rudd and Nurse Roxon travelling around the countryside having their photographs taken at any hospital that would have them— *(Time expired)*

Senator Watt: Give her some more! Come on!

Senator Cameron interjecting—

The PRESIDENT: Senator Watt! Senator Cameron! Order on my left. Senator Brockman, a supplementary question.

Senator BROCKMAN (Western Australia) (14:39): Can the minister update the Senate on how the Turnbull government is supporting patients, with a particular focus, in light of your first answer, on what's happening in New South Wales?

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (14:39): Thank you, Senator Brockman. On the issue of public hospital funding, there is a simple truth. The truth is the coalition is delivering \$42.1 billion to New South Wales hospitals from 2014-15 to 2020-21, while the Rudd-Gillard-Rudd governments delivered only \$27 billion to New South Wales hospitals during the time they were in government. All Australians in my home state of New South Wales are benefiting from our delivery of health and wellbeing to Australians.

There was a time, however, that the health of New South Wales residents was put on hold. It was during the time, of course, that Kristina Keneally led the Labor government. The waiting times for elective surgeries in Ryde Hospital blew out completely. *(Time expired)*

The PRESIDENT: Senator Brockman, on a final supplementary question.

Senator BROCKMAN (Western Australia) (14:40): Thank you, Minister, for your answer. Is the minister aware of any risks to the government's record investment in the health of patients, again, given your first two answers, in light of what is happening in New South Wales?

Senator FIERRAVANTI-WELLS (New South Wales—Minister for International Development and the Pacific) (14:40): There's only one threat to our health system and that's those opposite because, if their record from the time that they were in government is any indication, they are not a friend of Medicare.

Senator Cameron interjecting—

Senator FIERRAVANTI-WELLS: Their idea of protecting Medicare was sending their thug mates in—your mates, Senator Cameron, and the ones that Senator Cash was scaring little old ladies at midnight with—during the last federal election. That's their idea of a really good health policy.

Let me go back to Bennelong. The waiting times at Ryde Hospital during the time of the Keneally government blew out. Residents in Bennelong were waiting beyond the medically recommended times to receive important surgeries like hip and knee replacements. In 2011-12 alone, 77 residents had their surgeries delayed during that period. *(Time expired)*

Space Activities

Senator BERNARDI (South Australia) (14:42): I believe there is a better way for Bennelong.

The PRESIDENT: Go to your question, please, Senator Bernardi.

Senator BERNARDI: My question is to the Acting Minister for Industry, Innovation and Science, Senator Cash. Today is the 50th anniversary of the first Australian satellite launch at Woomera in my home state of South Australia. In September, Adelaide hosted the 68th annual International Astronautical Congress. The South Australian and federal governments want to support a domestic space industry, including an Australian space agency, to tap into what you, Minister, said in September is a reputed \$24 billion global industry. In October 2015, Minister Pyne, the former relevant minister, commissioned a review into Australia's satellite launching laws, appointing a Professor Steven Freeland to run the review. The review published a legislative proposal paper on 24 March this year. Given the government has stated the significant economic benefits to be gained from this sector, does the minister have absolute confidence that no conflicts of interest exist or existed in the review process?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:43): I thank Senator Bernardi for his question and a small amount of notice. Senator Bernardi, I have sought advice from the department and I can advise as follows. You are correct that this review was commissioned by the former minister, Minister Pyne. On 24 October 2015, the government announced a review of the Space Activities Act 1998. By way of background for senators, the act establishes a system for the regulation of space activities carried out either from Australia or by Australian nationals overseas. As the government is taking active steps—as Senator Bernardi has pointed out—to promote and develop the space industry in Australia, the review process was an important element of this work. Senator Bernardi also noted the involvement of Professor Steven Freeland, a pre-eminent figure in the field of space law. Senator Bernardi, I am also advised that this review was run by the Department of Industry, Innovation and Science, who engaged Professor Freeland as a consultant with expertise in the field. I am also advised that the department is rigorous in its processes when conducting such reviews. I am also advised—

Senator Ian Macdonald interjecting—

The PRESIDENT: Order, Senator Macdonald!

Senator CASH: that there was a review open to public submissions.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Cash, please resume your seat. I can barely hear Senator Cash's answer, so I imagine that Senator Bernardi may be having trouble. Could we please have a little bit less noise so that we can hear Senator Cash's answer?

Senator CASH: I'm also advised that the review was open to public submissions, of which 69 were received, including submissions from the peak industry body; key aerospace and defence firms, including Airbus and, Lockheed Martin; universities, including the universities of Sydney, Queensland, Adelaide and New South Wales; and key users of satellite technology in the communications sector, including the Communications Alliance and Optus. The review was an example of collaboration between government, industry and academia that the coalition has championed in the industry, innovation— *(Time expired)*

The PRESIDENT: Senator Bernardi, a supplementary question?

Senator BERNARDI (South Australia) (14:45): Thank you, Minister, for that. One of the commercial submissions made to the legislative review was from the Optus satellite division, part of Singtel Optus, which you acknowledged in your response. Singtel Optus has donated a total six-digit sum to each of the major parties over the last five years. It owns 11 of the 17 Australian satellites registered with the UN and claims to be the only network provider with its own satellite fleet. Given Professor Freeland's involvement as a consultant in this review, is the minister still confident that there has been no conflict of interest in the legislative review? *(Time expired)*

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:46): As I noted in my previous answer, the review of the Space Activities Act, which received 69 submissions, was conducted as an open review process. Based on those 69 submissions, the department developed and released a legislative proposal, after which further submissions were invited in a second open process. Nine further submissions were received from key stakeholders. These key stakeholders did include Optus. As you, Senator Bernardi, have noted, Optus is one of Australia's largest satellite operators. On that basis, it would've been surprising if Optus had not contributed to this process.

The PRESIDENT: A final supplementary question, Senator Bernardi?

Senator BERNARDI (South Australia) (14:46): Would it be surprising to you, minister, if the person appointed by the department to oversee the review, Professor Freeland, had been in a long-term relationship with a manager of Optus's satellite legal team, as reported by the ABC earlier this week? Will the minister commit to reviewing conflict of interest disclosures and the review itself to ensure it represents the best advice to advance Australia's commercial environment in this developing and competitive sector?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:47): Senator Bernardi, as I was stating: in September 2015, the department engaged the services of a consultant with expertise in international space law, the global space environment and the policy implications of options to amend existing legislation. Due to the highly specialised nature of the work and the need for independence and rigorous advice, the consultant was selected by direct tender. The preferred supplier was, as you have articulated, Steven Freeland. He is a professor of international law at Western Sydney University, and is an internationally renowned legal academic and consultant who has been involved in multiple international collaborations on space law. I am also advised by the department that the consultancy services contract included a confidential information clause whereby the supplier agreed not to disclose to any person other than the customer any confidential information relating to the contract without prior written approval. This was never sought from the department. *(Time expired)*

Turnbull Government

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (14:48): My question is to the Minister representing the Prime Minister, Senator Brandis. Yesterday, the Leader of the House, Mr Pyne, said that disunity is death. In response, veteran New South Wales senator John Williams said, 'Tell someone who cares.' Does the Prime Minister agree with Mr Pyne that disunity is death?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:49): The Prime Minister and Mr Pyne always find themselves in agreement.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (14:49): Nationals MP Mr Broad has said that there has been a complete lack of leadership from the Prime Minister, a view supported by his colleague Mr Christensen, who suggested that a true leader would act differently to Mr Turnbull. Does the Prime Minister retain the confidence of all members of the joint coalition party room?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:49): The answer to the last part of the question is absolutely yes. In relation to Mr Broad, I'm not in the habit of following Mr Broad's observations. But I'll tell you what true leadership looks like, Senator McAllister. It means leading a government that has been responsible for the greatest level of job creation, in 2017, at any time since before the GFC. That is what true leadership looks like, and that is what the Turnbull government has achieved. I'll tell you what else true leadership looks like. It means keeping Australians safe and keeping our borders secure. That's what true leadership looks like, and that's what the government of Malcolm Turnbull has achieved. It also, by the way, means being responsible for the breakthrough social change on which this chamber voted on earlier in the day, something the Labor Party didn't do a thing about for six years. That's what leadership looks like.

The PRESIDENT: Senator McAllister, a final supplementary question.

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (14:50): Can the minister assure the Senate that no steps have been taken to revisit the Liberal-National coalition agreement made between Mr Joyce and Mr Turnbull in 2016?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:51): No. But you asked me about leadership, so let me just dwell a little further on what true leadership looks—

The PRESIDENT: Order! Senator McAllister?

Senator McAllister: I just wish for the Attorney to clarify his answer. I asked a fairly direct question, and I believe he said 'no'. Can you just confirm that?

Senator BRANDIS: Can you put the question again?

Senator McAllister: Certainly I can. Can the minister assure the Senate that no steps have been taken to revisit the Liberal-National coalition agreement made between Mr Joyce and Mr Turnbull in 2016?

Senator BRANDIS: No steps have been taken, and, yes, I can assure the Senate, if that makes it clearer for you, Senator McAllister. But I wonder if I might return to your first supplementary question about true leadership. Let me dwell on the point that I was making when time ran out a moment ago. We have today celebrated a great thing in Australia, and all but a few of our colleagues have come together to support marriage equality. It happened because Mr Turnbull provided the leadership to do it. No previous Australian Prime Minister—not Mr Howard, not Mr Rudd, not Ms Gillard and not Mr Abbott—has supported or prosecuted this cause. It took the Turnbull government to do it. That's what true leadership looks like too, Senator McAllister.

Opposition senators interjecting—

The PRESIDENT: Order, on my left.

Employment

Senator HUME (Victoria) (14:52): My question is to the Minister for Employment, Senator Cash. Can the minister update the Senate about how the Turnbull government is working to create more job opportunities for Australians?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:52): Thank you, Senator Hume, for your question. On this side of the chamber, we believe that the best form of welfare is a job.

Senator Cormann interjecting—

Senator CASH: In that regard, we are committed, as Senator Cormann well knows, to implementing policies that promote growth, encourage investment, stimulate job creation and, of course, support business. I'm very pleased to advise the chamber that our policies are working.

October labour force figures show that the number of jobs in Australia has increased for the 13th month straight. This is the largest consecutive run of jobs growth since 1994. Since we on this side of the chamber were elected to office, more than 831,000 jobs have been created. That's what the Australian people want to hear. Approximately 200,000 jobs each year are being created because of the Turnbull government's policies. Employment in Australia is currently at a record high of in excess of 12.2 million. At present, under this government, Australia's economy is creating approximately 1,000 jobs per day.

Senator Fierravanti-Wells interjecting—

Senator CASH: Quite frankly, Senator Fierravanti-Wells, that's what the people of Bennelong want to hear. They want to hear about a government that is out there creating jobs. There are now 355,700 more Australians in work than a year ago, but, critically, 80 per cent of these jobs are full-time jobs. Here's a statistic the people of Bennelong might like to hear about: the growth in full-time jobs in the first nine months of 2017 represents the largest increase in the first nine months of a calendar year on record, and job creation under this government in the last 12 months is more than four times the jobs growth of the last 12 months of the former Labor government.

The PRESIDENT: Senator Hume, a supplementary question?

Senator HUME (Victoria) (14:54): I thank the minister for her answer. That is indeed good news. Can the minister please further update the Senate on how the Turnbull government is working to create more job opportunities for Australian women?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:55): As I was saying, jobs growth under this government over the last 12 months is more than four times stronger than Labor's last year in government. In relation to getting more women into the workforce, this is something that we on this side of the chamber are committed to. That is why we're putting in place the policies to encourage, in particular, more flexible and affordable child care, as Senator Birmingham has been talking about today, and, of course, to support more women to

become job ready. We're assisting women to get back into the workforce through programs like ParentsNext. I am pleased to advise the Senate that in Australia today, under this government, colleagues, there is a record number of women in the workforce. Female workforce participation stands at a record high of 59.9 per cent. Again, when you're a government focused on implementing policies that promote growth, you ultimately encourage the economy to create jobs. *(Time expired)*

The PRESIDENT: Senator Hume, a final supplementary question?

Senator HUME (Victoria) (14:56): I thank the minister for her second answer. Can she also please further enlighten the Senate—what are the benefits to the Australian community of getting unemployed Australians off welfare and into work?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:56): As I travel around Australia, like so many on this side, and talk to people who have got off welfare and got into a job, they tell me things like: 'Getting a job has increased my self-esteem and my wellbeing,' and, 'It is providing me with the opportunity to become a role model for people in my family, for friends, to show them what I can be.' Ultimately, for the taxpayer, getting people off welfare and into work means we pay out less in social security payments.

When it comes to getting youth off welfare and into work, the Turnbull government has invested in our Youth Jobs PaTH program. Again, I am pleased to advise the Senate that since January of this year more than 14,000 young people previously reliant on welfare have had the opportunity to move into employment, thanks to youth bonus wage subsidies. Again, we believe that the best form of welfare is a job, and these figures reflect that.

Senator O'Neill interjecting—

The PRESIDENT: Order! Senator O'Neill, your colleague's on his feet.

Queensland Election

Senator WATT (Queensland) (14:57): My question is to the Minister for Resources and Northern Australia, Senator Canavan. Last month, the minister said:

... there's no doubt that One Nation are an emerging threat in Queensland politics.

In light of this statement, does the minister agree with the Attorney-General that 'flirting with One Nation is poison for my side of politics'?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:58): I think it's important to put the Leader of the Government in the Senate's comments, which I do support, in context. The context is that of course it is poison for any political party to be not focused on the main game, which is to win votes and win seats, and to flirt with other minor parties. I would point out that there were at the Queensland election no deals done between the Liberal-National Party and One Nation. Senator Watt—through you, Mr President—if there had been a deal done, it would probably have been the worst deal in history because One Nation preferences have helped to elect something like 10 or 11 Labor members to the Queensland parliament. So how could we have done a deal with One Nation when that was the outcome and the result? In fact, One Nation votes and One Nation preferences have delivered government to the Labor Party in Queensland. Good luck to them.

The only party at the Queensland election—the absolutely only major party—that did a deal and flirted with minor parties was the good old Australian Labor Party. They do it every time. They did a deal with the Greens, because they got preferences from the Greens in every seat. There had to have been a deal—and guess what? The Labor Party gave the Greens preferences in every seat. How did they come to this conclusion? Did they do a deal with them? They won't tell us. They never reveal the backroom discussions, backroom deals, and the regional jobs that they are willing to sacrifice to try to keep their jobs in inner-city electorates. They do it at every election; they do it every time. If I get a supplementary I can expand a bit further about the timing of some of these deals and arrangements that may have led to some suspicions that perhaps a deal was done between the Australian Labor Party and the Australian Greens.

The PRESIDENT: Senator Watt, on a supplementary question.

Senator WATT (Queensland) (15:00): Yesterday in the Senate the Attorney-General said: ... on the question of One Nation preferences ... the Prime Minister's views and mine are identical. Is the minister's view on One Nation also identical to the Prime Minister's and the Attorney-General's?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (15:00): Yes, it is. At the Queensland election the Liberal National Party made absolutely no deal with One Nation whatsoever, and that is clear from the preferences that were provided by the One Nation party, which in many instances benefited the Australian Labor Party. That is absolutely clear. I mentioned that I might have some more time to outline the timing of these things. You might recall that the Queensland Premier, three weeks from the election date, succumbed to pressure from the Australian Greens to pull her support for the Adani Carmichael mine. She'd been supporting it for months. She'd written to me six months ago—or her Treasurer had—saying it was all sweet, all supported, and then, three weeks from the election, she pulled her support. The next day the Premier recommitted to the Greens policy to stop farmers from developing their own land. That happened. Within a few days the Greens and the Labor Party had finalised their how-to-vote cards, and guess what? They were all on the same page—but there was no deal; it was all coincidence!

The PRESIDENT: Senator Watt, a final supplementary question.

Senator WATT (Queensland) (15:01): I refer to the minister's Nationals colleague in the other place, Mr Christensen, who apologised to One Nation voters, saying the LNP needs to do more, and:

... a lot of that starts with the Turnbull government, its leadership and its policy direction.

Does the minister agree with his colleague, Mr Christensen?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (15:01): I agree with Mr Christensen that we need to do more. I agree with my colleague Mr Christensen that there is a level of anxiety and disillusionment in regional Queensland that needs to be responded to, and we as a government need to do more. I would implore the Queensland Labor Party and the Australian Labor Party to do more, because it appears the result of the Queensland election has led to this eruption of hubris. Prior to the Australian Labor Party's performance—they may have won a majority government; may have!—I think most people who have won an election have acted in the smart way afterwards: with some

grace and acceptance. They should have also shown some humility to the Queensland people, but the response of the Australian Labor Party has been to completely ignore the hundreds of thousands of regional Queenslanders who did not vote for them, who do not like the fact that they sacrificed their jobs for the Greens. I'm happy for you to go down that path, but I will instead listen to the people of regional Queensland.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Turnbull Government

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (15:03): I move:

That the Senate take note of the answer given by the Minister representing the Prime Minister (Senator Brandis) to a question without notice asked by Senator McAllister today relating to the Turnbull government.

Like the end of an empire, the death of a government is usually not pretty to watch. That, however, is what it seems we have been watching for the last few months on the front pages of newspapers, on the nightly news and in this chamber. People on the opposite side have been tearing themselves apart. In recent days that has intensified, as the blame and the finger-pointing and the gnashing of teeth continues about what went wrong in Queensland and whose fault it is. There are very different stories about whose fault it is, but the persistent theme coming through from many people speaking up very publicly—not respectfully in their party room but out there on Twitter, out there in the media—is that this is the fault of Mr Turnbull. It's starting to feel a little bit like that ominous feeling you get when you read *Lord of the Flies*—that this is not going to end well.

Senator Watt: Who's Piggy?

Senator McALLISTER: Senator Watt asks, 'Who is Piggy?' Some of the disunity and division is absolutely a result of clashes of personality and personal animosities. One gets the feeling, for example, that the former Prime Minister would not support the current Prime Minister on any question, even if there was absolutely no daylight between the two of them when it came to the policy. But this is much more serious than a clash between two men who can't decide who is going to hold the conch. Much of this division is actually about policy. Differences of opinion about policy and robust debate about policy are normally quite good and lie at the heart of good politics, but what we have seen from the government is not good policy or good politics.

The reason that this government is irreconcilably divided is that it has absolutely no purpose. Let's recall that the premise for the change in Prime Minister was 30 consecutive Newspolls where they were behind. The government went to the last election as a consequence with no clear idea of what it stood for, no clear vision of what it wanted to achieve. What has happened to jobs and growth? It is something we haven't heard about for quite some months. Without a defining mission, the government has been completely unable to define its policy agenda. The vacuum has led to these countless little groups pulling one another apart in public.

Here are some questions that the government would not be able to answer in one voice. Does the government believe that coal-fired power plants should be subsidised by the state, if the market is unwilling to build them? Even in this chamber, we couldn't get a single voice. There is no clear vision and no clear energy policy. Are renewables an important part of Australia's energy future? Minister Frydenberg might say yes. Senator Canavan would certainly say no. Is climate change even real? Even without Senator Roberts, there are plenty of doubting voices in this chamber—people who are unwilling to accept the science and unwilling to accept the government's commitments to reduce our emissions.

On social policy, we don't even really need to talk about this in any detail, because we just have to look at the *Hansard* for the last three days of debate in this chamber. Does the government support multiculturalism? The willingness to cosy up to One Nation suggests that, for parts of the coalition party room, the answer is no. On economic policy: how will you reduce the deficit? Are individual tax cuts or corporate tax cuts more important? Should penalty rates have been cut? What about the government's supposed decentralisation agenda? This is one that's quite interesting, isn't it? Should government departments be moved only on the basis of a cost-benefit analysis, some kind of sensible economic decision, or should we just do it whenever members of the Nationals really, really want them in their electorate? On the banking royal commission—this is a pretty simple question, you would think: should there even be one? Is a royal commission just a lawyer's picnic? If so, why did this government initiate not one but two of them on political grounds? These are not small questions. They go to the heart of issues that have been on the public agenda this year. The problem is that those on the other side are entirely unable to answer them and entirely unable to act on them. Mr Turnbull is the captain of a rudderless ship, without a destination and with a mutinous crew.

Senator ABETZ (Tasmania) (15:08): What the Australian people have once again witnessed by the motion to take note of answers moved by the Australian Labor Party is their absolute desire to play politics. What it also tells us, very interestingly, is that the Australian Labor Party, in fact, does not believe in diversity. Just towards the end, the good senator told us that everything had to be in one voice. It reminds me of that very sage observation made about the Australian Labor Party caucus that they were 'like lobotomised zombies'—a description by somebody who is actually part of the Labor caucus, one Senator Doug Cameron.

What you get in the Labor Party is the cookie-cutter trade union officials who get rolled into the caucus room and told: 'You will all vote one way. You will all say one thing,' whereas we in the coalition actually celebrate diversity of views. We actually believe that having a contest of ideas sharpens public policy. It allows you to learn from each other and ensure that you come to the best landing possible. But when everybody is a 'lobotomised zombie', just saying what the leadership or somebody else at trade union headquarters tells them to, you do not get the best of public policy.

But why is there this affected motion today? I think we know why. The Australian Labor Party, in the midst of their leadership group, have an issue that they don't want to talk about. It is an issue created, yet again, by the hapless Senator Dastyari, who took money from Chinese donors not for the Labor Party but to trouser it for himself, for his own pocket, to pay his personal debts. You ask the question: how is it that a Labor senator could do something like that? I would suggest to you that it is a lack of moral judgement.

That aside, today the hapless Senator Dastyari—part of the Australian Labor Party leadership group—is in the media yet again in relation to allegedly alerting a Chinese person to the fact that his phone might be bugged. I would invite those listening in to consider not what I say in relation to the very serious nature of this but what the executive director of the Australian Strategic Policy Institute, Peter Jennings, has to say about this. He said, 'The allegation's that an Australian politician'—insert Senator Sam Dastyari, Labor senator for New South Wales—'advised a Chinese national that they were subject to intelligence scrutiny from Australian or allied agencies, and, to me, that's about as serious as it gets.'

This now has to be investigated in a very public way and, from that investigation, we will see what the consequences are. Frankly, the manner in which the conversation was reported to have taken place is enormously concerning. We've got to urgently get to the bottom of this to understand the facts. That is the issue of the day. This is the seriousness of the Australian Labor Party's incapacity to form the government of this country, because in its leadership group it has people such as Senator Sam Dastyari, who is willing to behave in a manner that the executive director of the Australian Strategic Policy Institute, Peter Jennings, has said is a matter of very grave concern. So we know why Labor has moved this motion. It is an attempt to shift the public focus. Clean up your own mess with Senator Dastyari before you seek to throw stones at the government.

Senator O'NEILL (New South Wales) (15:13): The Labor Party doesn't need to advise the Australian people to have the clarity of vision that they have about the disunity that is characteristic of this government—the chaos of this government. There are people sitting here in the chamber today who aren't able to go to the green place because nobody's there. Nobody's there because this government is running from itself. It's eating itself alive, and it didn't want to put on a show in the green house, so it just decided not to show up. Three words: chaos, dysfunction and disunity. Those are the hallmarks of the Turnbull government.

With the Labor Party, we are fighting for the things that Australians need. We are fighting to protect penalty rates for workers. We are fighting to restore funding to schools and ensure funding is needs based, instead of having the \$17 billion cut that this divided government wants to deliver—or has, in fact, delivered. We're fighting to make housing more affordable, fighting to ensure a fairer taxation system and fighting to make sure that young Australians and people who want to retrain don't have to go to university and be saddled with the albatross of a \$100,000 debt around their neck. That is what they're trying to push through this place. That's the kind of government they are, and they don't want people to see it.

While they're doing all of this malicious damage to the nation of Australia and our social fabric, the Turnbull government is entertaining itself with massive internal fights. The disunity has become clearer every single day, and in the past fortnight it's been absolutely clear for the whole of the country to see. Mr Turnbull, the Prime Minister, has completely lost his authority. He's lost the confidence of his party and he has certainly lost the confidence of the Australian people. But you don't need to take my word for it; just look at the Prime Minister's actions, which reveal what's really going on. Everyone else, including even in his own disunified party, was ready to show up, but Mr Turnbull makes a call, a captain's pick of his own kind. Why? Because he is absolutely running scared of his own backroom.

Senator Cameron: He's a jelly-back.

Senator O'NEILL: He is a jelly-back indeed, Senator Cameron—one of your more colourful phrases and well used in this context when we're trying to describe this lily-livered, jelly-back Prime Minister.

This isn't something that's just happening here in the bubble of Canberra, though. The disunity of the Turnbull government is having a real and tangible impact on the lives of Australian men and women. Instead of being here at work debating 53 bills before the lower house, including legislation on a response to the Royal Commission into Institutional Responses to Child Sexual Abuse, the Prime Minister decided not to show up this week, because he is scared of what's going on behind him. He knows that he knifed a first-term sitting prime minister and he knows they're all lining up behind him as he's falling over as we speak. The actions of Mr Turnbull are a clear reflection of the arrogance, of the born-to-rule attitude that we see from this government. What kind of message does this cancelling of parliament send to young children? If you're uncertain, you just run and hide.

This cancelling of the House of Representatives is just one revelation of the state of disunity that so disables this dysfunctional government. It seems like every day we have a new report of a different flavour of disunity. It is like a menu; you can choose your flavour every day of the week. It's the disunity of an MP telling the media he or she is threatening to quit the coalition unless Malcolm Turnbull makes a change or is dumped. Or it's the disunity of the same MP talking to the Australian Conservatives about whether he might jump ship to join Mr Bernardi's party. We know what that sort of discussion does to a government. Or it's the other flavours of disunity: cabinet leaks. There is not just one; you can have that in two flavours. There is the disunity of MPs and senators coming forward, no longer anonymously, actually talking on the public record about how terrible Malcolm Turnbull is as a leader. Just today George Christensen said that Mr Turnbull is having a hands-off approach and is not a true leader. If you've got somebody on your own side describing you as that, you're in big, big trouble.

Mr Turnbull is not fit to govern, and his incapacity is seen by those who are closest to him: those who are sharing the government benches here in the Senate and in the House of Representatives. They know him. They're saying he's not a leader. They're saying he's unfit. They're divided and they are showing all the signs of disunity, of a dysfunctional government, because Malcolm Turnbull is an unfit man to be the Prime Minister. *(Time expired)*

The DEPUTY PRESIDENT: I remind you please to refer to MPs in the other place by their correct titles.

Senator BROCKMAN (Western Australia) (15:18): Before I speak on the substantive issue, I reassure everyone who is in the gallery that you are watching the better house of parliament!

We're talking about leadership. We are talking about leadership of political parties. If the Labor Party, those opposite, want to talk about leadership then they should glance over their shoulder at their colleagues next door to them and at their own leader, because they've got a real failure of leadership in their own ranks. The Fairfax papers reported this morning that one of their Senate leaders, Senator Dastyari:

... warned Chinese Communist Party-linked political donor Huang Xiangmo last year that his phone was likely tapped by government agencies ...

and also that:

Mr Dastyari gave Mr Huang counter-surveillance advice, saying they should leave their phones inside and go outside to speak.

This isn't the first time we have seen conduct of this sort from Senator Dastyari.

Last year, I believe it was, he was demoted to the backbench following, as my colleague Senator Abetz pointed out, his taking of a donation to pay off a travel debt in certainly a way that the Labor Party itself decided was not particularly seemly. Subsequent to that, though, Senator Dastyari was promoted back to a leadership role in the Senate. Once again, we have a significant and grave accusation—yes, it is only an accusation at the moment—against Senator Dastyari. My colleagues opposite, throughout question time, when the Attorney-General was answering questions in this area, continued to interject, 'Tell us what happened.' Well, I'd suggest they ask their colleague. Why don't they just ask Senator Dastyari what happened? Did it happen? Did he talk to the donor, this political donor, in this way? If so, what did he say to him?

I think it's very important when we're talking about leadership that we also consider the leadership of the Leader of the Opposition—someone who has got some significant question marks over issues of donations himself and someone who, as a union leader, traded away the terms and conditions of some of the lowest-paid workers in Australia. I would also focus on leadership in terms of what this government is doing and what this government is achieving. What has this government done? What has this government achieved? This government has delivered strong economic leadership by growing the economy, creating jobs, keeping unemployment low. More than 355,000 Australians are in a job than just 12 months ago. Those jobs are obviously, in the main, from the private sector. Government doesn't create jobs but it certainly enables the private sector to lift people up and to give them the jobs that provide such dignity in our society.

We on this side have delivered a National Energy Guarantee. There is much work to be done but this will, when it is implemented, cut power bills by hundreds of dollars a year and, for the first time, guarantee reliability. We are taking action to put further downward pressure on energy prices. We have delivered the biggest reform to school funding by a Commonwealth government in our nation's history, investing \$37 billion-plus in child care and early learning over four years and we have made changes to the industrial relationship system, bringing back the ABCC to ensure that 300,000 small businesses and one million employees in the construction industry cannot be bullied by the unions. We are keeping Australia safe by ensuring that our law enforcement and security agencies have the powers they need. We have put in place a national gun amnesty that has taken 50,000 firearms out of circulation and off the streets. We have a naval shipbuilding plan. I was very pleased to be part of a significant announcement in Perth and also a significant announcement with the Minister for Defence at the Stirling naval base just a few weeks ago. This government is doing a lot. Leadership is about getting things done, and Prime Minister Turnbull is getting things done. *(Time expired)*

Senator WATT (Queensland) (15:23): I join with many other speakers in really acknowledging that today we probably have seen this parliament at its best. After a long and rancorous debate about the topic of marriage equality in our country, we have seen politicians from all sides of the political spectrum come through and finally deliver what the Australian

people have wanted for a very long time, which is the right for same-sex couples to be married just as that right has applied to heterosexual couples for as long as anyone can remember. Obviously the achievement in moving that legislation to grant same-sex marriage is historic in its own right, but the other thing that was really on display over the course of that debate and that vote was the power that comes from unity. We did have politicians from the Labor side, the Liberal side, the Nationals side and the minor parties. Obviously, not everyone voted that way, but it was one of those rare occasions in this parliament where you do have some level of bipartisan agreement to deliver some really important reform that will benefit many, many people into the future.

In listening to the concluding speech by Senator Smith, the Liberal senator from Western Australia, one of the points I took from it was his comments that he really noted that that spirit of unity and generosity is something that we could see a lot more of in this parliament. It makes you wonder what is possible in that sort of environment, because amazing things really are possible when you have unity in the political process. But, sadly, that sense of unity is something that is in very short supply in this government. Not a day goes by where we don't see backbenchers in this government—in some cases even ministers—making comments which express a lack of confidence in this Prime Minister and a lack of confidence in this government's direction. All in all, they display incredible levels of disunity.

We've had Senator O'Sullivan doing it about banking royal commissions. We've had Senator Macdonald doing interviews yesterday, effectively, saying the Prime Minister's lost the plot and is not resonating with people in northern and central Queensland. There is the unnamed member of parliament who has said that they're going to leave the coalition ranks before the end of the year if the Prime Minister isn't replaced—the list goes on.

In listening to Senator Abetz's contribution, he tried to pass this off as the diversity that is on offer in the government ranks—and I have to say, sitting on this side of the chamber and looking at the government ranks, I can't see a lot of diversity. He says that the disunity we see on a daily basis from government senators and MPs is all about diversity and that we should celebrate diversity. As an observer of this government, both in question time today and each and every day, I can say there don't seem to be a whole lot of celebrations going on over there. People are demoralised and distracted, and that fundamentally gets back to the division and disunity that we see constantly from this government.

This government is truly racked by disunity. It actually doesn't give me any pleasure to watch that. We see government MPs and government senators suffering. You can see the anguish on their faces as they turn up here every day, knowing that they are part of a government that is distracted, lacking unity and purpose. However, I don't really care that much about how government MPs and government senators feel. I don't really mind too much about their anguish, but I care very deeply about the fact that the Australian people are suffering from the lack of unity and division that we see constantly from this government, because it's not as if this country isn't without really significant challenges that they are turning to their government to solve. Unfortunately, this government is so distracted by disunity and division that it is completely unable to focus on the significant challenges facing our country and get on and solve them. The challenges include jobs. We know that right across the country, particularly in regional Queensland, there is a desperate and urgent need for new jobs and a government that has some plans about what we can do to get new jobs.

But, instead, this government is so distracted by its division that it can't even get one project approved for Queensland in its Northern Australia Infrastructure Facility. That is just one example. It's the same on health, on wages growth and on infrastructure. This government is divided.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator PAYNE (New South Wales—Minister for Defence) (15:29): I move:

That the following general business orders of the day be considered on Thursday, 30 November 2017 at the time for private senator's bills: No. 70 Public Governance, Performance and Accountability Amendment (Executive Remuneration) Bill and No. 68 Nuclear Fuel Cycle (Facilitation) Bill 2017.

Question agreed to.

NOTICES

Presentation

Senators Brown, Brockman and Steele-John to move on the next day of sitting:

That the Senate—

(a) notes that 3 December 2017 will mark the 25th International Day of People with Disability, and the United Nations' theme for 2017 International Day of People with Disability is 'Transformation towards sustainable and resilient society for all' – the overarching principle of this theme is to 'Leave no one behind' and to empower people with disability to be active contributors to society;

(b) further notes that people with disability must first have full access to justice, healthcare, infrastructure, education and employment, as outlined in the United Nations 2030 agenda for Sustainable Development Goals; and

(c) calls on Commonwealth, state and territory governments to ensure that people with disability are able to realise their right to participate fully and equally in Australian society as a whole. (general business notice of motion no. 618)

Senator Hinch to move on the next day of sitting:

That the Senate—

(a) congratulates Victoria on the recent passage of voluntary assisted dying legislation;

(b) encourages all Australian states to follow suit; and

(c) calls upon the Federal Government to respect the wishes of the residents of all Australian territories with regards to dying with dignity. (general business notice of motion no. 619)

Senators Rhiannon and Cameron to move on the next day of sitting:

That the Senate—

(a) notes that, according to:

(i) census data, the proportion of renting households in housing stress, whose reference person is aged 65 years or over, has risen from 31.7 per cent in 1996 to 54.2 per cent in 2016,

(ii) the 2017 report Older People at Risk of Homelessness in New South Wales, since 2012, the number of households in housing stress in receipt of Commonwealth Rent Assistance, whose reference person is aged 65 years or over, has increased 53.7 per cent, and

(iii) the Society of St Vincent de Paul, women aged 55 or over make up the fastest growing group of people experiencing homelessness; and

(b) calls on the Federal Government to:

- (i) raise real levels of funding for homelessness services and social housing,
- (ii) work with stakeholders to ensure the specific needs of older people are addressed in National Housing and Homelessness Agreement negotiations with states, and
- (iii) review the Commonwealth Assistance with Care and Housing Sub-Programme to ensure it is meeting the needs of Australia's ageing population. (general business notice of motion no. 620)

Senator Bernardi to move on the next day of sitting:

That the Senate—

- (a) expresses the firm view that at all times senators must act in the Australian national interest and not in the interests of other nations;
- (b) notes potential serious consequences for senators who fail to meet legal requirements to act in that fashion; and
- (c) urges all senators to adhere to this view in their communications and dealings with persons who may be foreign agents or otherwise under the surveillance of Australia's security apparatus. (general business notice of motion no. 621)

Senator O' Neill to move on the next day of sitting:

That the Senate—

(a) notes that:

- (i) the Prime Minister is responsible for the decision to abandon optical fibre and instead deploy a second-rate National Broadband Network (NBN),
- (ii) NBN Co abandoned use of the Optus Hybrid Fibre Coaxial (HFC) infrastructure because it was deemed not fit for purpose,
- (iii) NBN Co has announced the company will immediately halt the HFC rollout because the technology is delivering poor service quality,
- (iv) NBN Co has indicated up to 2 million homes could have their NBN connection delayed by 6 to 9 months because of the mismanagement of the HFC rollout, and
- (v) it is nearly 2018 and the NBN still does not work properly; and

(b) calls on the Minister for Communications to:

- (i) stop attacking the Australian Broadcasting Corporation, and instead focus on making the NBN work, and
- (ii) apologise to the 48 000 households and small businesses in the electorate of Bennelong who are currently scheduled to be served by the unreliable HFC network. (general business notice of motion no. 622)

Senator Singh to move on the next day of sitting:

That the Senate—

(a) notes:

- (i) that this week is National Asbestos Awareness Week,
- (ii) the success of this week's Asbestos Safety and Eradication Summit, which was hosted by the Asbestos Safety and Eradication Agency at Old Parliament House in Canberra, in reviewing what has been achieved in coordinating and implementing the 2014-18 National Strategic Plan and setting the scene for the next phase of asbestos safety and eradication in Australia's next National Strategic Plan, and

(iii) that the Government has not committed to ongoing funding for the Asbestos Safety and Eradication Agency;

(b) further notes:

(i) the ongoing importance of the Parliamentary Friendship Group on Asbestos Related Diseases in raising awareness in Parliament of the asbestos scourge,

(ii) that Australia has one of the highest rates of mesothelioma in the world,

(iii) that as many as 40 000 Australians will be diagnosed with an asbestos-related disease in the next 20 years, and

(iv) that Australians are being exposed to a wide range of imported goods and materials containing asbestos that are not being detected by our customs services, including fibre cement sheets and children's crayons; and

(c) supports:

(i) the 2017 Asbestos Awareness Month national campaign which aims to inform homeowners, renovators, tradespeople and handymen about the dangers of asbestos in and around homes and how to manage it safely, and

(ii) the recommendations in the recent interim report of the Economics References Committee, Protecting Australians from the threat of asbestos, inquiring into the effects of non-conforming building products on the Australian building and construction industry. (general business notice of motion no. 623)

Senator Chisholm to move on the next day of sitting:

That the Senate—

(a) notes that the Prime Minister:

(i) has failed to represent people in northern and regional Queensland,

(ii) has failed to connect with people in northern and regional Queensland and identify with their values, and

(iii) is only concerned with Brisbane and the south-east; and

(b) applauds Senator Macdonald for calling out the Prime Minister's neglect of northern and regional Queensland. (general business notice of motion no. 624)

Senator Cameron to move on the next day of sitting:

That—

(1) On Thursday, 30 November 2017, the following bills shall have precedence over all government business in the following order:

(a) any bill relating to the establishment of a Commission of Inquiry into banking, insurance, superannuation, financial and related services; and

(b) Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Bill 2017.

(2) Until proceedings on the bills listed in paragraph (1) are concluded, the hours of meeting and routine of business for Thursday, 30 November 2017, shall be varied as follows:

(a) the hours of meeting shall be 9.30 am to 8.40 pm;

(b) the routine of business from not later than 4.30 pm shall be general business only;

(c) divisions may take place after 4.30 pm; and

(d) the Senate shall adjourn without debate at 8.40 pm.

(3) In the week commencing Monday, 4 December 2017, the bills listed in paragraph (1) shall have precedence over all government and general business and, until proceedings on the bill are concluded, the hours of meeting and routine of business shall be varied as follows:

(a) proposals under standing order 75 not be proceeded with;

(b) on Tuesday, 5 December 2017:

(i) the hours of meeting shall be 12.30 pm to 11 pm,

(ii) the routine of business from not later than 7.20 pm shall be consideration of the bills listed in paragraph (1) only, and

(iii) the Senate shall adjourn without debate at 11 pm; and

(c) on Thursday, 7 December 2017:

(i) the hours of meeting shall be 9.30 am to adjournment,

(ii) the routine of business from not later than 4.30 pm shall be consideration of the bills only,

(iii) divisions may take place after 4.30 pm, and

(iv) the Senate shall adjourn without debate after proceedings on the bills are concluded. (general business notice of motion no. 625)

Senators Fierravanti-Wells, Moore, Smith and Singh to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 1 December 2017 is World AIDS Day, which is held every year to raise awareness about the issues surrounding HIV/AIDS, and to show support for people living with HIV,

(ii) while significant advancements in treatment and diagnosis have been made over the past 30 years, HIV/AIDS remains a major health concern worldwide and in our region,

(iii) the most recent data shows that:

(A) in 2016, 36.7 million people were living with HIV globally, and 1.8 million people became newly infected,

(B) in 2016, in the Asia-Pacific, 5.1 million people were living with HIV, the largest population outside Africa, and 270 000 people became newly infected, representing 15 per cent of all new infections, and

(C) our nearest neighbour, Papua New Guinea (PNG), has high rates of HIV infection – UNAIDS estimates there are 46 000 people living with HIV in PNG, including 3,000 children under the age of 14,

(iv) HIV infection rates are highest among certain populations, including sex workers, people who inject drugs, transgender people, prisoners, and men who have sex with men – the discrimination and stigma faced by these populations often prohibit them from accessing HIV prevention and treatment services,

(v) Australia is one of the few countries that advocates for HIV treatment and prevention and rights for these populations,

(vi) Australia also plays an important role in the fight against HIV in the Asia-Pacific and is committed to the 90-90-90 treatment targets and the Sustainable Development Goal (SDG) target 3.3 to end the HIV epidemic by 2030, and

(vii) globally, 11 million people living with HIV receive anti-retro viral therapy treatment through Global Fund supported programs, comprising more than half the total number of people on treatment worldwide; and

(b) recognises that:

(i) Australia has a long bipartisan history of supporting the fight against HIV in our Indo-Pacific region – over the past decade successive Australian Governments have provided over one billion dollars to support HIV-specific programs through the aid program,

(ii) access to quality health care services for HIV treatment is a challenge in PNG, where budget, population growth, urbanisation, and remoteness constrain service delivery,

(iii) Australia is committed to strengthening PNG's HIV prevention and treatment activities and has invested in HIV interventions working to reduce sexually transmitted infections and HIV, and increase access to HIV prevention and treatment,

(iv) Australia recognises the commitment and engagement of local PNG community organisations and their supporters who have worked on HIV education and service delivery in the region for many years,

(v) Australia benefits from our support to PNG health because a healthy, prosperous region is in Australia's interest,

(vi) Australia recognises that good health and strong and resilient health systems support productive societies and economic growth, and

(vii) Sustainable Development Goal (SDG) 3, healthy lives and wellbeing for all, includes target 3.3, to end the HIV epidemic by 2030 – to achieve this target we need to continue our strong support for action against HIV in our region. (general business notice of motion no. 626)

Senator Wong to move on the next day of sitting:

That the Senate—

(a) recognises that:

(i) lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people face discrimination on the basis of their sexual orientation and identity,

(ii) LGBTIQ people everywhere deserve to live in safe and inclusive societies, and

(iii) Australian society embraces diversity, ensuring that LGBTIQ people are safe, valued and respected;

(b) notes:

(i) that Australian Governments of both persuasions have sought to promote and protect lesbian, gay, bisexual, transgender, intersex, and queer human rights in Australia and internationally, and

(ii) the ongoing and urgent challenges facing the protection of LGBTIQ human rights; and

(c) urges all parliamentarians to unreservedly commit to protecting the rights of LGBTIQ people and communities globally. (general business notice of motion no. 627)

Leave of Absence

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (15:30): by leave—I move:

That leave of absence be granted to Senators Gallacher, Dastyari, Farrell and Sterle for today, 29 November, for personal reasons.

Question agreed to.

Withdrawal

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (15:30): by leave—I give notice of my intention at the giving of notices on the next sitting day to withdraw business of the Senate notice of motion No. 1 standing in my name for 7 December

2017 proposing the disallowance of the Private Health Insurance (Benefit Requirements) Amendments Rules 2017.

COMMITTEES

Scrutiny of Bills Committee

Documents

Senator POLLEY (Tasmania) (15:31): I move:

That—

(a) the Senate adopt the recommendation at paragraph 4.10 of Scrutiny Digest 13 of 2017 of the Standing Committee for the Scrutiny of Bills, proposing an amendment to standing order 24; and

(b) the temporary order of the Senate of 29 November 2016, concerning an amendment to standing order 24, cease to have effect.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator POLLEY: Last year, the Senate agreed to temporarily amend the standing orders to allow any senator to ask a minister why a response had not been provided in time for the Scrutiny of Bills Committee. Since this came into effect this year, the committee has noticed a significant improvement in the timeliness of responses. The temporary order is due to expire in March 2018. This motion seeks to make these changes apply on an ongoing basis. The committee's view is that the temporary order has significantly assisted it in its scrutiny work and that the standing orders should be amended on an ongoing basis. I urge all senators to adopt this recommendation.

Question agreed to.

MOTIONS

Australian Information Commissioner

Senator PATRICK (South Australia) (15:32): I move:

That the Senate—

(a) notes that:

(i) the Australian Information Commissioner Act 2010 (AIC Act) establishes three independent statutory office holders:

(A) the Information Commissioner,

(B) the Freedom of Information (FOI) Commissioner, and

(C) the Privacy Commissioner,

(ii) paragraphs 11(5) (a) and (b) and paragraphs 12(5) (a) and (b) of the AIC Act describe the independence of each Commissioner,

(iii) in the six months following the Royal Assent to the AIC Act, three commissioners were appointed to the three office holder's positions,

(iv) since the unsuccessful attempt by the Abbott Government to abolish the Office of the Australian Information Commissioner, two commissioners have left office and have not been replaced,

(v) currently Mr Timothy Pilgrim fills the statutory position of the Information Commissioner and Privacy Commissioner, and the position of FOI Commissioner is vacant on account of Mr Pilgrim not holding the legal qualifications required in section 14 of the AIC Act, and

(vi) the AIC Act requires the appointment of three independent statutory office holders and the Government is constitutionally bound to maintain and execute the laws of the land and uphold the will of the Parliament; and

(b) calls on the Government to immediately commence the process of appointing an independent Privacy Commissioner and an independent FOI Commissioner, in accordance with the AIC Act.

Notice given 28 November 2017

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator PATRICK: It is clear from the law reports that served as the genesis to the Australian Information Commissioner Act, the explanatory memorandum, the minister's second reading speech and the act itself that there are supposed to be three independent commissioners in the Office of the Australian Information Commissioner. It is the will of the parliament. The Constitution requires the government to give effect to the laws of the land. It's not for the government to choose which laws it will and will not give effect to.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:33): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The government does not support the motion. Contrary to paragraph (a)(vi) of the motion, the Australian Information Commissioner Act 2010 does not require the appointment of three people to fill the three statutory offices under the act. The Australian Information Commissioner, Mr Timothy Pilgrim PSM, can and does perform the functions of the FOI Commissioner. As Mr Pilgrim himself said in Senate estimates on 28 February this year:

The advice I gave government was that I had believed that the role could be done by one person. The appointment of a further statutory office holder would be an unnecessary drain on the office of the Australian Information Commissioner's resources.

Senator CHISHOLM (Queensland) (15:34): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CHISHOLM: Labor supports transparency in government. Labor established the Office of the Australian Information Commissioner and signed Australia up to the open government partnership. In contrast, those opposite, in their appalling first budget, cut off funding to the OAIC beyond the end of that year but they failed to get crossbench support to abolish the office.

In government, Labor introduced reforms to strengthen Commonwealth freedom of information laws. In contrast, the record of those opposite on FOI has been reprehensible, as demonstrated by Senator Brandis's desperate attempts over three years to circumvent FOI law in order to keep his diary secret. If Senator Brandis had any respect for laws that he is supposed to oversee or the principles of transparency and accountability, the OAIC would be properly resourced and this motion would not be necessary.

Question agreed to.

85th Anniversary of Holodomor

Senator BILYK (Tasmania) (15:35): I, and also on behalf of Senator Bernardi, move:

That the Senate—

(a) notes that commemorations are underway for the eighty-fifth anniversary of Holodomor, to mark an enforced famine in Ukraine caused by the deliberate actions of Stalin's Communist Government of the Union of Soviet Socialist Republics (USSR);

(b) recalls that it is estimated that up to seven million Ukrainians starved to death, as a result of Stalin's policies in 1932 to 1933 alone;

(c) condemns these acts aimed at destroying the national, cultural, religious and democratic aspirations of the Ukrainian people;

(d) condemns all similar acts during the twentieth century as the ultimate manifestations of racial, ethnic or religious hatred and violence;

(e) honours the memory of those who lost their lives during Holodomor;

(f) joins the Ukrainian Australian community and the international community in commemorating this tragic milestone under the motto, Ukraine Remembers - The World Acknowledges;

(g) recognises the importance of remembering and learning from such dark chapters in human history to ensure that such crimes against humanity are not allowed to be repeated; and

(h) pays its respects to the Australian Ukrainians who lived through this tragedy and have told their horrific stories.

Question agreed to.

Egypt: al Rawdah Mosque

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (15:36): At the request of Senator Singh, I move:

That the Senate—

(a) condemns the appalling and cowardly attack on worshippers in the al Rawdah Mosque in Egypt's Northern Sinai region;

(b) extends its sympathy and support to the families of the 305 victims, including 27 children, who were killed in the attack while they were attending prayers, the 128 people who were wounded, and the Egyptian people; and

(c) stands with all people of goodwill in complete rejection of those who try to use terror and violence to destroy peace.

Question agreed to.

Mental Health Services Funding: LGBTIQ Community

Senator RICE (Victoria) (15:36): I, and also on behalf of Senator Siewert, move:

That the Senate—

(a) notes:

(i) that the vast majority of Australians voted for marriage equality in the recent postal survey,

(ii) that the postal survey had a negative impact on the mental health of many LGBTIQ Australians and their families, demonstrated by examples such as Reachout which saw a 40 per cent, and Switchboard which saw a 35 per cent, increase in people accessing their services between August and October 2017,

(iii) that 40 per cent of young LGBTIQ people seeking help are at a higher risk of suicide – almost double the rate for their heterosexual peers,

(iv) that many LGBTIQ people will remain scarred by the traumatic ordeal the Government has put them through by putting their rights to a public popular vote,

(v) the urgent need to address this issue and offer support to the LGBTIQ community, and

(vi) that the marriage equality postal survey came in approximately \$20 million under budget; and

(b) calls on the Federal Government to show leadership and spend this unspent postal survey funding on mental health services for LGBTIQ people.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:37): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: As stated by the Australian Bureau of Statistics in its media release of 15 November 2017, the final cost of the postal survey is yet to be determined but it is under \$100 million. The appropriation allocated to the ABS through the Advance to the Finance Minister Determination (No. 1 of 2017-18) was for the specific purpose of a conduct of the Australian marriage law postal survey. Any surplus funds will be returned to the budget.

The coalition government has made mental health a priority and it is expected that we will be investing over \$4.2 billion in 2017-18. Included within this investment is an additional \$47 million for suicide prevention and continuing support services.

Senator CHISHOLM (Queensland) (15:38): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CHISHOLM: The opposition will support this motion today. The fact is that there has been an increase in demand for mental health services over the past month as a result of the postal survey. In August it was reported that beyondblue registered a 40 per cent increase in call volume following the announcement of the postal survey. LGBTQ phone counselling service QLife has also recorded a more than 20 per cent increase in the number of calls since the postal survey was announced.

We know the mental health of LGBTQ people is of concern, with lesbian, gay and bisexual Australians twice as likely to have a high to very high level of psychological stress as their heterosexual peers. Australia's leading mental health experts were so concerned about the impact of the postal survey on LGBTQ Australians that they launched their own campaign, Mind The Facts. Opposition Leader Bill Shorten wrote to the Prime Minister, Malcolm Turnbull, because he too was concerned about the impact this postal survey would have on the LGBTQ community. It is also clear that they never wanted a public debate— (*Time expired*)

Question agreed to.

Sexual Harassment

Senator HANSON-YOUNG (South Australia) (15:39): I have an amendment that I wish to make to this motion. Could I seek leave to do that, at the request of the opposition?

The PRESIDENT: Is leave granted?

Honourable senators interjecting—

Senator HANSON-YOUNG: I tried to circulate it and I was told I had to do it on the floor.

Honourable senators interjecting—

Senator HANSON-YOUNG: Yes, I'll read it out to you.

The PRESIDENT: Leave is granted to read out the amendment rather than to necessarily move it, Senator Hanson-Young.

Senator HANSON-YOUNG: Thank you. It's just a change to point (a). I will just read it. It says: 'Calls on broadcasters and independent production companies to outline what steps they have taken, and what steps they will take, to stamp out the insidious culture of enabling sexual harassers, abusers and misogynistic bullies in their industry by not making a stand or holding perpetrators accountable, highlighted by the horrific accounts that have come to light this week.' Then, in point (c), it inserts the words 'independent production companies' and 'calls on all broadcasters and independent production companies to commit to ending the culture of sexual harassment and assault in the workplace. I would like to add Senator Moore's name to the motion, as well.

The PRESIDENT: Can I just clarify? You referred to paragraph (a), Senator Hanson-Young. Have you removed that? That appeared to be an amendment to paragraph (b).

Senator HANSON-YOUNG: Sorry. Yes, that's correct.

The PRESIDENT: So paragraph (a) is removed in motion 615 and paragraph (b) is amended in the terms you just read out.

Senator HANSON-YOUNG: No, it's because 'the Senate notes' has been formatted in a more correct way, so it's just a preamble. That was originally paragraph (a). It then goes (a), (b), (c), (d), (e).

The PRESIDENT: So it gets re-numbered from (b) to be paragraph (a) and amended in the terms—

Senator HANSON-YOUNG: Perfect. Thank you, Mr President.

The PRESIDENT: Leave was granted to read it out. I will call Senator Bernardi on the matter of the amendment.

Senator BERNARDI (South Australia) (15:41): It seems a little complicated to just do it on the voices. I would request if, perhaps, we could come back to it after it has been circulated in the chamber so that I could consider it.

The PRESIDENT: In that case, I will come back to this, given that the alternative would be that leave may not be granted.

People for the Ethical Treatment of Animals

Senator BERNARDI (South Australia) (15:42): I move:

That the Senate—

(a) notes the latest publicity stunt from People for the Ethical Treatment of Animals, also known as PETA, who have called for taxpayers to build a memorial to 6,000 chickens killed in a truck crash near Lismore, New South Wales on 27 November 2017;

(b) further notes PETA's history of stunts and attacks on Australia's livestock farming, meat manufacturing, meat retail, hunting and racing sectors, putting regional jobs and economies at risk; and

(c) calls upon the Commonwealth Government and all state and territory governments to resist all attempts by PETA to:

- (i) further jeopardise Australia's economy and way of life, and
- (ii) make demands upon Australian taxpayers.

Question agreed to.

Tesla

Senator BERNARDI (South Australia) (15:42): I move:

That the Senate—

(a) notes claims, published in Newsweek on 26 November 2017, that Tesla, a US-listed company with Mr Elon Musk as its CEO, has sacked 700 workers and stands accused of "trying to force them to avoid criticizing the company and its famous CEO", and that "the mass firings targeted pro-union, LGBT and black employees";

(b) further notes claims, published in Fortune magazine on 1 November 2017, noting that "United Auto Workers filed a complaint against Tesla on 25 October 2017, claiming the company fired workers who were trying to unionize";

(c) observes that the South Australian Premier (Mr Weatherill) has indicated he plans to travel to Jamestown, South Australia, this week to celebrate switching on Mr Musk's Tesla-provided battery before 1 December 2017; and

(d) calls upon the Commonwealth and all state and territory governments to cease any involvement with Mr Musk and his companies until the claims of targeting union members, LGBT and African-American employees are resolved.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:42): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: This motion concerns a commercial decision by a private company in the United States. Arrangements between the South Australian government and that company are a matter for them. This motion makes a number of assertions which, in the absence of all the facts, would be inappropriate for the government to comment on.

Senator CHISHOLM (Queensland) (15:43): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CHISHOLM: Labor opposes this motion, which, at its heart, is just a sad stunt. We do not accept that Senator Bernardi has any genuine concern for workers or for their rights to unionise. That position is supported by the evidence of his many votes in this place for legislation designed to attack workers' rights. If Senator Bernardi had any genuine concern for workers he would have voted against the Turnbull government's politicised, scandal-ridden, anti-worker, anti-union legislation. He would have voted against establishing the Australian Building and Construction Commission. He would have voted against the Registered Organisations Commission. And he would commit now to voting against the Liberals' other anti-worker, anti-union bills which will come before the Senate, instead of moving motions that mirror the Liberal-Nationals anti-renewables ideology. We oppose this motion.

Senator BERNARDI (South Australia) (15:44): I seek leave to make a brief statement.

The PRESIDENT: Leave is granted for one minute.

Senator BERNARDI: I thank Senator Chisholm for his contribution, which was, obviously, written for him. The motion is merely as it is—that it's inappropriate for government to do deals with companies that are accused of targeting workers based on their union affiliation, their sexuality or the colour of their skin. That is the allegation here. It's quite clear. If you want to support people being discriminated against because of their sexuality, the colour of their skin and their unions, you can vote against this. But I think this is a very important motion for you to support.

Question negatived.

Sexual Harassment

Senator HANSON-YOUNG (South Australia) (15:45): I seek leave to amend general business notice of motion No. 615 standing in my name, and in the name of Senator Moore.

Leave granted.

Senator HANSON-YOUNG: I, and also on behalf of Senator Moore, move the motion as amended:

That the Senate notes the growing public and industry concern relating to the allegations of sexism, sexual harassment and assault within the Australian media and arts industry following the Harvey Weinstein scandals in Hollywood, and;

(a) Calls on broadcasters and independent production companies to outline what steps they have taken and what steps they will take to stamp out the insidious culture of enabling sexual harassers, abusers and misogynistic bullies in their industry by not making a stand or holding perpetrators accountable, highlighted by the horrific accounts come to light this week;

(b) Asks broadcasters and independent production companies to consider the corporate reputational damage for inaction on sexual harassment in the workplace;

(c) Calls on all broadcasters and independent production companies to commit to ending the culture of sexual harassment and assault in the workplace;

(d) Acknowledges the brave people, mostly women, who were victim to despicable behaviour from their colleagues and superiors; and

(e) Encourages diversity and inclusion across race, gender, sexuality, ability and region in broadcasting in an effort to foster respectful and considerate workplaces.

Question agreed to.

Australian Broadcasting Corporation

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:46): I, and also on behalf of Senator Hanson-Young, move:

That the Senate—

(a) notes Triple J's decision to move its iconic Hottest 100 from 26 January to the fourth weekend in January;

(b) acknowledges the consultation process undertaken, in which almost 65 000 people participated in a questionnaire about the Hottest 100 date, with 60 per cent in favour of moving the date;

(c) notes the Triple J Hottest 100 debuted on 5 March 1989;

(d) reminds the Minister for the Arts and the Minister for Communications (Senator Fifield), of the importance of the independence of the ABC, and calls on him not to interfere with decisions of the broadcaster; and

(e) urges other organisations and community groups to consult their communities about celebrations and events held on 26 January.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:46): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The coalition government does not support this motion. The overwhelming majority of Australians support our national day, Australia Day, being held on 26 January. The ABC should respect this fact. Minister Fifield has not sought to interfere with the decisions of the broadcaster. He has expressed a view about this decision, making clear that the government does not support it, and called on the ABC to reconsider it. All Australians fund the ABC with their taxes, and all Australians are entitled to express a view about the ABC. The Greens' ongoing efforts to delegitimise Australia Day are shameful and should be strongly resisted.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:46): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator SIEWERT: It just shows how out of touch this government is. Triple J held a consultation process; they held a survey. They actually asked their listeners, who overwhelmingly said, 'We want to hear Australia's top 100—the best 100—on a day that is not 26 January'. They said very clearly that they don't want it associated with a day that causes grief and mourning to Australia's first peoples—a day that, from the very start, Aboriginal and Torres Strait Islander people have articulated their opposition to. The government also conveniently forgets that the Hottest 100 didn't start on Australia Day, so there's no 'history' there that they are defending. They are simply on the wrong side of history. The date will change. *(Time expired)*

The PRESIDENT: The question is that motion No. 613, standing in the names of Senators Siewert and Hanson-Young, be agreed to.

The Senate divided. [15:52]

(The President—Senator Ryan)

Ayes9
Noes37
Majority.....28

AYES

Bartlett, AJJ
Hanson-Young, SC
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

Di Natale, R
McKim, NJ
Rice, J
Steele-John, J

NOES

Bernardi, C
Brown, CL
Bushby, DC

Brockman, S
Burston, B
Cameron, DN

NOES

Canavan, MJ
 Collins, JMA
 Fierravanti-Wells, C
 Georgiou, P
 Hinch, D
 Ketter, CR
 Lines, S
 McGrath, J
 Moore, CM
 Paterson, J
 Payne, MA
 Pratt, LC
 Ruston, A
 Seselja, Z
 Urquhart, AE (teller)
 Williams, JR

Chisholm, A
 Duniam, J
 Fifield, MP
 Griff, S
 Hume, J
 Kitching, K
 McCarthy, M
 McKenzie, B
 O'Neill, DM
 Patrick, RL
 Polley, H
 Reynolds, L
 Ryan, SM
 Smith, D
 Watt, M

Question negatived.

Animal Welfare

Senator HINCH (Victoria) (15:55): I, and also on behalf of Senators Singh and Rhiannon, move:

That the Senate—

(a) notes that:

(i) 7.30 recently aired footage of hens having their feet torn off and being boiled alive at the Star Poultry Supply slaughterhouse in the suburb of Keysborough, Victoria, in early 2017,

(ii) this footage was secretly recorded by animal rights campaigners, and showed practices which regulator PrimeSafe had failed to identify in regular audits, and

(iii) a number of cases of cruelty to animals in Australian abattoirs have been identified in Australia through covert recording;

(b) acknowledges that:

(i) this year, both the United Kingdom and France have adopted policies to implement CCTV in all abattoirs to deter animal cruelty in abattoirs and support regulators to audit effectively,

(ii) New South Wales (NSW) has mandated the appointment of animal welfare officers in all abattoirs to lift the standard of care for animals, and

(iii) all Australian consumers have an interest in animal welfare, and are entitled to feel confident that meat and poultry on Australian supermarket shelves has not arrived there by way of torture and abuse; and

(c) calls on the Government to:

(i) urgently advocate for CCTV use in all abattoirs at the next Agricultural Ministers' meeting and at the Council of Australian Governments,

(ii) urgently advocate for the national adoption of NSW's policy of appointing animal welfare officers in all Australian abattoirs,

(iii) strengthen the proposed draft Australian Animal Welfare Standards and Guidelines for Poultry to safeguard poultry welfare at abattoirs and on-farm, and

(iv) strongly encourage state governments to respond to evidence of animal cruelty with strong sanctions and prosecution.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:55): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: Australia maintains world-class animal welfare standards. The public can be proud of the high standards of animal husbandry practised by our farmers. Meat processing facilities are required to comply with Australia's animal welfare laws. Meat processors operate in a highly competitive market and are sensitive to the costs that red tape and regulatory burdens have on business viability. State and territory governments are the responsible jurisdictions for animal welfare standards.

The motion presupposes a public consultation period on new and updated draft animal welfare standards and guidelines for poultry. Animal Health Australia is seeking public submissions on the guidelines between 27 November 2017 and 26 February 2018. State and territory agricultural ministers will consider the draft guidelines in light of public submissions.

Question negated.

Medicare

Senator WATT (Queensland) (15:57): I move:

That the Senate—

(a) notes that:

(i) figures released by the Department of Health this week show that people living in regional Australia are less likely to be bulk-billed for a GP visit, compared with those living in metropolitan cities,

(ii) people living in regional Australia pay more to access a GP, and that their out-of-pocket costs have increased since the 2016 election,

(iii) people living in regional Australia are around 20 per cent more likely to skip or delay seeing a GP because of the cost,

(iv) electorates held by The Nationals have some of the lowest bulk-billing rates in the country, including the electorates of Page ranked 104th, Flynn ranked 111th, Capricornia ranked 112th, and Dawson ranked 115th,

(v) more than 550 000 Australians living in electorates held by The Nationals will pay more tax under The Nationals' plan to unfairly increase the Medicare levy on low-income earners,

(vi) the Government is yet to lift any part of their Medicare freeze – rebates for GPs, specialists and allied health services all remain frozen, and

(vii) the Government's freeze is doing \$2.2 billion in damage to Medicare – a cut to the pockets of patients every time they visit a GP, every time they visit a specialist, and every time they receive a Medicare allied health service;

(b) calls on the Government to guarantee:

(i) immediate and annual indexation of Medicare rebates that have been frozen by this Government,

(ii) proper Commonwealth investment in public hospitals, so that all Australians can access acute care without financial or other barriers, and

(iii) that savings from the Medicare Benefits Schedule Review and agreements with stakeholders will be reinvested in Medicare, and not used as an excuse for further cuts; and

(c) condemns the Government for neglecting vital Medicare services in rural and regional Australia.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:57): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The coalition government has just announced record high bulk-billing rates, at 85.9 per cent, up from 82.2 per cent in 2012-13. We have compacts with the Royal Australian College of General Practitioners and the Australian Medical Association to restore indexation, investing \$1 billion from 1 July 2017. The coalition government is delivering record investment in Medicare, rising from \$23 billion in 2017-18 to \$28 billion in 2020-21, up from \$19 billion in 2012-13 under Labor. Commonwealth funding for state and territory hospitals is also at record levels. In the regions, bulk-billing rates continue to grow, year on year. We have recently appointed Australia's first National Rural Health Commissioner and announced additional support for rural telehealth services.

The PRESIDENT: The question is that motion No. 609 standing in the name of Senator Watt be agreed to.

The Senate divided. [16:02]

(The President—Senator Ryan)

Ayes31
Noes23
Majority.....8

AYES

Bartlett, AJJ
Brown, CL
Cameron, DN
Chisholm, A
Di Natale, R
Griff, S
Ketter, CR
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Pratt, LC
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

Bilyk, CL
Burstons, B
Carr, KJ
Collins, JMA
Georgiou, P
Hanson-Young, SC
Kitching, K
McAllister, J
McKim, NJ
O'Neill, DM
Polley, H
Rhiannon, L
Siewert, R
Steele-John, J
Watt, M

NOES

Abetz, E
Brockman, S
Canavan, MJ
Duniam, J
Fierravanti-Wells, C

Bernardi, C
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP

NOES

Hinch, D
Leyonhjelm, DE
McGrath, J
O'Sullivan, B
Payne, MA
Ruston, A
Williams, JR

Hume, J
Macdonald, ID
McKenzie, B
Paterson, J
Reynolds, L
Ryan, SM

PAIRS

Dastyari, S
Gallagher, AM
Gallagher, KR
Marshall, GM
Sterle, G
Wong, P

Seselja, Z
Scullion, NG
Cormann, M
Sinodinos, A
Birmingham, SJ
Brandis, GH

Senator Dodson did not vote, to compensate for the vacancy caused by the resignation of Senator Parry

Senator Farrell did not vote, to compensate for the vacancy caused by the resignation of Senator Nash

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

Question agreed to.

Senator HINCH (Victoria) (16:04): by leave—I move that general business notice of motion No. 604 be recommitted.

The PRESIDENT: The question is that motion No. 604 be agreed to.

The Senate divided. [16:06]

(The President—Senator Ryan)

Ayes32
Noes22
Majority.....10

AYES

Bartlett, AJJ
Brown, CL
Cameron, DN
Chisholm, A
Di Natale, R
Griff, S
Hinch, D
Kitching, K
McAllister, J
McKim, NJ
O'Neill, DM
Polley, H
Rhiannon, L
Siewert, R

Bilyk, CL
Burston, B
Carr, KJ
Collins, JMA
Georgiou, P
Hanson-Young, SC
Ketter, CR
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Pratt, LC
Rice, J
Singh, LM

AYES

Steele-John, J
Watt, M

Urquhart, AE (teller)
Whish-Wilson, PS

NOES

Abetz, E
Brockman, S
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Hume, J
Macdonald, ID
McKenzie, B
Paterson, J
Reynolds, L
Ryan, SM

Bernardi, C
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Leyonhjelm, DE
McGrath, J
O'Sullivan, B
Payne, MA
Ruston, A
Williams, JR

PAIRS

Dastyari, S
Gallagher, AM
Gallagher, KR
Marshall, GM
Sterle, G
Wong, P

Seselja, Z
Scullion, NG
Cormann, M
Sinodinos, A
Birmingham, SJ
Brandis, GH

Senator Dodson did not vote, to compensate for the vacancy caused by the resignation of Senator Parry

Senator Farrell did not vote, to compensate for the vacancy caused by the resignation of Senator Nash

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

Question agreed to.

DOCUMENTS

Department of Human Services

Order for the Production of Documents

Senator DI NATALE (Victoria—Leader of the Australian Greens) (16:08): I move:

That the Senate—

(1) notes that:

(a) on 3 July 2017, The Guardian Australia broke the story that private Medicare numbers were being illegally sold on the dark web,

(b) the Minister for Human Services stated that both he and his department had only been made aware of the breach when The Guardian contacted them on 3 July 2017,

(c) on 15 September 2017, the Finance and Public Administration References Committee questioned the Department of Human Services during the inquiry into this breach, at which time the department failed to mention any early knowledge about the breach, and

(d) on 21 November 2017, it was revealed by The New Daily that heavily redacted FOI documents show that officers of the Department of Human Services were aware of the breach 11 days prior to The Guardian story's publication; and

(2) orders that there be laid on the table by the Minister representing the Minister for Human Services, by no later than 6.30 pm on 4 December 2017:

(a) any advice provided to the Minister by the Department of Human Services relating to the breach, prior to 3 July 2017,

(b) any documents relating to the breach from the Department of Human Services, prior to 3 July 2017, and

(c) any related documents.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (16:08): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The Department of Human Services has stated on the public record that it was not aware prior to 3 July of the particular case reported by *The Guardian*. The Minister for Human Services has also confirmed that he was not aware prior to 3 July of the particular case reported by *The Guardian*. On receiving the allegation, the department advised the minister and referred it to the Australian Federal Police. The government has responded swiftly, with the independent review of health providers' access to Medicare numbers returning 14 recommendations which have in-principle support. The AFP investigation remains ongoing.

The PRESIDENT: The question is that motion 610 be agreed to.

The Senate divided. [16:10]

(The President—Senator Ryan

Ayes31
Noes22
Majority.....9

AYES

Bartlett, AJJ
Brown, CL
Carr, KJ
Collins, JMA
Griff, S
Hinch, D
Kitching, K
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Pratt, LC
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

Bilyk, CL
Cameron, DN
Chisholm, A
Di Natale, R
Hanson-Young, SC
Ketter, CR
Leyonhjelm, DE
McAllister, J
McKim, NJ
O'Neill, DM
Polley, H
Rhiannon, L
Siewert, R
Steele-John, J
Watt, M

NOES

Abetz, E
Burston, B
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Georgiou, P
Macdonald, ID
McKenzie, B
Paterson, J
Reynolds, L
Ryan, SM

Brockman, S
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Hume, J
McGrath, J
O'Sullivan, B
Payne, MA
Ruston, A
Williams, JR

PAIRS

Dastyari, S
Gallacher, AM
Gallagher, KR
Marshall, GM
Sterle, G
Wong, P

Seselja, Z
Scullion, NG
Cormann, M
Sinodinos, A
Birmingham, SJ
Brandis, GH

Senator Dodson did not vote, to compensate for the vacancy caused by the resignation of Senator Parry.

Senator Farrell did not vote, to compensate for the vacancy caused by the resignation of Senator Nash.

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

Question agreed to.

MOTIONS

Asylum Seekers

Senator McKIM (Tasmania) (16:12): I seek leave to amend general business notice of motion No. 612 standing in my name for today relating to New Zealand's offer to settle 150 refugees.

Leave granted.

Senator McKIM: I move the motion as amended:

(1) That the Senate:

(a) notes that:

(i) the New Zealand Prime Minister, the Right Honourable Jacinda Ardern, has continued to pressure Australia to accept New Zealand's offer to resettle 150 refugees who are currently in offshore detention,

(ii) New Zealand will begin work to expedite processing refugees if, and when, the offer is accepted, and

(iii) Prime Minister Ardern stated "We made the offer because we saw a great need. No matter what label you put on it there is absolute need and there is harm being done"; and

(b) calls on the Government to accept New Zealand's offer to resettle 150 refugees and negotiate conditions similar to the United States refugee resettlement agreement.

(2) That a message be sent to the House of Representatives seeking its concurrence in this resolution.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (16:13): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The coalition government is committed to the strong and consistent border protection measures that have stopped the boats and prevented deaths at sea. The government's position has not changed. Any resettlement of refugees in New Zealand would have serious implications for Operation Sovereign Borders. The government will not be dictated to by the Greens on border security. We have seen the tragic consequences of Labor-Greens border policy in the past. Labor-Greens mistakes saw 1,200 men, women and children drown at sea and 8,000 children placed into detention. We will never allow this to happen again.

The PRESIDENT: The question is that motion No. 612, as amended, be agreed to.

The Senate divided. [16:14]

(The President—Senator Ryan)

Ayes29
Noes24
Majority.....5

AYES

Bartlett, AJJ
Brown, CL
Carr, KJ
Collins, JMA
Griff, S
Ketter, CR
Lines, S
McCarthy, M
Moore, CM
Patrick, RL
Pratt, LC
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

Bilyk, CL
Cameron, DN
Chisholm, A
Di Natale, R
Hanson-Young, SC
Kitching, K
McAllister, J
McKim, NJ
O'Neill, DM
Polley, H
Rhiannon, L
Siewert, R
Steele-John, J
Watt, M

NOES

Abetz, E
Burston, B
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Georgiou, P
Hume, J
Macdonald, ID
McKenzie, B

Brockman, S
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Hinch, D
Leyonhjelm, DE
McGrath, J
O'Sullivan, B

NOES

Paterson, J
Reynolds, L
Ryan, SM

Payne, MA
Ruston, A
Williams, JR

PAIRS

Birmingham, SJ
Brandis, GH
Cormann, M
Gallacher, AM
Marshall, GM
Seselja, Z

Sterle, G
Wong, P
Gallagher, KR
Scullion, NG
Sinodinos, A
Dastyari, S

Senator Dodson did not vote, to compensate for the vacancy caused by the resignation of Senator Parry.

Senator Farrell did not vote, to compensate for the vacancy caused by the resignation of Senator Nash.

Senator Sterle did not vote to compensate for the resignation caused by the vacancy of Senator Xenophon.

Question agreed to.

Australian Broadcasting Corporation

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (16:17): I, and also on behalf of Senators Macdonald, McKenzie, Seselja, Williams, McGrath, Paterson, Duniam, Reynolds, Fifield, Abetz, Bushby and Brockman, move:

(1) That the Senate:

(a) notes that Australia Day is on 26 January and should remain so; and

(b) recognises that Triple J's Hottest 100 has become an iconic event since it was first proposed during Australia's bicentennial year in 1988.

(2) The Australian Broadcasting Corporation (ABC) Charter states a function of the Corporation is to broadcast programs that contribute to a sense of national identity.

(3) The ABC should restore the Hottest 100 to Australia Day, 26 January.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (16:17): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGRATH: The coalition government strongly supports Australia Day being held on 26 January, as do the overwhelming majority of Australians. The coalition government will never change the date of Australia Day, period. Australia Day, our national day, is a day to celebrate our nation's values and achievements. It is a day of reflection and relaxation with our families, friends and loved ones and is not to become a lefty, green political football. Millions of Australians from all walks of life vote for the Hottest 100. The ABC should stop wasting taxpayers' money on political agendas, uphold its charter and support Australian values.

The PRESIDENT: The question is that motion No. 614, standing in the names of Senators Canavan, Macdonald, McKenzie, Seselja, Williams, McGrath, Paterson, Duniam, Reynolds, Fifield, Abetz, Bushby and Brockman, be agreed to.

The Senate divided. [16:19]

(The President—Senator Ryan)

Ayes26
Noes27
Majority.....1

AYES

Abetz, E
Brockman, S
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Griff, S
Macdonald, ID
McKenzie, B
Paterson, J
Payne, MA
Ruston, A
Smith, D

Bernardi, C
Burston, B
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Georgiou, P
Hume, J
McGrath, J
O'Sullivan, B
Patrick, RL
Reynolds, L
Ryan, SM
Williams, JR

NOES

Bartlett, AJJ
Brown, CL
Carr, KJ
Collins, JMA
Hanson-Young, SC
Ketter, CR
McAllister, J
McKim, NJ
O'Neill, DM
Pratt, LC
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

Bilyk, CL
Cameron, DN
Chisholm, A
Di Natale, R
Hinch, D
Kitching, K
McCarthy, M
Moore, CM
Polley, H
Rhannon, L
Siewert, R
Steele-John, J
Watt, M

PAIRS

Birmingham, SJ
Brandis, GH
Cormann, M
Scullion, NG
Seselja, Z
Sinodinos, A

Sterle, G
Wong, P
Gallagher, KR
Gallacher, AM
Dastyari, S
Marshall, GM

Senator Dodson did not vote, to compensate for the vacancy caused by the resignation of Senator Parry.

Senator Farrell did not vote, to compensate for the vacancy caused by the resignation of Senator Nash.

Senator Lines did not vote to compensate for the resignation caused by the vacancy of Senator Xenophon.

Question negatived.

Senator HANSON-YOUNG (South Australia) (16:21): Mr President, I seek leave to make a short statement.

Honourable senators interjecting—

The PRESIDENT: I will convey the query from the whips: in relation to what, Senator Hanson-Young?

Senator HANSON-YOUNG: It's in relation to the motion just negated.

The PRESIDENT: Leave is not granted.

South Australia: Government Advertising

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:22): I seek leave to amend general business of motion No. 617 relating to taxpayer funding to One Community.

Leave granted.

Senator BUSHBY: At the request of Senator Birmingham, I move the motion as amended:

That the Senate—

(a) notes that the South Australian Labor Government provided \$757 000 of taxpayer funding to One Community for advocacy purposes, including during the 2016 federal election;

(b) notes that the South Australian Auditor-General investigated the allocation of \$757 000 by the South Australian Labor Government to One Community;

(c) notes that the South Australian Auditor-General found this funding supported activity which "included messages a reasonable person could interpret as being designed to influence support for a political party"; and

(d) calls on the South Australian branch of the Australian Labor Party to refund to South Australian taxpayers the monies that were used for a political purpose.

Senator CHISHOLM (Queensland) (16:22): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CHISHOLM: Labor opposes this motion, which is a blatant stunt. The Auditor-General has found the grant to One Community met the guidelines and was spent for the intended purpose. The South Australian Labor government should be applauded for standing up against your plan to cut funding to South Australian schools by \$210 million in 2018 and 2019. The minister has let schools in South Australia down and would love to silence those who speak up for South Australian principals, teachers, parents and students. Unlike those opposite, Labor believes every school should be a great school and that every school should receive its fair level of funding. That is why federal Labor has committed to reversing your cuts in full.

The PRESIDENT: The question is that general business notice of motion No. 617, as amended, be agreed to.

The Senate divided. [16:25]

(The President—Senator Ryan)

Ayes29
Noes26
Majority.....3

AYES

Abetz, E
Brockman, S
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Gichuhi, LM
Hinch, D
Leyonhjelm, DE
McGrath, J
O'Sullivan, B
Patrick, RL
Reynolds, L
Ryan, SM
Williams, JR

Bernardi, C
Burston, B
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Georgiou, P
Griff, S
Hume, J
Macdonald, ID
McKenzie, B
Paterson, J
Payne, MA
Ruston, A
Smith, D

NOES

Bartlett, AJJ
Brown, CL
Carr, KJ
Collins, JMA
Hanson-Young, SC
Kitching, K
McCarthy, M
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Steele-John, J
Watt, M

Bilyk, CL
Cameron, DN
Chisholm, A
Di Natale, R
Ketter, CR
McAllister, J
McKim, NJ
O'Neill, DM
Pratt, LC
Rice, J
Singh, LM
Urquhart, AE (teller)
Whish-Wilson, PS

Question agreed to.

DOCUMENTS

Consideration

The following orders of the day relating to government documents were considered:

Commonwealth Ombudsman's reports—Report no. 18 of 2017.

Government response to Ombudsman's reports, dated 13 November 2017.

Personal identifier 000510-O1, 1000373-O1, 1000399-O, 1000507-O, 1000516-O1, 1000765-O1, 1000846-O1, 1000857-O1, 1000894-O, 1001062-O, 1001148-O, 1001264-O1, 1001344-O1, 1001583-O1, 1001593 O1, 1001625-O1, 1001700-O1, 1001736-O, 1001820-O1, 1001953-O1, 1001970-O1, 1002212-O1, 1002227-O1, 1002248-O1, 1002270-O1, 1002271-O1, 1002293-O1, 1002297-O1, 1002314-O1, 1002315-O1, 1002324-O1, 1002387-O1, 1002516-O, 1002531-O, 1002552 O, 1002554-O, 1002555-O, 1002559-O, 1002561-O, 1002565-O, 1002567-O, 1002570-O, 1002581-O, 1002584-O, 1002586-O, 1002587-O, 1002588-O, 1002596-O, 1002602-O, 1002605-O, 1002612-O, 1002620-O, 1002669-O, 1002693-O, 2000014-O—

Commonwealth Ombudsman's reports—Report no. 19 of 2017.

Government response to Ombudsman's reports, dated 22 November 2017.

Murray-Darling Basin Authority—Report for 2016-17.

Treaties—

Bilateral—Agreement between the Government of Australia and the Government of the French Republic Concerning the Reprocessing in France of Australian Irradiated Nuclear Fuel Elements (Canberra, 23 November 2017)—Text, together with national interest analysis.

Multilateral—

Acts of the Universal Postal Union adopted by the 26th Congress: Ninth Additional Protocol to the Constitution, First Additional Protocol of the General Regulations, Convention and Final Protocol, and Postal Payment Services Agreement and Final Protocol (Istanbul, 6 October 2016)—Text, together with national interest analysis.

Amendments to Appendices I and II to the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) (Manila on 28 October 2017)—Text, together with national interest analysis and annexure.

Pacific Agreement on Closer Economic Relations Plus (PACER Plus) and associated side letter (Nuku'alofa, 14 June 2017)—Text, together with national interest analysis and annexures.

COMMITTEES

Regulations and Ordinances Committee

Delegated Legislation Monitor

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:30): I present the Delegated Legislation Monitor 15 of 2017 of the Standing Committee on Regulations and Ordinances.

Ordered that the report be printed.

Scrutiny of Bills Committee

Scrutiny Digest

Senator POLLEY (Tasmania) (16:30): I present *Scrutiny Digest* 14 of 2017 of the Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

Community Affairs References Committee

Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:30): I present the report of the Community Affairs References Committee on the National Disability Strategy

2010-2020, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT: I move:

That the Senate take note of the report.

This report has been the result of a lot of work by members of the community who have contributed very extensively to this inquiry. They gave us very extensive submissions. I thank them for the submissions they provided to the committee. I also thank the people who appeared before the committee. I also say thank you so much to the secretariat of the Community Affairs References Committee, who once again have gone above and beyond the call of duty to get this report tabled. This is about the National Disability Strategy. In fact, it's about one part of that—the accessibility and inclusiveness of our community.

First off, I want to talk about the issues around accessibility and why it's so important that we looked at this issue. For people with disability, the accessibility and inclusiveness of the community in which they reside fundamentally impacts upon the way they live their lives, work and socialise. A lack of accessibility creates external barriers that are not a function of a person's disability; they are a function of how well, or how poorly, the community interacts with and provides support for a person's life. Through our inquiry we found that there is general support for the National Disability Strategy. The National Disability Strategy was developed by COAG after a series of other reports and, in particular, some work done by the National People with Disabilities and Carer Council. They undertook extensive consultations that resulted in the report *Shut out: the experience of people with disabilities and their families in Australia*, which is commonly called the *Shut out* report. Subsequent to that, COAG developed the National Disability Strategy 2010-2020. One of the things the committee found is that, unfortunately, although the strategy is dated 2010, the implementation actually started significantly after that.

As I said, there was strong support for the National Disability Strategy. But one of the issues we very strongly came across straightaway was that it started at basically the same time that discussions on the NDIS started and the campaign for the NDIS started and the National Disability Insurance Scheme started rolling out. What has happened is that there's been a lot of focus, obviously, about getting the NDIS up and running. The National Disability Strategy was supposed to be complementing and working together with the NDIS. But the focus has been on the NDIS, and the National Disability Strategy hasn't been as carefully implemented and reviewed as would be ideal. In fact, a number of key reporting dates have been missed, and that was clearly pointed out.

What we did was to go through a large number of issues that had been raised to the committee. We looked at issues like universal barriers and a whole lot of other barriers to accessibility. But one of the issues that we clearly needed to articulate was the lack of understanding about accessibility. While physical accessibility is particularly important, there are also issues around accessibility, for example, in terms of electronic communications. I've spoken in this place many times around captions and audio description. So, it's the broader understanding of accessibility that we also need to be talking about.

There are social construct barriers as well. For example, we heard evidence from people with autism about overcoming inaccessibility by shops offering quiet shopping days. The lights are muted, sounds are muted, and people with autism feel more comfortable and not alienated by that particular environment. The committee looked at universal barriers in consultation. There was a great deal of criticism about the lack of consultation around implementation of the strategy and its coordination—remember, I'm talking just about one element of the National Disability Strategy—the lack of coordination was a really significant issue that people raised with us. The complaints system was another area that raised a great deal of concerns as well, particularly as people find it hard to raise individual complaints. I've already spoken about the focus on the NDIS.

The committee made seven recommendations, which I strongly urge the federal government and the state and territory governments to take on board. The first recommendation goes to coordination, which I talked about—that is, the committee recommends that the government takes to the Disability Reform Council for consideration a proposal to establish an office of disability strategy, or ODS, as a coordination agency for the National Disability Strategy. It would be under the oversight of the Disability Reform Council and for the revised National Disability Strategy after 2020. The committee believes that there absolutely needs to be something going on beyond 2020. But that office of disability strategy would ensure there was a coordination agency that was responsible for the coordination across the strategy, so that we could have a strategy being implemented in a strategic way.

The committee's No. 1 recommendation is that all Australian governments recommit to the Disability Strategy and to meeting associated domestic and international reporting obligations. As I said, people have a strong sense of ownership of the strategy. People weren't critical; they were supportive of the strategy. It's about the implementation of the strategy, the lack of coordination and the focus on the NDIS. People want the NDIS to be the best it can possibly be, but in order for the NDIS to be fully effective we need the National Disability Strategy. We need to ensure that it is strong, because the NDIS is not about providing those mainstream services that we expect to be available for people with disability.

It's also really important to remember that there are a lot of people with disability who will not be eligible for the NDIS. It's important they have those supports that are provided through mainstream services and that they are part of the National Disability Strategy. That is why it's so important that governments recommit to the National Disability Strategy and focus on making sure it's implemented and actually meeting the time lines.

We make a number of other recommendations, which I am sure my colleagues will also talk about in the chamber when they make their contributions on this particular report. We make recommendations around the need for consultation at every point and that we need guidelines for consultation to ensure that people are being properly consulted. We heard a number of examples where, for example, a council had gone ahead and put in what it thought was a great project for people with disability. It invited people with disability along to the launch, and there were problems. The project didn't meet their needs, and the first thing they really knew about it was when they were invited to the launch. That's not appropriate partnership; it's not appropriate consultation, and we talk about that in our report.

I'd also like to give a shout-out to my colleagues on the committee. This is a consensus report. The community affairs committee is very conscious of wanting, on these important

issues, to take as strong a consensus approach as we can. We are very pleased that we have managed to achieve that in this instance, and I'll leave it up to my colleagues now to make their contributions.

Senator BROCKMAN (Western Australia) (16:41): I will make a very short contribution on this report. I came into this inquiry when it was already underway. Obviously it's an area where there is an extraordinary amount of activity happening at the moment with the implementation and full rollout of the NDIS.

While obviously the National Disability Strategy, as the report demonstrates, is a very important part of what governments are trying to do in this space, I do think it is unsurprising that with the extraordinary focus of the sector on the NDIS rollout that perhaps attention has been distracted from other areas of disability strategy for some time. That wasn't wrong. The NDIS is a very large, very complex change to the sector. It definitely is the most significant reform to the disability sector since Federation, and possibly in the history of western society. We've got a very significant change happening. The rollout is progressing; it's progressing well. That doesn't mean there aren't speed bumps. That doesn't mean there aren't problems. There are things that need to be addressed and fixed.

As well as being deputy chair of the community affairs references committee, I'm also on the Joint Standing Committee on the NDIS. That also certainly takes a very collegiate approach to trying to identify issues, where there are problems with the rollout of the NDIS, and seeking to address them. It was very important in this space, where we do have broad support across the society, across the parliament, for the NDIS and for people with disabilities, that we do try to stay on a consensus ticket on this issue. I also think it's very important that we were able to deliver a consensus report, and I thank all members of the committee for their work in that regard.

I'd also like to extend my thanks to the secretariat. The work they do is extraordinary; the demands of both the community affairs reference and legislation committees are quite extraordinary. Again, I think they have helped to deliver a very high-quality product, a good report—one the committee can be proud of—and that should be noted. Thank you very much.

Senator CAROL BROWN (Tasmania) (16:44): I also want to take a few moments to speak on the report of the Community Affairs References Committee on the inquiry into the delivery of outcomes under the National Disability Strategy 2010-2020 to build accessible and inclusive communities. And I want to put on record my appreciation of the senators who were part of the inquiry. I think we worked well together to put together a report that is quite significant in regard to the recommendations and I too hope that the government look at these recommendations and take them on board. I also would like to thank the secretariat, who did an amazing job with this report.

But it is clear from this report, the evidence that was presented to us as a committee at the public hearings we held and, of course, the submissions we received that the government, in regard to priority one under the NDS, has dropped the ball when it comes to the strategy. It's very unlikely that, without a change of mindset and approach, the strategy's vision of an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens will be achieved.

I say at the outset just how important the strategy is to people with disability, carers and advocates. I want to thank them for their commitment, the submissions they made and the evidence they gave, because it is clear from the evidence we received and the submissions that were made that people support this strategy and want it implemented. It's also clear that there are many good initiatives that are happening around the country. In particular, I have to say we heard of a number of very good initiatives at the local level, but it's also clear that the problem with the implementation of the strategy is a lack of coordination at the national level. As a result, it is difficult to discover just how much good work is going on and to ensure that good work can be shared. And it's clear that the Turnbull government really has set and forgotten when it comes to the National Disability Strategy. Without genuine change and a recommitment to the National Disability Strategy, our community will not realise the potential benefits of the strategy. The National Disability Strategy and the National Disability Insurance Scheme go together.

I want to consider the recommendations in the report and, in doing so, touch on some of the evidence presented to us. Firstly I want to consider the question of commitment to the strategy. The strategy was developed under a Labor government, and I don't believe that anyone would doubt the commitment of senators to the rights of people with disability and to making genuine change in our society to ensure those rights are acknowledged and observed. But I have to say that the evidence strongly suggests that our commitment needs to be better. Whilst there was an acknowledgment of the work that's been done under the NDIS, that isn't a reason for not being able to take a proactive approach to the goals and objectives under the NDS.

The strategy indicated there would be a progress report tracking national progress for people with disability every two years. Here we are almost in 2018, and there's been only one progress report. The original timetable for the progress report was 2014, 2016, 2018 and 2020. To me, it's a very worrying sign if the government's attention is elsewhere. These reports need to be delivered. We've been told that the second progress report would be released this year, but as yet we haven't seen it. I get the feeling that this government is hoping it will be overlooked in the run-up to Christmas. There shouldn't be a delay in these reporting times. It's not only with the progress report that we've seen delays. There have been other reporting delays as well. The second implementation plan, the Australian government's action plan and the plan to improve outcomes for Aboriginal and Torres Strait Islander people have all been delayed or released after the periods in which the programs actually started.

I will now turn to the recommendations that have been made. Recommendation 1 is:

The Committee recommends that all Australian Governments recommit to the National Disability Strategy 2010-2020 and meeting associated domestic and international reporting obligations.

We must take this work very seriously and we must take the reporting obligations very seriously too. I hope that the government will take notice of this recommendation and agree to it and the other recommendations, which the committee's put forward as a consensus group of recommendations.

I'd like now to turn to the question of who is responsible for implementing and coordinating the strategy. I have to say that the evidence presented to the committee, both by witnesses and in submissions, again suggests a lack of commitment to the strategy. The

evidence presented to us showed a lack of proactive coordination. The committee's second recommendation is:

The committee recommends that the government takes to the Disability Reform Council for consideration a proposal to establish an Office of Disability Strategy under the oversight of the Disability Reform Council, as a coordination agency for the National Disability Strategy 2010-2020 and for the revised National Disability Strategy after 2020.

As Senator Siewert mentioned in her contribution, we've made the assumption that there will be a strategy after 2020.

One key issue that was mentioned time and time again in both the written and the oral evidence was the poor quality of consultation with people with disabilities about the National Disability Strategy's implementation. That led the committee to make recommendation 3:

The committee recommends that if an Office of Disability Strategy is established, that people with disability are consulted at every stage of its development and implementation.

We cannot implement this strategy without real consultation with people living with disability. As the report notes, a great deal of evidence was presented that pointed to the lack of consultation that led to outcomes that were ineffective in resolving barriers to accessibility. The second implementation plan didn't provide any detail about what form consultation should take place; it just said it should take place. While individual agencies and local governments have paid attention to what consultation should look like, the consultation has been inconsistent, if it happens at all—and Senator Siewert, in her contribution, outlined the instance that we were alerted to. The committee also formulated a recommendation around the development of best-practice guidelines for detailed consultation with people with disability and their advocates under the National Disability Strategy. The evidence is in: if we don't get the consultation right, the outcomes will be haphazard and barriers to accessibility will remain or might even get worse.

There are a number of other recommendations that I did want to talk about in my contribution here today, but I am running out of time. I'm hopeful that the government will agree to all seven recommendations in this report. I seek leave to continue my remarks.

Leave granted; debate adjourned.

DOCUMENTS

Operation Manitou

Tabling

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (16:54): I table a document relating to the order for the production of documents concerning the joint training exercise between the Royal Australian Navy and its Saudi Arabian counterpart.

COMMITTEES

Privileges Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (16:55): The President has received letters requesting changes in the membership of various committees.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (16:55): by leave—I move:

That Senator Marshall be discharged from, and Senator Kitching be appointed to, the Standing Committee of Privileges.

Question agreed to.

BILLS

National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator CAROL BROWN (Tasmania) (16:56): I rise to speak on the National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Bill 2017. This is a very important piece of legislation. Labor supports the development of a strong quality and safeguards framework for the National Disability Insurance Scheme. A strong quality and safeguards framework is required to protect and prevent people with disability from experiencing harm arising from poor-quality or unsafe supports or services under the NDIS. This is vital to the success of the NDIS.

The NDIS was, of course, created by Labor in 2013. The NDIS represents a dramatic shift from services delivered under largely block-funded contractual relationships between providers and Commonwealth, state and territory governments to one where people with disability are the purchasers and consumers of services from a diverse market under the NDIS. This bill establishes an independent national commission to protect and prevent people with disability from experiencing harm arising from poor-quality or unsafe supports or services under the NDIS. At full scheme, the commission will be responsible for overseeing quality supports and services for people with disability who are receiving NDIS supports and services, such as information, linkages and capacity—ILC.

The bill's explanatory memorandum states that the primary focus of the commission will be regulating NDIS providers to ensure that NDIS participants receive the standard of service they deserve. Schedule 1 of the bill relates to the NDIS Quality and Safeguards Commission. Specifically, it amends the act to establish the NDIS Quality and Safeguards Commission as an independent statutory body with the following integrated regulatory functions: registration and regulation of NDIS providers, including practice standards and a code of conduct; compliance monitoring, investigation and enforcement action; response to complaints and reportable incidents, including abuse and neglect of a person with disability; national policy setting for the screening of workers; and national oversight and policy setting in relation to behaviour, support and monitoring the use of restricted practices within the NDIS, with the aim of reducing and eliminating such practices and facilitating information-sharing arrangements between the commission, the National Disability Insurance Agency, the agency, and state and territory and other Commonwealth regulatory bodies.

It is a large and complex bill, but, at its core, this is about helping to empower and support NDIS participants to exercise choice and control at the same time as ensuring that appropriate

safeguards are in place and establishing expectations for providers and their staff to deliver high-quality supports. As I said, this is a complex bill and is fundamental to the successful rollout of the NDIS. Labor referred this bill to a Senate inquiry to ensure there was a chance for it to be properly examined. Through the course of this inquiry, stakeholders—including disability groups, providers, unions and state governments—raised multiple and serious concerns about the bill. It is fair to say that some of the concern amongst stakeholders could have been avoided with a more transparent and earlier consultation process. The government needs to consult better with people with disability and their carers, advocates, providers, unions and the states and territories on these issues. It is vital to the success of the NDIS.

At the time that submissions were due and hearings held, the majority of stakeholders had not seen the draft rules. This is particularly important, given that many key issues are delegated to be resolved within these rules rather than the primary legislation. As a result it was very difficult for stakeholders to be supportive of the bill, given that they had no visibility on how key objectives of the bill were to be approached. Labor consulted extensively with stakeholders on this bill, working through their concerns and seeking further information. I take this opportunity to thank stakeholders for their passionate and dedicated work on scrutinising this bill to ensure that we get this right, up against tight time lines and a large and complex bill on which the government should have consulted better. I'm pleased to say that through this process Labor has managed to work with the government to secure some important amendments to the bill. The government will—I might seek leave to continue my remarks.

The PRESIDENT: That would be very courteous of you.

Senator CAROL BROWN: I was waiting for the President to pull me up.

The PRESIDENT: You will be in continuation after this.

Debate interrupted.

FIRST SPEECH

The PRESIDENT (17:02): Pursuant to order I now call Senator Steele-John to make his first speech, and I ask of honourable senators that the usual courtesies be extended to him.

Senator STEELE-JOHN (Western Australia) (17:02): I'd like to start by acknowledging the traditional custodians of the land on which we meet, the Ngunnawal and Ngambri people, paying respects to their elders past, present and emerging, and recognising that sovereignty was never ceded. I'm happy to say that this is in fact my first speech. I'm also pleased to be able to deliver my first speech on such an historic day. I feel quite privileged to be able to do so on the day when the Senate has moved justice on its way to the other place.

As the youngest person ever to be elected to the Senate and one of the few people with a disability to ever enter the federal parliament, I think it's safe to say that my presence here in this chamber is a rather radical departure from the norm. Before I entered the Senate a few short weeks ago I, like so many of those beyond this chamber, was frustrated that the work of parliament doesn't always seem to reflect the views and aspirations of those who send us here, particularly my generation. In approaching my first speech tonight I want to talk about this disconnect. I want to talk about the things that reflect my views of how our democracy should function. Now here as their representative I have the opportunity to find out what the people who sent me here want me to do for them. For I believe that parliament must be the voice of

the people. It must be relevant to them, and so I reached out via social media and asked a simple question:

If you could say anything* to the people in this place what would you say?

I'm rather thrilled to be able to say that the response was quite overwhelming. Over 130,000 people saw our post. Almost 3,000 people told me what is important to them and what they think we should be doing here in this parliament, and that's not including the countless phone calls to my office, the emails and the many letters I've received as well as the conversations I've had with constituents. Now, it should not come as a surprise to anyone in this chamber that many of these messages were laced with sentiments of frustration, anger and sadness. In the words of many of them, there is a real need for us here, in this place, to recognise and respect the voices and views of our Aboriginal and Torres Strait Islander Australians, particularly in relation to the Uluru statement. In the words of one of my WA constituents: 'Please respect and value the Uluru statement and implement what it asks. We, the first nations people of this country, want to progress our relationship with governments and reconcile the past to help our future generations, my children and their children.'

There were also many people who spoke of the need to take urgent action to address the profound act of intergenerational theft which is inaction on climate change. In the words of one: 'No more coalmines, and get on board with renewables. I am so sick of having to choose between food and bills, especially my electricity bill.'

There was a great sense of outrage at the extent to which this parliament is being held hostage by big money. People are sick of the fact that tax seems to be increasingly an optional extra for the very many multinational corporations which make profits in this country, and there is a knowledge that this parliament must be returned to the people to do their work rather than the vested interests which manage to so successfully get into the ear of so many. In the words of one, 'Listen to us, the people, and not your donors.' In the words of another: 'Spread the wealth. Don't let big business rule this country.' Finally—and I echo this statement strongly—'Stop the revolving door between career politicians and lobbyists.'

Now, I was also greatly heartened to see that so many of the people who reached out to me hold within them a sense of moral clarity that seemed to be so lacking when this chamber and the other place considered issues in relation to refugees, particularly the ongoing humanitarian crisis that is Manus Island. We were buried, quite frankly, under a deluge of commentary around the need for Australia to take a more humanitarian approach to refugees and asylum seekers than we currently do, and I would urge everybody within this chamber tonight and listening at home to take heed of that demand. Think more of your fellow Australians than you seem to in your actions. We are a compassionate people. We are a caring people. We are a nation built by those who come across the sea seeking a better life. Let these sentiments guide you. Let this history guide you. Listen to these words.

Another issue which was expressed continually was the need for us to recognise that housing is not a market. Housing is not an investment. Housing is, in fact, a human right, and our failure to recognise this central truth results in tens of thousands of our fellow Australians living each night on the streets. Of course, people living with a disability felt that they could reach out to me and share their aspirations.

There were also comments of a more solemn tone. In the words of one, 'The thing I find lacking is genuine empathy and compassion for others, and care for our planet.' In the words

of another was a request for us here, 'To think of the next generation, not of ourselves'. And in an email I received just this morning, someone said to me, 'Thank you for sharing our dreams and taking them seriously.'

I would ask everyone here today to reflect upon the way in which we here view the idealism of those who do not work in this place, and how easy it is to dismiss the aspiration and the belief that we can be better and that we can do things differently as simply naive. I know from personal experience that my generation is one alive with the desire to make change, cognisant of the fact that if we do not do so the world in which we will live as a generation will be so much bleaker for it.

Then there were, of course—we must remember that this is, after all, the internet—those comments of a slightly more humorous nature. My favourite so far has been the suggestion that the government might perhaps try turning itself off and back on again—that was the cleanest one we could find!

This mixture of hope and frustration, of sadness and aspiration, does not come as a surprise to me personally. These sentiments very much reflect those which drove me to be involved in politics and which are with me as I sit here tonight. They are also the sentiments which drove into existence the party which I am so proud to belong to: the desire for a world based on social justice—one that protects the environment in which we all live; the desire for politics which truly involves people in decision-making processes; and the need for a government which seeks peace at every opportunity. These are the core tenets of the Greens party and our movement. I'm incredibly proud to sit here among colleagues who have borne the voice of that movement into this place.

I believe it is very clear to anybody who takes the time to look that the Australian people are no longer satisfied with what they are getting from their politics. They will not cop politics as usual any longer. They know we can do better. They ask us to do better. They demand a new deal from their politics. And while I am here, that is exactly what I intend to work with my colleagues to achieve.

With the time I am given here, I will be a tireless champion for a fundamental change in the way that society thinks about people with a disability. We must now recognise that disability is not created as the result of various medical impairments, but is, in fact, created by society's collective failure to adapt to, embrace and celebrate the varying levels of ability which we all have.

I will also be a fearless voice for a jobs-rich transition to the new economy, one which I know, and one which any expert would be very happy to tell anybody in this chamber, is the only solution to actually creating the jobs that will employ people in communities like the one from which I come.

I will be a voice in this chamber for that urgent action on climate change which must happen if my generation is not to be condemned to a future in which we work tirelessly to try to clean up a mess created by those who came before us.

I will not cease in my belief that every Australian has a right to go to sleep in a bed of their own, that homelessness is not natural, that it is not right and that it is not the way things always must be. It is, in fact, a result of our failure to act.

While I am at it, I will build on the incredible work of former Senator Ludlam in the digital rights and communications areas, particularly in relation to the NBN. The National Broadband Network is the Snowy Mountains Scheme of the 21st century, and it has been comprehensively wrecked by the technological ineptitude which is displayed by those who have so far had carriage of it.

It is the 21st century, and in the 21st century it is necessary not only to properly codify those human rights which we all presume to have—but which we so often find do not actually exist—within a bill of rights but also to extend that work to the digital realm and to ensure that when we participate in that space as citizens, we are protected and that our rights are safeguarded.

These are the things I relish the opportunity to now work on with my Greens colleagues. These are the things on which I will wholeheartedly and genuinely work with any member of this chamber, regardless of their political stripes, if they are willing to meet me there. Because if we fail to do these things, if we fail to listen and if we fail to take heed, then people will continue to turn away from us, they will continue to turn their back on us and they will continue to regard the workings of this place as alien to them. If anybody in this chamber is a student of history, as I am in my spare time, they know such sentiments do not lead to good places.

Finally, I think I would be not quite hung, drawn and quartered, but some version of the same, if I neglected to thank those people who have helped me so profoundly in being here tonight. Firstly, to former Senator Josephine Vallentine, the mother of our Greens WA movement and the tireless champion of the causes of peace and of disarmament, thank you. If it were not for your work and your courage, WA would not have the Greens voices that it does. Thank you to former MLC Giz Watson of the WA parliament for your years of guidance and mentorship. I would not be the person I am today and I could not be the representative that I hope to be without your influence in my life. To my colleague Senator Rachel Siewert, for your fearless advocacy on behalf of those who would otherwise have no voice in this place—particularly in relation to the disability community—from the bottom of my heart, thank you. You set an example, a dedication and an energy that I don't think anybody in this place will ever match. I value your advice and your guidance more than I could say. To former Senator Ludlam, whose breadth of vision allowed us as a collective movement to see, in full technicolour, what it will be like when we win, this place will never be the same without you here. Your contribution will never be forgotten. Our movement is so much stronger for being served by you.

When I think of these people and the impact that they've had in my life, I'm reminded of a quote which is etched in the market streets of Salamanca in Tasmania. It was quoted by my colleague Senator McKim recently in relation to the marriage equality debate and at our national conference last weekend: 'In the wake of their courage, I swim.'

To the Greens WA, that great, varied and vibrant extended family to which I owe so much, thank you for all you have given me. I joined at the age of 16, as a rather enthusiastic political nerd, I'm not afraid to say. You took me in and showed me that being involved could make a difference. You had faith in me. You supported me. And I cannot thank you enough for that faith and belief and support. To Mollie MacLeod—and, Mollie, I think you're watching at home this evening—thank you for giving me the courage to make my voice heard in this

chamber. To my friends and my wonderful office team, you have been here with me on this crazy adventure since the very beginning, whether I met you six years ago, whether I met you a month ago or whether I met you last week! I couldn't do this job, I wouldn't have entered this job and I wouldn't know how to continue doing it without your endless enthusiasm. I'd particularly like to acknowledge Krissii and Jody, who are here in the gallery. We have been fellow Greens fanatics for a good couple of years now and have shared many an election campaign together. I would not have managed to make it here this evening if it weren't for you guys. I appreciate the multitude of one-o'clock-in-the-morning text messages that you've taken on my behalf.

Lastly, to my family—to my mum, Tracey, to my brother, Harry, to my grandma, Jean, and to my grandfather, Len—from the moment I was born, to the very many days on the campaign trail, to these minutes we've shared together, your love has been the undeniable constant of my life. It has formed the foundation stone on which I have built everything and will build everything else. And I love you for it.

To everyone here in the chamber, to those in the gallery and to those watching at home, I thank you for your support and pledge myself to your service. The challenges before us now are profound. But I sit here tonight brimming with the belief that we can and will meet those challenges together. Thank you.

BILLS

National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator CAROL BROWN (Tasmania) (17:29): Through this process, I'm pleased to say that Labor has managed to work with the government to secure some important amendments to the bill. The government will move these amendments. I'd like to talk through these amendments now.

In regard to advocacy, several submissions to the inquiry raised concerns about the absence of the role for advocacy in the bill, including those from AFDO, DANA, DPO Australia and QAI. Disability organisations have raised concerns that independent advocacy is not well understood in the context of the NDIS and that there is confusion and marginalisation of this important role. In a number of situations independent advocates were refused entry into closed settings such as boarding houses, group homes and larger residential facilities, despite the evidence that indicates higher risks of violence and abuse in these settings. Sometimes independent advocates are the only trusted support for people with disability, and NDIS providers must acknowledge and facilitate access to independent advocacy.

In consultation with disability organisations Labor has been able to secure amendments to ensure that the bill explicitly states that NDIS participants have the right to access independent advocacy and that provisions are made to define and protect this role. The bill will be amended to define an 'independent advocate' under section 9 of the Disability Insurance Scheme Act 2013 in a definition agreed with advocacy groups. These amendments

will ensure that registered NDIS providers implement and maintain a complaints management and resolution system that acknowledges the role of independent advocates and other representatives of people with disability, and provides for cooperation with independent advocates and other representatives of persons with disabilities who are affected by the complaints process and who wish to be independently supported in that process by an advocate or other representative.

The bill will also be amended to expand actions that must be taken in relation to reportable incidents. They may include requiring a registered NDIS provider to provide people with disability with information regarding the use of an advocate in relation to an investigation into the reportable incident. The amendments will provide independent advocates with protection for disclosure and ensure that the commissioner must acknowledge, recognise and respect the roles of independent advocates in representing the interests of people with disability.

I turn to procedural fairness for workers. Unions have raised concern about the absence of provisions in the bill to ensure procedural fairness for NDIS workers who are subject to complaints or investigation. In consultation with unions and other stakeholders, Labor has been able to secure amendments that address these concerns. Amendments will be moved which allow for NDIS rules in relation to the management and resolution of complaints arising out of or in connection with the provision of supports or services by NDIS providers to deal with requirements relating to procedural fairness in relation to the management and resolution of complaints, and to ensure that the commissioner must have due regard to procedural fairness in performing his or her functions.

The commissioner will be able to make guidelines relating to procedural fairness under proposed section 181D(2). Labor has secured a commitment from the government in a letter from the Minister for Social Services to the shadow minister, ensuring the commissioner will consult with stakeholders, including unions, in the development of these guidelines. The government has also agreed to amend the complaints rules to include requirements for providers to afford procedural fairness to any person under their internal complaint management system, including a worker who is the subject of allegations in a complaint that results in an investigation. This would include provisions for providers and the commission for complaints handling to be completed as expediently as possible and the right of any person who is the subject of a complaint to have a representative with them in any meeting or interview in relation to that complaint. The explanatory memorandum states that the commission will have responsibility for national oversight and policy setting in relation to behaviour support and monitoring the use of restricted practices within the NDIS, with the aim of reducing and eliminating such practices.

Disability organisations, including DPO Australia, AFTO, NDNA, NDS and CEDA have raised particular concern that the bill does not include regulatory powers to enable the NDIS Commissioner to prohibit certain restricted practices. As DPO Australia states:

The current mechanisms at State and Territory level are varied and inconsistent, with some consisting of relatively weak policy functions within government departments and others having established regulatory bodies and mechanisms.

This creates inequity in protection from practices that have been found to constitute torture and ill-treatment, and this bill should be providing the highest level of protections equally across Australia.

Labor has secured an amendment that will expand the commissioner's behaviour support function to include insisting the states develop a regulatory framework including national minimum standards in relation to restrictive practices that is in line with the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector and consistent with the Convention on the Rights of Persons with Disabilities. This will strengthen the commissioner's role in a very important area.

An area that we have been particularly concerned about is the Commonwealth's consultation with the states and territories on the NDIS. We are concerned that the Minister for Social Services is forcing governance changes that will reduce the role of the states, and this is something that will undermine the success of the scheme. It needs to be emphasised that states and territories have a vital role in the successful delivery of the NDIS. It is a national scheme in which the jurisdictions play a very important part. It is imperative that the Commonwealth works cooperatively with the states and territories—genuinely cooperatively. It is important that the perspectives of the states and territories are sought and genuinely listened to. This is a national scheme, not only a Commonwealth-led scheme. This is something Labor will continue to hold the government to account on. Again, I cannot stress enough the need for the government to include stakeholders as the NDIS is rolled out. People with disability, advocates, unions and providers must all genuinely be listened to and involved to get the best results for the scheme.

In our additional comments on the inquiry report, Labor senators raised a range of other issues that the government needs to continue to work on with stakeholders to resolve. Screening and registration of workers are very important issues that the government must work on with people with disability, and with unions, to resolve. The government must talk with unions and providers about workforce training as the rules are finalised. Adequate training is obviously fundamental to the success of the NDIS. We also want to see appropriate and specific safeguards for children provided in the NDIS. We welcome the government's commitment in writing from the Minister for Social Services to the shadow minister for families and social services to work with Children and Young People with Disability Australia, CYDA, and other stakeholders to address issues specific to children in the NDIS.

Labour remains concerned about people with disability who receive supports outside of the NDIS and who will not be covered by the NDIS Quality and Safeguarding Framework. I note that the government's response to this has been that people receiving supports through other systems, such as health, education and justice systems, will continue to be covered by the quality and safeguards arrangements of those systems and that the commission will not replace existing functions in the states and territories that have a broader scope, such as an ombudsman, a human rights commission or a public advocate. Disability organisations remain concerned about people falling through the cracks and not being covered by a disability-specific quality and safeguarding framework. We want to see the government work with stakeholders and states and territories to address this issue and ensure that people with disability are sufficiently covered in all jurisdictions. Labor will continue to hold the government to account on these important issues. They should be closely monitored as the commission is established, and in the review to be undertaken in 2021.

In closing, I want to state again that this legislation does not negate the need for a royal commission into violence and abuse against people with disability, as the government claims.

Disabled People's Organisations Australia's Therese Sands has said of the NDIS quality and safeguards framework:

It doesn't address the scale of violence and abuse against people with disability, its many different forms and the range of service and other settings where abuse occurs.

So, this bill does not negate the need for a royal commission into abuse against people with disability. Labor announced in May that should we win the next federal election we will establish a royal commission into violence and abuse against people with disability. The continued abuse of Australians with disability by people who are meant to care for them demands a royal commission. People with disability experience much higher rates of violence than the rest of the community, and in many cases this violence occurs in places where they are meant to be receiving support. Children with disability are at least three times as likely to experience abuse than other children. People with disability and their families have been campaigning for a royal commission for years. Only a royal commission has the weight, authority and investigative powers to examine these horrific accounts of abuse and violence against people with disability. Labor calls on the government to now establish a royal commission into abuse of people with disability.

In conclusion, this is an important piece of legislation. Labor welcomes the willingness of the minister to collaborate with Labor and the Senate crossbench on a number of amendments to improve this bill. They are important amendments that will strengthen protections for people with disability as part of the NDIS. We should never forget that the driving purpose of the National Disability Insurance Scheme is to improve the lives of people with disability, their families and carers. The old system of disability support in this country was broken. We now have the opportunity, through the NDIS, to improve the life of some of the most vulnerable Australians. It is my hope that, with the passage of these amendments today, we will do exactly that. Thank you.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:40): I rise today to speak on the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017. This bill has two purposes: firstly, to establish the NDIS Quality and Safeguards Commission; and, secondly, as it exists at the moment, to make amendments to the NDIS Act following an independent review of the legislation in 2015 by Ernst & Young.

The Australian Greens strongly support the concept of an independent statutory authority to ensure that people with disability are protected from violence, abuse and neglect and that those working with and supporting people with a disability follow best practices. For a number of reasons, however, we have concerns with the bill before us today. These include the limited remit of the commission and the extensive rule-making powers that are included in the bill, which will see significant items left to legislative instruments rather than being contained in the bill and the legislation itself. We have concerns regarding the independence of the commissioner, the inclusion of market oversight as one of the commissioner's core functions, the scope of the commissioner's complaints function, the limited power of the commissioner to reduce and eliminate the use of restrictive practices, and the lack of provisions in the bill relating to independent advocacy.

Unlike the recommendation of the Senate inquiry on violence, abuse and neglect against people with disability in institutional and residential settings, which specifically called for the

establishment of a national system for reporting, investigating and eliminating violence, abuse and neglect of all people with a disability, the commission's remit will be limited to NDIS participants and other groups such as those over 65 receiving continuous support. We find this disappointing. We believe it should be available for all people with disability.

We also would like to strongly point out that this does not replace the royal commission that the Senate inquiry that I initiated and chaired recommended very strongly in our recommendations. The disability sector have been very clear that, while they support this—and they have made a number of comments about improvements, which I will come to—it does not replace the need for a royal commission. I am really pleased that the ALP is now supporting a royal commission. I hope they will support our second reading amendment that has been circulated by Senator Steele-John on behalf of the Australian Greens, which I now move:

At the end of the motion, add:

", but the Senate:

(a) is of the opinion that this bill does not negate the need for a Royal Commission into violence, abuse, and neglect of people with a disability; and

(b) calls on the government to establish the Royal Commission as a matter of urgency. "

Therese Sands, the director of Disabled People's Organisations Australia, said at one of the hearings of the inquiry on the bill's provisions:

... we note with disappointment that the NDIS Quality and Safeguards Commission will not provide comprehensive protection against violence, abuse and neglect for all people with disability across a broad range of service systems and situations. It will only provide protection to the 10 per cent of people with disability who directly access NDIS supports, and it will not have a mandate to address individual or systemic issues outside of the NDIS. This means that the majority of people with disability as well as NDIS participants, when interfacing or using other service systems, will have protection only through existing regulatory and policy frameworks that have to a large extent been shown to provide inadequate protection.

Having chaired that inquiry into violence, abuse, and neglect against people with disability, I can very strongly tell you that the existing state and territory provisions are not adequate. I am glad to see that the government has committed to working with all states under the National Disability Strategy to ensure that people with disability who are receiving service outside the scope of the commission are covered by appropriate quality and safeguard measures, with this issue also being considered as part of the review of the framework in 2021.

This is an issue that really should have been resolved before this bill came before the chamber. It is very important that these issues be addressed, and 2021 at this stage seems quite a long way off to me. It's especially important, as we know that a number of states are winding back their current arrangements. For example, New South Wales is one of the first to be winding those back, and a great deal of concern has been expressed by people with disability about the current winding-back of state arrangements.

While the bill provides the overarching structure for the commission, the operational detail will be provided for in legislative instruments. The bill contains 23 rule-making powers. Six of these rules are essential to the operation of the commission. While we understand that the government is currently consulting on a number of these sets of rules, the consultation is currently limited to a select number of organisations, as are the rules, and so the rules have

not yet been publicly released. We find it concerning that a large amount of the operational detail has been withheld from the legislation and will only be publicly available following the passage of this bill.

When considering this bill, the Senate Standing Committee for the Scrutiny of Bills raised concerns regarding the placing of significant matters in delegated legislation rather than in the bill itself. The scrutiny committee specifically mentioned the code of conduct and the breach of it potentially being the subject of significant penalties, and was of the view that its establishment:

... should be included in primary legislation unless a sound justification for the use of delegated legislation is provided.

In a subsequent report the scrutiny committee acknowledged the minister's response regarding this and other matters regarding the bill, but reiterated its scrutiny view. Consequently I will be moving an amendment to have the draft code of conduct, which is only eight points, included in the bill.

A number of submitters and witnesses to the bill's inquiry raised the issue of the commission's independence. There are concerns that the minister's ability to direct the commissioner will impact on their independence. The relevant provision of the bill states:

The Minister may, by legislative instrument, give directions to the Commissioner about the performance of his or her functions and the exercise of his or her powers.

The commissioner must comply with these directions. While the explanatory memorandum indicates the directions must be general in nature and cannot relate to a specific individual or NDIS provider, the commissioner needs to be able to carry out their work without fear of interference from the minister and/or the government of the day. We would like to see this power qualified so the minister's directions must be consistent with the vision and principles of the National Disability Strategy. At the very least, such directions should be disallowable by the parliament, and I will be moving an amendment to this effect in the Committee of the Whole.

We are also concerned about the commission's proposed functions of providing NDIS market oversight and also investigating, managing and resolving complaints and conflicts, particularly when its market oversight role may impinge on its ability to rule on complaints under its complaints function where the market is thin, such as in regional and rural areas. As Mary Mallett, the CEO of the Disability Advocacy Network Australia, said at one of the hearings:

If you have a service—using a remote area as an example—where there are lots of complaints coming in about the service and it's clear they are not providing good service or that there are issues about their registration maybe, the commissioner has also got to manage the issue of the risk of that service provider withdrawing and there being no service provider in the area. It's an odd tension that is consciously in there. We've talked about it with the DSS quality and safeguarding people at an earlier stage. It is deliberately in there, but that's a challenge for this commission to manage. It's one where we would worry about how that's going to play out.

Accordingly, I will be moving an amendment in the Committee of the Whole to remove market oversight as one of the commission's core functions so that the commissioner's complaints function is unhindered. I find this provision very concerning.

Some submitters to the bill inquiry suggested that the commissioner should also be able to receive and investigate complaints about the National Disability Insurance Agency and local area coordinators. As it stands, the commission will be responsible for receiving, investigating, managing and resolving complaints about the provision of services or supports by NDIS providers. Complaints about the NDIA and LACs—local area coordinators—will continue to be dealt with through existing channels, such as the Administrative Appeals Tribunal or the Commonwealth Ombudsman. Expanding the scope of the commissioner's complaints function would make it easier for people with disability and for the sector to know where to make a complaint, and to actually use the system. It would also provide the commission with a more holistic picture of systemic issues and trends, and it would assist the commissioner to deliver on one of its core functions—that is, to provide advice or recommendations to the agency or the board in relation to the performance of the agency's functions.

The minister's office provided me with the following information following my letter to him outlining the concerns of the Australian Greens regarding the bill. Specifically, he said: 'Partners in the community, which include local area coordination and the Early Childhood Early Intervention, will be held to equivalent or same quality and safeguard arrangements as the NDIS providers.' I just don't see how this legislation does that and how he can guarantee that statement. Accordingly, I will be moving an amendment in the Committee of the Whole to expand the scope of the commissioner's complaints function to include local area coordinators and providers of Early Childhood Early Intervention services. That will make it clear. This amendment will also expand the scope of the commissioner's complaints function to include the NDIA.

We have further concerns about the limited power of the commissioner to reduce or eliminate the use of restrictive practices, as the bill does not provide the commissioner with regulatory powers to prohibit certain restrictive practices or impose criminal penalties. The government argues that this is because the Commonwealth does not have the power to directly regulate restrictive practices, making it necessary for the states and territories to continue to authorise such practices in behaviour-support plans of people with disability in their jurisdiction. As DPO Australia said in their submission to the bill's inquiry:

The current mechanisms at State and Territory level are varied and inconsistent, with some consisting of relatively weak policy functions within government departments and others having established regulatory bodies and mechanisms.

The commission should have the strongest possible powers with regard to restrictive practices and their elimination. Having chaired several inquiries that have dealt with issues of restrictive practices, I can only echo and support the comments made by DPO Australia: the states and territories do have varied and inconsistent mechanisms, and some are relatively weak. I would go further and say there are 'very weak' policy functions within government departments, and I think there's an absolute need to strengthen these provisions. I'm glad to see that the government has circulated an amendment that expands the commissioner's behaviour-support function. I quote from the supplementary explanatory memorandum:

The amendments made will require the Commissioner to assist the States and Territories to develop nationally consistent minimum standards in relation to restrictive practices that are in line with the intergovernmental agreement to the *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector*.

While the amendment itself mentions the Convention on the Rights of Persons with Disabilities, this is not mentioned in the section of the supplementary explanatory memorandum that I have just quoted from. The inclusion of the CRPD in the amendment is important, as the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector still falls short of CRPD.

We are further concerned that the role of the senior practitioner is not in the legislation. While the explanatory memorandum provides that the senior practitioner will be the officer responsible for this role, we want to see this formalised in the legislation. As such, I will be moving amendments in the Committee of the Whole requiring that there be a senior practitioner and allocating them the responsibility for the behaviour support function. This will ensure that the behaviour support function is not deprioritised at any future stage.

The Australian Greens have concerns over the lack of provisions in the bill relating to independent advocacy, given the important role independent advocacy plays in supporting people with disability. While the quality and safeguards framework itself refers to the important role of independent advocacy, this is not currently reflected in the bill. People with Disabilities Western Australia said in its submission to the inquiry:

There is a concern that the Bill will establish a dual role for the Commission when handling complaints. The Bill details that Commission will support people to be heard and provide protections for victimisation should they make a complaint, there is potential for impartiality to be compromised if the Commission is both interrogator and supporter. There is a strong case for independent advocacy to be available to ensure the rights of people are upheld in an unbiased way.

There was also concern that the bill did not cover independent advocates who may disclose information. I'm glad to see that the government has circulated a number of amendments that will see independent advocates referenced in the legislation, including an amendment that the commissioner must acknowledge, recognise and respect the roles of advocates—including independent advocates—in respecting the interests of people with disability, and will see independent advocates protected for disclosing information.

I'm pleased to see that the government took on board the concerns raised by people with disability, their advocates, ourselves and the ALP in the inquiry into this bill. We noted in our additional comments that we supported a suggested involvement of community visitors made by a number of submitters, and I'm glad to see that the government intends to make clear in the complaints rule that the commissioner will acknowledge, recognise and respect the role of community visitors and accept referrals from them.

I also want to briefly mention worker screening. The Australian Greens outlined in our additional comments that we want to see worker screening made compulsory for unregistered providers. We do acknowledge the right of people with disability to individual choice and control, and we acknowledge there are differing views on this issue. However, we want to see a reasonable balance struck. While this issue will not be resolved today, I'm glad to see that Commonwealth and state officials have agreed to explore both the policy and practical implications of extending mandatory worker screening to all disability support workers in the NDIS and consider it as part of the formal review of the scope of the NDIS worker screening before July 2019, when worker screening commences in most jurisdictions.

The Australian Greens are very pleased to see that the government will be moving an amendment to review schedule 2. I should note here that I had lodged a contingency motion

to try and effect that change if the government didn't make the change. But the government is making that amendment, so there will be no need to use that contingency measure. Schedule 2 contains amendments relating to previous reviews of the act for the bill. The Australian Greens had been pushing for this schedule to be split from schedule 1 because there are a great deal of concerns raised about schedule 2. I must say there are also further amendments I'd like to see to the NDIS legislation that are not included in schedule 2. We have outlined our various concerns in relation to these amendments previously and we've had discussions with the minister around our concerns on schedule 2. I will note that people with disability and their advocates are very concerned about a number of those amendments. We will be pleased to see them when they come back, and hopefully the concerns that were raised during the Senate inquiry are dealt with through that further legislation. We will continue to advocate for those amendments to the bill.

The Australian Greens do support this very important piece of legislation. But we think it could be better. We think there should be amendments made that go beyond what the government has done. I will acknowledge that the government has listened and made some amendments, which is great, but there do need to be further amendments made to this legislation.

Senator BROCKMAN (Western Australia) (17:59): Before I begin my contribution on this bill, I want to congratulate Senator Steele-John for his first speech, completed not that long ago. I'm also going to congratulate him on his dedication, being here to speak on this bill so soon afterwards.

I rise today to speak on the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017. This bill seeks to establish the independent NDIS Quality and Safeguards Commission which will oversee protections for NDIS participants as the scheme is progressively rolled out across Australia. The commission will deliver on the government's commitment to establish nationally consistent quality assurance mechanisms and safeguards for NDIS participants, empowering it to regulate NDIS providers, monitor quality and safety of their services and supports, investigate and determine any reportable incidents and, importantly, uphold the rights of people with a disability. There is \$209 million over four years allocated in the forward estimates to establish the commission. This is a sign of the government's commitment to disability reform in Australia.

It's great to see a number of members of the Community Affairs Committee in the chamber. As we all know, the NDIS is one of the largest social and economic reforms in our country's history. At full rollout, the scheme is estimated to support 460,000 participants and thousands of NDIS providers. As the NDIS rolls out, it is paramount we take into consideration the wellbeing and safety of people with disabilities receiving NDIS supports and services. The commission will ensure that we have nationally consistent protection in place. The new national system will mean a single registration process for providers across the various jurisdictions they operate in, which in turn will encourage greater efficiency, reduce red tape and duplication, and generally provide consistency nationally.

The commission will also play an important role in educating both service providers and clients of the NDIS. The effective dissemination of information and the effective way it is communicated will mean that service providers are able to communicate key services to their clients, families and carers, who will in turn better understand their rights and what help is

available to them. The commission would also be able to use a range of regulatory powers to rectify problems, including the ability to ban unsafe and negligent providers.

The bill also makes minor amendments to the National Disability Insurance Scheme Act 2013 in response to an independent review of the operation conducted in 2015. The amendments align with COAG's response to the independent review in December 2016.

I wish to thank the Community Affairs Legislation Committee, of which I'm the chair, for all the hard work they put into the recent inquiry and report into the bill. I think we have seen again the very positive impact that a Senate committee inquiry can have on a bill. Whilst the government does not think that the bill needed any particular strengthening—we think there were sufficient protections in the bill—by adding the amendments that we have added, as I said in an earlier contribution in this place, we have maintained the collegiate approach to the NDIS in making sure that we are all on board and continue to support this very important scheme. The committee recognised the significant work undertaken in developing the NDIS framework, particularly the extensive consultation process and the consensus that was reached with state and territory governments. This consensus is necessary because it's critical for change within the existing quality and safeguards system and views the NDIS framework and the bill as effective mechanisms to achieve this. As I said, even though the government believed the bill did have sufficient protections, there were concerns raised by a number of witnesses and submitters about the implementation of the NDIS, and the government has decided to move amendments in response to some of those concerns.

In schedule 1 of the bill, there's an acknowledgment of the important role that independent advocates play in representing people with a disability through providing for rules to be made about the role of advocates in the context of complaints and the extension of whistleblower protections to independent advocates. Schedule 1 also confirms the obligation of the commissioner and registered NDIS providers to afford procedural fairness to workers and others who are the subject of a complaint or allegation. This is consistent with existing common-law requirements. The commissioner will issue guidelines relating to compliance with common-law procedural and fairness requirements.

Schedule 1 also clarifies the commissioner's national policy setting role under its behaviour support function to assist states and territories to develop a regulatory framework, including nationally consistent minimum standards in relation to restrictive practices which are, firstly, in line with the intergovernmental agreement on the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector and, secondly, are consistent with the Convention on the Rights of Persons with Disabilities as promulgated in New York on 13 December 2006.

Schedule 2 of the bill implements COAG's response to the recommendations of the independent review of the NDIS Act. It is somewhat ironic that some senators who seek greater consultation cannot agree to these minor amendments that are a result of the independent review, which included much consultation and to which a response was agreed by all states and territories. However, given the importance of schedule 1 to the future protection of people with disabilities under the NDIS, the government does not intend to delay the passage of the bill to secure the passage of these minor amendments that are intended to clarify and improve the NDIS Act. As a result, the government will remove

schedule 2 from the bill and will progress these amendments at a later date following further consultation.

The coalition government is absolutely committed to a fully funded and high-quality NDIS. This is a very important piece of legislation, and the government considers it will be important to continue the positive collaboration in parliament that successfully established the NDIS and to progress disability reform in Australia.

Senator STEELE-JOHN (Western Australia) (18:07): It is very easy to say nice, warm, fluffy, general things about the NDIS. I know from personal experience, because I'm one of the people to whom these comments are usually addressed. However, speaking from this place of lived experience, something which up until now has been rather absent from this chamber on these issues, I say to you that the NDIS is not just another government reform. For the 4.3 million Australians living with disability, it is the product of decades of hard-fought campaigning to have our fundamental human rights recognised, protected and respected in the country in which we live. The struggle for equality is ongoing, and I hope to do what I can with my time in this place to give it voice and strength.

The NDIS is not a silver bullet to the challenges that we face as a community, nor is it by any means perfect. Indeed, many of its imperfections speak to the urgent need to place the views of those with a lived experience back at the centre of the scheme. However, it is a critical foundation stone upon which the disability community will continue to fight for our rights and our freedoms. The legislation before us forms a key part of this foundation. The Australian Greens support the intent of the NDIS quality safeguards legislation in ensuring people journeying with a disability are protected from violence, abuse or neglect, and that best practices are followed in supporting those people.

However, we are deeply concerned, as has been outlined by my colleague Senator Siewert, that the protections do not go far enough, and we are disappointed that the NDIS Quality and Safeguards Commission will only provide protection to the 10 per cent of people with a disability who directly access NDIS supports. Quite frankly, it is unacceptable that the remaining 90 per cent, the vast majority of people with a disability, will have to rely on the existing insufficient regulatory frameworks, which are proven to provide inadequate protection. Put simply, this bill fails. It does not provide enough protection to enough people. As has been stated in stark terms by the Disabled People's Organisations Australia, this bill:

... will not cover the range of settings in which people with disability experience violence, nor the multiple forms of violence that people with disability experience.

This bill in no way removes the need—as was also noted by my colleague—for a royal commission into violence, abuse and neglect in relation to people with a disability.

The Greens have repeatedly called for a royal commission, and it is, quite frankly, shameful that the other parties have not supported our calls in the past. The need for a royal commission was the first recommendation of the Senate Community Affairs References Committee inquiry into this issue back in 2015. The recommendations were supported by the Victorian parliament's inquiry into abuse in disability services. More than 120 academics from around Australia have signed an open letter urging the Prime Minister to act on the recommendation. This was followed by a society statement from the Disabled People's Organisations Australia, which was endorsed by 163 organisations and groups and, in addition, over 380 individuals once again calling for a royal commission. It stated:

A Royal Commission is the only mechanism that can provide a comprehensive, independent, and just response to all forms of violence and abuse against people with disability. People with disability in Australia deserve nothing less.

I could not agree more; we do deserve nothing less. The people who took time to go through the trauma of informing that committee of their experience deserve nothing less than the government's attention and the opposition's attention in calling for and establishing a royal commission.

I support the legislation before us at the moment. I am profoundly disappointed in some of its aspects. I echo Senator Rachel Siewert's comments in that regard. But I want to repeat: this is not a sidestep through which we can get away from a royal commission. It in fact adds to the need and the urgency for that commission to take place.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (18:13): In response to the second reading amendment: the Commonwealth government is committed to ensuring safe and quality care for people with disability. Violence, abuse or neglect of vulnerable people, particularly those with disability, is abhorrent and completely unacceptable. The Turnbull government considers that engaging in real and immediate reform is a better response than yet another inquiry into the old system now being reformed. The recent budget included \$209 million to establish a new independent body, the NDIS Quality and Safeguards Commission, from early 2018 to implement the NDIS quality and safeguards framework.

The establishment of the commission forms the basis of the government's response to the Senate committee inquiry into violence, abuse and neglect against people with disability in institutional and residential settings. The government has agreed to or noted 29 of the 30 recommendations of the committee's report. The government is working with states and territories to ensure that the NDIS Quality and Safeguarding Framework is in place when the NDIS reaches full scheme in July 2020. The present system is that states and territories are responsible for quality and safeguarding arrangements for people with disability while the NDIS is being rolled out to full scheme. This means the states and territories are presently responsible for complaints, regulations, quality assurance and law enforcement, but this present system will be the subject of significant reform when this new safeguards framework and the independent NDIS Quality and Safeguards Commission are established. While preventing abuse of people with disability is obviously broader than the NDIS, and the commission and the framework will not replace reporting to the police or other authorities where this is appropriate, they represent a significant reform designed to strengthen standards to address abuse and neglect. Rather than proceeding with another inquiry through a royal commission, the government is focused on the establishment of the NDIS Quality and Safeguards Commission and implementing the framework, which will address many of the issues raised by the committee. I thank senators for their contribution and for their support.

The bill establishes a national independent body, the NDIS Quality and Safeguards Commission, to protect and prevent people with disability from experiencing harm. The NDIS is, of course, one of the largest social and economic policy reforms in Australia's history. At full scheme, it is estimated that the NDIS will be supporting around 460,000 Australians with a disability. At that time, the NDIS will be injecting \$21 billion per year, each year, into the Australian economy. The NDIS operates in a rapidly expanding market, driven by participant

choice. Already, participants are starting to exercise choice and control, and new, innovative delivery models are constantly emerging. One of the key features of the bill is balancing the need for safeguards with the object of enabling people with disability to take reasonable risks so they can reach their own goals. The NDIS is a transformational social policy which has been delivered by this government. This will require a new, nationally consistent approach to quality and safeguards, and this is critical to ensure that the new market based system delivers quality services and supports to people with disability in a way that promotes choice, control and dignity and upholds basic human rights.

In February 2017, the Council of Australian Governments Disability Reform Council released the NDIS Quality and Safeguarding Framework. The framework was developed in consultation with a range of key stakeholders, including people with disability, their families, carers and providers, as well as peak bodies. This bill is a very important step towards implementing the framework and giving effect to the Commonwealth government's regulatory responsibilities. The government is taking strong, decisive action by establishing the commission. A one-size-fits-all approach is not appropriate, and this bill supports a proportionate approach that is designed to maximise flexibility in regulation, to protect and prevent people with disability from experiencing harm from poor-quality and unsafe supports.

The commissioner will be responsible for overseeing quality and safeguards for full implementation of the NDIS, including in relation to information, linkages and capacity-building elements of the scheme. The commissioner will also oversee quality and safeguards in other closely related programs, including Commonwealth funded advocacy services and older people with disability who are receiving supports under the Commonwealth Continuity of Support Program specialist disability services for older people. The bill establishes compliance, complaints and risk management arrangements for the registration and regulation of NDIS providers, including practice standards, a code of conduct and mechanisms for complaints and reportable incidents. The commissioner will also be responsible for national oversight and policy settings in relation to worker screening, behaviour support and monitoring of the use of restrictive practices within the NDIS, with the aim of reducing and eliminating such practices.

This bill will further the objects and principles of the act and empower people with disability to exercise choice and control in the planning and delivery of supports and services under the NDIS. The proposed amendments mean that people with disability and their families and carers will have one single body to which they can raise concerns about the quality of supports or services. For providers, the new national approach will enable a single registration and regulatory system across participating jurisdictions, which will reduce duplication and provide national consistency.

The bill is intended to balance the need to provide appropriate protections that meet the Commonwealth's obligations in relation to the regulation of NDIS funded supports and services with the need to enable participants to take reasonable risks themselves so that they can reach their goals. It is also intended to suit an emerging market based system in which participants are building their capacity to act as informed consumers. The workforce is growing rapidly, and new providers are entering the market with innovative ideas and different models of providing services. This bill complements and strengthens existing measures to remove discrimination against people with disability in Australia and to provide

them with support and assistance: measures such as the Disability Discrimination Act 1992, the provision of income support through the disability support pension, carer payment and carer allowance, and the National Disability Strategy and the National Disability Agreement.

In bringing the bill forward, the government is seeking to deliver a safe and high-quality NDIS. The government has provided \$209 million over four years to establish this commission. The bill gives scope for the commission to continue the work underway with the states and territories under the national framework for reducing and eliminating the use of restrictive practices. The government is fully committed to delivering a fully funded high-quality NDIS. We've supported the NDIS from day one, and the establishment of the NDIS Quality and Safeguards Commission demonstrates this ongoing commitment. Preventing abuse of people with disability is obviously broader than the NDIS, as I've outlined. The commission's work will not replace reporting to the police or other authorities, but it does represent a very significant reform designed to strengthen the standards to address abuse and neglect for the most vulnerable in our society.

I thank the Senate Community Affairs Legislation Committee for its report on the establishment of the commission and for its recommendations. The report was published on 8 November 2017, and I note that the committee recommended that the bill be passed. The committee acknowledged that concerns were raised about the development of the NDIS rules, ensuring people with disability remain central to the design and ongoing focus of the commission and can effectively participate in quality and safeguard processes. The committee was satisfied, however, that the bill struck the right balance in the rapidly growing and evolving NDIS market.

In developing the bill, input was sought and received from a cross-section of the community, including people with disability, carers, providers, workers, volunteers, peak organisations, advocacy groups, professional bodies, unions, corporate stakeholders and state and territory governments. Recommendations which have emerged during public consultation reflect the diversity of views across the disability community and the balance we seek between safeguards and choice. However, it's clear that all welcome the bill and the establishment of the commission.

I extend the government's thanks for the commitment and contributions made by so many people across the community as we work together to ensure the rights of people with disability are upheld and that the services and supports provided through the NDIS are safe. Collaborative work on the NDIS rules will continue as we develop more detail about how the commission will work in practice with NDIS participants, providers and workers, including in relation to the NDIS rules. The commission will have across all of its functions a focus on education, capacity building and development for people with disability, providers and workers, as well as compliance and enforcement powers. The government notes the additional comments made by senators opposite with respect to the need for ongoing consultation as the commission is established, as well as further comments to strengthen the bill's references to independent advocacy, procedural fairness and the reduction and elimination of restrictive practices. The government will be moving a package of amendments in response to the additional comments made by senators opposite and has provided a commitment to all senators that we will continue to consult with people with disability, disability stakeholders, unions and state and territory governments as we progress the implementation of the quality

and safeguards framework and the establishment of the commission for the commencement of operations in New South Wales and South Australia from 1 July 2018.

The government also notes the additional comments of the Australian Greens senators with respect to schedule 2. Schedule 2 introduced minor administrative amendments to the NDIS Act in accordance with COAG's response to an independent legislative review. The government does not intend to put at risk the establishment of the commission or delay the passage of this bill to secure the passage of these minor amendments. The government will therefore be moving an additional amendment to remove schedule 2 from the bill.

The bill delivers on a core commitment of this government for strong, clear, demonstrable action in support of people with disability and the NDIS marketplace. The amendments proposed by the government represent a fair response to the issues raised by those opposite, and I would encourage the parliament to support the bill to establish the commission and ensure the long-term sustainability and quality of our NDIS system.

The ACTING DEPUTY PRESIDENT (Senator Williams): The question is the amendment moved by Senator Siewert be agreed to.

A division having been called and the bells being rung—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Cancel the division. There is a little bit of confusion here with the vote, so I will put the question again. The question is that the amendment moved by Senator Siewert be agreed to.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (18:28): I table a supplementary explanatory memorandum relating to the government amendments to be moved in this bill and—by leave—I move government amendments (1) to (11) on sheet EU124 together:

(1) Clause 2, page 2 (table item 3), omit the table item.

(2) Schedule 1, item 7, page 5 (before line 25), before the definition of *key personnel*, insert:

independent advocate, in relation to a person with disability, means a person who:

(a) is independent of the Agency, the Commission and any NDIS providers providing supports or services to the person with disability; and

(b) provides independent advocacy for the person with disability, to assist the person with disability to exercise choice and control and to have their voice heard in matters that affect them; and

(c) acts at the direction of the person with disability, reflecting the person with disability's expressed wishes, will, preferences and rights; and

(d) is free of relevant conflicts of interest.

(3) Schedule 1, item 48, page 32 (after line 7), after paragraph 73W(a), insert:

(aa) acknowledges the role of advocates (including independent advocates) and other representatives of persons with disability; and

(ab) provides for cooperation with, and facilitates arrangements for, advocates (including independent advocates) and other representatives of persons with disability who are affected by the complaints process and who wish to be independently supported in that process by an advocate or other representative; and

(4) Schedule 1, item 48, page 32 (line 25), after "NDIS providers", insert ", advocates (including independent advocates)".

(5) Schedule 1, item 48, page 32 (after line 29), after paragraph 73X(2) (c), insert:

(ca) requirements relating to procedural fairness in relation to the management and resolution of complaints;

(6) Schedule 1, item 48, page 34 (before line 5), before paragraph 73Z(3) (a), insert:

(aa) requiring a registered NDIS provider to provide people with disability with information regarding the use of an advocate (including an independent advocate) in relation to an investigation into the reportable incident; and

(7) Schedule 1, item 48, page 35 (line 15), after "carer", insert", independent advocate".

(8) Schedule 1, item 60, page 64 (after line 8), after subsection 181D(3), insert:

(3A) In performing his or her functions, the Commissioner must acknowledge, recognise and respect the role of advocates (including independent advocates) in representing the interests of people with disability.

(9) Schedule 1, item 60, page 64 (before line 9), before subsection 181D(4), insert:

(3B) In performing his or her functions, the Commissioner must have due regard to procedural fairness.

(10) Schedule 1, item 60, page 67 (line 20), at the end of section 181H, add:

; and (f) assisting the States and Territories to develop a regulatory framework, including nationally consistent minimum standards, in relation to restrictive practices:

(i) in line with the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector; and

(ii) consistent with the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006.

Note: The Convention on the Rights of Persons with Disabilities is in Australian Treaty Series 2008 No. 12 ([2008] ATS 12) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

(11) Schedule 2, page 80 (line 1) to page 89 (line 17), **to be opposed**.

The government is moving amendments to schedule 1 of the bill in response to concerns raised by stakeholders during Senate community affairs committee hearings: to acknowledge the important role of independent advocates in representing people with disability, to provide for rules to be made about the role of advocates in the context of complaints, to extend the whistleblower protections to independent advocates, and to confirm the obligation on the commissioner and on registered NDIS providers to afford procedural fairness to workers and others who are the subject of a complaint or allegation. This is consistent with existing common law requirements. The commissioner will issue guidelines relating to compliance with common law procedural fairness requirements and clarify the commissioner's national policy-setting role under its behaviour support function to assist states and territories to

develop a regulatory framework, including nationally consistent minimum standards in relation to restrictive practices, which is in line with the intergovernmental agreement on the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector and consistent with the Convention on the Rights of Persons with Disabilities adopted in New York on 13 December 2006.

Schedule 2 of the bill implements COAG's response to the recommendations of the independent review of the NDIS Act. However, given the importance of schedule 1 to the future protection of people with disability under the NDIS, the government does not intend to delay the passage of the bill to secure the passage of these minor amendments that are intended to clarify and improve the NDIS Act. As a result the government will remove schedule 2 from the bill and will progress these amendments at a later date following further consultation with the Senate.

Senator CAROL BROWN (Tasmania) (18:31): Labor has worked with stakeholders to develop these amendments and secure the government's support for them. We welcome the minister's willingness to collaborate with Labor and the Senate crossbench on amendments to improve this bill. This amendment makes changes to three important areas which Labor has negotiated with the government to address stakeholder concerns. First, it will make several changes to ensure that the bill explicitly states that the NDIS participants have the right to access independent advocacy and that provisions be made to define and protect this role.

Second, it will make changes to ensure that the bill provides for procedural fairness for workers in the NDIS. The changes will ensure that the commissioner must have due regard for procedural fairness in performing his or her functions and allow NDIS rules relating to the management and resolution of complaints to deal with requirements of procedural fairness.

Third, the amendment will strengthen the commissioner's role in relation to the regulation of restrictive practices. The amendment will expand the commissioner's behavioural support function to include assisting the states to develop regulatory frameworks, including nationally consistent minimum standards in relation to restrictive practices. That is in line with the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector and consistent with the Convention on the Rights of Persons with Disabilities.

The amendment also splits from the bill schedule 2, which makes a number of amendments to the act to improve the operation of the act following a review. Labor supports this, as it will allow for further consideration of this schedule, which does not directly relate to quality and safeguards.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:33): I express Greens support for these amendments. We are pleased that the government has seen the sense of separating schedule 1 and schedule 2. We have felt very strongly that schedule 2 distracted from the importance of establishing this commission. As I articulated in my second reading contribution, there were a large number of concerns about a number of the amendments around, for example, how chronic illness is being treated under the NDIS, and many more.

The other concern that was expressed is that, because they related to a review that was carried out basically before the NDIS started, some of those amendments, even though they were recommended then, were perhaps not appropriate to be included in this bill. We are also

very aware that there are a number of amendments that need to be made pretty urgently, including addressing issues around mental health and how psychosocial disabilities are being handled by the NDIS. The Joint Standing Committee on the NDIS tabled a couple of months ago a report on psychosocial disability in the NDIS and made a number of recommendations. We would like to see any bill that's amending the NDIS deal with that very important issue.

We support these amendments. They are ones that we were also advocating very strongly for, around advocacy, restrictive practices et cetera, as I articulated in my second reading speech. We are pleased that sense has prevailed to separate the two schedules.

Question agreed to.

The TEMPORARY CHAIR: The question is that schedule 2 stand as printed.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:36): by leave—I move Australian Greens amendments (1) and (2) on sheet 8313 together:

(1) Schedule 1, item 7, page 5 (lines 26 and 27), omit the definition of *NDIS Code of Conduct* in section 9, substitute:

NDIS Code of Conduct means the requirements referred to in subsection 73V(2).

(2) Schedule 1, item 48, page 31 (lines 17 to 23), omit subsections 73V(1) and (2), substitute:

(1) The NDIS Code of Conduct applies to the following persons or entities:

- (a) NDIS providers;
- (b) persons or entities employed or engaged by NDIS providers, or otherwise employed or engaged to provide supports and services to, or in relation to, people with disability.

(2) The *NDIS Code of Conduct* consists of the following requirements:

- (a) a person or entity must act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with relevant laws and conventions;
- (b) a person or entity must respect the privacy of people with disability;
- (c) a person or entity must provide supports and services in a safe and competent manner, with care and skill;
- (d) a person or entity must act with integrity, honesty and transparency;
- (e) a person or entity must promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability;
- (f) a person or entity must take all reasonable steps to prevent and respond to all forms of violence, exploitation, neglect and abuse;
- (g) a person or entity must take all reasonable steps to prevent and respond to sexual misconduct or other inappropriate relationships against, with or between persons with disability;
- (h) if guidelines have been made for the purposes of paragraph (2A) (b)—an NDIS provider must act in accordance with those guidelines; and
- (i) if guidelines have been made for the purposes of paragraph (2A) (c)—a person or entity mentioned in paragraph (1) (b) must act in accordance with those guidelines.

(2A) The National Disability Insurance Scheme rules may make provision for and in relation to the following:

(a) rules specifying conduct that may contravene a requirement under the NDIS Code of Conduct;

(b) guidelines for providers;

(c) guidelines for workers.

This set of amendments deals with the issues I raised in my second reading contribution around the code of conduct. The code of conduct is a really important part of the commission's work and, in fact, is an important part of how the NDIS will be implemented. As it currently stands, the code of conduct is one of those six key pieces of delegated instruments that I was talking about not that long ago in my speech on the second reading, which are in a rule rather than as part of the legislation. We had a lot of evidence to the committee that expressed concern that these very important matters were being left to a rule rather than being incorporated into the legislation. So that is what these amendments seek to do. They seek to incorporate the code of conduct, which is, in fact, only eight points, into the legislation rather than leaving such an important issue to a rule.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (18:37): I acknowledge Senator Siewert's general support through her proposed inclusion of the code into the act. The government doesn't support the amendment for the following reasons. Incorporating the code of conduct into the act will limit the flexibility of the commissioner to shape the code. The NDIS market is, and will continue to be, rapidly evolving as new models of disability support emerge. The regulator will need to be responsive to these changes in the market and community and stakeholder views. The proposed amendment to the code of conduct also seeks to expand the coverage of the code outside of the NDIS to all of those engaged in providing support and services to people with disability. This goes well beyond the scope of the NDIS quality and safeguarding framework agreed by COAG and could extend the application of the code to persons in mainstream services, so we won't be supporting the amendment.

Senator CAROL BROWN (Tasmania) (18:38): This amendment proposes to put the code of conduct into the bill rather than in the rules, which are delegated legislation. We do not support this, as consultation on the code of conduct is ongoing. I stress again the importance of the government conducting genuine consultation on this and the other rules.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:39): I will make a couple of quick points. One point is about consultation, which I referred to in my second reading contribution. It has been very difficult to get people's opinions on the rules because only some of the rules have been released and they have only been released to certain organisations. They haven't been released for public comment. To be fair, the government did at least release them so that some people could look at them, but they haven't been out for wide public consultation, which makes it very difficult for us to ask stakeholders what they think about them. Some people who are part of that process feel compelled not to engage with us about it, because there is a certain level of confidentiality around them. But at least they have gone out. Some of the rules haven't gone out, and that is a concern.

As to how we envisage this as working, this would essentially be the framework for how rules could be made around this particular code of conduct. There are things in this code, such as that 'A person or an entity must respect the privacy of people with a disability'—I don't think that is going the change—and 'A person or entity must provide supports and services in

a safe and competent manner with care and skill.' Those sorts of issues are not going to change. We understand that things will change into the future, but have the framework in the legislation—the very bones of it—and then you put the meat on the bones in the rules. We think these sorts of things are so important that they belong in the legislation. I hear that it doesn't have support here yet, but I strongly encourage the government to make sure they carry out much wider consultation on these rules.

The TEMPORARY CHAIR (Senator Williams): The question is that Australian Greens' amendments (1) and (2) on sheet 8313 be agreed to.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:41): Senator Seselja asked me earlier whether I was going to move all of the amendments on sheet 8307 together. With some guidance from the chamber, I am happy to move them together and speak to them all at once. That will then involve the chair putting different questions differently, because some are 'stand as printed' et cetera. I am happy to try to facilitate the debate in that way, if that is acceptable to you, Chair.

The TEMPORARY CHAIR: To clarify, amendment (3), amendments (5) and (6), and amendments (8) and (9) on sheet 8307 will be moved at once?

Senator SIEWERT: Yes, if that is the will of the chamber.

The TEMPORARY CHAIR: Are you seeking leave to do that?

Senator SIEWERT: Yes, I am seeking leave to do that?

Leave granted.

The TEMPORARY CHAIR: Those three lots of amendments will be moved at once. Would you like the three lots voted on separately, Senator Siewert?

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (18:42): If I could assist, Chair. Looking at the running sheet, my understanding is that that won't change the votes. If Senator Siewert wants to split the votes for some reason, we would be happy to do that, but, in terms of 'stand as printed' and things, there is a separate amendment that I think has that, which would still be considered separately. That is my read of it.

The TEMPORARY CHAIR: Thank you for that clarification, minister. Senator Siewert?

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:43): I move Greens amendment (3), amendments (5) and (6), and amendments (8) and (9) on sheet 8307, together:

(3) Schedule 1, item 48, page 32 (lines 15 to 18), omit subsection 73X(1), substitute:

(1) The National Disability Insurance Scheme rules may prescribe arrangements relating to the management and resolution of complaints:

(a) arising out of, or in connection with, the provision of supports or services by NDIS providers, and providers of local area coordination services and early childhood early intervention services; and

(b) arising out of, or in connection with, actions of the Agency.

(5) Schedule 1, item 60, page 65 (line 12), omit "Act;", substitute "Act".

(6) Schedule 1, item 60, page 65 (lines 13 to 17), omit paragraph 181E(i).

(8) Schedule 1, item 60, page 67 (after line 33), after subsection 181K(l), insert:

(iA) Despite paragraph 44(2) (b) of the *Legislation Act 2003*, and regulations made for the purposes of that paragraph, section 42 of that Act applies to a direction by the Minister under subsection (1).

(9) Schedule 1, item 60, page 68 (lines 1 to 4), omit the note, substitute:

Note 1: Section 42 of the *legislation Act 2003* provides for the disallowance of legislative instruments.

Note 2: Part 4 of Chapter 3 (sunsetting) of the *legislation Act 2003* does not apply to the directions (see regulations made for the purposes of paragraph 54(2) (b) of that Act.

I would love it if somebody were going to vote differently on some of these amendments, but I get a vibe that this is not going to happen, so I am happy to hear the will of the chamber on all of them together, unless somebody wants to put them differently. But I would like to articulate very briefly what these amendments are about, and why we are moving them. Again, I did foreshadow all of these amendments in my second reading contribution. Amendments (1), (2), (4), (7), (10), (11), (12) and (13) are about the role of a senior practitioner, a position that we regard very seriously. It is an absolutely critical role. At the moment, the role of the senior practitioner is not articulated fully in the—

The TEMPORARY CHAIR: The minister on a point of order.

Senator Seselja: Perhaps I could seek clarification. It is my understanding that Senator Siewert asked to move three of her remaining amendments together, but she appears to be speaking to one that she didn't move together. So I am just seeking clarification on that.

The TEMPORARY CHAIR: Senator Siewert, you might just clarify that.

Senator SIEWERT: Yes. I was proposing that we deal with all of them and then put them. Sorry, if I wasn't clear.

The TEMPORARY CHAIR: Could I just make the point here, Minister, that we're all talking about sheet 8307, amendment (3), as well as amendments (5) and (6), as well as amendments (8) and (9), which have been moved by Senator Siewert together. She's saying, for simplicity's sake, to debate them together. Senator Brown?

Senator Carol Brown: My understanding is that we will debate all the amendments and then we will vote on them separately as they appear on the running sheet.

The TEMPORARY CHAIR: My understanding is that we will debate them all together and then if senators require separate divisions and votes on those amendments we can put them that way. Is everyone happy? Continue, Senator Siewert.

Senator SIEWERT: I'm trying to get the issues out there on the table and talk about them but not hold the chamber up.

The TEMPORARY CHAIR: Continue, Senator Siewert.

Senator SIEWERT: As I was articulating, we believe this particular role is absolutely essential to the work of the commission. It's an issue that will come up time and time again in terms of those restrictive practices. I am aware of the sensitivities with the states and territories. I feel a great deal of sorrow at the fact that we can't work together with the states and territories across this country to achieve some harmony in the approaches to those particular issues. We're in 2017 and we still haven't worked that out. I'm pleased that there

will be ongoing negotiations, but we think these amendments are so important in making sure that the role of the senior practitioner is enshrined in the legislation.

Another set of amendments I have moved are related to market oversight. We in this bit of the chamber are deeply concerned about the conflicting roles for the commission in market oversight and in looking at complaints when they are raised. If there's a provider that is fairly dodgy but the only provider in a particular place, it may be allowed to continue because of the market. We are deeply concerned about that, and I'm articulating the concerns of people with disability that were raised during the inquiry and that have been raised with me privately on a number of occasions.

I have also articulated that we have concerns about the minister's directions to the commissioner under subclause 181K(1). We believe those directions should be disallowable. I'm sure I will hear the argument from the government that it is the same provision that applies to other agencies, but it doesn't apply to all agencies, so we believe that it should be amended.

The last set of amendments provides for the NDIS rules to prescribe arrangements relating to the management and resolution of complaints, both those arising out of, or in connection with, the provision of supports or services by NDIS providers and providers of local area coordination services and early childhood early intervention services and those arising out of, or in connection with, actions of the agency. Again, I articulated that in my second reading speech. We believe that the role of the commission should extend to LACs, to providers of early childhood intervention services and, of course, to the actions of the agency because people accessing those services are going to be left to very clunky existing services, about which people complain all the time. We think these belong in the purview of the commission.

Senator CAROL BROWN (Tasmania) (18:48): Labor does not support these amendments. It does not seem necessary to formalise the role of the senior practitioner further in this bill. We believe it is sufficiently covered by clause 181D. We are confident that this important role will be maintained without this amendment.

In relation to this, I note that we have secured an amendment that strengthens the commissioner's role with regard to restrictive practices. We do not support removing the market oversight role of the commissioner. We think that it's a positive role for the commissioner to have, particularly given the government's inaction on NDIS market development and market failure. It is vital that the government develop their provider-of-last-resort policy. The devastating story of Francis, the young Victorian man in prison because there was no appropriate accommodation available, which was brought to light by the ABC the week before last, clearly demonstrates this. Given the independent commissioner market oversight can only help to ensure that these issues are addressed, the government should do this immediately.

We do not believe it is necessary for the minister's direction to be made disallowable as we believe the limitations on these directions set out in the bill are sufficient. The bill provides that the minister may, by legislative instrument, give directions to the commissioner about the performance of his or her functions and the exercise of his or her powers. A direction given must not relate to a particular individual provider and must not be inconsistent with the act, the regulations or an instrument made under this act. It is standard for such ministerial directions not to be disallowable. We don't support the broadening of the complaints role to

include the NDIA and other APS staff, as we believe complaints relating to these staff are adequately and more appropriately dealt with under existing mechanisms.

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (18:51): I will just deal with each amendment one by one. The government doesn't support the amendments on sheet 8307. The government also does not support the amendment establishing the role of a senior practitioner in the act. While there is an intention to establish a senior practitioner to administer the behaviour support function, as set out in the EM, all of the functions of the commission should be the responsibility of the statutorily appointed NDIS Quality and Safeguards Commissioner. This is paramount to the capacity of the commissioner to undertake his or her key functions as an integrated whole.

We believe—respectfully—that the Greens amendments (5) and (6) on sheet 8307, in relation to market oversight function of the commissioner, misunderstand that function. The commissioner's role is to provide additional prudential oversight to large providers with significant coverage in the NDIS market to ensure that these providers are not at risk of failure, leading to adverse outcomes for people with disability. The market oversight function doesn't authorise the commissioner to overlook legitimate complaints by people with disability in order to protect the commercial standing of a provider.

We also won't be supporting amendments (8) and (9) on sheet 8307. The commission will be independent from the agency and from service delivery. The commission will be accountable to parliament through the minister, and any directions from the minister to the commissioner must be of a general nature only and cannot, for example, relate to a decision of the commissioner in respect of a specific individual or NDIS provider. This is to ensure the independence of the commissioner.

The commission's role is to regulate the provision of disability services by providers. There are established avenues for appeal and complaint in relation to the NDIA and its contracted partners through the Commonwealth Ombudsman and the AAT, and for that reason the government won't support the amendments.

The TEMPORARY CHAIR: The question is that amendments (1), (2), (4) and (10) to (13) on sheet 8307 be agreed to.

Question negatived.

The TEMPORARY CHAIR: The question is that section 181H in item 60 of schedule 1 stand as printed.

Question agreed to.

The TEMPORARY CHAIR: The question is that amendments, (3), (5), (6), (8) and (9) on sheet 8307 be agreed to.

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator SESELJA (Australian Capital Territory—Assistant Minister for Social Services and Multicultural Affairs) (18:55): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Statute Update (Smaller Government) Bill 2017

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (18:56): I rise to speak on the Statute Update (Smaller Government) Bill 2017. Labor will not oppose this bill; however, it would be a mistake for anyone in the chamber to take that as an endorsement of how this government is using this bill to silence independent expert advice to government.

This bill repeals three acts and amends 10 others to abolish seven bodies. They are: the tradespersons' rights committees—ones that I have been familiar with over many years; the Oil Stewardship Advisory Council; the Product Stewardship Advisory Group; the Advisory Group of the Australian Sports Anti-Doping Authority; the Plant Breeder's Rights Advisory Committee; the Development Allowance Authority; and the Corporations and Markets Advisory Committee. Some of these bodies are redundant due to other agencies taking on their role, such as the tradespersons' rights committees. Other bodies being abolished administered programs that have now ceased, such as those delivered by the Development Allowance Authority. However, I would like to put on record that Labor does not support the abolition of all of the bodies this bill will formally terminate.

The truth of the matter is that, because of actions already taken by the Abbott-Turnbull government, these bodies exist in name only and have done so now for some time. That's because they've effectively been gutted by this government. This has been achieved over the past few years by not appointing new members when existing terms lapsed, by removing essential funding and staff, and by not referring any meaningful work to them. This is very regrettable. Over the time these bodies have existed, they have played an important role in informing and shaping debate on critical areas of public policy. Sadly, this government has a distinct antipathy to those that provide independent advice to government. Indeed, it's worth noting that the abolition of these bodies was a recommendation of the now notorious National Commission of Audit. That belies the government's real agenda here—driven by ideology, not by the best interests of the Australian people. We shouldn't be too surprised, in any case, as this Prime Minister and his frontbench regularly ignore advice from experts, even experts they themselves have commissioned to complete independent reports. You need only to look at their track record.

Most recently, on an issue of critical national importance—that is, energy—this government has failed to deliver on the key recommendation of the Finkel review: a clean energy target. This is a measure the Finkel review found would drive new investment, bring energy prices down for all Australians and help reduce greenhouse gas emissions.

The bill's abolition of the Corporations and Markets Advisory Committee is exemplary of how this government's thoughtless approach is not in the best interests of the Australian community. CAMAC was established by the Hawke Labor government in 1989 to provide independent advice to the Australian government on issues that arise in corporations and financial market law and practice. The members of the committee throughout its history have

been appointed in a personal, not representative capacity, and to be eligible have had to satisfy a requirement to have relevant commercial or professional experience. Over the course of its existence CAMAC has produced carefully considered reports on a wide variety of subjects and has been at the forefront of corporate law reform in Australia. Many of the reforms introduced by governments of both persuasions have been informed by CAMAC recommendations.

These reforms have resulted in far-reaching changes for how our financial markets operate. In just the last few years, CAMAC has played a key role in a number of important reforms delivered by governments. One example is the work done by CAMAC on crowdsourcing equity funding. In 2013, whilst in government, Labor commissioned CAMAC to consider the best regulatory framework that would allow for the operation of equity crowdfunding in Australia. The comprehensive report produced by CAMAC was incredibly consequential in forming both Labor's and the government's future positions in the area of policy and ultimately led to the Corporations Amendment (Crowd-sourced Funding) Bill 2016.

Other areas of policy in which CAMAC has provided advice in recent years include matters relating to tax and corporations law, continuous disclosure, executive remuneration and directors' liability. It is, therefore, disappointing but not wholly surprising to see this government gut it by cutting its funding and staff, not appointing members and transferring its work to Treasury. Unfortunately, we don't see it being able to be revived under its current legislative framework.

Labor will have more to say in the future about how governments can receive independent advice on a financial system and how to ensure experts of the highest calibre can meaningfully contribute to policy development in this space. It's a shame to see what the government has already done to all of these important advisory bodies, but we feel the damage is done, so for that reason we will not oppose this bill.

Senator WHISH-WILSON (Tasmania) (19:03): I'm very disappointed that Labor will be supporting the Statute Update (Smaller Government) Bill 2017 tonight and very disappointed that the government is trying to scrap, especially, the product stewardship scheme. Let me tell you why. One of the key reasons I came to parliament—one of the things I campaigned on for years before I came to this place—was trying to solve problems with waste and especially waste that find its way into the ocean, waste that breaks down into millions of pieces, like microplastics, microbeads. That is one of the things that the product stewardship scheme is tasked with looking at. I'm disappointed that Senator Paterson's government has run down CAMAC, the product stewardship scheme and these other organisations to a point where they're essentially ineffective. But they're really, really important.

Product stewardship is an important initiative in the sense that it brings producers of products together, brings retailers together and even brings consumers together. It's actually supposed to be a holistic approach and solution to solving waste problems. Look at a product stewardship scheme that has been relatively successful—say, e-waste; a situation where we've offered a premium or a cash bonus for people who want to actually take in their e-waste because they pay a little bit extra when they buy a product. Sometimes these are called cash-for-products schemes. We've seen them with container deposit schemes. As you know, Acting Deputy President Bernardi, your home state of South Australia is very proud of the recycling

refund scheme it has there. It's one of the best schemes in the country, and South Australia has the highest recycling rates in the country.

Let's go back to e-waste; I'll get to other forms of product stewardship schemes. You buy a TV, a video recorder, a DVD player or whatever it happens to be. Video recorders went out probably about 15 years ago—that tells you something about debate late on a very tiring Wednesday night! Nevertheless, you buy through your scheme, and when you take it back you get a refund. What's happened is that the e-waste scheme has actually been too successful. The scheme has been targeted at certain kinds of waste that are well recycled, because they have very valuable inputs to their production. It has exceeded its mandate, so we see the kinds of stuff that we see dumped by the side of the road—old televisions, radios and all those kinds of things. We have in place a scheme that works effectively in making sure not only that items are properly disposed of but that they can be recycled or reprocessed. There is a difference between recycling and reprocessing. Reprocessing is a word that applies to a product that can be used to make the same thing again, whereas with recycling we tend to take products from something and make a totally alternative product. For example, breaking glass and using it to make road base is an example of recycling. Reprocessing is entirely different from recycling. We can take valuable metals out of certain electronic items and reprocess them and make those same items again. This kind of closed-loop producer-responsibility product-stewardship scheme has proven very effective with e-waste.

There have been a couple of disappointments—I'll be honest. That's because of a lack of funding and a lack of leadership. Tyres are a really good example. In my home state of Tasmania we consistently see suspicious fires where tyres that have been stacked up, usually in rural areas, suddenly start burning and produce horrendous environmental externalities. They get investigated—the police say there are suspicious circumstances—but nobody ever seems to be busted.

This week the Senate Environment and Communications References Committee inquiry that I'm chairing is looking at the problem with other forms of waste, after the *Four Corners* expose recently about the illegal dumping of waste. Why is that occurring? Why are people in New South Wales taking all sorts and forms of waste and dumping them in places like Queensland? Part of it is the difference in levies between the states—it's more profitable to dump it in Queensland—but the other part of it is that we have no recycling schemes in place for a lot of these products. The easiest thing is actually to sell the waste to China, and China recently, of course, as all senators in here would know, has said that it's not going to take products, especially plastics, for much longer.

We're in a bit of a pickle in this country. We've got this massive amount of plastic that we all use—way too much in our modern consumption and the lifestyles we live these days. We're selling a lot of it to China and we're illegally dumping it. A lot of it goes to landfill. What else could we do with it? That is what the environment committee is looking at, but I can tell you that product stewardship schemes are absolutely essential to any solution. The concept behind product stewardship schemes is that producers take responsibility, as well as retailers and consumers. The idea is that the responsibility should be shared amongst the different stakeholders, which is really important when coming to a final solution.

Our lifestyles and our waste are among the more serious environmental problems we face as a country. We're not the only one. Other countries have brought in successful product

stewardship schemes. Let's look at Germany. Germany have a scheme in place which is a little bit different to the South Australian scheme. They tend to design products for end of life. So if you buy a bottle of lemonade or fizzy soft drink—it's not good for your health, so I wouldn't recommend it—in Germany, those bottles are used 20 times. They're washed and re-used, and there's a number on them that says how many times they've been re-used. On the 20th time they then go for reprocessing and they actually make them into new bottles at the end of life. They're designed for that. There are certain incentives that the government put in place to actually help those beverage companies to come up with a new kind of product. That's very much part of the ethos of product stewardship schemes—producers and retailers taking responsibility. In Germany, when you go to the supermarket there are reverse vending machines there, or you can actually hand over the bottles at the checkout place and you get a credit on your shopping list. So retailers take responsibility. Guess who else does? The consumer does. The consumer buys the product and then they take it back. So it's all three groups.

There's an example of what we're looking at here in Australia. South Australia's been leading on this for years. The Northern Territory dipped their toe in the pond not too recently. They've had a few, shall we say, teething problems, but nevertheless their scheme is underway for beverage containers. Now we have New South Wales, Queensland, Western Australia, and hopefully Tasmania and Victoria signing up to a product stewardship scheme—a scheme for bottles and containers, including cardboard containers like those for chocolate milk, which is also something I don't necessarily recommend that you drink or buy. These help with out-of-home litter and help increase recycling rates. South Australia is leading the country, with nearly 85 per cent of all beverage containers recycled or reprocessed. Once again, it relies on a legislated product stewardship scheme.

The reason I'm giving you a bit of a sermon as to the importance of product stewardship schemes is we have a situation here where we have a product stewardship advisory group. I have a list of members here in front of me, and I actually know a couple of them quite well personally, such as Mr Jeff Angel at the Total Environment Centre. He's an environmentalist and conservationist, but he's a lot more than that. He's dedicated his life to solving the problem of waste. In terms of beverage containers, he's actually really close. His group is the Boomerang Alliance, which I used to be part of when I was chair of the Surfrider Foundation in my state and on the national board. He's actually gotten really close to achieving this around the country with a product stewardship scheme. He's done that because he's been part of groups like this. So why are we actually looking at pulling funding for such an important concept at a time when it's absolutely critical and a time when actually we need leadership?

I'll give some examples of other types of waste that are part of the products list, like plastic microbeads. A lot of Australians don't realise that, in their toothpaste, their shampoo and other products they use, companies use plastic as filler. When you brush your teeth and spit down the drain, millions—literally millions in a single mouthful—of microbeads are going into the ocean. That's exactly what we are finding in fish in Sydney Harbour. We are finding microbeads in plankton in the Antarctic. The ocean is full of this stuff. Mr Greg Hunt said that he would introduce a voluntary ban on microbeads, but he then went under a lot of pressure from people involved in the product stewardship scheme, like Mr Jeff Angel, and he then said he would bring in a compulsory ban on these microbeads within 12 months. That's something

we've got to hold him to account on. It's an example of something we know is toxic to the environment. We know that it's unnecessary; we don't need plastic in our toothpaste. It's actually been community pressure, community groups and the leadership of the product stewardship schemes that have got us to a point where we are close to banning this toxic plastic product that we just don't need.

There are also batteries. In your home state of South Australia, Mr Acting Deputy President Bernardi—

Senator Hanson-Young: And mine!

Senator WHISH-WILSON: And yours, Senator Hanson-Young. I visited the recyclers of South Australia—a very profitable group of small businesses, may I say, who make money out of recycling. They've set up these super-depots where you take in your cans and bottles for your refund and they treat you like customers. They say: 'What else have you got that we could recycle? Give us your batteries; give us your e-waste; give us your tyres'—that kind of stuff. Batteries are a perfect example of a product that can be almost completely reprocessed. In other words, they can be reused to make other batteries.

A lot of the photovoltaic systems we use at the moment are fairly new, but we know, given the redundancy and the life span of a lot of these products, that we're going to be facing a situation in five, 10 or 20 years where these systems will be replaced and we're going to need the silicon and other materials in them to be recycled. What a great idea. You buy your photovoltaic system and you may not notice that, when you pay \$3,000 or \$4,000 for a home system, you pay an extra \$100 on the price, and get the 100 bucks back when you take your photovoltaic systems in to be reprocessed or recycled. The retailer plays a role and the producer plays a role, as does the consumer. Once again, it's a classic product stewardship scheme. I already talked about e-waste, which is part of it, and oil in plastic containers.

So there we have some examples of waste schemes that we need governments to play a role in. Governments need to legislate for these things, they need an advisory committee and, I would say, they need a leadership group to make sure that this happens. That's why I'm so disappointed that we're looking at scrapping the product stewardship scheme, because, of those waste varieties that I mention here, only e-waste has been properly designed, legislated and made mandatory, and it's been highly successful. The other schemes have suffered from a lack of leadership, a lack of resources and funding, a lack of research and, seriously, a lack of commitment. We're close to getting state based schemes for bottles and cans. That is really important to me, because CSIRO did the world's first study of plastics on beaches around the entire country. They did transects at every beach. It would have been a great job; it took them two years. They went to every beach around the country and did transects and collected plastic waste. They found that, by volume, more than half the waste on our beaches around the country comes from plastic bottles. Plastic bottles float, especially when they've got their caps on. Senator Moore sat in on the inquiry. She's been a champion of this issue as well. It's low-hanging fruit: we can remove those bottles from the product waste scheme by making them valuable. I know Senator Paterson understands economics—as I think other senators in here do as well—and something's not waste, rubbish or litter anymore if you put a value on it. If you put a value on something, it's worth something. It may not be worth the utility that I have to pick it up, but someone out there—a scouts group or a homeless person, as often

happens to be the case in South Australia, or other groups of people—will find utility in picking up this rubbish and taking it to be recycled.

These schemes work really well by using a simple market based price mechanism, and we know that's why South Australia is so successful, because it can appeal to every kid, as was the case when I was growing up. Every time you saw a bottle or can by the side of the road, it was like seeing a Willy Wonka chocolate bar gold wrapper because it meant 10c. Back then it was only 5c, but you only needed two to buy yourself a 'freezer', as we called them back then. I don't know if anyone remembers freezers? They were 12c and they were like ice creams. Or you could buy a Red Skin or a raspberry Split—do you remember? Maybe Senator Abetz would remember raspberry Splits. You used to go to the beach, Senator Abetz—through you, Mr Acting Deputy President. These things were all able to be bought by collecting a few bottles and cans that some yobbo had thrown out their window. You could take them in and get them recycled. The system works really well.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Senator Whish-Wilson, I'm going to interrupt you because there is a matter of business that we need to conclude before the adjournment debate proceeds. You'll be able to continue your remarks when the debate resumes.

Senator WHISH-WILSON: I'm very glad about that.

The ACTING DEPUTY PRESIDENT: As are we.

Senator WHISH-WILSON: As I'm sure you all are!

BUSINESS

Consideration of Legislation

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (19:19): I move:

That the following general business orders of the day be considered on Thursday, 30 November 2017 at the time for private senators' bills: No. 68, Nuclear Fuel Cycle (Facilitation) Bill 2017, and No. 8, Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2016.

Question agreed to.

ADJOURNMENT

Rohingya Refugees

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (19:19): Order! It being 7:20, I propose the question:

That the Senate do now adjourn.

Senator MOORE (Queensland) (19:20): I'm still getting over seeing the look on Senator Abetz's face when he was asked about his going to the beach. That will stay with me for a while!

Last week, I had the opportunity to visit Bangladesh with people from Oxfam and CARE. Before I go any further, I particularly want to thank Helen Szoke, the current CEO of Oxfam Australia, and also Sally Moyle from CARE, who gave the member for Newcastle, Sharon Claydon, and I the opportunity to travel with them to see what is happening on the ground in

the area of Cox's Bazar, where since August this year the most amazing and terrifying humanitarian crisis has been developing.

There is a difference between this particular phase of Rohingya people fleeing Myanmar and going to Bangladesh and what has happened in the past—because this is not the first time there has been a stream of people, often Rohingya, who have been forced from their homes in Myanmar because of violence and attacks from local people in Myanmar. It happened in the 1970s and again in the 1990s. There are people still living in Bangladesh who were part of those phases of refugee action. The difference this time is that the eyes of the world are clearly looking at what is happening in this tragic, tragic situation at the moment. We have had regular media coverage of what's going on, and it seems that there is genuine interest in what is happening in what has been called an unprecedented stream of human misery in this region.

Despite all the information that's been available—the TV coverage and the social media coverage—nothing can effectively prepare anyone for being there and being confronted with the sight of thousands and thousands of people living in the most unbelievable conditions. They are vulnerable and afraid and in some cases still suffering trauma from the horrible experiences they had in the violence that surrounded their expulsion from their homes. We were able to go to a number of the camps. At the largest current camp we had the opportunity to see on the ground action from the extraordinary humanitarian workers who have come from across the globe to be part of the support work in Cox's Bazar. When you stand on a small hill in the camp you see for 360 degrees around you, as far as the eye can see, temporary vulnerable shelters that are housing, at last count, over 600,000 newcomers, adding to the existing population of refugees from Myanmar of over 300,000 people. In fact, the statement has been made that as a result of this particular movement there are now more than one million Rohingya refugees in Bangladesh, which means that there are now more Rohingya in Bangladesh than in Myanmar.

The history of these people has been confronting and, in true sense of the word, terrible. For all intents and purposes they are stateless. They have nowhere they can call home. They are living in vulnerable poverty and seeking support from all of us to see what we can do to ensure that there is a response to this misery.

We know that the Australian parliament—the Australian government—has introduced a specific humanitarian assistance process in response to displacement from Rakhine State in Myanmar. A sum of \$30 million has already been donated by the Australian government. This can only be seen as a stepped process. This can only be a step in the way that the response must be funded. Of that \$30 million, \$3 million has been provided to CARE and Oxfam, particularly under the Australian Humanitarian Partnership, for a special program looking for the response to this particular crisis. That funding came through, with the program starting on 1 November.

These two organisations are working with local partners on the ground. They are focusing particularly on having a response for the 75,000 most vulnerable women, men, girls, boys and people with disabilities who have been displaced from Myanmar, so they can meet their emergency immediate needs around basic water, sanitation and hygiene.

In terms of the particular needs, of course shelter is important. I have described these very tiny cave-like shelters, which are replicated for kilometres in the area, housing families who

have been displaced. But, certainly, one of the things that we know about any group of humanity is that one of their most important elements automatically is to look at sanitary and wash needs because, when people are gathered together, not only do they have the trauma of any injuries or suffering that they've had from their movement but they also have real vulnerability to the range of diseases that can occur when people are displaced and living in these temporary situations.

So there is an absolute focus on looking at effective sanitation—this is an area in which both CARE and Oxfam have deep experience—and on working with international experts from around the world who have come together. There has been a mass response to ensure that, in what has been described as an unprecedented crisis, there can be some response to at least provide emergency shelter for these people. That has worked extremely well in terms of cooperation. These people naturally have a history of working together, and certainly the Bangladesh government has worked with IOM as its unit to have coordination. There is a need for people to work together, and that is happening. It's an overwhelming response to the needs of the Rohingya who are there and who need our support. Their own personal resilience is inspirational.

Up to early November 2017, over 618,000 people had crossed. On the days we were there at the camps in the Cox's Bazar region, we saw people walking—streams of people who had arrived that day. When we talked to the people who were doing the registration processes, they said it was a quiet day, yet there were several hundred people coming. The reason it was a quiet day was that, several times during the month of October, 20,000 people came in a couple of days. It is just impossible to visualise that number of people, fearful for their lives, their families and their futures, seeking refuge in their neighbouring country—as I said, not for the first time.

There is a genuine need for ongoing support. The processes I've briefly described this evening are the emergency immediate needs. This will not be a short-term process. The Bangladeshi government must be commended for the welcome they have shown under their Prime Minister, Sheikh Hasina, who has been so publicly supportive and welcoming of these people into her already densely populated country. Bangladesh is one of the most densely populated countries on the globe. She has said: 'We will be there. We are opening our borders. We will welcome these people.'

From the Bangladeshi government's point of view, they consistently talk about this being a short-term process where they are going to be focusing on having the Rohingya people return to Myanmar. Only at the end of last week, there was an agreement between the two governments about a repatriation process of moving people back to Myanmar. But this is a very serious issue because, twice before that we know of, people have returned to Myanmar and yet this persecution continues in a cycle. They go back to Myanmar, and then what happened over August and September this year happens again. We cannot allow that desperate cycle to continue.

There will be a need for a further injection of support from Australia in taking its share in what must be an international response. The United Nations has passed a number of statements about its concern about the violence. Only recently there was another statement about how we work cooperatively to respond to the situation, calling upon the Myanmar government to stop the violence, and looking at a way of working together into the future.

This will not be short term. The Australian government's initial response of \$30 million should be applauded, but there will be a need for more. There is a desperate need for more.

These people have called on us for support. We have the capacity. We have the skills. Australia is well known for its skills in humanitarian response. We have professional workers, and I want to congratulate Oxfam and CARE on their welcome and on their teams that talked to us about their work on the ground. We know about the appeal that's been sponsored by the Australian government, engaging with six major humanitarian support organisations in Australia. We are calling upon the Australian community to get involved to help fund what will be a long-term need for people who have desperate needs. We must be involved.

Telecommunications

Senator GRIFF (South Australia) (19:30): I rise today to call the Senate's attention to what I consider to be a gross mismanagement of public funds. Every day the government hands over nearly \$1 million to line the coffers of Telstra, a company that the government privatised, that is one of the most profitable companies in Australia and that is one of the most profitable telcos in the world. These payments are part of what is essentially a secretive contract called the telecommunications universal service obligation, or USO.

The USO is a relic of the past. It goes back some 30 years, way before mobile phones and the internet took hold of the way we communicate. The USO was created when the telecommunications market was deregulated to ensure that standard services and payphones were reasonably accessible to all people in Australia wherever they lived. This, of course, was when the dominant form of communications for Australians was the fixed-line home phone and where payphones were considered a necessity. Back then, no-one in their wildest dreams could have predicted the role that mobile technology and the internet would play in today's society, nor that the government would spend tens of billions of dollars of taxpayers' money replacing the basic telecommunications network with the NBN. Technology that once seemed more in the realm of science fiction is now an everyday part of our lives. The rapid adoption of mobile technology by Australians has made fixed-line, landline and payphone services largely redundant, with 84 per cent of Australians owning a mobile phone and 29 per cent of Australians using mobile technology exclusively.

In 2012 the USO was locked down in a 20-year contract with Telstra. That is a contract worth over \$6 billion to provide services that fewer people use every year. Telstra receives around \$300 million to deliver the USO every year; \$100 million of this comes directly from taxpayer funds whilst the rest is essentially funded by the consumers through levies placed on telecommunication companies. This equates to \$814,000 each and every day for the life of the contract or for 20 years. To put it another way, Telstra earns \$565 a minute and has earned almost \$2,000 since I started speaking.

In comparison, the government has spent a meagre \$160 million over the past three years as part of the Mobile Black Spot Program, with another \$60 million pledged to fund round 3. Even though taxpayers are paying Telstra to keep services running, available data from government agencies show that up to half of Telstra's regional copper network has, in fact, been shut down. In addition, Telstra has decommissioned approximately half of its payphone network. The remaining payphones are also being used by Telstra for commercial gain, such as Telstra's private wi-fi network, Telstra Air. Just last week Telstra revealed plans to install

digital advertising screens on payphones as another revenue earner which effectively is subsidised by taxpayers.

Despite the extreme cuts to its infrastructure, the government inexplicably continues to pay Telstra the full \$300 million every year to maintain these services. There are undeniably complex issues to consider as to the long-term arrangements of the USO, given that NBN is rolling out its network. However, fiscal responsibility surely means that the government must immediately stop paying Telstra for infrastructure that no longer exists. This would represent savings of around \$150 million a year. These savings could be used to build almost 4,500 new mobile towers in regional areas between 2018 and 2032 when the USO arrangement expires. This will provide 1.2 million square kilometres of increased mobile coverage and, if delivered on an open access basis as recommended by the ACCC, would provide competition in monopolised areas, where consumers are denied real choice and the benefits of a competitive market.

Three independent reviews—that's three independent reviews conducted by the regional telecommunications review committee, the Productivity Commission and the Australian National Audit Office—have all highlighted an alarming lack of transparency with the USO. This should be ringing alarm bells within government. I am very concerned by the lack of transparency and accountability for this contract, and the fact that the terms of the agreement are not, and have never been, in the public domain.

The Australian National Audit Office's report stated:

The Department has not utilised the flexibility mechanisms within the contract which have the potential to reduce the annual payment amounts.

Current contract reporting does not provide enough information to determine whether or not contracted services are achieving policy objectives—in particular, whether the agreement contributes to consumers having reasonable access to fixed services.

Of further concern is the fact that neither the Australian Communications and Media Authority nor the department of communications undertake any form of assurance processes to verify the accuracy of the performance data provided by Telstra. This data is used to calculate compliance with the service benchmarks set under the USO agreement. It is frankly amazing that the accountability of Telstra for its performance under the USO agreement, involving \$6 billion of taxpayer and industry funds, is in the hands of the department of communications alone, with no apparent transparency.

With the rollout of the NBN scheduled for completion in 2020, it is imperative that the government take immediate action to begin winding down Telstra's USO responsibilities and payments. The voice services currently provided under the USO could be delivered by the NBN through Voice over Internet Protocol technology. This is a call echoed by the Productivity Commission, which found that voice services delivered via the NBN would be of higher quality than those currently delivered over the copper network.

Calls for USO reform are not new. The government has responded by ordering reports and inquiries and promising to investigate further. The time for reports and inquiries is over. Australian taxpayers and regional Australians deserve action. The USO in its current form represents at least \$150 million a year of wasted money that could be used to solve regional mobile coverage issues. Given it does not appear the government can realistically terminate

the contract, I implore it to urgently utilise the flexibility mechanisms identified by the Australian National Audit Office within the USO contract to reduce the annual USO payments to Telstra in line with services that they have already shut down. It should then redirect these savings to delivering improved mobile services for regional Australians.

Senate adjourned at 19:38

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Private Health Insurance Act 2007—Private Health Insurance (Benefit Requirements) Amendment Rules 2017 (No. 9) [F2017L01527].

Social Security Act 1991—Social Security (Declared Overseas Terrorist Act) Declaration 2017 — London (15 September 2017) [F2017L01526].

Therapeutic Goods Act 1989—Therapeutic Goods (Permissible Ingredients) Determination No. 5 of 2017 [F2017L01525].

Tabling

The following documents were tabled pursuant to standing order 61(1)(b):

Documents to be presented by the President

Building and Construction Industry (Consequential and Transitional Provisions) Act 2016—Commonwealth Ombudsman's reports under section 13(1)—Report for 2015-16 on reviews conducted under Division 3 of the Fair Work (Building Industry) Act 2012 (now repealed).

Vacancy in the representation of South Australia—Reference to Court of Disputed Returns—Letter from the President of the Senate to the Principal Registrar, High Court of Australia (Mr Phelan), dated 28 November 2017.

Government documents

Aged Care Act 1997—Report for 2016-17 on the operation of the Act.

Migration Act 1958—Section 486O—Assessment of detention arrangements—

Personal identifier 1000508-O, 1000509-O, 1000519-O1, 1000758-O1, 1000850-O, 1001132-O, 1001202-O, 1001212-O1, 1001313-O, 1001398 O1, 1001501-O1, 1001580-O1, 1001587-O1, 1001785-O, 1002162-O1, 1002230-O1, 1002263-O1, 1002274-O1, 1002294-O1, 1002514-O, 1002536-O, 1002549-O, 1002550-O, 1002553-O, 1002583-O, 1002607-O—

Commonwealth Ombudsman's reports—Report no. 18 of 2017.

Government response to Ombudsman's reports, dated 13 November 2017.

Personal identifier 000510-O1, 1000373-O1, 1000399-O, 1000507-O, 1000516-O1, 1000765-O1, 1000846-O1, 1000857-O1, 1000894-O, 1001062-O, 1001148-O, 1001264-O1, 1001344-O1, 1001583-O1, 1001593 O1, 1001625-O1, 1001700-O1, 1001736-O, 1001820-O1, 1001953-O1, 1001970-O1, 1002212-O1, 1002227-O1, 1002248-O1, 1002270-O1, 1002271-O1, 1002293-O1, 1002297-O1, 1002314-O1, 1002315-O1, 1002324-O1, 1002387-O1, 1002516-O, 1002531-O, 1002552 O, 1002554-O, 1002555-O, 1002559-O, 1002561-O, 1002565-O, 1002567-O, 1002570-O, 1002581-O, 1002584-O, 1002586-O, 1002587-O, 1002588-O, 1002596-O, 1002602-O, 1002605-O, 1002612-O, 1002620-O, 1002669-O, 1002693-O, 2000014-O—

Commonwealth Ombudsman's reports—Report no. 19 of 2017.

Government response to Ombudsman's reports, dated 22 November 2017.

Murray-Darling Basin Authority—Report for 2016-17.

Treaties—

Bilateral—Agreement between the Government of Australia and the Government of the French Republic Concerning the Reprocessing in France of Australian Irradiated Nuclear Fuel Elements (Canberra, 23 November 2017)—Text, together with national interest analysis.

Multilateral—

Acts of the Universal Postal Union adopted by the 26th Congress: Ninth Additional Protocol to the Constitution, First Additional Protocol of the General Regulations, Convention and Final Protocol, and Postal Payment Services Agreement and Final Protocol (Istanbul, 6 October 2016)—Text, together with national interest analysis.

Amendments to Appendices I and II to the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) (Manila on 28 October 2017)—Text, together with national interest analysis and annexure.

Pacific Agreement on Closer Economic Relations Plus (PACER Plus) and associated side letter (Nuku'alofa, 14 June 2017)—Text, together with national interest analysis and annexures.