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the Senate and committee hearings are available at

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SITTING DAYS—2015

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

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

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

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

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

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

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
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<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
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<tr>
<td>Back, Christopher John</td>
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<td>Bernardi, Cory</td>
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<tr>
<td>Bilyk, Catryna Louise</td>
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<td>Birmingham, Hon. Simon John</td>
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<td>Brown, Carol Louise</td>
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<td>Fierravanti-Wells, Hon. Concetta Anna</td>
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(1) Member with special leave.
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**Casual vacancy**

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

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<td>Peris, N.M.</td>
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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.

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

**PARTY ABBREVIATIONS**

Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
<table>
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<th>Title</th>
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<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon. Tony Abbott MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon. Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senator the Hon. Michaelia Cash</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for Women</strong></td>
<td>The Hon. Charles Porter MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>The Hon. Warren Truss MP</td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon. Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon. Andrew Robb AO MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Foreign Affairs</strong></td>
<td>The Hon. Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Minister for Trade and Investment</strong></td>
<td>The Hon. Steven Ciobo MP</td>
</tr>
<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td><strong>Assistant Minister for Employment</strong></td>
<td>The Hon. Luke Hartsuyker MP</td>
</tr>
<tr>
<td><strong>(Deputy Leader of the House)</strong></td>
<td>The Hon. Luke Hartsuyker MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td><strong>Minister for the Arts</strong></td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td><strong>(Vice-President of the Executive Council)</strong></td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td><strong>(Deputy Leader of the Government in the Senate)</strong></td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td><strong>Minister for Justice</strong></td>
<td>The Hon. Michael Keenan MP</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon. Joe Hockey MP</td>
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<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon. Bruce Bilson MP</td>
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<tr>
<td><strong>Assistant Treasurer</strong></td>
<td>The Hon. Bruce Bilson MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon. Joshua Frydenberg MP</td>
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<tr>
<td><strong>Minister for Agriculture</strong></td>
<td>The Hon. Barnaby Joyce MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Agriculture</strong></td>
<td>Senator the Hon. Richard Colbeck</td>
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<tr>
<td><strong>Minister for Education and Training</strong></td>
<td>The Hon. Christopher Pyne MP</td>
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<tr>
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<td>Senator the Hon. Simon Birmingham</td>
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<tr>
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<td>Senator the Hon. Simon Birmingham</td>
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<tr>
<td><strong>Parliamentary Secretary to the Minister for Education and Training</strong></td>
<td>Senator the Hon. Scott Ryan</td>
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<td><strong>Minister for Social Services</strong></td>
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<tr>
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<td>Senator the Hon. Mitch Fifield</td>
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<tr>
<td><strong>(Manager of Government Business in the Senate)</strong></td>
<td>Senator the Hon. Marise Payne</td>
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<tr>
<td><strong>Minister for Industry and Science</strong></td>
<td>The Hon. Ian Macfarlane MP</td>
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<tr>
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<td>The Hon. Karen Andrews MP</td>
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<tr>
<td><strong>Minister for Defence</strong></td>
<td>The Hon. Kevin Andrews MP</td>
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<tr>
<td><strong>Minister for Veterans' Affairs</strong></td>
<td>Senator the Hon. Michael Ronaldson</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister for the Centenary of ANZAC</strong></td>
<td>Senator the Hon. Michael Ronaldson</td>
</tr>
<tr>
<td><strong>Assistant Minister for Defence</strong></td>
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<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Darren Chester MP</td>
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<tr>
<td>Minister for Communications</td>
<td>The Hon. Malcolm Turnbull MP</td>
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<td>The Hon. Paul Fletcher MP</td>
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Wednesday, 4 March 2015

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

DOCUMENTS

Tabling

The Clerk: Documents are tabled relating to returns to order in accordance with the list circulated in the chamber. 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.

BILLs

Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (09:31): I rise today to support the Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014. This side of politics has long supported the Export Finance and Insurance Corporation and its mandate to provide finance to export businesses in circumstances where private sector finance is not available. We remain committed to expanding Australia's international trading opportunities because that is the way to ensure that we generate jobs, growth, high wages and better living conditions for Australians.

The legislation before the chamber reflects but does not directly replicate the Efic amendment bill introduced by the Labor government into the last parliament. While not as ambitious nor, in our view, as effective as the previous bill it does contain some broadly similar provisions. I want to traverse some of the content of the legislation.

The bill contains a number of minor technical amendments and two substantive changes. The latter include the widening of Efic's direct lending function to all goods, not just capital goods, and the widening of the competitive neutrality provisions as recommended by the Productivity Commission.

The government is seemingly ignorant of its potential economic impact, stating in the explanatory memorandum that the amendments 'will have no direct financial impact'. I would have hoped that there would be an anticipated increase in Efic loan activity as a result of the changes proposed in the bill.

In addition, the government has published no assessment of the impact of these changes on Efic's risk profile or profitability and, in turn, how this will impact on the government's capital and other funding arrangements with Efic.

This failure was not overlooked by the Senate Foreign Affairs, Defence and Trade Legislation Committee in its report on the bill. That report noted as follows:

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CHAMBER
While the Explanatory Memorandum states that the bill "will have no direct financial impact", it may have indirect implications for the Commonwealth in two ways:

- the Commonwealth Government funds Efic directly through providing capital and also guarantees its borrowings. Changes to Efic's operations may impact on Efic's costs or profits, in turn impacting on the costs or benefits it provides to the Commonwealth; and

- Schedule 2 of the bill broadens the competitive neutrality requirement, creating the capacity for increased cash-flow from Efic to the Commonwealth.

It would have been preferable for the government to consider some of the indirect financial implications of the changes proposed in the bill. These financial impacts are relevant in the context of the need to manage the operations of Efic and provide taxpayers with a dividend from its operational activity.

I turn now to the capital and non-capital goods change. This is the first substantive change in the bill, which changes the definition of an 'eligible transaction' by replacing the words 'capital goods' with 'goods,' and by repealing the definition of 'capital goods'. It is a change which will enable Efic to provide direct loans in relation to non-capital goods as well as capital goods, a change described colloquially as funding for the milk and not just the cow. Given that only about four per cent of Australian exports are capital goods, the opening up of the remaining 96 per cent of non-capital exports as eligible transactions has the obvious potential to expand the ability of Efic to support Australia's export businesses.

In relation to competitive neutrality, that is encompassed in the second substantial amendment, which expands this provision in the EFIC Act to encompass all of Efic's operations. It is an amendment recommended by the Productivity Commission and was included in Labor's previous bill. As a government corporation, Efic is currently exempt from a number of Commonwealth and state taxes. This bill removes the competitive advantage this government entity has in relation to private sector, privately owned businesses. It is a change intended to generate competition between public and private businesses. Once the bill is enacted, the Minister for Trade and Investment will be able to specify a number of payments that Efic must make to achieve this competitive neutrality. Such payments may be made by way of a debt neutrality charge, guaranteed fees and/or tax equivalent payments. Again, as a result of this, one would anticipate increased cash flow from Efic to the Commonwealth.

The government has promised to renew its focus on small to medium enterprises with export potential, with the laudable objective of boosting jobs and growth. However, the government has not elected to pursue this objective through legislation. Rather, the focus is reflected in a new ministerial statement of expectations issued to Efic. Until November 2014, more than a year into the life of this government, Efic operated under the ministerial statement of expectations issued by the former trade minister, Dr Craig Emerson. The new statement of expectations was issued on 13 November last year, with Efic's required response, in the form of a statement of intent, not being finalised until last week. In this revised statement, the minister has directed Efic to focus on SMEs seeking to expand their opportunities in overseas markets.

By way of contrast, the policy objective of enhancing the support to small and medium enterprise was sought to be given effect under the previous government by way of legislating a requirement for Efic to focus on SMEs. This provision was included in the lapsed bill that the previous government put into the parliament. It was a legislative proposal consistent with
Labor’s record of support for Australia’s small and medium-sized businesses. One might recall that this government has presided, since it came to government, over a tax increase for Australia’s SMEs.

In the export sphere, Labor established Efic itself, as well as the EMDG scheme—that is, the Export Market Development Grants scheme—and the Asian century business engagement grants. Regrettably, what we have seen from the government is an approach to small business characterised by cuts and tax hikes. Since coming to office, the government has removed the tax concessions for small business introduced by the Labor government; it has axed critical skills and training programs; and it has abandoned Labor’s plan for harnessing the opportunities presented by the Asian century. That is not much of a record, and it is useful, whenever the coalition champion themselves as the supporters of small business, to recall that in government their actions speak louder than their words, and their actions demonstrate a lack of support for small and medium enterprise in this country.

I also want to turn to the National Commission of Audit. I suspect you will not hear much about the National Commission of Audit in this debate. This, of course, was the political audit commissioned by the Treasurer and the Minister for Finance, the membership of which was hand-picked by the Prime Minister’s office. It had some interesting things to say about the sorts of cuts that this government was contemplating. Relevant to what is before the chamber, recommendation 33 of the phase 1 report of the National Commission of Audit said this:

As the benefits of exporting accrue primarily to the business undertaking the activity, the Commission considers that there is scope to reduce current Commonwealth assistance for exporters by:

a. abolishing the Export Finance and Insurance Corporation, ceasing funding for Export Market Development Grants, tourism industry grants and the Asian Business Engagement Plan, halving funding for Tourism Australia and significantly reducing the activities of the Australian Trade Commission—which we would know as Austrade.

The second part of that recommendation was:

b. moving any residual functions of Tourism Australia and Austrade into a commercial arm of the Department of Foreign Affairs and Trade, with the existing loan book of the Export Finance and Insurance Corporation also transferred to the Department of Foreign Affairs and Trade to investigate options to on-sell or wind up the loans.

In other words, the Commission of Audit report by persons handpicked by the Prime Minister's office, recommended the entire abolition of Efic, the ending of funding of the Export Market Development Grants, as well as a massive restructuring and downgrading of Australia’s government export and trade infrastructure. One would have thought that, at a time at which Australia is seeking to continue to diversify its economy and encourage growth in the non-resources sector, the last thing we would need is to lessen those government frameworks that help businesses find their way into overseas markets.

How did the government respond to this attack on Efic, the attack on the Export Market Development Grants and the attack on Austrade? Did it dismiss this ideological assault on support for exporters out of hand? Did it defend the work of Efic and Austrade? Unsurprisingly, it did not. On budget night, the Treasurer and the Minister for Finance issued a response to the National Commission of Audit. In relation to recommendation 33, it simply says this:
Reforms to Assistance to Exporters will be considered following the 2014-15 Budget.

In other words, they left it on the table.

So this government is now putting into this chamber a bill seeking to reform how Efic operates, a bill that seeks to give effect to the Labor government's policy position of better focusing Efic on SMEs. No doubt the minister will trumpet the passage of this legislation, which the opposition supports, as a demonstration of this government's commitment to increasing exports, all the while refusing to rule out the recommendation from the government's own Commission of Audit that Efic be abolished, as well as Export Market Development Grants and a complete restructure and downgrading of Austrade and the support for our exports.

I say to Australian business: I think Australians know that you cannot trust this government when it comes to Medicare. Nor can you trust them when it comes to superannuation. Nor when it comes to higher education—I am sure my colleague Senator Carr will say much more about that today. I would say this: you cannot trust this government when it comes to export assistance for business, because it simply does not believe in the institutions and programs that provide support to the Australian business community now. The axe this government placed in the hands of the National Commission of Audit is still hanging over Efic, despite this bill being before the chamber. But, as I said at the outset, the opposition supports the legislation before the chamber, reflecting in large part the policy approach taken by Dr Craig Emerson and the Labor government.

Senator RHIANNON (New South Wales) (09:43): The first part of the Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014 does extend the mandate of Efic's activities from supporting the export of capital goods, to all goods. So we are really going from a situation where so many of Efic's loans went for large mining projects and the infrastructure that supported them, and other related projects, to really being about services, consumer goods and many aspects of what are called SMEs, small and medium sized enterprises.

Although it is the large infrastructure projects that the Greens and many in the aid sector have been concerned about, the extension of Efic's activities in the way set out in the bill should not go ahead without seeing the necessary reforms with regard to human rights and environmental protection being placed in low-income countries, because one of the enormous concerns with how Efic has operated is that it has provided money to projects where those companies are not able to get finance in the normal way, through the normal financial channels, and then many of those projects have been so damaging. That is often associated with mining projects, and there is the expectation that, when we are talking about small and medium sized enterprises, that will not be the case. But at this point, when we are seeing such fundamental change being proposed in Efic, this is the time to bring forward those needed changes that have been set out by many organisations, such as the Jubilee organisation and AIDWATCH. The Productivity Commission's report on Efic itself has identified many areas that need improvements.

The second part of the bill makes Efic subject to competitive neutrality arrangements that attempt to rein in any concessions the organisation has as a result of being a government agency. My colleague Senator Peter Whish-Wilson, who I have been working with on this issue, will outline some of the issues that are relevant there.
As I said, this debate needs to consider the issue of how companies that access Efic's loans then operate in low-income countries, because we have seen in many cases considerable damage resulting to people in those countries, particularly people who are living in poverty, who are already experiencing hardship, because of the way those projects roll out. The other aspect that we need to be conscious of when we are having this debate about the role of Efic, which provides credit to exporters, is that that can actually distort the economy of low-income countries and add to the debt burden that they are already experiencing. That in turn puts them under so much hardship and often results in the International Monetary Fund or the World Bank—or the Asian Development Bank, in the case of the Asia-Pacific region—coming in and imposing structural adjustment programs on these countries. Those in turn put the financial burden on low-income people and often on the public sector, which can result in many jobs being removed from the public sector, taxes being increased and wages being reduced. So we need to look at the kick-on effect of how these projects operate.

I mentioned earlier that the Productivity Commission undertook an inquiry and reported on Efic. It was disappointing that Efic really did not, I think, adequately respond to many of those useful recommendations. The Productivity Commission noted in its 2012 report on Efic that this market failure is much smaller for small and medium enterprises than for larger companies. The Productivity Commission actually said that it 'found no convincing evidence to indicate' that there are failures in financial markets 'that impede access to debt or equity finance for large firms'. So again it is not as clear cut in terms of the advantages that the government is setting out here.

Efic, as we know, do give considerable amounts of assistance to large companies. What you would assume, if you looked at their annual reports and read the Hansard from last week's estimates when Efic gave evidence, is that there already has been an enormous change to giving greater support to SMEs. But this is where it is quite deceptive, in that the increase in support is not as large as it is made out to be, because, when you look at the figures, they are talking about the volume of the number of projects, not the actual capital that is put in. That is adding to the concern of many people who have tracked the damaging track record of Efic over the years—that what they are in fact doing is using SMEs as a smokescreen, by saying: 'Well, we've cleaned up our act. We're concentrating on small businesses. We're helping them penetrate the markets in low-income countries in particular. And we're addressing that all-important issue of the national interest that this government promotes so strongly.'

However, when you look at the volume of money, it does not look like that much has changed, and that is where this needs to be tracked very closely. In its most recent annual report, Efic, as I said, was quick to tout that SMEs accounted for around 90 per cent of all facilities by the number of transactions for the 2013-14 financial year. However, 80 per cent of the value of those transactions goes to the large companies. That was the point that I was making. It is not the good-news story that Efic is trying to sell here.

In fact, over half of the amount awarded in the 2013-14 financial year went to just one company: mining and metals giant Nyrstar. According to reports in some of the media, this deal was linked to a state government project to upgrade the Nyrstar lead smelter at Port Pirie in South Australia. Because Efic can now put money into projects in Australia, they awarded
just over $290 million to a project run by a Zurich-based multinational listed on the Brussels stock exchange that in the last financial year had over €2.8 billion in revenue.

As long as Efic continues to direct funds to large companies it is not meeting the requirements that I think people expect it to meet. It is not helping the small and medium enterprises that so many people here say is so important. Again, we need to add to that that it needs to be done in a way that ensures the environment in these countries is not damaged, that human rights are not abused and that people are not forcibly evicted when these projects take place. Those are all things that are linked with so many of the Efic projects to date and just because they are small projects does not mean there will not be abuses occurring.

This type of corporate welfare can be a disaster. In the 2013-14 financial year 19 per cent of Efic's exposures through its commercial account were in mining LNG and a further six per cent was in other mining commodities. I have to emphasise that we should all have deep concerns about the environmental and social risks that these projects provide in low-income countries. At the end of the day, Efic's main aspect of its work has been helping large companies penetrate low-income countries. Why is that? Because nobody else will give them the finance to do it. Efic takes a risk and that is how these companies get going.

Today, more than 60 per cent of the world's poorest people live in countries rich in natural resources, but they rarely share in the wealth. We do need to come back to this point when we are considering this mode of operating. Secrecy and corruption often mean that the income from oil, mining, gas and logging activities never reaches ordinary people. Meanwhile, they are the ones who carry the burden, as their livelihood is ripped apart and as the environment is destroyed. They are often moved to other areas. They get very few jobs out of so many of these projects. We do need to bring the human element into this debate.

To take Africa as an example, $148 billion of Africa's income is lost every year due to corruption in a continent where 2.5 billion people do not have access to a proper toilet and where nearly one billion lack access to clean water. That amount of $148 billion is equivalent to one-quarter of Africa's income being lost. That is one-quarter of the whole continent's income lost—not lost altogether but lost by the African people to some of the world's richest companies. We need to bring this debate back to people's lives.

African exports of minerals, oil and gas in 2010 were worth roughly seven times the value of international aid to that continent: US$333 billion versus US$47 billion in aid. There is clearly a problem here. If those resources were harnessed effectively in the fight to end extreme poverty, resource-rich countries could exit from their dependency on international aid, a sustainable solution that surely we all want to see happen. Again, this is very relevant to the debate on Efic. You cannot see Efic divorced from the hardship that is occurring in so many countries and the way Efic operates is furthering that divide between rich and poor.

Efic has its own history funding projects that prioritise mining multinationals over the needs of local people. It is not good enough to say that it has all moved on and that we are now looking at SMEs in a more thorough way. Those are very telling figures. You need to look at the volume of projects and realise that they are talking about volume of projects, not the quantity of money.

I do congratulate Jubilee Australia for doing extensive work on how Efic operates overseas, exposing many of the abuses. Jubilee Australia's 2012 report on the PNG LNG
project revealed contract favouritism to ExxonMobil and local corruption has meant few, if any, benefits have flowed to ordinary people. I continue to have concerns that corporate welfare doled out by Efic will damage the livelihoods and human rights of local people in Papua New Guinea and other low-income countries. These large projects remain a problematic part of how Efic operates. Nothing in this bill says that the SMEs are going to be favoured over the big projects. That has still not been clarified.

Considering the negative impact that mining has had on many communities in low-income countries, it is imperative that Efic ensures that human rights are protected and that local people gain considerable benefit before money is poured into such projects. We need to get those standards right before the money is put in and the projects race ahead. Otherwise, the infrastructure is put in place, the indigenous people and other local people are moved out and their livelihood that is so often drawn from the environment in which they live is destroyed. Projects that are pitched as bringing great wealth to a certain country can often result in extreme hardship for most people.

My hope is that this bill can address some of these issues. By opening up Efic's eligible export transactions to include all goods, it is expected that more funds will flow to SMEs. This means less corporate welfare for mining giants operating in the world's poorest communities. We are not saying that this bill is totally wrong, but it has certainly missed out on an opportunity of bringing in some of the recommendations from the Productivity Commission. It does need to be tightened up in terms of where the bulk of the assistance goes. There is no guarantee that things are going to change in any substantial way. We will need to monitor it closely. I note that Labor and the coalition are supporting this bill, so we understand that it will go through. For all of the comments made by the Labor spokesperson on this legislation, they have been right there in supporting Efic in the way that it has operated. They have not responded to the considerable criticisms and the widespread documentation of the abuses and crimes that many of these companies which have received Efic funding have gone on to commit.

The bill includes no obligation on Efic to lend to SMEs, nor does it impose any restrictions on how much it lends to larger companies or to mining operations within Australia. That is one of the major flaws in this bill. Respect and protection for human rights of local people and for their local environments must be a priority consideration for Efic when deciding how to spend its funds. The issue of how Efic needs to be brought into line because of so much damage resulting from projects that it was funding has been raised year after year with successive governments. Those requests have been ignored for so long. It is disappointing that we are, again, seeing that same trend occur with this bill.

At the moment we do not feel confident about how the government is managing Efic. The change, we acknowledge, has the potential to shift how the funding arrangements of Efic occur. But this bill certainly should be tightened up in some very considerable ways, particularly regarding the standards under which companies that receive Efic assistance operate in low-income countries, ensuring that the SMEs do come under Efic in a more considered way and that it is not left in its current vague form.

**Senator LEYONHJELM** (New South Wales) (09:58): I rise to support the Australian taxpayer. Accordingly, I oppose the Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014. The Export Finance and Insurance
Corporation, known as Efic, is a government-owned bank and insurer. Efic provides loans for exporters of capital goods, which represent five per cent of exports. This bill would allow Efic to provide loans for export transactions involving all goods, not just capital goods. As such, this bill represents a massive expansion of government-owned banking.

Government-owned banking is not a great idea. The Treasurer put it nicely when he introduced a bill to abolish another government-owned bank, the Clean Energy Finance Corporation. He said:

Setting up a government bank with $10 billion of borrowed money, underwritten by taxpayers, to invest in high-risk ventures should be a thing of the past century. You would have thought that the Labor Party would have learned its lessons when it comes to government banks.

What the Treasurer was referring to came from the collapse of the State Bank of South Australia and the State Bank of Victoria. In both of those instances, the decision of governments to dabble in inherently risky lending caused considerable losses for taxpayers. That includes mum-and-dad taxpayers who, unlike mum-and-dad shareholders, never have the choice of withdrawing their money.

For a while, it seemed that Labor did indeed learn this lesson. When Labor was in government it asked the Productivity Commission to consider whether Efic's mandate should be extended to all exports—the very issue we are debating today. The Productivity Commission found that there is little evidence of a market failure in export finance that would support a role for government in export finance. The commission explicitly recommended that Efic's mandate not be extended to all exports. The Labor government at the time—2013—wholeheartedly agreed with this recommendation. Fast forward two years and Labor has a new position: to support the extension of Efic's mandate to all exports. It is bewildering, it is unprincipled and it is thoroughly disappointing.

One would have hoped that the coalition would reduce rather than increase the role of Efic too. After all, not only have they tried to abolish the Clean Energy Finance Corporation but they established the National Commission of Audit, which came to the following conclusion about Efic:

As noted by the Productivity Commission, virtually all of Australia's exports by volume and value take place without Efic's assistance. Support provided by Efic has mostly been directed at a small number of large businesses, including major resource projects.

There is no convincing evidence of systemic failures in financial markets that impede their access to finance. In recent years Efic has earned most of its income through the investment of surplus funds and its capital and reserves, not the provision of financial services.

The Commission considers that Efic should be abolished as there is little evidence of genuine market failure in the provision of export finance.

Given this, it is disappointing that the government is expanding the role of this government-owned bank for a handful of exporters. It goes to show that a vote for the coalition is a vote for the status quo, where corporate welfare goes to the few and is paid for by the many.

This bill before us today again shows that Labor and the coalition are the option for lazy voters who want lazy government. For those voters who want the government to let us go about our lives without the risk of bank collapses hanging over our heads to soak up our taxes, the only option at the ballot box is the Liberal Democrats or, in New South Wales, the
Outdoor Recreation Party—a sister party. For every parliament and every election across Australia it needs to be out with the old and in with the new.

Senator WHISH-WILSON (Tasmania) (10:03): I rise to support my colleague Senator Rhiannon in her comments about the Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014 and the related bill—and, I suppose in the spirit of this debate, also Senator Leyonhjelm’s comments on Efic.

Interestingly, having sat through estimates last week and heard Senator Cormann talk about corporate welfare and crowding out of finance by the Clean Energy Finance Corporation, I find it odd—with the principle we discussed about long-term finance and high-risk finance—that the government is happy to discuss getting rid of the Clean Energy Finance Corporation loans. On the one hand this is because of an ideological position but on the other hand they are prepared to do the same thing for Australian export companies, be it for capital or non-capital purposes.

The Greens have made our point very clear: we would actually like to see Efic abolished. We do not believe that it can be reformed. We do not believe that this legislation properly reforms Efic. You could draw the conclusion that perhaps by extending competitive neutrality you are effectively abolishing corporate welfare, because everyone has to compete on the same terms with private capital. But it begs the question: why would you even have it in the first place if that is the case?

And then, when you delve even further into the detail, you start coming up with what potentially could be weasel words—that is, the minister has discretion, potentially on a case-by-case basis, as to whether finance will apply and whether a market failure is evident. 'Market failure’ is a very important concept, and perhaps Senator Leyonhjelm and I may not agree on the philosophy of market failure, because I do believe that markets fail, but it needs to be very clearly spelt out: what externality is being caused; what information is available; and why a government would need to step in and provide finance or even co-finance on a risky investment offshore.

We have a situation at the moment. The point I make here is that we have a track record in history of providing inappropriate loans. Senator Rhiannon has talked about large loans to mining companies over a long period of time. These are capital loans in high-risk countries and potentially high-risk projects—and even for a subsidiary of a foreign company, which has accessed finance under our Efic system. Why is the Australian government stepping in and providing finance for mining companies in Third World countries?

Risk-reward ratios exist for a reason. Corporations can assess the risks. They can assess the returns and the rewards in relation to those risks and make those decisions accordingly. They then operate, and of course the system in place is that shareholders will monitor the risk return and hold the boards to account. Why is it that the government needs to step in here and lower their risk?

We believe that that is the case and it is necessary in relation to climate change because climate change is an externality and it is a very clear market failure. Some would argue that it is the textbook case of market failure and possibly the biggest one we have seen in our short history. It is a necessary requirement for the government to help close that externality gap.
This is going back to basic economics, but we do not see that same situation applying in terms of export markets, and now we are changing the goalposts to include non-capital items, goods and services. What does that mean exactly? That is also a very grey area.

On small and medium enterprises, Senator Rhiannon has talked about what guarantees we have and what controls there will be on them having access to this. If you include the competitive neutrality component of the bill, they are going to get access to finance on the same terms that they would if they went to the National Australia Bank export division and said, 'I need a loan to set up a factory or an office or a distribution business in Singapore.' They are going to get those loans on the same terms. Why have we even got Efic, if this is what this bill is trying to do? Why not just abolish it, let the market set the rates for export companies and let them assess the risk return, as they should do, and build their businesses on the back of that?

The Greens would like to see Efic abolished. In this situation, we are not comfortable that it is possible to reform it using the guidelines that are set out in the bill in front of us, so we will be voting against this.

Senator PAYNE (New South Wales—Minister for Human Services) (10:08): I thank all members of the chamber who have contributed to the debate on the Export Finance and Insurance Corporation Amendment (Direct Lending and Other Measures) Bill 2014. This bill prioritises the needs of the engine room of our economy, small and medium-sized export businesses, or SMEs. In fact, the vast majority of Australian exporters are SMEs with sales of less than $5 million a year.

In relation to a number of the points raised in the chamber relating specifically to Efic's previous support of a number of major resources projects—that has been referred to by other speakers—I would point senators to the new statement of expectations issued by the Minister for Trade and Investment to Efic, which has ruled out future lending to onshore resource projects and related infrastructure.

These changes will enable greater lending support to small and medium-sized exporters. Efic plays an important role in supplementing the provision of credit for exporters, and it is the government's view that this bill is repositioning Efic to best support those exporters into the future. As senators would know, Efic is currently only able to provide support for the export of capital goods, which are used for the production of other goods but are not themselves the end product. According to the Australian Bureau of Statistics, however, only five per cent of Australian goods exports are capital goods. The remaining 95 per cent of goods exported from Australia are currently exempt from the direct support that Efic is able to provide. These include anticipated high-export-growth goods like pharmaceuticals or fibre, wine, food and medical products.

So, in introducing this legislation, the government has decided to enhance Efic's capacity to support SMEs by enabling it to lend for the other 95 per cent of goods export transactions. To implement this measure, this Efic amendment bill is required to remove the word 'capital' from the definition of an eligible export transaction in the EFIC Act. We are also ensuring that the changes do not bring Efic into direct competition with private sector financiers, by applying competitive neutrality principles.
I would like to take this opportunity in the chamber to thank the chair of the Senate Standing Committee on Foreign Affairs, Defence and Trade, Senator Back, and other members of the committee for the recognition that the direct lending amendment will provide a viable alternative for SMEs seeking access to finance to expand their exporting opportunities. Most importantly, the committee clearly acknowledged that the bill will assist small exporters who may be excluded by banks due to the lower dollar values of their transactions.

In conclusion, the goal of this bill is to increase Efic's capacity to finance SMEs seeking to capitalise on global trade opportunities. These global trade opportunities benefit Australia greatly and will drive job creation and higher living standards for Australians. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (10:11): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator PAYNE (New South Wales—Minister for Human Services) (10:12): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Enhancing Online Safety for Children Bill 2014

Enhancing Online Safety for Children (Consequential Amendments) Bill 2014

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator WRIGHT (South Australia) (10:12): How can we create an approach to youth wellbeing that builds resilience, is adolescent centred and has the potential to prevent mental illness later in life? The truth is that right now we do not know much about what is happening in the mental health space. The government is remaining tight-lipped. We do know that mental health organisations across the country are plagued by funding uncertainty, with questions about their longevity and what the future may bring. Some organisations are having trouble retaining staff, and this is particularly the case in rural areas. In some cases, much-valued and much-needed practitioners are packing up and heading back to the city because they just do not know if they will have a job in the months to come and they cannot afford to take the risk to wait to find out. It goes without saying that this uncertainty is crippling, especially in rural areas, where it is difficult enough already to attract and retain much-needed mental health professionals, but where the need is often the greatest.

As I learned during my rural mental health consultation in 2012 and 2013, young people in rural areas particularly often feel isolated and unable to seek help. It may be that their town is small and privacy is hard to come by. Stigma is felt very acutely by young people in those
situations. They may lack peers of their age or they may be worried that their peers will find out about their mental ill-health and stigma will rear its ugly head again. I also heard from parents and grandparents who are desperate to get help for their kids and their grandkids in rural areas. With a dearth of drug and alcohol rehabilitation services, there are often few options for those who are battling these issues, which frequently appear as a comorbidity with mental ill-health.

We know that the mental health sector is waiting with anxiety to see the report of the National Mental Health Commission's Review of Mental Health Programs and Services. We know that report was provided to this government months ago but has not been released, despite numerous orders by the Senate for it to be laid on the table. We know about the chaotic transition from Medicare Locals to Primary Health Networks that is looming halfway through this year and the confusion—even within the department—about whether and how existing mental health programs which are currently being delivered through Medicare Locals will continue. All of this is contributing to a growing sense of uncertainty in the mental health sector, and the young people who need help are not immune from this.

It is in the best interest of young Australians that we give the funding certainty and security to the mental health organisations which they need for support, and create policy settings which encourage young people to thrive. While cyberbullying is certainly an issue that adolescents across the country are facing in apparently increasing numbers, I believe that we need to think more broadly about wellbeing and what it means to create a society where all young people have access not only to mental health services and support as they grow up but the resources and the assistance to feel great and optimistic about who they are and what the future holds for them. That encompasses a whole range of other policy settings: policy settings about assistance with transitioning from school to work; it is about assisting young people to find work; and it is about assisting those young people who are unable to fit within the mainstream schooling system and who need additional support—the sort of assistance that organisations like Youth Connections were doing such a wonderful job in providing before their funding was cut.

I believe that we also need to consider carefully the sort of modelling that our leaders and our institutions are offering to the young people growing up today. We see increasingly 'uncivil' interactions and debates; we see these on television, in films, in this parliament and in the public arena, and—dare I say it, fresh in my mind as it is—we see the way that people comport themselves in Senate committees. Sometimes it seems that there is now 'open slather' on toxic and abusive language that is sanctioned by the very people who are then deploiring the fact that there is bullying happening to our young people. We have a responsibility to model the sort of behaviour that we say is appropriate in this society. Too often, I think that the leaders and those who have power in this country—whether they are shock jocks, media commentators or politicians—actually fail in that duty. And then we have the temerity to criticise young people for modelling what they see their elders do.

I think this whole discussion and concern about cyberbullying and bullying generally in what is often an increasingly toxic debate in our society is a reason to pause to think—to think about what sort of society we want to promote. What sort of resilience and wellbeing do we want to promote among our young people? They are our future and it is so important that they feel valued—that we create a setting where young people can feel proud to be who they are in
their own unique identities. It should be that they are not criticised, that they are not undermined and that they are not devalued—whatever that is: wherever they live, whatever their background and whatever their identity.

In considering this Enhancing Online Safety for Children Bill, I encourage my colleagues in this Senate to consider that this is an opportunity to think more broadly about what it is that is giving rise to this cyberbullying and what it is that can help protect and promote the wellbeing of our precious resource, our young people in Australia.

Senator SESELJA (Australian Capital Territory) (10:18): Before I get into the substance of the Enhancing Online Safety for Children Bill 2014 and the related bill, I think I will respond briefly to some of what Senator Wright had to say there. Firstly, I think it trivialises what is a very serious issue. Secondly, I think the sort of suggestion that was inherent in what Senator Wright was saying—that members of the Senate or others have engaged in inappropriate behaviour in committees—is interesting, given that some of Senator Wright's own colleagues, such as Senator Hanson-Young, are the ones who I would say were some of the worst offenders in haranguing witnesses and the like. The utter hypocrisy of what we heard there! But what is a little bit more offensive even than the hypocrisy is the trivialisation of what is a very, very serious issue. It does not take much to read through some of the reports of serious cyberbullying and the real emotional toll that that takes on some young people, and I think the comparison to what sometimes goes on in Senate estimates committees is trivialising what is a very important issue.

I do want to lend my support to this bill, because I think it is an important bill, and I think it is an important debate. In this age of technology and global communications, we can of course all attest to how the online space has improved our capacity to learn, to grow and to communicate with others. That is a wonderful thing—it is something to celebrate, and it has benefits for adults and for children if done well, if done in a safe environment and if we have the proper safeguards in place. But of course we all know about the dangers of this space, and I will go to some of those in a moment. There are significant dangers. We know that for vulnerable people in our community, especially children, there are dangers in this space just as there are with other human interactions, but things like social media we see are all pervasive. In some people's lives they are a constant, and so we see a different type of threat emerging for our children in this space—one that needs a different type of response.

In 2014 the University of New South Wales Social Policy Research Centre concluded that the best estimate of cyberbullying over a 12-month period is 20 per cent of Australians aged eight to 17. Cyberbullying was most prominent in children aged between 10 and 15, with prevalence decreasing for the 16 to 17 age bracket. These figures mean that the estimated number of children and young people who have been victims of cyberbullying in 2013 is 463,000, with around 365,000 of those being in the 10 to 15 age group. Social media is creating a very substantial new workload for school principals and teachers, as well as for parents. The UNSW research found that 87 per cent of secondary schools reported at least one instance of cyberbullying in 2013, as did just under 60 per cent of primary schools. Research from the UNSW Social Policy Research Centre also concluded:

The most important barrier encountered by police and other agencies in dealing with cyberbullying is the lack of accountability of social media and other service providers, who are reluctant to take down offensive material and are often slow to respond to such requests, even from police.
We want our kids to be able to take advantage of the vast resources the internet provides, and of course our kids do. Being online has become part of the learning environment. I have five children of my own—a couple of them are in their teenage years—and as a parent I am very, very conscious of both the opportunities and the dangers in this space. That is very much what this legislation is about. It is about some balance in this space.

I talked about some of the shocking incidents of cyberbullying. I want to say a couple of things about that before I go to a couple of those particular examples. Firstly, bullying is nothing new. Before we had cyberbullying we had other types of bullying. School can be a very tough place. It was a tough place when I was at school; it is a tough place now in many circumstances. As parents we do all we can, and I know that teachers and administrators and principals do all they can, to make school as safe a place for children as possible. But bullying does go on, and sometimes it gets very serious. Sometimes we see kids self-harming in response. Sometimes, tragically, we see young people taking their own lives partially in response to that type of bullying. When we look at this issue, though, there are a couple of important points for me as a parent and for us as legislators. Of course we need to build resilience in our kids. Of course there are going to be people who are not nice to them at school or online. There are going to be people who seek to bully them. That, unfortunately, has always been a part of life. It is not an acceptable part of life—it is something we should condemn; it is something we should do all we can to protect our children from—but we do need to build resilience. But we also need to provide protection.

We need to work with parents. We need to work with communities to give them better tools and to give some safeguards. When we read about tragic cases like Chloe Ferguson—a young girl who took her own life in response to vicious bullying both online and in other ways—we cannot help but be moved and want to do something about that. We saw the case of an anonymous cyberbully who was allowed to spread demeaning and sexually explicit rumours about Adelaide teenagers for almost a week before Facebook shut the crude page, angering parents who say they feel powerless to protect their children. Despite receiving hundreds of complaints about the Adelaide burn book page, it took the social media site six days to close the page down after initially saying the page did not breach its community guidelines. The Adelaide burn book page was the latest in a string of burn books which feature unsolicited rumours and gossip about teenagers predominantly of a sexual nature. It does not take much to find dozens of reports of this type of activity online.

This legislation is about giving some sort of safeguards but it is not going to stamp this out. You are not going to stamp this stuff out completely any more than you can completely stamp out bullying or other inappropriate behaviour outside the online space. But this is about giving parents another resource and working with parents. The government has consulted extensively with schools, parents, social media services and children themselves to develop a response to this problem. This legislation before the Senate goes some way to addressing the safety needs of Australia's kids. It is part of the government's pre-election commitment to make kids safer online.

There are a number of elements to this bill that will enhance online safety including establishing the Office of the Children's e-Safety Commissioner and setting out the commissioner's functions and powers and creating an effective complaints system for harmful cyberbullying material targeted at an Australian child. The commission has two sets of
powers it can use in responding to a complaint: the power to issue a notice to a large social media service requiring it to remove the material; and the power to issue a notice to the person who posted the material requiring the person to remove the material, refrain from posting material or apologise for posting the material.

The government is establishing a Children’s e-Safety Commissioner, which will be a single point of contact for online safety issues and will take the lead across government in implementing policies to improve the safety of children online. The commission will be part of the independent statutory office in the Australian Communications and Media Authority. A key function of the commissioner will be to administer a complaints system equipped to deal with materials related to bullying online. The commissioner will have two sets of powers it can use in responding to a complaint. Under a two-tiered scheme, the commissioner will have the power to issue a notice to large social media services requiring it to remove the material. If a social media service has volunteered to participate in tier 1, the notice will not be legally binding. However, a repeated failure by a large social media service to respond to such a notice exposes it to the risk of it being moved to tier 2. If a large social media service is in tier 2, it is legally required to respond to the notice. The commissioner will have the power to issue a notice to the person who posted the material requiring the person to remove the material, refrain from posting material or apologise for posting the material.

Going to the complaints system, there is a very clear process in the legislation dealing with complaints relating to online bullying materials. In the first instance, a complainant must report offending materials to the social media entity itself and follow their established complaints process. The government acknowledges that many of these social media organisations have improved their policies and procedures for dealing with complaints of this type and for removing offending material. If a site receives a complaint and deals with it quickly and effectively, the Children’s e-Safety Commissioner will not need to be involved and this legislation will not have an impact. This is an important way this service will be targeted in line with the government’s commitment to making regulations and legislation more effective.

The flexibility in this scheme that allows social media sites to deal with offending material quickly without government involvement is exactly the kind of regulation that works. It minimises the burden on industry, ensures there is no unnecessary regulation by utilising existing processes and still ensures there is a clear plan if these processes are insufficient or untimely. Therefore, the commissioner has the power to issue a notice to a social media service requiring it to remove offending material. The commissioner also has the power to issue a notice to the person who posted the material. This is first tier of the complaints system and it is set up to encourage social media services to be cooperative and to take the initiative when bullying and other damaging actions occur online. However, if a large social media service repeatedly fails to respond to a notice from the commissioner it can be moved to tier 2, meaning that it has a legal duty to remove cyberbullying material if it receives a notice from the commissioner, and it faces substantial fines if it does not. This means $17,000 in fines for each day that the service does not act in response to the commissioner. Other functions of the commissioner will include promoting online safety for children; coordinating relevant activities of Commonwealth departments, authorities and agencies in relation to online safety for children; and accrediting and evaluating online safety educational programs.
The relevance of accreditation is that the government is allocating $7.5 million for schools to purchase online safety programs, and this funding can be spent on any program accredited by the Children’s e-Safety Commissioner. The commissioner will also take on responsibility for administering the current online content scheme under schedules 5 and 7 of the Broadcasting Services Act 1992. However, it is important to understand that this is simply the commissioner taking responsibility for administration of this existing and longstanding scheme. The bill does not make any changes to the online content scheme. It is separate from the new complaints system established by this bill.

This legislation will state the parliament’s expectation that all social media services should comply with basic online safety requirements to have: terms of use that prohibit the posting of cyber-bullying material; a complaints scheme under which end-users of the service can seek to have material that breaches the service’s terms of use removed; and a contact person where the commissioner can refer complaints that users consider have not been adequately dealt with.

As part of establishing relationships with social media services accessible to Australian children, wherever they may be based around the world, the commissioner will be expected to communicate the expectations set out in the bill of the basic online safety requirements. Many of the key stakeholders have expressed support for this legislation and the work of the new Children’s e-Safety Commissioner. I want to quote from a couple of those stakeholders. Matthew Keeley, Director of the National Children’s and Youth Law Centre said: ‘The Enhancing Online Safety For Children Bill is good law and good policy. Kids—both victims of cyberbullying and the cyberbullies themselves—will be the major beneficiaries. Parents and teachers benefit too. The cyberbullying provisions, I think, will come to be seen as a world-leading strategy. The accreditation and grants provisions will do more to ensure consistent best practice in education and preventative approaches.’ Phillip Heath, the National Chair of the Association of Heads of Independent Schools of Australia said: ‘AHISA commends the government for taking action to help ensure the cybersafety of young people; in particular, the establishment of the Office of the Children’s e-Safety Commissioner. The power of the commissioner to investigate and act on complaints, to send an end-user notice and to initiate litigation and the government’s support for cybersafety programs will help schools communicate to young people the seriousness of inappropriate behaviours enacted through digital technologies.’ Finally, Associate Professor Brian Owler, the President of the Australian Medical Association, said:

The Children’s E-Safety Commissioner will have a significant role raising awareness, and in educating children, young people, parents, and guardians about how to navigate the internet as safely as possible.

The Commissioner will also provide children and young people affected by cyber bullying a new avenue to raise concerns, and to get support in resolving online safety problems.

It is worth noting also that bullying online amongst adults is also a significant issue; however, there are existing criminal laws that apply in these cases. The government believes it is important to have a dedicated Children’s e-Safety Commissioner so that there are extra protections for children who are more vulnerable in this space. This kind of extra protection for children exists in many other spheres and it is appropriate that it is also the case for online safety. The measures in this legislation are intended to work in conjunction with existing law and initiatives available to all Australians who may face online safety issues.
In conclusion, I do commend the legislation. In my opinion, it strikes a pretty good balance. It allows social media organisations to do the right thing without the government intervening. That is what we would all like to see: that hateful, aggressive and offensive material aimed at our children is taken down, without any need for government action. Of course, we know that in some cases that does not happen. We know that there is serious potential for harm to our young people as a result of this kind of online bullying.

We know that this legislation will not fix the issue. Of course it will not. We know that as parents we need to be constantly vigilant in this space and make sure that we are monitoring what our children are doing online, as best we can. Parents need assistance from time to time, and we should have government policies that make life a little bit easier for parents to protect their children. That is what this legislation does, in my opinion, and I therefore commend it to the Senate.

Senator LEYONHJELM (New South Wales) (10:35): I rise to oppose passage of the Enhancing Online Safety for Children Bill 2014. I do so because this bill, like so much of the legislation supported by the major parties in this place, mistakes the state for civil society. In this instance, the mistake is borne of a desire to 'protect the children', a cry that is too often turned into an excuse to restrict everyone's liberties. The bill implements a commitment to deal with electronic posts that bully an Australian child. It creates a new bureaucracy costing $11 million per year, introduces civil penalties of up to $17,000 for social media sites that do not promptly remove material as directed, and facilitates injunctions on bullies. The injunctions will mandate a requirement to apologise.

The $11 million I mentioned will pay for the establishment of a Children's e-Safety Commissioner as an independent statutory office within the Australian Communications and Media Authority. He or she will administer a complaints system for cyberbullying material that is targeted at an Australian child. He will have the power to issue a notice to a large social media service requiring it to remove 'cyberbullying material' as defined in the bill. He has other functions too. He will promote online safety for children, have power to evaluate and accredit educational programs, make grants and advise the Minister for Communications. Very simply, the bill is unnecessary.

Under Commonwealth criminal law, penalties of up to $30,600 can already be imposed for posting menacing, harassing or offensive material on a carriage service. There have been 308 successful prosecutions under this law since 2005. Existing laws simply need to be enforced more expeditiously. The proposed antibullying law could prompt the likes of Facebook and Twitter to remove posts indiscriminately, as soon as there is a complaint, to ensure that they avoid the new penalties. That may have a serious impact on legitimate social media commentary.

The alternative involves waiting to see if the regulator gives a direction to remove the post and then removing it within 48 hours of the direction. It is worth mentioning that if a direction comes at 4 pm on a Friday, the post must be removed by 4 pm on a Sunday. How smart is that!

The bill defines bullying material as 'material sent via email, messaging, chat functions or social media that is intended to have an effect on an Australian child and that would be likely to seriously threaten, intimidate, harass or humiliate the child'. This covers a private conversation between a group of friends about another child.
The bill facilitates injunctions requiring bullies to apologise to the bullied. It strikes me as reasonably obvious that the government should not force apologies. Mandated apologies are insincere. Moreover, one only has to watch the parade of public figures who, when forced by a variety of organisations, both public and private, to apologise, engage in backside-covering not 'polapologies' that do nothing to assuage the victim's hurt feelings and serve only to make everyone involved look like complete twits.

The bill also authorises the regulator to divulge information to principals, teachers, parents, ministers, public servants and police. The potential for retaliatory bullying, also known as authoritarian intervention, is enormous. I am not fond of qangos and agencies. I generally support throwing the lot on a bonfire, partly because they cost the taxpayer money and partly because they are borne of a belief that we need experts to tell us how to live. However, occasionally they are worthwhile. The Office of the Australian Information Commissioner, which helps ensure transparent government and access to freedom of information, is a worthwhile agency.

This proposed Children's e-Safety Commissioner is not. Significantly, the Office of the Australian Information Commissioner and the Children's e-Safety Commissioner cost the same amount of money. Yet the government wants to scrap the former and give us a statutory net-nanny, in some sort of perverse, irrational exchange.

First, learn to govern, and then you may earn the right to tell people how to raise their children.

Senator BERNARDI (South Australia) (10:41): I rise to speak on the Enhancing Online Safety for Children Bill 2014 principally because it is something of great concern to me as a parent and I know it will be to many other parents here. I have children who are in this age bracket who are captured by interactions on social media and privy firsthand to some of the positive and negative reactions to it. However, I also want to express my concerns about government overreaching in certain areas. I do agree with Senator Leyonhjelm that, ultimately, children need to be taught a bit of resilience and there is not always going to be someone there to pick up the hurt feelings or the pieces. That is in no way excusing bullying or intimidation, or some of the terrible things that some children have to go through.

If you want to consider the impact that it has on children, you only have to consider firsthand the impact that it has on some adults. We have seen adults, whether as a result of mental fragility or cyberbullying, take their own lives because of poor feedback or abuse on Twitter, Facebook and those sorts of things. So there is a certain amount of resilience needed and this social media intimidation and bullying can have a terrible toll on people. But I do have concerns about the message we are sending in many instances.

Having dealt with and heard many stories from parents who are concerned about how their children have been treated in certain circumstances, I can well imagine the overwhelming influx of complaints that some social media networks will have when someone's son or daughter has had their feelings hurt because they have not liked what was said. I have heard of complaints where parents have engaged with schools or with other parents because their child has simply been defriended. When you investigate why they were defriended, you find it was because the child in their own case was doing the wrong thing and the peer group said, 'We don't want that,' and they defriended them on Facebook or whatever. Apparently that
amounted to some sort of bullying. I can imagine any number of permutations of what constitutes bullying, harassments, insults or things that will upset people's feelings.

I feel for some of the social media outlets actually because they are going to have to deal with this influx. I suspect, ultimately, not all of them will be managed satisfactorily. I think that the Children's e-Safety Commissioner will be inundated with all sorts of cases in which the commissioner is going to have to adjudicate.

The commissioner is going to be given two sets of powers. The first will require large social media services to remove material from their site. I do think this is a very important step, because a number of the large social media outlets are not very good at removing truly offensive material from their sites—even material condoning violence or which is distinctly racist. There does not seem to be any sort of consistency in how they approach things. As a conservative, I look at some stuff and ask, 'Why are they allowing that when they tear down this?' There seems to be a bit of political correctness in operation with some of them. We are adults and we should be able to deal with this stuff, but I do understand that this sort of intimidation—or things that denigrate children or make them feel terribly uncomfortable—should be removed. So I think this is a positive step.

The second set of powers, and Senator Leyonhjelm touched on this, allows the commissioner to issue a notice to an individual who has posted material, requiring them to remove it— I think that is reasonable and appropriate if the social media site will not do it—and to refrain from posting it again. But I do share Senator Leyonhjelm's thoughts about the requirement for an apology. You can be required to issue an apology for posting something that is negative about someone else even though you might not have breached any law. I am with Senator Leyonhjelm in that I believe that apologies are only worthwhile if they are voluntary. It is like any sort of moral code or adherence to any faith: when you are coerced into doing it, it lacks genuineness and is worth much less than something that is truly heartfelt.

Let me go back to the first bit about when the social media services are approached by the commissioner. If they fail to respond to a notice the commissioner has put forward, the commissioner can insist that there is a legal duty to remove the material. The social media service can face significant fines if they do not then comply. I think this is quite reasonable as well and I will tell you why. In the adult world, if you are maligned by, for example, a media organisation and that media organisation allows comments to appear on their blog which further malign or defame you, or if they have a Facebook page on which people post defamatory or other comments that are inappropriate, the media organisation is legally liable for those comments. In those circumstances, there are legal avenues through which you can address any sort of calumny that you feel has been committed against you.

However, in the world of children—who are perhaps less circumspect about the materials they post online than my generation, particularly because they have grown up with the internet—those avenues of legal redress are not really available. I am not sure in any case that it is appropriate for a child to be suing another child because they have been offended. But it is important that, where things are inappropriate, a commissioner or a responsible entity can step in and say, 'Let's try and have this removed', without having to go through any convoluted legal processes. I do think that is reasonable and that it is incumbent upon some of these social media organisations—companies worth tens and tens of billions of dollars—to
take some responsibility in this area. They cannot do a Pontius Pilate and wash their hands of responsibility with respect to basic decency, particularly where it affects children. The commissioner can insist the service has a legal duty to remove the material and it can impose fines where the service fails to do so. The fine would be $17,000 for each day the service does not act in response to the commission.

In addition to running the complaints system, the commissioner will also be tasked with implementing policies to improve safety for children online. The commissioner will be responsible for $7.5 million of funding for online safety programs in schools and for overseeing research and information campaigns regarding online safety. All of these things are, I am sure, very helpful initiatives. I think many schools already run online safety initiatives. In my experience, where boundaries on social media have been crossed, students are usually made aware of it by their schools. The schools certainly undertake direct engagement, because ultimately these things can impact on the health and wellbeing—particularly the mental wellbeing—of our next generation.

Cyberbullying is a growing issue. I am not sure we are ever going to be able to eradicate it. There has always been bullying, whether over the colour of your hair, how tall you are or for having too many doughnuts at lunchtime, of which I myself may have been guilty—eating the doughnuts, I should say.

Senator Jacinta Collins: And the effects thereof!

Senator BERNARDI: Yes, I picked up sport late in life. Kids are always going to home in on some issue about another kid. Friendships go in and out of favour and we all do things as children that we regret later in life. It is just part of growing up and the learning process. As I said at the start of my comments today, I think there is an element of this that teaches children resilience. Parents have to have that conversation with them. You have to say, ‘Sticks and stones may break your bones but names will never hurt you’—those sorts of old-fashioned values. Not everything is a cause for some sort of intervention. You just have to learn how to deal with some things.

I want to restate, however: I am not making excuses for some of the harmful practices that go on. There are terrible things that go on and kids suffer immeasurably from them. They suffer from peer group pressure and they suffer from all sorts of things that happen—and there need to be means to address that. But it is not solely the responsibility of government to step into this space. We need to ensure that government provides opportunities where redress is not normally available. I think that is appropriate. Where schools are perhaps failing, I think the education programs and those sorts of things should go on. But we cannot protect children from all harm. No matter how much we would like to, we cannot. If we seek to do that—if we stop them from climbing trees, taking risks and learning that there are bad people in society and bad things can happen to good people—we are actually building a much more fragile adult society as a result.

This is a step. It is a step in the right direction, but I just do not want to see it overreach. But I do agree with some of my colleagues who say that this is one of the most confronting things for society today. It is not often that I quote President Barack Obama, the American President. He said that one of the great challenges facing children today was going to be their contribution to social media. That will perhaps have more of an impact on their future lives than almost anything else, because what you do in the intemperance of youth is there forever
online. That is one of the great challenges for the next generation, particularly when they go to get employment and they start to look around and they say, 'Should I have really done that?' I guess it is like getting a tattoo: at 18 it seems like a good idea but at 45 it does not seem quite so clever—with all apologies to those who like their tattoos.

The point is that now all of our children are vulnerable to this sort of approach. We have to ensure that there is a degree of prudence, making an allowance for their youthfulness and the indiscretions that take place along those lines. But we also need to make sure that society as a whole understands the true long-term implications of where we are at with this. I would hate to see young children or teenagers penalised in some sort of long-term sense because of mistakes they make when they are 15 or 16. We do allow all sorts of circumstances to go under the radar. If someone commits, for example, a legal offence as a juvenile, it is not necessarily carried over into their adult record. I do not think that it is. We allow certain criminal convictions to be expunged after a certain period of time—so we do believe in redemption. Unfortunately, with much of the stuff that goes online, there is no opportunity for that. So I am loath to judge the youth of today too much for the circumstances in which we find ourselves.

Allowing a reasonable approach and allowing parents, schools and individuals to approach someone who is notionally independent about this to seek redress without having to resort to lengthy legal argument or anything else, is a positive step in the right direction. But I will never endorse the replacement of the responsibility—both individual responsibility and, where there is a diminished responsibility by way of youth or age, the responsibility of parents, schools and other adults who are central to the lives of a child to instruct that child, to teach them, to negotiate with them and to talk with them about some of the issues and some of the potential consequences, whether they be a recipient of this sort of bullying or whether they be the perpetrator of it. In my experience, and in talking with parents of the peer group of my own children, it is a very, very fine line. Quite often it is just the wrong choice of words or the wrong emoticon or whatever they choose to put in there that can be picked up.

I do commend the government for tackling this, and I think it is important that the government have a look at this. We are having to deal with and tackle the issues that are going to be facing our community for a long time to come. One of the most important things is that we have resilient, well-rounded and well-adjusted children who are free to pursue their lives in a healthy environment. We want to protect them from harm as much as we can—and that includes not only physical harm but also the emotional harm that can be just as devastating to their self-esteem as anything else. We know that it can be a single comment or two comments or something like that that drives people in directions that are very negative, whether it be eating disorders, self harm, hurting others or even worse pathways. That is the sort of thing that governments need to invest in.

An ounce of prevention is always better than a pound of cure. Let us work towards that prevention, but let us work towards it collaboratively with parents, schools, counsellors—who are in many schools today—and peer groups. One of the greatest things I was taught and I have sought to teach my children—and it is still a work in progress—is to think about how you would like it if that was done to you. It makes you stop and think before you act. I think it is really sage advice for any young person. Hopefully, anyone who has a brush with this sort of process will only ever have to learn that lesson once. You would hope that if someone does
the wrong thing online and goes through this process they will learn their lesson and, as a result, we will have better citizens in the future and a more considerate society that follows that golden rule, that ethic of reciprocity: do unto others as you would have them do unto you.

Senator XENOPHON (South Australia) (10:58): At the outset I would like to express my support for the measures in these bills, the Enhancing Online Safety for Children Bill 2014 and the Enhancing Online Safety for Children (Consequential Amendments) Bill 2014. Cyberbullying is a relatively new phenomenon but, unfortunately, the motivations behind it are not. Thankfully, we now have a better understanding of the real psychological harm bullying can cause in all its forms. It is not just part of life or a normal part of growing up. It is not! Cyberbullying is in some ways more insidious than bullying that takes place in person. For people who are subjected to this harassment, there can be little escape. Our 24-hour access to technology means that bullying does not end at the school gate. The anonymity and distance provided by technology mean that bullies often go further than they perhaps would if they were face to face with their victims. These are keyboard cowards. Perhaps saying things to a screen is easier than saying them to someone's face. Online culture also contributes. Often bullying is not just one on one but it can attract a whole group of perpetrators, sometimes people who may not even know the victim but get some warped satisfaction by joining in.

It is clear that we need a new strategy to deal with these new problems. This is something that I have long advocated, as have others, and it is a good thing that the government is acting on this. Schools often have trouble dealing with bullying that occurs out of school hours and away from school premises. Parents have difficulty dealing with it because of gaps in technological knowledge or because children often keep bullying a secret until the matter has escalated beyond control. And law enforcement officers are not always familiar with the tools at their disposal and can sometimes see pursuing children for bullying as a job for parents and schools rather than the police. But we have seen too many tragic cases of people—children and adults—who see no way out of their torment. Pursuing cyberbullies is also complicated by the tangle of jurisdictions, where providers and services are often located overseas and, as such, are hard to pursue. The measures in this bill will provide leadership and guidance at a national level in terms of cyberbullying and give Australian children and their parents an advocate when dealing with these serious issues.

I would like to briefly touch on the story of Carly Ryan, whose tragic death prompted the amendment I foreshadow I will be moving during the committee stage of this bill. At this stage, I indicate that the primary motivation for putting up this amendment is so that this is still front of mind for the Senate, indeed for the entire parliament, when it comes to issues of cybersafety. I see this amendment as a logical and necessary extension to issues of cybersafety. Having a Children's e-Safety Commissioner is of course valuable, but, if this is about keeping children safe, then this amendment is an integral part of that. Carly's story is not one of cyberbullying, but it is a heartbreaking example of how far behind we are lagging in protecting our children online. Carly was 14 years old when she started chatting online to someone she thought was a young teenage musician. But the boy she fell in love with online was actually a 47-year-old internet predator who had over 200 fake identities and was still pursuing multiple young girls all over the world. This man finally convinced Carly they should meet, on 19 February 2007, at Horseshoe Bay in South Australia. There he brutally assaulted her and left her to die.
I want to pay tribute to Sonya Ryan, Carly's mother, a former South Australian of the Year, who, along with her team at the Carly Ryan Foundation, has been a relentless, passionate, inspiring advocate for making children safe. The aim of my amendment, which has previously come before the Senate in the form of a private senator's bill, is to close a loophole in our current law and to give law enforcement an extra tool in pursuing those who seek to harm children. This amendment would make it an offence for a person over 18 to lie about their age in online communications to a person under 16 years of age for the purpose of facilitating or encouraging a physical meeting. If a 50- or 60-year-old male pretends to be a teenager and then communicates with a 13- or 14-year-old girl or boy and attempts to meet that child, then I think that should be a criminal offence. Under our current laws, you need to show a sexual purpose—that it was grooming. There are certain criteria that must be fulfilled. I think we need to have a lesser offence, but nonetheless an offence, to deal with that.

This is something that I discussed briefly on 8 February in Adelaide with Paul Fletcher, the parliamentary secretary responsible for this piece of legislation. I commend him for the hard work he has done. He comes from an eminent background in telecommunications, he knows his stuff and I think he is doing a very fine job as Parliamentary Secretary to the Minister for Communications. Paul Fletcher was at the launch of the Carly Ryan Foundation’s Thread app, which was supported by both state and federal governments. It is a terrific initiative. For anyone out there listening, it is an app that you can download for free. Basically what it means, for adults and particularly for children, is, if a young person is going out at night, they can have certain contacts and, if they are being harassed or threatened, all they need to do is press a button to notify their circle of friends or family. The app can also notify the police, giving a GPS location. I wonder whether, if Carly Ryan had had that app back in 2007, she would still be alive today. I believe she would be. It is a terrific initiative. Paul Fletcher spoke at that launch. This is an app that I think more and more Australians need to get and to use. There will be an Android version coming out soon, and I think we will hear more about it then, because every Australian with a smartphone will be able to access this, particularly every Australian child.

I spoke to Mr Fletcher this morning about my amendment. I made it clear that the purpose of this amendment is to raise this issue again and to flag it, because I have been disappointed with the response of both the government and the opposition in relation to this bill. But I say that without any rancour. I think that having a Children's e-Safety Commissioner provides a vehicle for the commissioner to consider that. I undertake that I will be making submissions to the new commissioner whenever that commissioner is appointed, as I expect the Carly Ryan Foundation will do as well, in order to progress this.

If we are serious about closing the loopholes in our current law, we need to ensure that an adult lying about their age, contacting a child and seeking to meet that child is the subject of sanctions by the law. Perhaps I can put this bluntly. I do not think that sort of conduct would pass the pub test. It is the sort of behaviour that ought to be subject to criminal sanction, albeit at a lesser penalty. But this amendment would mean it is unacceptable behaviour at law. To require evidence of grooming, I think, means it is too late. If the government, as it does now, has metadata powers—leaving aside the bill that will be considered—to track potential suspects in terms of child sexual abuse, then this would be an additional tool for our law enforcement agencies which I believe would be very valuable.
I am grateful for the time that I spent with Mr Fletcher this morning discussing the amendment. I think that the government will continue to look at this. Of course, it is fair to say that no commitments or undertakings were made as such, but I think the fact that Mr Fletcher has an open mind to at least continue to consider this, and that we will have a vehicle through the Children's e-Safety Commissioner to further consider this and perhaps make recommendations about the provisions contained in my amendment, is unambiguously a good thing.

With those few words, I can indicate that I will be supporting this bill. I want the provisions in this bill to be effective. It is long overdue. That is not a criticism of the government or, indeed, the opposition; this is a relatively new phenomenon. But I would urge my parliamentary colleagues that when the amendment comes up, even if they are bound not to support it, they should at least consider this and take the argument up in their party rooms, because if we are serious about cybersafety then we should be serious about those individuals—those adults—that lie about their age to children and attempt to meet them. That, to me, is completely unacceptable, and I owe it to the wonderful people at the Carly Ryan Foundation—in particular Sonya Ryan—to pursue this until we get the legislative reform that is necessary.

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) (11:08):
I rise to make a contribution on the Enhancing Online Safety for Children Bill 2014. As has been outlined by the senators, it is a package of measures which looks to implement one of the government's election commitments, which is to enhance online safety for children.

Before I go into some of the details of the bill, I think there are a few context-setting things that need to be said around this. As Senator Xenophon, my colleague from South Australia, has just highlighted, the issue of the interaction of young people with the internet goes well beyond just bullying, although that is the subject of this bill. It goes particularly to grooming and contacting by people who are sexual predators. It also, though, goes significantly, as we have seen in recent days, to the issue of radicalising and also luring young people to be engaged with terror activities. Just in the last month, we have seen quite a bit of media about the three young British girls—15- and 16-year-olds—who have been lured to leave their homes in England and travel via Turkey to the Middle East. The reporting from the British authorities, after consulting with young girls who have previously been lured down this path, indicates that Daesh are using social media tools like Twitter, Facebook and Ask.fm as recruitment channels. That has had quite a bit of media.

One thing that has not had so much media is an almost identical case of three young girls who live—or lived—in Denver in the United States and who, again through social media, have been lured. Just as Senator Xenophon highlighted in Carly's case that there was a misrepresentation about age and intent, this case in the US indicates that the information that has been put onto social media is, in their words, 'Disney-like versions of life under extremism'. It portrays a very favourable view of what life is like there and things that will be available to those people, and it has lured, in this case, three young girls—17, 15 and 16—from the US. Thankfully, in this case they were intercepted as they passed through Germany on their way to Turkey and then Syria, and they were detained there and have been sent back to America. So that has been a good outcome, but it just highlights that this whole area of interaction of young people with social media is a thing that is changing in our environment.
and our society and that there are new measures required to deal with that, because of the scope of the impact on their physical safety, in cases involving sexual predators, and on the safety of those who are tempted to be radicalised as well as those who are bullied.

The other contextual thing that I think is important, particularly as we come back to the piece around cyberbullying, is that the intent of this legislation is to assist parents, principals and authorities in the process of protecting young people. It is not to replace their role; I think that is a really important point to emphasise. These kinds of programs help parents and principals and schools to work with young people and give them tools to overcome the things that are influencing young people, but they do not replace the responsibility of parents, predominantly, as well as other significant figures in children's lives to help train up, develop and mentor young people to be resilient in our society, because they will have many interactions in their lives that go beyond the confines of the family home or a school environment, and we need to be imbuing our children with the wisdom and maturity to recognise threats, to recognise people who are seeking to tear them down and to have the resilience to cope with that. We should not ever get into a situation where somebody ends up being bullied and is impacted either physically, in terms of suicide, or in terms of mental health, and then people turn around and say it is the fault of the government because this program was not good enough. This program is a tool. It is an assistance. It is not to replace the prime responsibility of parents and other significant authorities in children's lives to help that child be resilient. I just think that is a really important baseline we should look at.

So what does this bill seek to do? It seeks to establish the office of a Children's e-Safety Commissioner, as well as setting out the functions and powers, and it creates an effective complaints system—that is the aim—for the harm of cyberbullying material targeted at Australian children. It gives two sets of powers. One is a set of powers to issue a notice to a large social media service requiring it to remove the material, and it also gives the commissioner the power to issue a notice to the person who has posted the material, requiring them to remove it and to refrain from posting the material or to apologise for posting the material. The measures in this bill are aimed not only to provide those powers but to give the tools to bring about a more rapid and effective address to where this kind of information is posted on the internet.

The reason why I support an intervention like this—generally I am about smaller government and fewer interventions rather than more—is the all-pervading presence of social media in young people's lives. As I have watched young people interact with their peers and with social media, one of the things that have struck me is the power of things like Facebook and the fact that no longer can you invite one friend around to your house and enjoy their company. Now people are considering: if that is posted on Facebook, what other friends will see that? Will people feel excluded because of that? If you invite a group of people, there are acceptances up there.

I have heard young people discussing whether or not they should accept, because nobody else has accepted yet: 'If I'm the first to accept and nobody else does, am I going to be excluded from the group?' There are all kinds of dynamics that things like Facebook have brought in and that impact on young people. When I and many in this chamber were growing up, those considerations were not there. So we do need to respond in a measured way to the
changed reality of the world for young people. How big is the problem in terms of cyberbullying?

The Social Policy Research Centre of the University of New South Wales, in 2014, conducted a study. It concluded that the best estimate of cyberbullying over a 12-month period is that 20 per cent of Australians aged between eight and 17 have been subjected to cyberbullying. That is a significant portion of young people in our society. The most prominent age group was 10 to 15, in terms of cyberbullying, and the estimated number of children and young people who were victims in 2013, which was the period studied, was some 463,000. That is a significant number of young people who potentially have ongoing issues around relationships, self-esteem, anxiety and depression, which can follow on from cyberbullying.

It also showed that managing the impact of social media creates a significant workload for people in children's lives, such as principals and teachers in schools. This new dynamic of communication is very real there. The research found that some 87 per cent of secondary schools reported at least one incident of cyberbullying in 2013, which is the period that was reviewed, as well as some 60 per cent of primary schools reporting an incident as bullying. So it is, clearly, an issue that is affecting a lot of young people and those who work with them in a range of environments in our community.

Where will the commissioner be based? Essentially, he will be within the Australian Communications and Media Authority or ACMA. It will be an independent statutory office established within ACMA. The commissioner will have a number of roles in providing national leadership in this space. There are many people—not-for-profit groups, foundations and government agencies, both state and federal—so this office will look at working across government in a national leadership role as well as developing and implementing policies to help protect children in this space.

One of the key areas will be to set up a complaints system. The aim of this is to be responsive and effective for people, so when harmful cyberbullying material is targeted at an Australian child there is a way to deal with it. The commissioner also is required to work closely with other agencies as well as the police, the internet industry and child-protection organisations. The budget will be around $7½ million for those safety programs in schools and there will be a budget to support Australian based research and information campaigns about online safety. It is very much a focus here, understanding the problem and creating those effective and responsive complaint mechanisms for our community.

To look at the complaints system, in particular, there are two sets of powers the commission will have. The first is to issue a notice to a large social-media service, requiring it to remove material; the second is to the person who has posted it. The measures are designed to have an engaged process. At a tier 1 level it is about encouraging social-media groups to remove it, to be alert and to put in place their own programs. If the large social-media service repeatedly fails to respond to that encouragement, it can be moved to a tier 2 program. This means the commissioner can then enforce the legal duty for that group to remove cyberbullying material, and if they do not they will face substantial fines. We are talking in the order of $17,000 for each day that the large social-media group does not respond to the commissioner. It encourages cooperation and the groups to work and own their part of the
solution to this problem. If that does not work and there is not that cooperation there, this is a significant power for the commissioner.

It also means that as well as administering that $7½ million they will take on responsibility for administering the current online content scheme, under the Broadcasting Services Act 1992. The bill does not make any changes to that act but it does mean that this commissioner will take on responsibility for the act. There will be a number of consequential amendments that come out of this act. There are some amendments to give the commissioner information-gathering powers, similar to those currently possessed by the Australian Communications and Media Authority under part 13 of the act, some changes to reflect the transfer of administrative responsibility for that online-content scheme and some minor consequential amendments to provisions in those schedules.

This is a scheme that has been supported by stakeholders, who see the damage to our children and the need for an intervention in this space. There are a number of people here from the independent schools association, from the National Children's and Youth Law Centre and from the Australian Medical Association who deal with the consequences of this cyberbullying. They have looked at what the government is proposing and have identified that it will be good policy. They believe it will have a significant role in raising awareness and providing tools to protect young children. The stakeholder groups support it. The means are here to provide an effective and responsive system. But I come back to the fact that this is just one element in an environment that our young people are facing where society collectively, governments and internet providers need to find effective ways to help our young people to engage with social media and the internet as a positive and an enabling influence in their lives and to build the resilience in them to cope with the negative aspects—which could be cyberbullying and recognising the dangers of people like sexual predators.

An important area that we are frequently dealing with in our society at the moment is to resist the lure of the people who would seek to radicalise elements of our community to support, often in this case, Islamic extremism through Daesh in the Middle East. I repeat the point that I raised at the start of my contribution: this is a tool. It is something that is there to support parents and other authorities, but it should not be seen as a replacement for the role all of us have to work with our young people to help them to grow resilience and the ability to thrive in the society in which they live.

Senator POLLEY (Tasmania) (11:23): I would like to make some comments in relation to the Enhancing Online Safety for Children Bill 2014 and the related bill. I would have to say that I concur with the majority of comments I have heard this morning in the chamber in this debate. I think it is important that we acknowledge the two committees that have looked into this issue over the last couple of years. I would particularly like to acknowledge the contribution that Senator Catryna Bilyk, of my home state of Tasmania, has made not only in relation to this issue but to issues generally relating to the welfare of children.

More and more these days people have become interconnected through social media. Sites like Facebook and Twitter now mean that we are able to create an online profile for ourselves and to stay connected to virtually anybody anywhere in the world and at any time. We can share stories, photos, memories and dreams, holidays, weddings, barbecues and birthdays. It has enhanced and transformed our lives. The world as we know it will never be the same again. In my area of responsibility, aged care, I see that the internet and the advancements that
we have made in technology will be another step in ensuring that people do not become isolated in their own homes.

But getting back to the presence, unfortunately, of cyberbullying: with all the benefits we talk about from the internet and having access 24/7, the dark side of social media is why this bill has been brought before us. It is a very dark side of the internet and I do not think there is anyone in this chamber or anyone who would be listening who would not know someone who actually has been bullied or who has had to deal with the consequences of online bullying. We know that bullying has been around in our society. I can remember at school, where I think a lot of us—for whatever reason—from time to time experienced bullying. I think Senator Bernardi was talking about whether you were too tall, whether it was the colour of your hair or whether, like me, you had freckles. I had the name of 'Polley' so you can imagine how often I got tormented about the name of Polley. Then, when I actually got into politics it all started all over again!

But society is changed in the sense that during our days in the school yard, when you went home you had some freedom. In those days, when I was in primary school, you had that respite because we did not even have a telephone. Therefore, children were able to go home, turn on their television, do their homework and relax, and then, hopefully, the next day when they went back those bullies had moved on to someone else. But now, unfortunately, young people are exposed to it 24 hours a day.

One of the issues that we need to consider as parents, guardians and grandparents is where children use their computers. When you have a computer that is connected to the internet, I am a great believer that it should be in a family room where parents and carers can supervise the use of the internet. It can be so easy for young people—or even for us adults—to go onto a site that is inappropriate accidentally.

In being able to be contacted 24 hours a day, with all the benefits that brings by keeping us connected around the world, even us adults have trouble at times in keeping up with the technology. Therefore, it is more difficult for parents to always know what their young people are being exposed to. Only too often, the issue around bullying does not come to light within a family until it has escalated to a level where it is obvious that there is something going on with your daughter or your son.

We need to be able to ensure that the issues around this are legislated for as much as possible. But I have to say from my time on other committees and in having dealings with the AFP and other agencies that it is not always easy for those people who have to supervise the internet; how it can be used for grooming young boys and young girls and the issues around adults forming relationships with a parent so that they can have access to their children—all these sorts of issues. Unfortunately, too much of this sort of behaviour is conducted through the internet. Not only are those children potentially the ones who are going to be hurt but their families can be destroyed. We know that there is never going to be enough money; it seems to be that whatever happens in the community, that those who are in our community and who are less desirable seem to have access to more money and more technology than the good guys in our agencies do.

The forms of bullying that children may be exposed to can relate to their appearance, but it can also be dissemination of photos which have been taken of them and which are unflattering. These can cause all sorts of negative thoughts. As we know, there are too many
young people now being diagnosed with depression. We also know that young people suffer from various eating disorders, and it all comes down to the issue of the image—the self-esteem and self-confidence that young people need to have—and their resilience, to be able to ensure that they do not succumb to these bullying attacks on them.

We also know of and I think have all experienced fake Facebook pages set up in people's names. I know there are politicians who have experienced that, and obviously there are young people. We know through the debate today that there have been a lot of stories told about the personal experiences of some of our young people. But I think this is a good step. I think it is only one more step that we have to take to ensure that we have some control and that there is legislation here to protect young people from this sort of attack and the use of the internet to bully young people. We all know about self-esteem and the way young people and all of us as individuals see ourselves is greatly impacted by our peers and the social settings that you are involved in.

According to Reachout, one of Australia's main organisations that helps children that are victims of bullying, it can lead to feelings of being the one at fault. Only too often comments are made—and I am sure they are not made intentionally—like: 'Why go on social media? Why'd you visit that site?' It is not always that easy. We know this can lead to feelings of hopelessness and humiliation. It can lead to feelings of being alone and vulnerable. It can lead to feelings of depression and rejection. It can lead to feelings of being unsafe and afraid. It can also lead to stress disorders. Those are really some of the most serious aspects of bullying in general but particularly when we are talking about cyberbullying.

This can have a profound effect on the mental health of children and may lead to all sorts of problems later in life. The Australian Department of Communications commissioned the Social Policy research Centre at the University of New South Wales. According to the research, one in five Australian children between the ages of 10 and 17 have experienced some sort of cyberbullying. This amounts to approximately 463,000 victims, of whom around 365,000 are in the peak age of 10-15 years. Those of us who have had children going through that age know it can be challenging enough without having to deal with this added consequence of internet bullying. But this estimate could be much higher than that. It is very hard because not all of the instances of cyberbullying are actually brought to the attention of the authorities. So we must obviously be more careful with our children and the sort of exposure to the internet and what it does. It is about communicating with your children. If there is anything on the internet that makes them feel uncomfortable then they should be having those conversations with their parents.

In an age where children are confronted with all sorts of stereotypes, this level of public humiliation is unacceptable. This is why it is so important to tackle this problem head on and regulate the ability for others to perpetrate this brand of bullying on our children. Under the leadership of Bill Shorten, to those in the opposition this is not a political issue where there is any great divide in terms of how critically important we see this piece of legislation. As I said, there are some aspects of it that we have some concerns about, but we feel, as I am sure does everyone in this chamber, that this is another good step forward.

But we also have to consider what constitutes in any one person's mind what bullying is, because what bullying can be to one individual can be very different to another. Some people may object to the increase in the regulation of the internet and social media content based on
the fact that they feel it intrudes on their liberty and freedom of expression. But rest assured that we in this chamber believe that these steps are necessary. When it comes to questioning whether it is impinging on someone's freedom of expression, I say children must always come first and the safety of our children must be foremost in our minds. But we have been listening to the concerns in the community over a long period of time. As I said, there have been two committees that have crossed over in the area of cyberbullying and the safety of children using the internet. I think this bill is a good step in making sure that we can address as much as we can at this stage some of the issues that are confronting these children.

I turn to the structure of the bill itself. It establishes a children's commissioner and sets out its functions and powers. The child or guardian can complain to the commissioner if they have been a victim of cyberbullying. The bill sets out that social media providers will have to comply with a basic set of online safety requirements. The commissioner can then investigate such complaints. This includes minimum standards in a service provider's terms and conditions of use, a complaints scheme and a dedicated contact person.

The bill creates two tiers of social media services. Tier 1 comprises social media services which have applied to the commissioner to be declared as such. Tier 2 social media service may be issued a social media service notice by the commissioner which requires the removal of such material. The commissioner also has the power to issue notices to end-users who post cyberbullying material. The notices can also include a requirement for them to remove that material. The remedy for non-compliance with such a notice is injunctive relief.

Rest assured, as I said, those of us on this side are always prepared to work with the government and the crossbench when it comes to any legislation that improves the safety of those who are using the internet, particularly when it comes to children. I also take this opportunity to once again stress the importance to parents, guardians and grandparents of ensuring that they have a conversation with their young people in relation to the dangers involved in using the internet. There are those within our community who will use the internet to groom children. You will find all sorts of warnings and assistance are available; I know the schools within our community do as much as they can to ensure that children understand the dangers. But, even with all of this, it is important that you have these conversations at home and that you talk at home about what your children are doing when they are on the internet. If they are being bullied, whether it is via the internet or at school, then those conversations need to be had because the security of our young children is first and foremost. We have to be always mindful of their self-esteem to ensure they have the resilience to deal with cyberbullying or bullying in the schoolyard. I commend the bill and I will have more to say, I am sure, during the committee stage.

Senator CANAVAN (Queensland) (11:38): I also rise to speak in support of the Enhancing Online Safety for Children Bill 2014. This bill fulfils our government's election commitment to improve online safety for children. We all know that technological change is occurring very rapidly in our society; I have just come down from a hearing of the Senate economics committee on digital currency, where we are all learning about things like blockchains and cryptography and hashes and all these things. It is quite unbelievable how our society is changing. We had a witness there today who quite eloquently summed up that yes, while these new forms of media and new technologies can be used by criminals or by people who want to do the wrong thing, they are just a means and not the end. As he said:
from his observations criminals also wear shoes, but we are unlikely to want to ban shoes just because they are used by criminals.

Likewise, digital currencies have been used by criminal and other organisations which are not necessarily the most pure in our society, but would we want to ban them all just because of that? Likewise, the internet can at times be used for activities which we would prefer not to occur in our society, but we cannot stop those things from developing. We have to, as a parliament and as a government, move with the times, so to speak, and make sure our laws and regulations are kept up-to-date with developments in technology and the use of that technology by bad people.

The internet, and social media in particular, has been a tremendous benefit to our society and our economy. We can quickly communicate with all the members of our family and with our friends now. It is a great benefit to me—I am always on the road and I would not be able to keep in touch with my family as easily as I do if we did not have this technology. I remember a while back there was actually a TV advertising campaign to encourage you to phone your mum and phone your friends and all that sort of stuff. That would seem a little bit out of place these days because you do not just do it by phone. You can use Facebook, Twitter and all these things to keep in touch with your loved ones.

But sometimes the ability to communicate so easily, and sometimes almost anonymously, can create threats as well. In those instances the internet, and social media in particular, can make bullying behaviours more dangerous to children who are particularly vulnerable to becoming the victims of it. Previous speakers have spoken about the rising problem of cyberbullying, and the data that I have seen shows that there are hundreds and thousands of children across Australia who have been subject to this bullying. In 2014, the University of New South Wales Social Policy Research Centre concluded that the best estimate of cyberbullying over a 12-month period is 20 per cent of Australians aged eight to 17. That is one in five. I have four kids of my own, so there is a good chance that one of them will be subject to it. My eldest is just in that bracket—actually, two of them are in that bracket, aged eight and nine—so it is very concerning as a parent that that could happen.

Of course, bullying can occur at school as well; but it is just all that more available now and potentially more group-like in its attributes when it occurs online—there are a lot more people involved. Cyberbullying is most prevalent in children aged between 10 and 15, and prevalence does decrease as people get older and perhaps a bit more mature. These figures mean that the estimated number of children and young people who were victims of cyberbullying in 2013 alone was 463,000, and around 365,000 would be within that 10-to-15 age group. Social media is creating a very substantial new workload for school principals and teachers, as well as parents, and the same University of New South Wales research paper found that 80 per cent of secondary schools reported at least one instance of cyberbullying in 2013, as did just under 60 per cent of primary schools.

As I said earlier, it was not that long ago that the home was a sanctuary for children—you could come home and remove yourself. Going to a personal story, I remember that in grade 9—was it grade 9?—we had a huge fight with the grade 8 kids; I think we were the older ones—

Senator McKenzie: Glory days!
Senator CANAVAN: Glory days, Senator McKenzie. I think we were the older group. I was on the bad end of some of those blues. I do remember coming home and—

Senator Ludlam: Name names!

Senator CANAVAN: I am not going to abuse my parliamentary privilege and name people; we have all matured! You would get home and, when you were at home and with your parents, and you were not at school, it was somewhere you could take a bit of a break and a breather and a pause from that. You would be counting the hours before you would have to go back to school and you would not be looking forward to it too much, but at least it was not a 24/7 experience.

I do worry for children who grow up in this environment. It was not that long ago that I was at school, but things have changed. They cannot necessarily get away from it. A lot of kids these days in high school would have their own phones, and every time someone sends you a message or a tweet on Twitter or Wickr or any of these other platforms, you get a notification. You could potentially be reached out to at any time in your life and that is of great concern.

I think it is important to remember that it is not just the widespread and mainstream social media platforms that exist. The bane of my existence at the moment as a parent is a thing called Minecraft. For those who may not have—

Senator McKenzie: They grow out of it.

Senator CANAVAN: Hopefully, Senator McKenzie, they will grow out of it. They want me to play Minecraft. I have not played it yet, so I do not really understand it; apparently, it is Lego for the internet. I am sort of okay with the platform; it is not overly violent—but it does obsess them. And it is a form of social media in a way because they can join public servers. Kids as young as five or six go onto YouTube and find out how to join these servers. They get online and they can communicate with people all around the world by playing a simple computer game. And of course you do not know who these people are that they are communicating with, and that is a bit concerning as a parent. It is hard for us as parents to keep up with all these new programs coming in that we do not use and that we do not really know too much about.

I think one of the lessons we have learnt over the years is that government regulation sometimes struggles to do a good job when these things develop and come online, but it is important that we try. This bill here today does attempt to bring our regulations up to speed. The measures in this bill will bring a better and more rapid response to these dangers. In the fast-moving world of the internet and social media, we need to be faster and more nimble in addressing this issue.

The bill will establish the Office of the Children's e-Safety Commissioner and in doing so will create an effective complaints system for harmful cyberbullying. The commissioner will be given two sets of powers it can use in responding to a complaint. One of these powers will be to issue a notice to a large social media service, requiring it to remove the material. The other power will be to issue a notice to the person who posted the material, requiring the person to remove the material and to refrain from reposting the material or apologise for the posting of that material.
These are quite substantial powers that we are putting in place here. It does give this commissioner a fair amount of power to potentially regulate what people are saying and what companies are allowing people to post in an online environment. I think, however, given the particular vulnerability here of young children and people that are vulnerable in our society, that these rules should be in place. I hope that the social media services that we are targeting in this bill will be compliant and cooperative with what we are putting in place, because I think this is a law which could be implemented without a particularly large hammer, if you like, on behalf of the government. It is something that could have widespread support within the community and the corporate sector—and social media companies as well, because social media companies themselves rely very heavily on making sure that they maintain a large network of users and, therefore, maintain a large level of support within the community for their service. I think there have been examples in the past where they have cooperated and removed material which has been either damaging to particular individuals or damaging to the wider community fabric.

There are some enforcement aspects to the bill as well. We are not just relying on the good grace of these companies. With that first power regarding large social media services, the commissioner can issue a tier 1 notice to begin with. If a social media service repeatedly fails to respond to a notice from the commissioner, it can be moved to a tier 2 notice, meaning that the social media service will have a legal duty to remove cyberbullying material and face fines of up to $17,000 a day if they do not act in response to the commissioner. As I said, hopefully those powers, and particularly those penalties, will not need to be relied upon in many cases, but if we want to walk softly, it is important that we carry a big stick.

Apart from these direct powers that the commissioner has, they will have some broader functions under this bill—including: the promoting of online safety for children; coordinating relevant activities of Commonwealth departments, authorities and agencies in relation to online safety for children; and accrediting and evaluating online safety educational programs. The relevance of this accreditation is that the government is allocating $7.5 million for schools to purchase online safety programs, and this funding can be spent on any program accredited by the Children's e-Safety Commissioner. I applaud the government for making an investment of this kind, because, as I said, as a parent myself I know it can be hard to keep up with these new forms of technology—what they can do and what they can be used for. The research shows that schools similarly struggle to keep up. This new investment will help them have the tools and resources to respond appropriately to developments that are occurring right now and to developments that we cannot envisage right now, that may occur in the future.

The commissioner will also take on responsibility for administering the current online-content scheme under schedules 5 and 7 of the Broadcasting Services Act 1992. But it is important to understand that this is simply the commissioner taking responsibility for administration of this existing and longstanding scheme. The bill actually does not make any changes to that online scheme and is separate from the complaints system that I referred to earlier.

This legislation will state the parliament's expectation that all social media service should comply with certain basic online safety requirements: that they have terms of use that prohibit the posting of cyberbullying material; that they have a complaints system in place under which end-users of the service can seek to have material that breaches the services terms of
use removed; and that there is a contact person where the commissioner can refer complaints that users consider have not been adequately dealt with.

I think we would all agree that the best way for these issues to be dealt with is by the particular media service themselves rather than having to be escalated to a regulator, in this case the commissioner, for more onerous enforcement. That may not always be the case once this bill is in place. But if we can have a good self-regulation process involved, that would be a more superior outcome.

I mentioned the $17,000 penalties before. The commissioner will also have other powers available to most regulators including the ability to take enforcement undertakings from providers. In the case of either a requirement under an end-user notice or a requirement under a social media service notice, the commissioner will be able to go to court to obtain an injunction to ensure compliance with the notice. In each case, enforcement is governed by the standard provisions that are contained in the Regulatory Powers (Standard Provisions) Act.

I want to finish by noting that this bill has broad support within the community as well. I started my contribution by saying that this is something the government took to the last election and is a commitment we made then. I am glad to see we are seeing it to fruition here in law. But it is also something that various people and leaders in our community have been calling for for some time including Matthew Keeley of the National Children’s and Youth Law Centre. The President of the Australian Medical Association, Brian Owler has also been supportive of these changes as has Phillip Heath, who is the national chair of the Association of Heads of Independent Schools.

This will is an appropriate and proportionate change to our laws to protect the vulnerable in our society. We should always be careful where we seek to impose some form of restriction on what people post and what people say online but where it involves vulnerable people in our community, we should seek to put the appropriate protections in place to protect them. I think it is important that we do so. This bill is focused on child safety and children in our community, not with the communication that may occur between adults. If you take a look at most politicians' Facebook pages, there is probably a fair amount of quasi bullying activity that occurs there but that goes with the job. We should have thick skins to deal with that and we are adult and mature. If people want to act in an immature way, we can ignore that. But it is a bit hard for us to ask our children to do the same when they are in the formative years of their lives and where that kind of behaviour can have a long-standing and deleterious impact on their development and on the formation of a well rounded and mature personality. So I applaud the government for taking action to protect children in this instance and I am glad to have spoken in support of this bill.

Senator McKENZIE (Victoria) (11:55): It does give me great pleasure to rise to speak today on the Enhancing Online Safety For Children Bill 2014 because I was privileged to be a part of that policy group that developed this policy response in the wake of growing concern in all of our communities right across Australia.

In opposition the coalition had an online safety working group. We travelled around Australia engaging with key stakeholders—social media magnates, telecommunications providers, schools, parents, law enforcement agencies, state governments and community leaders—to actually understand the issue. I think sometimes those of us that are not like Senator Canavan with four young children might not actually have our finger on the pulse of
what is actually going on with the everyday experience of young Australians in the 21st Century in the internet age—the digital natives. I think it was very important that we actually got on the ground, into communities, into schools and talked directly to those that are not only experiencing the problem—young people and their parents—but also those that are required within the community to actually deal with the fallout of these incidents, the law enforcement and community agencies and, most typically, schools.

I met with groups of Catholic, state and independent principals this week. They talked about the top four priorities for them going forward as they do their best strategic planning for the next six to 12 months. It was about wellbeing and it was about the huge increase within primary schools of having to focus so much human resource, curriculum resource and time and effort on dealing with exactly these kinds of issues: bullying and social practices within our communities that have gone way beyond time and space, that extend into other areas of our everyday lives and severely impact our students’ wellbeing.

It is also a great example of the coalition government delivering on an election promise. I think that is always a good day. We have got lists upon lists of those election commitments being rolled out over the last 12 months but this one is particularly close to my heart, as I said, because I was part of the working group chaired by Paul Fletcher, a man with significant experience in this space. We had coalition members and senators from right across Australia and we did travel.

I want to go to cyber bullying itself. Dr Michael Carr-Gregg, who is a recognised leading child and adolescent psychologist notes that cyberbullying cannot be beaten by simply logging off the computer. Students need help to learn to become more resilient and to ignore it. We need a suite of systems, strategies, arrangements, curriculum models and support spaces for young people and their families to be able to engage in so that they can learn how to interact as human beings.

For millennia we have been interacting in a physical way in present time and space. This new world, which we are slower to come to but our young people are natives of, requires very different things from your human experience. We all need to actually assist young people to be able to that. We will get to a point where will be like young people will be able to deal with online bullying like bullying face-to-face. But at the moment we are not actually at a space where we have the strategies that we need.

The research conducted by Dr Michael Carr-Gregg shows that one in 10 students are victims of cyberbullying, and he advises that it is a particular issue in years 10, 11 and 12. I have spoken in this place about this before. There is an infamous case in Bendigo in central Victoria of the 'root rater' site, on which a couple of gentlemen in the community were posting online ratings of their activities with young local girls. It was absolutely abhorrent and it was there for all the community to see, for their families to see, et cetera. Through a long process the perpetrator was eventually taken to court and convicted. But given the impact of comments and the time it took to resolve, the impact on the young girls and the community was incredibly detrimental. Despite complaints—and this is evidence we found in our consultations—those social media outlets are not quick to respond to complaints or to take down offending material that is doing very real damage to young people's lives. It is taking up to weeks for offending material to be removed. That is a lot of time to be facing a bullying and dangerous scenario.
There are significant issues not just in the cities but also out in the regions. Dr Sharman Stone, in the electorate of Murray, has been very active in this space, and another great champion in this area, Nola Marino, has conducted some public consultations to respond to a very real community need in the country Victorian town of Shepparton about bullying in the community. Residents in Albury, in the Wodonga area, conducted a march against cyberbullying in response to youth suicide issues. They got the community together to say, 'We've got to respond to this issue.' The coalition in opposition responded to the tsunami of concern among parents, schools and communities.

As we travelled around we heard a lot of things. We learned that kids in primary school knew more than we did about getting around the internet. Whilst Facebook has a rule that you have to be over a certain age to have an account, we had eight, nine and 10-year-olds in Perth tell us that they had Facebook accounts—with or without parental permission. It was all quite easy to do. You just logged on and said you were born in X year and away you went. So the rules and regulations of certain social media sites were not actually being enforced, so we developed a suite of options which are now in front of us in the form of this legislation. We do want to establish the office of the Children's e-Safety Commissioner—a single point of conduct. Various states have different initiatives. Different school systems have initiatives. Communities have initiatives. But sometimes teachers and parents found it very, very hard to think about where they needed to go to get some advice and support to deal with this issue when they were faced with it. Having the Children's e-Safety Commissioner as a single point of contact within ACMA is an excellent initiative.

We needed to create an effective complaints system for harmful cyberbullying material targeted at the Australian child, so the commissioner has two sets of powers. There is the power to issue a notice to a large social media service, requiring it to remove the material. There is also the power to issue a notice to the person who posted the material, requiring the person to remove the material, refrain from posting it, and apologise for posting the material. It is very important when we look at reconciliation within any bullying process to have the bully apologise for their behaviour.

I have noticed, from observing the way young people interact online—as Senator Canavan said, often with people around the globe—that there are ways of censuring bad behaviour within those cohorts. They do self-censure and ban each other from playing various games, et cetera. We have in everyday life social practices that help us to define appropriate behaviour and we all assist each other to keep good behaviour and manners, if you like, and appropriate ways of interacting as human beings. We are all conscious of what that looks like in the physical world, and I think that is developing within the online environment, but there are those cases where we take what is occurring in the physical and put it online, and we do need to have appropriate oversight and enforcement.

The internet has been fabulous for our communities and our economic growth, and I am really excited about the potential that the online environment and the digital economy will provide, particularly to regional Australians—almost giving us the capacity to leapfrog the tyranny of distance and the impact that has had on regional economies—but it has been harmful. So we need to have in place a series of measures to assist to make the online environment as challenging and complex as the offline environment. And I think our measures do that. We know that there are serious effects on anxiety and depression, and there
are numerous instances of young people being so damaged by bullying that is occurring online that they are driven to suicide. I am very glad that we are responding to that.

I want to briefly go to the consultation that was undertaken. It occurred between 22 January and 7 March. More than 80 submissions were received and, as I said, we met with industry and schools. I think the $7.5 million that we are contributing to supporting schools for online safety programs is a great initiative. We heard often of instances where teachers had to deal with parents in the parking lot over fallout around Facebook interactions of students—or incidents between parents. We even heard of fisticuffs in one area, where parents were behaving inappropriately because of online interaction.

I will not use my whole time here, but I do want to thank Paul Fletcher and the group for discussing the difficult aspects. We were challenged around the notion of regulation, because we like to deregulate over the side of the House. We like to champion freedom and liberty. We struggled when we looked at this issue. Were we trying to regulate the industry? Were we trying to regulate the internet? That was a very challenging discussion for us internally. I think the measures we have developed have struck the right balance. We accept the fact that we have a federal police force and a state police force charged with keeping communities safe and with ensuring that we all behave in an appropriate manner with each other. So, too, it is appropriate then for government to ensure that in the online environment similar oversight is available.

I would like to thank the Victorian state coalition government whose work in this area was particularly transformative, but I will leave further comment until later. I thank the government for this, I thank the government on behalf of all the young people, particularly in regional Victoria. I thank those who participated in the Bendigo forum. We took their suggestions on board. I note the particular complexities of regional communities in this regard because often those doing the cyberbullying are very much in the physical environment—unts and cousins; the fish bowl is smaller and can spill over and have more intense consequences. Thank you to the government for developing such a great policy. I really look forward to this being quite transformative in assisting young people to overcome the impacts of cyberbullying and particularly in assisting teachers and parents with the appropriate support structures they need to assist their young people to deal with the issues. I support the bill.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:09): I assume there are no further colleagues who wish to contribute in the second reading debate for the Enhancing Online Safety for Children Bill 2014 and the Enhancing Online Safety for Children (Consequential Amendments) Bill 2014. I thank all colleagues for their contributions in the debate, particularly Senator McKenzie for her ongoing work and commitment in this area. As I look at Senator McKenzie across the chamber, I am almost blinded by a reflection from something sitting behind her and I cannot quite make out what it is.

Senator Polley: A trophy for netball.

Senator FIFIELD: Congratulations to you, Senator McKenzie, and the parliamentary netball team for slaying the press gallery team.
It is a good thing that there has been broad support in the other place for these two bills and I expect that there will also be broad support in this place for the legislation. I know that we all agree that Australians, particularly Australian children, deserve the right to learn, communicate and socialise with safety and protection from bullying, regardless of the platform or the forum. As Senator McKenzie mentions, we are in a new world; there are new forms of bullying and we do need to respond accordingly. We know that historically it happens in the schoolyard, but it does now unfortunately also happen on social media sites. We should be fostering an online environment for our kids which requires the same standards of social behaviour that we expect in the off-line world.

I note that a number of my Senate colleagues referred to the work of the Joint Select Committee on Cyber-Safety, including the 2011 report High-Wire Act: Cyber-Safety and the Young. The government does acknowledge the work of the committee. The previous government responded to the recommendations of this report in 2011 and did implement a number of initiatives. There is indeed a significant level of continuity with a number of these initiatives in the previous government. For example, the youth advisory group, the teachers and parents advisory council and the Online Safety Consultative Working Group are continuing initiatives. However, it has been close to four years since that report was published, so obviously that report is not the last word on these issues, particularly in such a fast-moving area.

The coalition conducted a thorough policy development process in 2012 when we were in opposition but also in 2013, when we established the coalition's online safety working group, which consulted widely on these areas. We took a detailed policy to the 2013 election. I remember watching the launch of that policy on TV. I think that Mr Fletcher was in Brighton in my home state with opposition leader Mr Abbott and they were graciously hosted by Councillor Felicity Frederico, who takes a strong interest in these matters.

This bill does give effect to our policy commitments. Once in government, the coalition did carry out further consultation, including consideration of over 80 submissions, which Senator McKenzie referred to, which were received in response to the public discussion paper released in January 2014. Research commissioned by the government led by the University of New South Wales and involving a consortium of universities was undertaken and the results of that research confirmed the messages that I think everyone in this place have been receiving from the community regarding the prevalence and impact of the cyberbullying. The coalition government voiced its election commitment to enhance the online safety for children back in 2013, and it did so knowing that the internet provides immense benefits for children and their families. Today's children, we know, are better informed, better able to express their creativity and better with technology than any previous generation. I am sure if Senator Boswell were still with us in this place, he would attest to that.

The internet is a central part of the lives of today's children and it will be a central part of their lives as adults as well. With the rapid changes in technology and accessibility to the internet across a range of platforms, the government has listened to the community and their concerns about exposure to harm online. This topic has brought out a unified voice from the community, a voice asking for the government to do more. Parents, school principals, teachers and child welfare advocates have all taken the time to provide feedback and personal stories about cyberbullying. To those people, on behalf of the government—and I am sure on
behalf of all of us in this chamber—I thank you for making the time and the effort to enrich and inform the development of this legislation.

On 3 December last year, the government introduced these bills into the parliament to implement our election commitment. The government has continued to engage with key stakeholders, including members of the government's Online Safety Consultative Working Group. The members of that group, which includes industry, NGO and community representatives, deserve special thanks and acknowledgement for the contribution of their expertise towards this legislation.

The bills before the Senate were referred to the Senate Environment and Communications Legislation Committee for inquiry and report. There were 29 submissions received by that committee, all of which the government has considered carefully. I note that I will, in the very near future, move an amendment to clause 50 of the bill. Clause 50 sets out the eligibility criteria for the statutory role of the Children's e-Safety Commissioner. It states that a person is not eligible to be appointed as the commissioner unless the minister is satisfied that they have substantial experience or knowledge, and significant standing, in at least one of a range of fields, including the fields of the operation of social media services and of public engagement on issues related to online safety. The amendment will expand the range of fields to include experience or knowledge in child welfare or child wellbeing. This amendment responds to submissions made by a number of stakeholders to the Senate committee inquiry into the bill.

The public policy process undertaken to date demonstrates in part that the government does not believe that keeping children safe online is exclusively or even largely a job for government. There is indeed a collective responsibility to keep children safe online. When it comes to online safety for children, we are all responsible—government, parents, schools and the online industry. All must form a community that collaborates and speaks out with a consistent message, one that says an unequivocal no to cyberbullying and other harmful treatment of children online.

The government is pleased to have forged constructive and fruitful relationships with a number of key organisations in this policy process, including a number of the large social media services such as Google, Facebook, Twitter, Microsoft and Yahoo!7. It is probably hard for people of the next generation to conceive that we—our generation, Mr Deputy President—were able to grow up without ever having known any of those now household names.

The measures in these bills implement key aspects of the government's election commitment to enhance online safety for Australian children. The legislation will establish the Children's e-Safety Commissioner as an independent statutory office within the Australian Communications and Media Authority to take a national leadership role in online safety for children. The commissioner will administer a complaints system for cyberbullying material targeted at an Australian child, along with promoting online safety for children and coordinating relevant activities of Commonwealth departments, authorities and agencies in relation to online safety for children. The commissioner will also accredit and evaluate online safety educational programs, along with taking responsibility for administering the existing online content scheme.

The legislation sets out a two-tiered scheme for the rapid removal from large social media services of cyberbullying material targeted at an Australian child. Social media services
participating under tier 1 will do so on a cooperative basis—that is, the service will apply to participate and, on acceptance of its application, will be included as a tier 1 service. The commissioner will have the power to revoke tier 1 status, however, if the service repeatedly fails to remove cyberbullying material following requests from the commissioner over a 12-month period. A service may also be declared tier 2 at its own request. Those services which are declared to be tier 2 will be subject to legally binding notices—which noncompliance with can lead to civil penalties. The two-tiered scheme allows for a light-touch regulatory approach in circumstances where the social media service has an effective complaints scheme that is working well. But it does enable the government to require that cyberbullying material targeted at an Australian child be removed in circumstances where a social media service does not have an effective and well-resourced complaints scheme.

The legislation gives the commissioner the power to issue an end-user notice to a person who posts cyberbullying material targeted at an Australian child. An end-user notice may require the recipient of the notice to take all reasonable steps to remove the material, refrain from posting further material targeted at the child or apologise for posting the material. If the recipient of the notice fails to respond, the commissioner may seek an injunction or refer the matter to the police. The measures in these bills are, I believe, deserving of the support that has been received from across the chamber. They will bring a better and more rapid response to bullying behaviours targeted at Australian children and in turn will help to keep Australian children safe online.

The government again thanks all parties who have contributed to the development of this legislation and looks forward to moving one step closer to encouraging a safer online environment for all Australian children. I want to acknowledge the work of Parliamentary Secretary Fletcher in the other place. Those who know Paul’s professional background would probably agree that there are few people who have been better prepared, better skilled or better qualified to execute the duties of the office that he currently holds. In conclusion, I again thank colleagues for their contribution and thank all of those in the community who have made submissions and put forward propositions to seek to better achieve the objective that we all share, which is to see children, in whatever forum they operate, as safe as they possibly can be.

Question agreed to.

Bills read a second time.

In Committee

Bills—by leave—taken together and as a whole.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:23): by leave—I move government amendments (1) and (2) on sheet HA125:

(1) Clause 50, page 37 (line 13), omit "sector.", substitute "sector;".

(2) Clause 50, page 37 (after line 13), at the end of subclause (2), add:

(g) child welfare or child wellbeing.

I table an explanatory memorandum relating to the government’s amendments moved to the Enhancing Online Safety for Children Bill 2014, and I will provide some background to the amendments that I have moved. Currently clause 50 of the bill sets out the eligibility criteria
for the statutory role of the Children's e-Safety Commissioner. It states that the minister must be satisfied that a person is not eligible to be appointed as the commissioner unless they have substantial experience or knowledge and significant standing in at least one of a range of fields, including the fields of the operation of social media services and public engagement on issues relating to online safety. The amendments put forward today will expand the range of fields to include experience or knowledge in child welfare or child wellbeing. These amendments respond to submissions made by a number of stakeholders to the Senate committee inquiry into the bill.

Senator POLLEY (Tasmania) (12:25): I indicate that Labor will be supporting the amendments moved by the government. The amendments state that experience or knowledge in the field of child welfare or wellbeing will be a desirable quality that the minister may consider when appointing a person as the e-Safety Commissioner. These are common-sense amendments which take into account the Senate Environment and Communications Legislation Committee's recommendations. The shadow assistant minister for communications, the member for Greenway, flagged in speech in the second reading debate in the House that Labor would support the bill subject to any recommendations made by the committee. The committee process has proved useful and Labor will be supporting the government's amendments.

Question agreed to.

Senator XENOPHON (South Australia) (12:26): I move the amendment standing in my name on sheet 7664:

(1) Schedule 2, page 11 (after line 24), after item 14, insert:

14A At the end of Division 474 of the Criminal Code

Add:

Subdivision H—Offences relating to use of carriage service with intention of misrepresenting age

474.40 Misrepresenting age to a person under 16 years of age

(1) A person (the sender) commits an offence if:

(a) the sender uses a carriage service to transmit a communication to another person (the recipient); and

(b) the sender does this with the intention of misrepresenting his or her age; and

(c) the sender does this for the purpose of encouraging the recipient to meet physically with the sender (or any other person); and

(d) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and

(e) the sender is at least 18 years of age.

Penalty: Imprisonment for 5 years.

(2) A person (the sender) commits an offence if:

(a) the sender uses a carriage service to transmit a communication to another person (the recipient); and

(b) the sender does this with the intention of misrepresenting his or her age; and

(c) the sender does this with the intention of committing an offence, other than an offence under this section; and
(d) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and
(e) the sender is at least 18 years of age.

Penalty: Imprisonment for 8 years.

474.41 Provisions relating to offences against section 474.40

Age-related issues

(1) For the purposes of section 474.40, evidence that the recipient was represented to the sender as being under or of a particular age is, in the absence of evidence to the contrary, proof that the sender believed the recipient to be under or of that age.

(2) In determining for the purposes of section 474.40 how old a person is or was at a particular time, a jury or court may treat any of the following as admissible evidence:
   (a) the person's appearance;
   (b) medical or other scientific opinion;
   (c) a document that is or appears to be an official or medical record, whether created in Australia or in a country outside Australia;
   (d) a document that is or appears to be a copy of such a record.

(3) Subsection (2) does not make any other kind of evidence inadmissible, and does not affect a prosecutor's duty to do all he or she can to adduce the best possible evidence for determining the question.

(4) If, on a trial for an offence against section 474.40, evidence may be treated as admissible because of subsection (2), the court must warn the jury (if any) that it must be satisfied beyond reasonable doubt in determining the question.

Fictitious recipient

(5) For the purposes of section 474.40, it does not matter that the recipient to whom the sender believes the sender is transmitting the communication is a fictitious person represented to the sender as a real person.

474.42 Defences to offences against section 474.40

(1) It is a defence to a prosecution for an offence against section 474.40 if the defendant believed at the time the communication was transmitted that the recipient was not under 18 years of age.

Note: A defendant bears an evidential burden in relation to the matter in this section, see subsection 13.3(3).

(2) In determining whether the defendant had the belief referred to in subsection (1), the trier of fact may take into account whether the alleged belief was reasonable in the circumstances.

(3) A person is not criminally responsible for an offence against section 474.40 if:
   (a) the person is, at the time of the offence, a law enforcement officer, or an intelligence or security officer, acting in the course of his or her duties; and
   (b) the conduct of the person is reasonable in the circumstances for the purpose of performing that duty.

Note: A defendant bears an evidential burden in relation to the matter in this subsection, see subsection 13.3(3).

I alluded to this amendment in my second reading contribution on this bill. I accept and respect that the government wants to enhance online safety for children, and having an e-safety commissioner is an important step in respect of that process.
I previously introduced a bill in this place in respect of the misrepresentations made to children online. It arose out of the tragic circumstances of the Carly Ryan case, where Carly was murdered in 2007 as a result of an online predator misrepresenting his age to her. This person was contacting something like 200 young girls around the world and was misrepresenting who he was. He had misrepresented himself as someone who was in his late teens or 20 years old. Eventually when he met Carly on a beach at Horseshoe Bay in South Australia he murdered her. The Carly Ryan Foundation has been outspoken, passionate and reasoned in strengthening online safety, and it is on their behalf that I move this amendment. Sonia Ryan, the mother of Carly, has been a passionate advocate for the protection of children online.

I understand that this amendment goes beyond what the bill is purporting to do, but it is consistent with the theme of the bill—to protect children online. I will not be seeking to divide in respect of this amendment. I understand that it is not supported by the government or the opposition. I am still optimistic that there will be a process to work through with the Attorney-General's office, the minister's office and the parliamentary secretary's office in respect of communications.

Essentially, this amendment makes it an offence for an adult to misrepresent their age to a person under the age of 16—in other words, to a child—and, in addition, attempt to meet that child. In my second-reading contribution, I said that, if a 50- or 60-year old man is communicating with a 13-year-old girl or boy and saying that they are a teenager as well and then attempts to meet them, that ought to be an offence. Under our current legislation you need to show a sexual intent. You need to show that it is for the purpose of grooming a child for sexual exploitation. I think that there is a gap in legislation in terms of online safety.

I say this without any rancour. I understand that I do not have the numbers for this, that the government and the opposition do not yet support this position. But I will patiently, with goodwill, work with my colleagues to keep raising this. I am raising it again today in the context of this amendment. If I can get an indication from the opposition and the government of what their position is, all I ask is that they keep the dialogue going in respect of this, because it is a loophole in our current laws. I am not suggesting that the offence should carry as heavy a penalty as there is for grooming or for sexual exploitation—obviously not—but this could be a very useful tool for our law enforcement agencies to nip in the bud behaviour that I think most Australians would say is wrong, and not just morally wrong; it ought to be wrong at law for an adult to lie about their age and, in addition to that, attempt to meet the child. Essentially that is what this amendment addresses. I am pleased that I had a meeting with the parliamentary secretary this morning. I will raise these questions with the Children's e-Safety Commissioner in due course. I am grateful for the ongoing dialogue I have had with the Attorney-General in respect of this, but to put it colloquially, in terms of 'the pub test', if you are a 50-year-old man contacting a 13-year-old boy or girl and you try and meet them, I reckon that should be an offence.

Senator POLLEY (Tasmania) (12:31): Labor will not be supporting the amendment moved by Senator Xenophon. It is not a reflection on him. The issue of grooming which Senator Xenophon's amendment goes to is obviously a very serious issue. Labor senators share Senator Xenophon's concerns and would be more than happy to work constructively with him to properly address the issue. However, there has been no consultation or
engagement with the opposition on this amendment and no time for the opposition to consider its implications. While we appreciate Senator Xenophon's intentions, we are not in a position to support his amendment without being given enough time to consider the broader implications. The telecommunication-specific provisions in the schedule of the Criminal Code Act are complex and carefully drafted in a way that gives effect not only to the Commonwealth law but also to relevant state and territory law. Any consideration to amend these provisions must be undertaken in consultation with a range of law enforcement agencies and our state and territory counterparts. At such a late hour in the legislative passage of the bill before us, this simply cannot occur. It is for this reason that Labor do not support Senator Xenophon's amendment. But we do support the bill.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:32): I want to acknowledge Senator Xenophon's great interest in this area and the strong support and representations he has provided for people who have been subject to inappropriate contact through the internet. Everyone in this place, when we are talking about these subjects, always comes with goodwill and good intentions. Senator Xenophon has indicated that he knows, from discussions with the government already, that we will not be supporting his amendment, but I think Senator Xenophon has had some good discussions, particularly with the parliamentary secretary, and the government obviously will keep talking with Senator Xenophon. But I did just want to acknowledge Senator Xenophon's important work and interest in this area.

Senator XENOPHON (South Australia) (12:33): I am grateful to the opposition and the government for their responses. There was a previous committee report where both the government and the opposition did support a similar amendment. There is currently a bill—and this amendment is based on that bill—that is being considered by the Legal and Constitutional Affairs Legislation Committee. I think it is fair to say that the opposition and the government have not come to the same position as the Carly Ryan Foundation has. The issue will not go away. I accept the goodwill with which all members of this place and all parties are treating my amendment. I respectfully suggest that the time will come when the law will be changed, because it ought to be an offence for an adult to communicate with a child when the adult lies about their age and then attempts to meet that child. Let us see what the Children's e-Safety Commissioner says about this. I will be engaging with whomever the commissioner will be. I will keep trying. I owe it to Sonya Ryan and the Carly Ryan Foundation to keep trying in respect of this. It is something that both parties have considered in the past and have rejected, but that is fine. I say this without any rancour at all. I am hoping that we will get there, with goodwill, and get bipartisan, in fact cross-party, support for this amendment eventually.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:35): I think all colleagues would agree with Senator Xenophon's 'pub test' application to the characterisation of certain individuals making contact with minors. There are few things that are more abhorrent than the grooming of children, and I just again wanted to put that on the record.

Senator XENOPHON (South Australia) (12:35): It was remiss of me not to make specific reference to Senator Polley's contribution, which I appreciated. This is not a rebuke to Senator Polley—I would not dare ever rebuke Senator Polley, because I am not that silly!—but this is
not actually a grooming offence, because there are specific offences in respect of grooming. This actually is a step before that—to say that there ought to be some offence for an adult communicating with a child and attempting to meet that child. At the moment, you need to show grooming for a sexual purpose, for the purpose of child exploitation. I am suggesting that there is certain behaviour that falls short of that—it is almost preparatory to that—where there is currently a gap in the law. I think that is what we need to address. I just wanted to clarify that. It is not a rebuke, Senator Polley. I could not bear the consequences of rebuking you!

Question negatived.

Enhancing Online Safety for Children Bill 2014, as amended, agreed to; Enhancing Online Safety for Children (Consequential Amendments) Bill 2014 agreed to.

Enhancing Online Safety for Children Bill 2014 reported with amendments; Enhancing Online Safety for Children (Consequential Amendments) Bill 2014 reported without amendments; report adopted.

Third Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:37): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Building and Construction Industry (Improving Productivity) Bill 2013


Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator CAMERON (New South Wales) (12:38): Labor opposes the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013. These bills have serious negative impacts on the human rights of Australian citizens. The bills infringe a wide range of common-law rights and privileges, including the right to silence—maybe the senators over on the other side should have some silence now and again—the right to freedom from retrospective laws, and equality of treatment before the law, and they reverse the onus of proof on a person under investigation. These are bad bills.

Senator O'Sullivan: Beautiful stuff!

Senator CAMERON: Senator O'Sullivan says this is beautiful stuff. Taking away the human rights of Australian citizens, according to Senator O'Sullivan, is beautiful stuff. No wonder you Bjelke-Petersen people are still the same. You have never changed.

Both the Parliamentary Joint Committee on Human Rights and the Senate Standing Committee for the Scrutiny of Bills hold serious concerns about these bills. It is essential to the consideration of the bills in this place that, when a government seeks to place limits on the
human rights of Australians, it carries a very heavy onus to justify its actions. It must establish that the limitation is aimed at achieving a legitimate objective. It must establish whether and how there is a rational connection between the limitation and the objective. It must establish that the limitation is proportionate to that objective. These tests set the bar very high. The government has not cleared the bar; it has fallen well short.

The PJCHR criticised the statement of compatibility and the explanatory memorandum for the Building and Construction Industry (Improving Productivity) Bill. The PJCHR noted that the documents provided by the government made assertions and statements of fact that are not supported by evidence or data. The Senate Standing Committee for the Scrutiny of Bills criticised the explanatory memorandum, noting:

... generally, the explanatory memorandum is regrettably brief and uninformative, for the most part repeating the provisions of the bill. For example, the explanatory memorandum frequently notes that various provisions are modelled on or similar to provisions contained in the FW Act—the Fair Work Act—but without any detail about the extent of similarities or whether there are salient differences.

The Scrutiny of Bills Committee—remember, this is a cross-party committee—made numerous criticisms of the bill, including on provisions relating to the potential for exclusion of judicial review rights—people were excluded from judicial review; trespasses on personal rights and liberties; powers to enter premises, including private residences, without a warrant; delegation of legislative power; undue dependence upon insufficiently defined powers; broad and ill-defined discretionary powers; and high penalties usually reserved for criminal jurisdictions. The minister's response to the Scrutiny of Bills Committee is totally inadequate, and the opposition is not persuaded that the infringements of human rights in the bill are necessary, proportionate or legitimate.

To be very clear, the infringements of human rights and the coercive powers of the ABCC proposed in these bills are extreme. They are the types of powers usually reserved for criminal investigation and national security agencies. They have no place in industrial relations. Lest there be any confusion, the proposed re-establishment of the ABCC is not as a criminal investigation agency. Its jurisdiction is limited to the civil law in the industrial relations jurisdiction.

In its second report of the 44th Parliament, the Parliamentary Joint Committee on Human Rights subjected these bills to extensive criticism. In relation to the right to equality and nondiscrimination, the committee noted:

In relation to the present bills, the government must show that there are objective and reasonable grounds for adopting a specific legislative regime applicable only to the building and construction industry and that it is a proportionate measure in pursuit of a legitimate objective.

The committee—the cross-party committee, with members of the coalition on that committee—found that a legitimate objective could not be found. In relation to the right to privacy, infringed by the proposed powers of the ABCC to compel the disclosure of information, the Parliamentary Joint Committee on Human Rights—a cross-party committee—found the limitations on the right to privacy proposed in the Building and Construction Industry (Improving Productivity) Bill 'have not been demonstrated to be a proportionate measure'.
The committee found that the proposed powers of entry and related partners raised issues of compatibility with the right to privacy guaranteed by article 17 of the International Covenant on Civil and Political Rights. Personal rights and liberties stand to be trampled by clause 72 which provides for—

Debate interrupted.

STATEMENTS BY SENATORS

The ACTING DEPUTY PRESIDENT (Senator Dastyari) (12:45): Order! It being 12.45, The Senate will now move to senators' statements. To remind senators, pursuant to the temporary order agreed to on 24 September, a senator may speak for up to 10 minutes.

Nasheed, President Mohamed

Senator McGrath (Queensland) (12:45): While the world and those who believe in freedom and democracy mourn the political murder of Russian opposition leader Boris Nemtsov, a state planned judicial assassination of another freedom fighter and opposition leader is underway in the Indian Ocean. Mohamed Nasheed, the first democratically elected leader of the Maldives, has been arrested on trumped-up charges, denied legal representation and assaulted by police and faces an unfair trial that will ultimately end in the denial of his presidential ambitions.

The organs of the state, under the direct orders of the President, are slowly killing the opposition and are strangling any chance of democracy taking hold in the Maldives. The rule of law is being destroyed and freedom of speech and association are being curtailed—while Islamists continue to grow their influence in the country, with Maldivians not only joining ISIS but also conducting terror-training camps in the country, on isolated islands.

In October last year I spoke about the deteriorating political situation that has engulfed the Maldives since the ousting, in a coup, of its first democratically elected president in February 2012. The troubles then facing that island nation's nascent democracy were numerous: corruption in the judiciary, politically-motivated arrests, violence against dissidents, suppression of free speech and the press, and the rise of religious extremism.

Regrettably, since that time, the Maldives under President Abdulla Yameen has only hastened its slide into tyranny. The police have conducted illegal arrests and searches, allegedly planting evidence and breaching constitutionally-guaranteed rights. The courts have abrogated their duties under the democratic constitution of the Maldives. They have breached the separation of powers, denied rights to legal representation and abused fundamental judicial processes as part of these smokescreen proceedings. The real purpose behind these actions by the Maldivian state is abundantly clear: to silence all opposition to Yameen's government. I would like to go back over some recent events to showcase the appalling betrayal by Yameen of his people's freedom and democracy.

On 24 January this year, Gasim Ibrahim, the leader of the Jumhooree Party, quit the coalition with Yameen's government and sided with Nasheed's Maldivian Democratic Party, citing Yameen's attempts to undermine the rule of law and harassment of democratic institutions, including the independent Elections Commission. Then, after 21 months of delay, the High Court issued a summons for Nasheed to attend a preliminary hearing, on 28 January, to deal with his challenge to politically motivated charges of unlawful arrest.
Nasheed's legal representatives were deliberately misinformed that the hearing would be only administrative. Instead, the High Court scheduled a full hearing and demanded that Nasheed's lawyers prepare new material to respond to issues set to be raised by the Judicial Service Commission. At that hearing, not only did the court order that President Nasheed not be permitted to leave the capital, Male, even when hearings were not scheduled—a clear infringement of his personal rights—but the judges timed Nasheed's lawyers with a stopwatch and warned them not to speak for longer than 10 minutes.

Over the following fortnight, Nasheed was forced to attend hearings on various matters—at times without representation—and all attempts to apply proper judicial procedures and uphold his constitutional rights were denied by the court and the tarnished Judicial Service Commission.

On 16 February, quite strangely, the Prosecutor-General withdrew the unlawful arrest charges, stating they would be subject to review. One might have hoped that this would have been the end of the charade against President Nasheed. Sadly, no. The 'kangaroo court' approach to Maldivian justice was only beginning. Six days later, on 22 February, President Nasheed was arrested by the Maldives police on charges of terrorism.

This is a travesty, that Mohamed Nasheed, a former Amnesty International prisoner of conscience, someone who was jailed and tortured 13 times, the person who won that country's first democratic elections, who strengthened the freedoms of speech, association and the press, who invested in transport, social security and law and order, was alleged to be a terrorist. The warrant for Nasheed's arrest did not contain key information as required by law, such as the place or period of lawful detention, and—in a highly unusual situation—was requested by the Prosecutor-General himself.

On the following day, 23 February, the Criminal Court scheduled a hearing advising Nasheed's lawyers that they would not be permitted to attend, due to court regulations requiring legal representatives to register their attendance two days before a hearing—a feat impossible without means of time travel. The Criminal Court also refused to provide Nasheed with the forms to enable him to appeal against his arrest. This represents an unequivocal denial of Nasheed's right to legal representation in the criminal case and in the partisan show trial that has now been brought against him. Nasheed was not presented for remand within 24 hours as required, violating his constitutional protections and subjecting him to unlawful imprisonment.

Requests to have Nasheed transferred to house arrest for safety were denied. Attempts to have two of the three judges excused from sitting on the case, because of Nasheed's intention to submit them as witnesses, have been rejected, to date. Instead, the Prosecutor-General and those judges have given witness statements supporting the charges against Nasheed.
As well this, cooked-up charges of treason have been brought against former defence minister Colonel Mohamed Nazim—a government critic. The case against Colonel Nazim shares disturbing parallels, with an illegal SWAT-team search of his family residence resulting in Maldives police 'finding' a cache of explosives and lethal weapons. These were widely suspected to have been planted by the police themselves to justify the search and charges. Nazim has appealed for open and public hearings in his trial but so far his legal and constitutional rights have similarly been denied and subjugated as part of the farce that the judiciary of the Maldives is becoming.

These arrests sparked protests late last week of up to 25,000 people in the streets of Male, the capital of the Maldives, organised by the Maldivan Democratic Party and the Jumhoree Party. That would be the equivalent of one million Sydneysiders marching across the Sydney Harbour Bridge.

The charges against Nasheed have been brought about so that he will be found guilty and thus not eligible to stand for the presidency. Likewise, the law will be changed to bring in an upper age limit so that Qasim will also be deemed ineligible to stand. It is nothing short of judicial assassination.

As a friend of the Maldives, I raised my concerns about this ongoing situation with the foreign minister, Julie Bishop. I am pleased that yesterday the Australian High Commission in Colombo, which is accredited to the Maldives, issued a statement in which it said that Australia's interest in the case had been registered with the Maldivan government and noted the Australian government's concern with the recent civil unrest in the Maldives following the arrest of Mohamed Nasheed. It encouraged all parties to exercise restraint and to act in accordance with the rule of law.

I commend Minister Bishop and her office, the Department of Foreign Affairs and Trade and the Australian High Commission in Colombo for their efforts in working towards a solution to this crisis. Australia's voice joins world-wide condemnation of the Yameen government by the United States, the United Kingdom, India, Sri Lanka, Canada, the Commonwealth of Nations and the European Union. And while I welcome the statement from our high commissioner concerning the developments in the Maldives it is important that Australia should look closer to home and at the nefarious influence of ISIS in what was once such a promising country, and join with the international community in taking an even stronger stand to ensure the growth of freedom, the protection of democracy and strengthening of the rule of law.

I note that the missing journalist, Ahmed Rilwan Abdulla, who disappeared 208 days ago on 8 August, is still missing and that the government is all but refusing to help in the search to find this missing journalist and critic of the government. If we do not protect democracy and freedom in our neighbouring countries, such as the Maldives, we will see that this island paradise will become the Beirut of the Indian Ocean. Its President Yameen is already becoming the Robert Mugabe of the Indian Ocean.

Queensland: Cyclone Marcia

Senator LUDWIG (Queensland) (12:54): On 20 February this year Cyclone Marcia made landfall in North Queensland as a category 5 tropical cyclone. Residents in Yeppoon, Rockhampton and surrounding areas faced ferocious winds of up to 200 kilometres an hour
and heavy rainfall was recorded across the region. Forty-eight thousand homes were left without power and hundreds of homes were completely destroyed.

My heart goes out—and also, I am sure, the hearts of those in this chamber—to those people who have been affected by that disaster. In the aftermath we saw large parts of Gympie, including sections of the Bruce Highway, submerged under floodwater; local sporting grounds, parks and other community facilities battered and waterlogged; bridges damaged to the point where they will need major repairs before people will be able to drive on them again; livestock left stranded by floodwaters; and trees torn down, with their branches flung around. Neighbourhoods will have to spend considerable energy in cleaning up the mess that was created. Regional communities were cut off due to flooding and damages as a consequence of the cyclone, and property—motorcycles, motor vehicles and places where people work—was damaged or destroyed in the aftermath of that cyclone.

The people of Queensland are only too familiar with the catastrophic damage caused by cyclones and floods. Among the many cyclones that have wreaked havoc across Queensland, I wish to touch on two. One of the most deadly natural disasters in Australian history was Cyclone Mahina, which hit Bathurst Bay in North Queensland in 1899. It was probably the most intense cyclone ever observed in the southern hemisphere and killed over 400 people, including 100 from the local Indigenous community.

One of the most destructive cyclones in Australian history was Cyclone Yasi, which made landfall at Mission Beach in North Queensland in 2011. The damage there was widespread across the state and conservative estimates placed the total bill at $3.5 billion. However, the death toll, thankfully, was much lower than for Mahina, with one person dying as an indirect result of the storm.

The history of these cyclones and many others has taught Queenslanders important lessons about navigating the cyclone season and the resulting recovery. In the years between Cyclone Mahina and cyclones Yasi and Marcia, our ability to prepare for cyclones—to protect our property and infrastructure and, most importantly, to survive disasters of this scale—have improved dramatically. Governments have worked hard, building standards have improved and the Bureau of Meteorology has contributed by providing predictive data and giving residents as much notice as possible of an impending weather event. Infrastructure, in the form of roads and highways, has been upgraded and maintained to allow support and resources to get into disaster-affected regions much more quickly, and publicly owned cyclone-proof facilities have been set up in cyclone-prone towns and cities to ensure that vulnerable people have access to a safe place, clean drinking water and food until the crisis subsides.

Through the national disaster relief and recovery arrangements, governments have come to the table with payments to help individuals and their families, to provide essentials in the days and weeks that follow natural disasters. The federal government has stepped in with the natural disaster payment, which also provided assistance in the past.

Following Cyclone Marcia, I would like to commend the Queensland government and the Premier Annastacia Palaszczuk on their quick response to this crisis. The Premier visited Rockhampton and Yeppoon and met with families who have been shattered by the impact of the cyclone. The Queensland and federal governments should be commended for agreeing to activate categories A and B of the natural disaster relief and recovery arrangements, which
will allow communities to rebuild assets in the wake of the disaster. The response included $1 million which was provided to charities to assist people struggling in the aftermath of the cyclone. Of this, $250,000 went to both the Salvation Army and St Vincent de Paul to fund psychological support services and meals for those staying in evacuation centres.

It would, however, be remiss of me not to reflect briefly on changes to assistance guidelines that have meant that many people affected by this cyclone will not be entitled to receive modest payments to compensate them for the expenses incurred due to significant power losses over an extended time and to road disruptions.

In his humanitarian wisdom, last year Mr Tony Abbott changed the criteria for the modest payment of $1,000 per adult and $400 per child so that they are now only available to those who have lost a home or who have been seriously injured. To address this, a new payment of up to $1,000 per household was made available by the Palaszczuk government to those living in Rockhampton, Livingstone, North Burnett, Banana and Gladstone who suffered as a result of the effects of Marcia. This was in the form of vouchers that allowed those affected to buy food, water and other necessary items.

However, we do and have seen the federal government withdraw from this area in the way it has in the past, which is extraordinarily disappointing. We have now seen further cuts from the federal government through the Department of Agriculture and Fisheries guidelines for category C recovery grants and the community recovery funds, which have been changed. These grants are primarily available for primary producers, small businesses and not-for-profit organisations who have suffered direct damage from eligible disasters. The changes made in January this year meant that several hundred applicants would be eligible for funding for a reduced range of activities. This will significantly impact farmers who have been devastated by this cyclone. Changes to the way in which primary producers can use the grants mean that they can no longer use them to salvage crops or purchase fodder, maintain the health of livestock, pay employees additional wages to help clean up or restore property following a disaster, purchase or hire equipment necessary to resume farming—and it goes on. This federal government has not come to the party in the way that it should following such a disaster.

I do call on the federal government to immediately reinstate the previous natural disaster and recovery guidelines and the disaster recovery payment as it was to ensure Queenslanders get an appropriate level of assistance from the federal government. They should also immediately respond to the requests from Queensland for category C and D activations so that help and assistance can flow as early as possible to those most in need, because what we have had in the past is federal and state governments standing shoulder to shoulder to help Queenslanders in time of need. What we are now seeing is a federal government being a bit meaner than it should and making sure it is dragging its heels in relation to the payment.

After natural disasters, of course, it is always important to look at how we can make more resilient roads and bridges that will cost less to repair. Can we protect community facilities like town halls and schools? Can we encourage our homeowners and small business to build even more resilient assets? I think the answer is yes. The recent Productivity Commission draft report into natural disaster funding arrangements made recommendations to address this very issue. Currently, unfortunately there is very little incentive for state governments to invest in risk management mitigation to avoid damage from natural disasters. Mitigation
funding needs to come out of existing state budgets, whereas recovery funding comes from the federal government as an additional payment. This produces bias against mitigation and betterment projects even though they are more cost effective than rebuilding after a disaster. This is clearly not an ideal system. There needs to be better incentives for all those involved to ensure that there is a strong case for betterment to mitigate against disasters and to ensure the actors work very hard between local government, state government and federal government to produce good examples and outcomes and to ensure that we can build resilience into the system.

Overseas examples have shown us the value of reform. The US, through the Federal Emergency Management Agency, have already addressed many of the issues highlighted in the Productivity Commission draft report. The US federal government provides a significant reimbursement to states in the event of natural disasters—up to 75 per cent or higher depending on the scale of the natural disaster. However, they recognise that this is not the only solution to the problem. They provide significant and additional increased mitigation funding because mitigation or betterment—however you want to describe it—provides resilience to the community and lessens the impact when a disaster occurs. There still does exist a tendency to disproportionately fund post-disaster funding at a ratio of nearly 10 to one even in the states; however, it is important that we also focus on mitigation as a way forward.

As discussed earlier, in the past we have successfully put in place arrangements which save lives. Now we need to begin the debate on how we can invest in more resilient assets to prevent damage before disaster strikes. *(Time expired)*

### Carbon Pricing

**Education**

*Senator WRIGHT (South Australia) (13:04):* It is now over three years since I stood in this chamber and made my first speech. At that time I was very mindful of the responsibility and the trust the voters of South Australia had placed in me. In 2011 I looked forward to my future work in the Senate with a mixture of both urgency and optimism. Today, just over halfway through my term, it is a good time to take stock. I am still very conscious of the trust and responsibility that I carry, and it is clear to me that there is so very much to do to see the kind of Australia that I want to bequeath to my kids: a healthy, fair and caring society and one where we all have a chance to participate fully, to live together in peace and to feel proud of who we are no matter our nationality, our religion, our wealth or our sexuality. It will embody some of the best aspects of the Australia where I grew up, with a unifying belief in the principle of giving people a fair go and a strong sense of connection and community.

The urgency I felt three years ago has not abated, and I am still optimistic because in the end it is the only option, but we must never take progress for granted. We must remain vigilant and fight to make sure we do not go backwards at the whim of a relatively few powerful people who are effective and ruthless at advancing their own interests even though it damages or destroys many others. The struggle to combat climate change, to urgently reduce the carbon pollution which threatens our very future, is a case in point.

The renewable energy target and carbon pricing on electricity saw the electricity generating sector reduce carbon dioxide emissions since 2008, but the government has demolished the carbon price and has deliberately caused uncertainty about the renewable energy target to
prop up the profits of its troubled fossil fuel backers. Since then electricity related carbon emissions are already up 2.1 per cent since June last year, even though electricity output actually fell. This government's deliberate strategy to erode investor confidence in renewable energy has been successful so far. There has been an 88 per cent drop in large-scale renewable energy investment in 2014 in Australia, seeing our global position drop from No. 11 to No. 39 behind renewable energy luminaries like Burma, Panama and Costa Rica.

My state of South Australia has a very proud track record when it comes to renewable energy. It was No. 1 for solar again in 2014 and provided 49 per cent of Australia's total capacity for wind. The renewable energy industry is crucial South Australia's economy. If the RET remains in its current form there will be an extra $2.3 billion in large-scale renewable investment by 2020, with the creation of 2,490 extra jobs—and those jobs are needed in South Australia. The alternative—reducing the RET—would be unconscionable: there would be the loss of that $2.3 billion investment; 990 jobs lost; increasing power bills; local businesses going overseas; and South Australia having to buy more coal and gas from interstate. Any political parties that take us in that direction will stand condemned now and in the future.

Our collective fate depends on preserving the environmental assets which sustain life on earth. The case for protecting the environment is even clearer today than it was in 2011. Every week there is more information to remind us of the way we are overusing the Earth's resources and the consequences, and yet we have a government which has systematically downgraded measures, on so many fronts, to protect the environment we all rely on: delisting World Heritage; reinstating logging; winding back marine parks; and defunding the legal services that help citizens defend the environment on behalf of all of us. How ironic that this is a government which is fond of talking about intergenerational equity. Just last Friday it was the environment minister, Greg Hunt, of all people, who praised his government for:

... ensuring that we're not leaving a massive legacy for the next generation, of transferring costs of the next generation.

But that is exactly what they are doing when it comes to environmental integrity. It does not get much more inequitable than to trash the fundamentals of survival—the atmosphere and the environment we live in—leaving our children and our grandchildren with a planet that will struggle to sustain life and a diminishing number of species to share it with.

I will now turn to education because it is hard to think of a more important or pressing investment in our human capital. In my first speech I spoke of the importance of quality public education as a force for building understanding and empathy by bringing Australian kids together and transcending divisions. This seems even more important at this point, at a time when our community has the potential to become more and more fractured—geographically by wealth and privilege, and culturally by background, nationality or religion. Three years on, I am the Australian Greens spokesperson for schools and I want to see a great school for every kid, no matter where they live, country or city; no matter how wealthy their parents are; no matter whether they are Aboriginal or have recently come to Australia from overseas; and no matter whether or not they have a disability. Although we hear a lot of talk about more school choice these days, I believe that real choice, meaningful choice, means having the choice to send your child to the local school knowing they will have access to education—a school that is properly resourced with well supported teachers, strong leadership, buildings and grounds in good condition, warm in winter and cool in summer,
materials and technology that are necessary for learning in the modern world and a curriculum that includes academic subjects but is also rich in music, sport, art and creativity. The only way to ensure this—what should be a minimum standard of education for all children—is to have a public education system which is properly funded and supported and available to every child. If parents want to opt out of such a system and choose another option that is their choice; but let that not be because as a society we have chosen not to support and value the system that still guarantees an education for the majority of kids. I am not describing a Rolls-Royce education system here; I am describing the minimum that we as a community should be able to expect if we want to ensure that every kid in Australia has the opportunity to reach their potential.

And why wouldn't we? What society can afford to miss out on the intellectual capital of so many of its young people? The Gonski panel recommended an increased investment in education of $5 billion a year. That would bring us closer to the OECD average and help our poor performance in global literacy and mathematics assessments. They recommended that this funding should be distributed on the basis of need. Just imagine a great school for every kid. What would that look like in Australia?

When I made my first speech I remarked on the legal fictions that successive Australian governments have used to deny our international responsibility for refugees who come to us seeking a place of asylum. Since then, we have seen a government that has unilaterally rewritten the refugee convention to suit its own grubby domestic politics, so that people can be returned to a country where they face torture or worse. I also remarked on the growing divide between rich and poor in Australia, and there is no indication that is getting any better. I am saddened to think that these issues, and many others, remain with us. There is undoubtedly much more work to be done if we are to prevent Australia from becoming a country where people believe they can only survive and prosper at the expense of others. I will continue to do that work.

As I said in my first speech, when I stand here to make my last speech I would like to think I have contributed to making Australia a kinder, fairer place. If we practice kindness and fairness, I believe we can meet the challenges this century undoubtedly brings us. If we act fairly we will balance Australia's interests with those of other nations; we will balance the interests of our species with the needs of others, and by doing so we will actually enhance our own chance of survival; and we will balance the needs of today with the needs of tomorrow.

That is what the Greens stand for. That is why I am proud to be Australian Greens senator. In my future work in this parliament I will continue to be guided by my belief that we do not just inherit the earth from our ancestors, we borrow it from our children. That is a guiding principle and one we would all be wise to remember.

**Domestic Violence**

*Senator O'SULLIVAN* (Queensland—Nationals Whip in the Senate) (13:14): I rise to speak on an issue relating to violence against women and children in our society. I made a pledge in this place on a number of occasions to continue to keep this discussion alive; to keep it in front of colleagues and in front of legislators. Each day that we make decisions in this place and in other place, we need to give consideration to the impact of those decisions on progressing culturally, and otherwise, measures that will mitigate and hopefully extinguish, this terrible practice in our society.
Today in particular I want to make reference to a report very appropriately named *Not now, not ever*, published as a result of an inquiry into these matters by the Queensland government. The inquiry was conducted under the very professional eye of the Hon. Quentin Bryce, past governor in that state, and a very respected Australian. Ms Bryce brought together a panel of people made up of some legislators, people representing pastoral care organisations and community representatives. They were eventually to publish a very detailed report listing their findings and making no less than 140 recommendations.

Whilst the report itself is directed at measures that can be implemented, in this case by the Queensland state government, I think it is rich in ideas that ought to be considered by all of the legislative chambers in the country, including our House of Representatives and the Senate in which we sit.

I want to open with a statement that is in the preface of the report from the Hon. Quentin Bryce, because I think this really goes to the heart of the issue:

> It is beholden upon all of us—every single citizen of this diverse, vibrant state—to take a stand against domestic and family violence; to commit to protecting the vulnerable; and to make it clear to those who would hurt another, within a relationship of intimacy and trust, that we will not tolerate, excuse, condone or accept their behaviour.

That has effectively set the tone of the objectives that this inquiry decided to pursue. I quote another section:

> Domestic and family violence, in all forms, is a violation of basic human rights. Everyone, regardless of their sex, religion, nationality, race, language, relationship, or living arrangements, has the right to feel safe and be safe in public and at home. Domestic and family violence, which is perpetrated in the home or among family members, is as much a matter of public concern as crime in the streets. It must not be accepted or excused.

Not now, not ever.

The course of this report is impossible for me to go across in any detail in the time I have today. But I will be continuing to articulate the objectives and the recommendations of this report for some time to come. The inquiry found fundamentally that there are to be three phases in the nation's response—in this case, the states' response to this problem. It talks about looking over the horizon. I look up today and there is a fine body of young men here from one of our nation's colleges looking down on this legislature. This report and the journey that we need to make is in their hands as much as it is in the hands of our respective governments.

The report focuses on recommendations for the now to see that we immediately and properly resource those professionals in the community that are at the coalface of this particular problem. It talks about policy upgrades. It talks about elevating the importance of the response of our agencies and ensuring they have the financial, human and physical resources to be able to do their job. It talks about the upgrade of the response, meaning that, for example, our law enforcement agencies need to treat their response to incidents of domestic violence right at the top of the pinnacle of the services that they provide to our community.
It is well known that I am a retired police officer. I know that oftentimes responses to domestic violence can be treated in a secondary fashion due to other things going on in the lives of these professionals who provide this service. It is time now for all the agencies to make sure that that first line, that immediate response, is enhanced.

The report then makes recommendations about the medium term—again with an emphasis on restructuring policies about how we respond. There are recommendations about further resourcing needs that will require ongoing debate and of course provision by both the Commonwealth and state agencies to provide that financial support to allow these professionals to do their jobs.

The development and implementation of training and also the operation of some public awareness campaigns will be directed at ensuring that every single Australian, no matter who you are, no matter where you are and no matter what it is you do, involve themselves in the appropriate responses to stamp out this cowardly behaviour by these grubs—I have no other name to call them. But, in the long term, the report emphasises that this requires a cultural change. This requires us beginning to educate our young men in their formative years to deter them of the practice, to ensure that our young women know what options are available and to know that they are loved and supported by their family and their community as we all battle this insidious disorder.

In closing, to all the young men in our nation I say that, in effect, this is a man's problem. The vast majority of the instances are men exercising the power on women and children. If we are at the heart of the problem, we are at the heart of the solution. Every man in this country must now wake up each day and determine what they can do. The time for establishing that we have a problem, I say, is behind us. We know what we need to do. We must now demonstrate the will to do it and we must do so under the umbrella of the wonderful name of this report in relation to domestic violence on women and children: not now, not ever.

**International Women's Day**

**Senator McEWEN** (South Australia—Opposition Whip in the Senate) (13:24): In Australia and around the world, gender continues to be a barrier to equality. Last month, at the opening of the second session of South Australia's 53rd Parliament, Governor Hieu Van Le spoke of the need for the South Australian state government and, indeed, all governments to take steps to ensure that gender is not a barrier to full participation in the community. In particular, Governor Le said:

> It is a poor indictment on our modern society that women are victims of discrimination in the workplace and of violence at home.

Governor Le outlined the steps that the South Australian Labor government will take to tackle gender inequality, including a review by the South Australian Law Reform Institute to evaluate legislative and regulatory discrimination. He also spoke of strengthening responses to violence against women, implementing a new court assistant service and an early warning system to provide an escalation point if there are flaws in the response of a government agency in the reporting of violence.

While I applaud the South Australian government for its determination, as a nation we need to be doing more to achieve gender equality. The South Australian Labor initiatives are a step
in the right direction. However, if we are to achieve significant improvement we need to work together as a nation to do more.

This Sunday is International Women's Day—a day for all to reflect on progress made, to call for change and to celebrate acts of courage and determination by ordinary women who have played an extraordinary role. This year's theme, 'Make it happen', encourages women to actively pursue their goals and aspirations. But, unfortunately, in 2015 many women are still disadvantaged and are unable to pursue their goals. Even today, many women are still seen by some as second-rate citizens and as the property of men. Gender inequality is rife, and women around the world are continuing to suffer as a consequence of nothing else than their gender.

Twenty years ago, in 1995 at the Fourth World Conference on Women in Beijing, world leaders committed to a future of equality. They committed to advancing the goals of equality, development and peace for all women everywhere in the interests of all humanity. But still in this world that has been transformed by the digital revolution and advances in medicine and human knowledge, by 2015 we have not been able to make any significant inroads into battling gender equality.

Back in 1995, 198 countries made firm commitments to achieving a path towards equality by 2005. Ten years beyond that goal, not one single country has actually achieved equality for women—not one. The little progress that has been made has been slow and unsteady. Although many nations, including Australia, have passed pieces of legislation to address inequality, there is still such a long way to go. This is not just a problem for developing countries nor is it a problem that just affects one segment of society or one predominant age group. Women around the world, young and old, well-off, poor or struggling, unfortunately share the common bond of gender inequality.

Last year in Australia, 40 per cent of the boards of the ASX listed companies did not include women. Females only made up 3.5 per cent of Australia's CEOs—and had a significant gender pay gap. Even more alarming, figures just released from a PwC study that ranks women's economic empowerment has shown that Australia has dropped six places to 15th position during 2014, the largest drop of all the OECD countries measured. Much of that drop is attributed to the rapidly expanding gender pay gap, which has been steadily on the rise, increasing from the November 2013 level of 17.4 per cent to where it sits at 18.8 per cent now. To put a dollar figure on it: as at the end of last month, men working full-time earned $1,587 compared to $1,300 for women—almost $300 a week less.

In this day and age, it is unacceptable that women are still earning considerably less than their male counterparts. It is unacceptable that, while wage growth is slowing, the pay gap is widening. It is unacceptable that around the world women get paid less, do most of the unpaid labour, are over-represented in part-time work and are discriminated against in the household, in markets and in institutions. Because of their gender, women are more socially and economically discriminated against and are often highly marginalised based on their race, class, or income. At the Parliament House International Women's Day breakfast yesterday morning the Leader of the Opposition, Bill Shorten, said: 'Ending gender inequality is a job for all of us. Living in Australia, we can and must do more. We have the opportunities, the wealth, the knowledge and the resources to advance gender equality.'

Addressing violence against women is one of the biggest problems in bridging gender inequality. Family violence is one of the main mechanisms denying women equality, and it
imposes an incredibly high social, health and economic cost. However, as at 28 February this year Prime Minister Tony Abbott—this nation's Minister for Women—had inflicted brutal cuts of $300 million on more than 50 organisations that provide critical services to victims of family violence, mostly women and children. These organisations and their services help women and children in times of need. They assist people to make positive life changes to improve their lives and escape the curse of family violence.

I welcome the announcement today by the Leader of the Opposition, Bill Shorten, that he is seeking the support of the Prime Minister and the coalition government to convene an urgent national crisis summit on family violence. Labor today also committed that, if elected, we would put an additional $50 million back into front-line legal services to assist women and children to escape family violence. Cutting funds to critical organisations, including services such as women's shelters, does nothing but exacerbate violence and impedes gender equality. We heard just this week the tragic news that a 28-year-old Canberra mother of three was murdered by her partner. Already this year, 14 other women are believed to have died at the hands of their partners or ex-partners. According to the White Ribbon organisation, another one will die next week and the week after that and the week after that. Going by last year's rates, a further 43 women will have been killed by the end of 2015. These deaths could have been avoided. Deaths like these must be prevented. But removing funding from services that help women in such situations is not the right way to go about it.

In the context of the national debate about the scourge of family violence it was unbelievable that late last year Australia's Minister for Women, Prime Minister Tony Abbott, cited the repeal of the carbon price as his major achievement for women in this country. That's right, this Prime Minister said his top achievement in his capacity as the Minister for Women was not promoting gender equality, putting more money into women's shelters, advocating for women in the workplace or addressing the gender pay gap; it was the repeal of the carbon price. It is an extraordinary admission by the government that that is the focus of the Prime Minister who mysteriously is the Minister for Women in this government—and we know there are only two women cabinet ministers in the Abbott government, which is also a shameful reflection on the coalition.

As I said at the beginning, we all need to work together to place a stronger focus on changing attitudes in order to improve the lives of women and girls. This International Women's Day we recognise and acknowledge the contribution women make to our society, but we can see that there is so much more to do. Like Labor's leader, Bill Shorten, I urge the Prime Minister to give bipartisan support to Labor's calls for a national crisis summit on family violence and to put money back into family violence services—to put in more money, not take it out of services which are so critical to women and children whose lives would otherwise be at risk because of family violence.

Road Safety

Senator MUIR (Victoria) (13:34): I rise to speak on the important issue of road safety. Road safety is an issue that is close to the hearts of the motoring enthusiast community and of course the broader community. We all want to survive the drive. We want our families, our friends and our work mates to survive on our roads. The sad fact is that road trauma touches Australian families every day of every week. We cannot ignore the fact that, despite our
efforts, 25 people die on our roads every week and 600 people are seriously injured every week.

Road trauma costs the Australian economy $27 billion every year. This is equivalent to 18 per cent of our health expenditure and 1.8 per cent of our GDP. If there is one budget cost that we all want to cut, it is the cost of road trauma. Imagine what we could do if we slashed $2 billion, $5 billion or, even better, $27 billion from our budget through the elimination of road deaths and injuries. We could fix the budget not by cutting the benefits of those less fortunate but by cutting the cost of road trauma, an initiative I believe the majority of our colleagues would support.

Whilst it is true there has been a reduction in the road toll over the past decade—a fact that we can all be proud of as a nation—the sad fact is that the number of serious injuries has not reduced but is in fact increasing. We believe this is not being adequately addressed in the National Road Safety Strategy and that an urgent focus needs to be placed on creating a culture of responsibility among drivers on our roads. Otherwise, the aim to reduce our road toll and serious injuries by 30 per cent by 2020 will be nothing more than a pipedream. It is concerning that Australia's overall road safety ranking continues to fall compared to other OECD countries. Australia currently ranks 16th among 33 countries, lagging behind even Mexico when it comes to road safety outcomes. This ongoing trend cannot be ignored.

Whilst speaking of road trauma, I would also mention the fatalities and injuries associated with Australia's road transport industry, an industry without which Australia would not survive, but an industry that consistently records an average of more than one death on our roads every single week; an industry that sees 28 workers injured every single working day; an industry that has been acknowledged as being 15 times more dangerous than the second-most dangerous occupation in Australia; an industry where employees commence work each day knowing they could potentially become yet another statistic of our appalling road safety record, yet where transport drivers are only at fault in six per cent of multiple vehicle accidents.

Progress in road safety is generally measured in terms of a reduction in fatality rates. Whilst no-one could argue that a reduction in the road toll is important, that is only a part of the equation. We cannot continue to ignore the fact that our Road Safety Strategy is not working to reduce the number of accidents and serious injuries on our roads.

We have seen a decline in our road toll mainly due to the improvements in vehicle safety, and advancement in the way emergency services manage trauma at the accident scene. Much focus has been placed on surviving the accident; however, very little focus has been placed on avoiding the accident in the first place. We need to be doing both, if we want to see better results.

It is critical to our community that the government recognises that, whilst vehicle ANCAP ratings and vehicle standards play an important role in road safety, they do not lessen the chance of vehicles being involved in crashes. It is a secondary control that determines the chance of survival once a crash has already occurred. A vehicle with the latest 5-star ANCAP rating and a 1960s classic vehicle have the same road safety outcome, if they are not involved in an accident.
Considering motoring enthusiasts are under-represented in accidents, yet traditionally drive vehicles with little or no safety features, sends a strong message that driver attitude and driver awareness play a big part in reducing accidents. The last thing enthusiasts want to do is hurt their vehicles, so the majority drive accordingly.

It is far more effective to avoid crashes in the first place by adopting lower risk driving techniques, and in this regard, motoring enthusiasts aim to be recognised as the leaders in safe driving practice. Without a stronger focus in the National Road Safety Strategy toward safer drivers, we will continue to fall behind other OECD nations.

This leads me to discuss a subject very close to my heart, and the Australian Motoring Enthusiast Party, that of driver education. A vehicle is generally not autonomous in its operation. It does not move without a driver, yet little credibility is placed on the value of driver education as a way to improve road safety and reduce trauma. It has been disappointing to see whenever this subject of better driver education is raised, it is instantly dismissed by many in the road safety sector. It would appear this thinking has its roots in statements such as 'even the most competent driver will still make mistakes'. So the focus has been on a lessening of driver-interaction, through the introduction of ever-smarter vehicles in an effort to reduce the risk.

Whilst it is true that all drivers can make mistakes, educated drivers, aware drivers, have the ability to manage and correct those mistakes, and, most importantly, can often anticipate the mistakes of other drivers. This fact should not be dismissed. Over 99 per cent of crashes involve some degree of driver error. Driver decisions in the moments leading up to a crash can, in most cases, prevent or reduce the severity. Creating better drivers by implementing systems based on driver competence rather than on our punishment-based system of driver compliance will lead to a better road experience that is safer for us all.

While vehicle technology, road design and road conditions have improved in leaps and bounds over the last 40 years, and speed limits have continued to be reduced, little has been achieved in promoting the concept of driver training to prevent crashes from occurring. We need to focus on producing better drivers. Competent and informed drivers making better decisions behind the wheel. It is time to break down the age old myths that have long plagued driver education. It is time to challenge the way we look at things, to see what else is possible and to work towards better outcomes for road safety. In our ever-changing environment, and with meaningful driver education programs, our ability to adapt and to think differently will put us in good standing for better road safety outcomes.

Ageing Population

Senator CANAVAN (Queensland) (13:41): It is good to see Minister Nash here in the chamber, because Minister Nash thinks I am a little bit of a nerd at times, particularly sitting down here with the National Party. She probably thinks I have spent more time with a protractor than a set of pliers in my time. I am going to speak today about something a little bit nerdy. I am going to confirm to Minister Nash that I have in fact been a bit of a nerd for some time, because the very first public speech I can remember making was in 1992, when I was 12 years old. I was competing in the Lions Club Youth of the Year award in Beenleigh. The topic I chose for my speech was 'the threat to Australia of an ageing population', which was a pretty nerdy topic for a 12-year-old. I will be very proud if in two years' time my son does the same. I spoke about it then and I am going to talk about it now, 23 years down the
track. I do not have a copy of the speech I gave back then and I cannot remember what figures I quoted or what I relied on, but it was certainly a topical issue at the time. We knew it was a coming threat. We had a population that was ageing and it was going to mean that certain costs were going to be imposed on, particularly, our public sector, and it was going to be a threat to our fiscal sustainability as a nation.

About 10 years after that I was a graduate at the Productivity Commission. While I was there they did a report on the cost of an ageing population. They found that if we did nothing in the next 40 or 50 years we would end up with a debt of more than $4 trillion and a debt-to-GDP ratio approaching 200 per cent.

During that time we have had other intergenerational reports and another one is to be released tomorrow. Of course, I do not have any knowledge about that, but I want to continue to hammer on about what I think is the greatest challenge facing our nation right now. At the moment we are struggling to have our revenue match our expenses. It is the greatest challenge for most households in this country. I'm fine, I have enough money, but when I was starting out after university it was the greatest challenge my wife and I faced, having kids and balancing our budget, making sure the rent and mortgage we paid matched up with the money I got every couple of weeks in my pay cheque.

But as a nation we are not doing that. Parliament House is failing to do that and we have consistently failed to do that for years now. I went back and had a look at the historical tables in the budget papers. The figures I have are not actually MYEFO. They are from last year's budget papers, so they are slightly worse, but they are in the order. We had two recessions in the last 30 years. We have not had a recession for going on 25 years this year. That is a pretty amazing outcome. It is actually the second longest period in world history. In the first recession that we had in the early 1980s we ran five years of deficits. They totalled a cumulative amount of 10.5 per cent of GDP. In the second recession that we had—the recession we had to have—in the early 1990s—we ran seven years of deficits and they added up to 17.2 per cent of GDP. We did not have a recession but we did have an economic downturn as a result of the global financial crisis. Right now we are on track to run, under current projections, 10 years of deficits in a row. There could possibly be even more beyond that unless we take action, but 10 deficits in a row, baked in the cake. They would add up to a total cumulative deficit of 20.5 per cent of GDP.

We have not had a recession in the last few years. Our economic growth in last decade has been just below trend, and we have racked up a fifth of our GDP in debt. That has left us, or will leave us soon, in a much more vulnerable position to face the challenges of this ageing population. Because we are going to have fewer workers per dependant, that ratio is going to drop to the low ones. We will have about 1.2 to 1.4 people in the working population to support both the elderly and anyone below 15.

As I said, new figures will come out tomorrow, but we already have some pretty recent figures that show the scale of the task. In late 2013, the Productivity Commission released an update on the ageing population report. They had a look at the difference between our revenues and expenses over the next 50-odd years through to 2060, based on some pretty conservative assumptions, I thought. That fiscal gap would add up to $3.1 trillion in that period. That is just a raw gap each year. We would have to find $3.1 trillion to 2060. All of these figures are in today's dollars. Of course, we would have to borrow to fund that gap, and
we would have to borrow at a positive interest rate to fund that gap, so the debt would actually grow to something above $7 trillion by 2060. That would be one and a half times our GDP, and that would put us in the league of Japan, Greece and other nations that are in great fiscal difficulty.

We do not have a reason to panic. There is no reason to get despondent about this, because we have time to fix it. Even though we have time, I just want to draw one comparison which I think is instructive. Often in this place we talk about Commonwealth debt, but I am a senator for Queensland and we also have $80 billion of debt there. There are 4½ million Queenslanders, or thereabouts, so $80 billion in debt translates to around $17,000 per person. In Australia, at the Commonwealth level, last week we had $356 billion in debt and we have 23-odd million people. That translates to about $16,000 person. For Queenslanders, that adds up to owing both the state and federal governments, on average, around $33,000 per person right now. If you look at Greece, right now they owe a gross debt of 328 billion euros. They have 11 million people. Their gross debt is 30,000 euros per person. In Australian dollar terms it is about $43,000 per person. It is only $10,000 per person more than a Queenslander owes right now.

There is a big difference between Australia and Greece; I accept that. We are not in the situation of Greece, but what is the difference? It is not those absolute debt numbers, because there is not much difference there. The difference is that we have a strong economy. The difference is that we create economic wealth per person around 50 per cent to 60 per cent higher than Greece, so we can afford to carry more debt. The difference is that people are still buying our exports at the moment. But those things might change. As I said, we have not had a recession for nearly 25 years—for nearly a quarter of a century. My generation in the workforce does not understand what a recession is like. If we were to have one, then we may not have the wealth into the next decade to sustain the kind of things and spending initiatives that we expect. We must change.

I heard in estimates last week, 'All these figures are based on assumptions about the net overseas migration, and it does not matter, because we are going to have assumptions in this report tomorrow that make that difference'. That is rubbish. Over the years, the Intergenerational reports and the different Productivity Commission reports have had different assumptions about net overseas migration, and those assumptions make very little difference to the end result. If the end result is 'we are fiscally dead', it does not matter how dead you are, you are still dead. I asked the Treasury last week at estimates about whether there would be a difference if we had some different demographic assumptions. Mr Harris said:

... we have done our own assessment of what we think would be a likely level of migration ... but whether it could ever offset an ageing demographic situation of the kind we face is a reasonably improbable prospect.

That is about as strong language as you are going to get from a Treasury official. That is not our problem.

Similarly, our problem is not our taxes, because the fiscal gap in 40 or 50 years time will be about four per cent of our GDP. It will be bigger than our deficit right now. Right now, four per cent of our GDP equates to around $70 billion. That is the gap that we have to fund every year. There are some out there who say, 'All we need to do is tax multinational
companies and corporates and we'll be able to fill that gap. Well, we will not, because right now our company tax only collects around $70 billion a year. We would have to double our company tax, and we are not going to do that from a few multinationals. We have to, as a nation, get serious about this problem. We have an obligation here, right now, not to kick the can down the road like we have for the last 10 years. Because, if we do that, in the next 10 years we will face a serious threat, and we will face a serious crisis. I do not know if I will still be here in 10 years time, but I sure hope that I will not have spent 10 years in this place continuing to argue about this issue, not having it resolved and finding we have created a much more difficult problem for our future generations.

Workplace Relations

Senator LINES (Western Australia) (13:51): I want to revisit the absolute rubbish we heard from Senator Abetz yesterday during question time when Labor put it to him that he had reduced cleaners' pay and that he was responsible for a slash in the take-home pay of cleaners who work in Commonwealth owned buildings. Senator Abetz said, and I quote:

So let's get this clear: it had nothing to do with the removal of guidelines …

That statement from Senator Abetz is wrong. The Minister for Employment got it very, very wrong. The loss of pay for cleaners at the Department of Immigration and Border Protection is directly related to the guidelines which the minister himself cancelled as part of the ridiculous red-tape reduction that we have seen from this government.

The contract for the cleaning of this building came up for renewal. It was a building covered by the Commonwealth guidelines, the guidelines that Senator Abetz cancelled. It was a building where cleaners were receiving through their union-negotiated enterprise agreement, registered in the Fair Work Commission, the higher rate of pay stipulated in the Commonwealth guidelines that Minister Abetz cancelled. It is now a workplace where the very same cleaners have had a slash, a cut, in their take-home pay. And the responsibility for that cut in the take-home pay lies fairly and squarely with the Abbott government and, in particular, Senator Abetz, as the Minister for Employment.

The facts are that the successful contractor—and we did not hear this from Senator Abetz yesterday—gave the government a choice when it tendered for the contract at the Department of Immigration and Border Protection. It put three rates of pay in its tender and asked the government to choose which rate would apply. The first rate that the contractor put in their contract was to maintain the cleaners on their current rate of pay, the rate as stipulated in the Clean Start guidelines, which Minister Abetz cancelled. That was option 1.

The second rate of pay was an enterprise agreement rate higher than the award but less than that stated in the Commonwealth guidelines. And the third rate of pay—and I am very pleased that Senator Abetz is here; he can hear the truth—was the award rate, some 30 per cent less than the hourly rates the Commonwealth cleaning guidelines, which Minister Abetz cancelled, had in them.

The cleaners at that government-owned building were, once again, at the mercy of the government. What did the government do? What did Minister Abetz do? It put its own interests before the take-home pay of cleaners. Senator Abetz chose self-preservation and opted for the lower enterprise agreement rate, slashing the take-home pay of cleaners. Why did the Abbott government do that? Because the Abbott government and Minister Abetz were
not prepared to own up to the mistake that he, Senator Abetz, made in cancelling the guidelines and slashing cleaners’ pay. He could not find it in himself to be big enough to say, ‘Okay, we’ll agree to the top rate.’ The contractor gave the government three options. The government and Minister Abetz had the choice to not slash the take-home rate of the cleaners but, instead, they chose to slash the rates of pay for these low-paid, part-time women cleaners. Again, the minister was wrong, when he said:

... wages should be set either by an enterprise agreement or under the modern award and not by government interference.

Whether or not cleaners in Commonwealth buildings received the guideline rates, all rates were set by a union-negotiated agreement. Minister Abetz had a choice with respect to this contract and he alone chose to reduce the take-home rate of pay for cleaners. It is abundantly clear and absolutely clear that Minister Abetz is wholly and solely responsible for the reduced wages—that cut in their take-home pay—of cleaners in the Department of Immigration and Border Protection, by around $2 per hour.

Both the Prime Minister and Senator Abetz misled the parliament when they claimed, in the Prime Minister’s case:

I want to make it absolutely crystal clear that no cleaner’s pay is reduced—

and in Senator Abetz’s case:

No cleaner will have their wages reduced as a result of the guidelines ceasing to apply.

In the case of the Department of Immigration and Border Protection cleaners’ wages have been reduced as a result of guidelines ceasing to apply and because Minister Abetz was not big enough to admit he was wrong. So he took it out on the cleaners and slashed their pay. No ifs, no buts—‘It is crystal clear,’ to use the Prime Minister’s language, that the cleaners’ pay cut rests with Senator Abetz and the Prime Minister. More broken promises!

Unfortunately, the cuts in cleaners’ pay in Commonwealth-owned buildings, in buildings that the Abbott government is responsible for, will not stop there. The spiralling down has begun. Every contractor who now competes for contracts in a Commonwealth-owned building will use a reduced rate of pay. They may not be as thoughtful as the contractor was in the immigration building and offer the government a choice to continue the Clean Start guideline rate of pay; they will simply spiral down to the award. Why is that? Again, it shows how out of touch the minister and the Abbott government are. The simple facts are that that is an industry that competes on the rates of labour. So where an advantage can be gained between paying an enterprise agreement rate and the award rate, which is 30 per cent less, to win that contract you can bet your bottom dollar here and now that, over time, we will see the award rate applying in every single Commonwealth building. That 30 per cent cut in the take-home pay of cleaners will absolutely and categorically be at the hands of Minister Abetz.

He has an option right now to restore those guidelines, to give the cleaners back their decent rate of pay but, instead, he is trying to blame everyone else except himself. I know, and those cleaners know, that it is the Prime Minister and Minister Abetz who are responsible for the cut in take-home pay. Senator Abetz is nothing but a Work Choices warrior. (Time expired)

The PRESIDENT: It being 2 pm, we now move to questions without notice.
QUESTIONS WITHOUT NOTICE

Higher Education

Senator KIM CARR (Victoria) (14:00): My question without notice is to the Minister representing the Minister for Education, Senator Birmingham. Can the minister confirm that the government is considering imposing what Professor Bruce Chapman calls a superprofits tax on universities, which will be paid by Australian students?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:00): It is a delight to get a question from Senator Carr in relation to the higher education portfolio. In no way is the government considering taxes on universities, but this government is absolutely considering every possible way to make sure that we can sustain universities at a world-class level into the future, to make sure that we can provide the opportunities for Australian students who qualify to study at universities and to make sure—as I told the Senate yesterday—that we can preserve the uncapped system of places for undergraduate courses at Australian universities.

The reforms we have brought to this Senate, which we brought through the parliament last year, which we have reintroduced and are bringing back to the Senate, are all about trying to make the funding equation for universities sustainable so that it can support a continuation of the uncapped demand system for undergraduate places; so that it can ensure that the most disadvantaged have access to university through the Commonwealth scholarship scheme we propose; and so that we can open up pathways for people and we can open up Commonwealth funding for diploma courses. We are pursuing a range of options.

We are also open to discussions with the crossbenchers, even to discussions with those opposite, and to discussions with others in the sector who come up with different ideas. We are willing to pursue constructive approaches to try to get reforms through that will give sustainability of funding to universities in the future. Right now, those opposite are simply being obstructionist. Right now, the only alternative is Senator Carr suggesting that he would cap university places again—Senator Carr saying he would strip away the opportunity for thousands and thousands of Australians to go to university in future. That is not what we want. We want a sustainable funding system instead. (Time expired)

Senator KIM CARR (Victoria) (14:02): Mr President, I ask a supplementary question. Can the minister confirm that, under the government's plan to deregulate fees and impose a new tax on universities, a veterinary science student would be charged $30,000 a year and would pay more than $11,000 a year in a superprofits tax?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:03): The Labor Party's capacity to run scare campaigns is admirable. It is one of the few admirable traits they have. They have an admirable capacity to run a scare campaign, and that of course is what Senator Carr is engaged in here.

There are no plans by this government to tax universities. There are no plans by this government to tax university students. There are plans by this government to ensure that the maximum number of Australians in future have the opportunity to go to university, whether it is through a pathway course; whether it is through a diploma course, where our reforms will extend opportunities; or whether it is through an uncapped system of places for undergraduate courses. We want to preserve the opportunity for all those who qualify—for all of those who...
universities choose to admit—to go to university. That is what Senator Carr is standing in the way of at present. Our reforms will preserve those opportunities rather than deny them as Senator Carr would. *(Time expired)*

**Senator Kim Carr (Victoria) (14:04):** Mr President, I ask a further supplementary question. Is the minister aware that a student tax was proposed in the United Kingdom and rejected by the Conservative government because they found that it would drive fees up even higher? Why is the government considering a proposal that even the British Tories rejected as being too unfair?

**Senator Birmingham (South Australia—Assistant Minister for Education and Training) (14:04):** Senator Carr has been in this place a long time and a lot longer than I have, and I would have hoped that by now he was nimble enough to change his second supplementary question based on the answer to the first. But I will again repeat: we are not considering any tax.

I would also note, because I am assuming that Senators Carr's questions are based on Professor Chapman's models that have been floated in the media today, that Senator Carr is grossly misrepresenting what Professor Chapman is proposing. They are not part of the government's reforms at present, but it is a misrepresentation of what Professor Chapman has proposed.

I would invite Senator Carr, though, to step away from the scare campaign, to step away from trying to scare people away from thinking they could afford higher education, because our reforms—

**Senator Kim Carr:** Is it a tax or is it a levy?

**The President:** You have asked your question, Senator Carr.

**Senator Birmingham:** lock in place the deferred payment schemes, the HECS style scheme that means nobody pays a cent up front. Our reforms simply give universities the capacity to maintain their world-class status into the future. *(Time expired)*

**Death Penalty**

**Senator Mason (Queensland) (14:05):** My question is to the Attorney-General, Senator Brandis. Can the Attorney-General update the Senate on the latest developments in relation to Andrew Chan and Myuran Sukumaran?

**Senator Brandis (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:06):** Yes, Senator Mason, I can. The government is deeply concerned at reports that Andrew Chan and Myuran Sukumaran are being transferred by Indonesian authorities in preparation for their execution. Unfortunately, it does look as if the Indonesian position is hardening, which is obviously distressing news.

The Australian government maintains and has long maintained, on both sides of politics, strong, principled opposition to the death penalty. It is, as well, the government's very strong view that it is unacceptable for any steps to be taken to prepare for executions while any legal avenues remain open, as they do. Lawyers for the two men have stated that they are lodging a further appeal in the state administrative court.
The government asks President Widodo to show mercy and forgiveness to these two men. It is clear that Andrew and Myuran are reformed men who are making a positive difference to the lives of their fellow prisoners and, in doing so, are making a real contribution to Indonesia. We make this plea to President Widodo as a forgiving man to see the remarkable difference these two young Australians have made to many Indonesians in prison.

Mr President, mercy knows no borders and it has just as big a place in Indonesian concepts of justice as it does here in Australia. In seeking mercy for these two young men, Australia is only doing what Indonesia itself does for its citizens on death row overseas. For as long as there is still hope, the government will do everything we possibly can to persuade Indonesia to change course and agree to a permanent stay of execution.

**Senator MASON** (Queensland) (14:08): Mr President, I ask a supplementary question. Can the Attorney-General acquaint the Senate with the representations the Australian government has made on behalf of Andrew Chan and Myuran Sukumaran.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:08): Senator Mason, I can. There have been many. Since the advice of the rejection of clemency applications in January, the Governor-General has written to President Widodo. The Prime Minister has written on five occasions to President Widodo, on the third of those occasions jointly with the Leader of the Opposition and the leader of the Greens and the fifth time on 17 February. The Prime Minister has also spoken to President Widodo most recently on 25 February. The Foreign Minister has written three times to Foreign Minister Marsudi, the second time jointly with the shadow minister for foreign affairs and the leader of the Greens. She has also spoken to the foreign minister on three occasions, as recently as yesterday. The Foreign Minister has also written to State Secretary Pratikno, and she has spoken to Vice President Kalla on 19 February.

**Senator MASON** (Queensland) (14:09): Mr President, I ask a further supplementary question. Can the Attorney-General advise the Senate of what further representations the Australian government has made on behalf of Andrew Chan and Myuran Sukumaran.

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:09): Yes, Senator Mason. I personally pleaded the men's case twice in letters to my counterpart, the Attorney-General, and as well in separate letters to the coordinating Minister of Law and Human Rights. The Minister for Justice has also taken up the plea with the Minister for Law and Human Rights. At my and the Prime Minister's request, the secretary of my department, Mr Chris Moraitis, who is of course a very experienced diplomat, as well as the Director General of Security Duncan Lewis have, in recent weeks, travelled to Indonesia to meet with senior officials and senior political figures to plead for the lives of Mr Chan and Mr Sukumaran. The AFP Commissioner has written to the head of the Indonesian National Police. As the Prime Minister said this morning, the Australian government will never rest in our determination to let Indonesia know that we oppose the death penalty. We believe that the lives of Andrew Chan and Myuran Sukumaran should be spared.
Economy

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:10): My question is to the Minister representing the Treasurer, Senator Cormann. I refer to his endorsement of the Business Council of Australia's report in question time yesterday. I also refer to comments by Ms Westacott of the BCA, who said that instability at the heart of the government is 'paralysing our capacity to get policy done'. Does the minister agree with Ms Westacott?

Senator CORMANN (Western Australia—Minister for Finance) (14:11): The government absolutely agrees and I agree that chaos and dysfunction in government is a very bad idea, and that is of course why the Australian people threw the Labor Party out of office. That is of course why the Australian people in September 2013 voted for the strong and united team that the coalition presented at the last election and the strong and united team that this coalition has been in government for most of the period that we have been in government.

It is no secret. We have had a couple of difficult weeks. We have come out the other end. We are going back to providing strong and effective government. And do you know what? The very important thing is that we have the policies to put Australia on a stronger foundation for the future. We have the policies to clean up the mess that you left behind. We have the policies to get spending growth under control so that it is sustainable into the future. We have the policies to strengthen the economy, to create more jobs and to help families. Of course, we are making progress. The economy is growing more strongly now than it did under Labor. The national accounts came out today, and what they show is that the economy over the last 12 months has grown by 2.5 per cent, up from 1.9 per cent in the last 12 months under the Labor government.

Last year, the first year of the coalition government, more than 600 jobs were created every day—three time as many as the year before. We are making progress. Do we still have a fair way to go? Of course, we recognise that. We cannot fix all of the problems that Labor created over three years of bad, chaotic and dysfunctional government in 18 months—but we will keep at it. We will continue to work as a strong, united and effective team in government. Even over the last few weeks, as we were dealing with a few internal challenges, we were still providing much better government than Labor ever did. The Australian people know that this is a government that is working very hard. (Time expired)

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:13): Mr President, I ask a supplementary question. I refer to the government's decision to increase the red tape on foreign investors by imposing a $15 million threshold on agricultural land for some, but not all, foreign investors. I also refer to comments by Ms Westacott who said:

We cannot be sure the benefits of the government's decision will outweigh the costs as no regulatory impact statement has been undertaken.

Does the minister agree with Ms Westacott that the costs may well outweigh the benefits?

Senator CORMANN (Western Australia—Minister for Finance) (14:13): When it comes to imposing more red-tape costs on business, this former minister for finance and more regulation knows all about it. This is of course the minister—

Senator Wong interjecting—
**Senator CORMANN:** Senator Wong is again interjecting. She is trying to query relevance. What I would say, Mr President, is that former finance minister Senator Wong asked me about red-tape costs for business, and I am directly responding to the assertion.

**The PRESIDENT:** Pause the clock. A point of order, Senator Moore.

**Senator Moore:** Mr President, I am actually taking the point of order, not Senator Wong. It is in terms of direct relevance to the question asked by Senator Wong. It is about Ms Westcott's statements. It is about a direct response to the question.

**Senator Abetz:** Mr President, I cannot hear the point of order because of the incessant interjections of the Leader of the Opposition.

**Opposition senators interjecting—**

**The PRESIDENT:** Order! No-one is to respond to any interjections. That is the first rule. All senators need to come to order. In relation to the point of order, Senator Moore, I remind the minister that he has 35 seconds in which to answer the question, and I remind him of the question.

**Senator CORMANN:** We have a proud track record of reducing red tape-related costs for business by more than $2 billion a year. When it comes to the implementation of a policy commitment which we took to the last election, that was part of the conversation with the Australian people in the lead-up to the last election. On this side of the parliament we actually delivered on the commitments that we made to the Australian people before the election. But let me just say that Labor imposed more than 21,000 new pieces of red tape. We are actually reducing red-tape costs for business every single day, and we are proud of our record. *(Time expired)*

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:15): Mr President, I ask a further supplementary question. I again refer to Ms Westacott, who said, 'We don't have a budget emergency.' Does the minister agree with the BCA's Jennifer Westacott?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:16): Senator Wong is very selectively quoting. Ms Westacott very clearly pointed out the significant problems that would follow in terms of lowering living standards and weakening economic growth if we did not address the disastrous trajectory that the previous government put Australia on. If we stayed on the spending growth trajectory they put Australia on, the economy would weaken and people would be forced to pay higher taxes or accept deeper cuts. We are making measured change with an eye on the medium to long term, putting Australia on a stronger foundation for the future, making sure that, through sensible structural reforms—

**Senator Moore:** Mr President, I have a point of order on direct relevance to the question. The question was: does the minister agree with Ms Westacott's comments about the economy?

**Honourable senators interjecting—**

**The PRESIDENT:** Order! It does not help me ruling on a point of order if people interject. In relation to your point of order, Senator Moore, the minister responded to a quote and then clarified that the quote may not have been used in its entirety. He was then asked
whether he agreed with the quote. He is clarifying the position of the quote. The minister has 20 seconds left in which to answer the question.

Senator CORMANN: Not only did the previous government leave behind a very bad budget position; the worst thing the previous government did was to put Australia on an unsustainable spending growth trajectory for the future, an unsustainable debt growth trajectory for the future. If we did not address that, then we would be exposing Australia to lower living standards and higher taxes. (Time expired)

**Budget**

**Pensions and Benefits**

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:17): My question is to the Minister representing the Minister for Social Services, Senator Fifield. Yesterday the Prime Minister said that the GP co-payment is 'dead, buried and cremated'. However, the future of one of your other budget measures, the 'earn or learn' provisions that would see young people denied social security payments for up to six months of the year, is still unclear. Is 'earn or learn' dead and buried too? When will you admit that this policy has been roundly rejected by experts and by the Australian community and announce that it has been taken off the table?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:18): Colleagues will recall that there were two budget measures that impact on young people under the age of 30, and they are commonly referred to as 'earn or learn'. We approached the last budget with the intent of doing everything we possibly could to assist younger Australians into work. That is what motivated and informed the budget measures to which Senator Siewert refers. It is clear that the government has not secured passage of those through the parliament but, as Minister Morrison has made clear, all the social services budget measures remain on the table. He has extended an invitation to all colleagues: if they want to engage in a discussion in relation to those budget measures, he is very happy to do so. But what he encourages, and what the government encourages, is for those who want to discuss to bring something to the table themselves. Bring a proposition to have a point of departure for a discussion.

I can confirm that those measures do remain on the table, but let me reiterate Minister Morrison's invitation to sit down, to talk. If colleagues in this place or colleagues in the other place think they have a better idea or an alternative idea as to how to achieve the objective of seeing more young people in work, then please do so, because the government is very willing to talk.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:20): Mr President, I ask a supplementary question. I heard Senator Fifield reiterating Minister Morrison's comments at the press club from last week that anybody with an idea should put something on the table. Have you seriously, as a government, got no other idea about how to help young people into work than denying them income support for six months? Have you got no other idea? How about case management for a start?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:21): I thank Senator Siewert for her supplementary question. Clearly, case management is at the heart of many of the
government's employment programs. But, Senator Siewert, this budget proposition is not the only thing that the government has put forward to create an environment that is more conducive to seeing more young people in work. We also want to see the economy growing stronger. I have no doubt that the measures that we have in the next budget will be focused around increasing growth in Australia. We all know that when the economy grows strongly and when there is an environment that is conducive to business and conducive to small business, the employment opportunities for young people are increased. We have a ceaseless focus on seeking to improve the growth rates of Australia.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:22): Mr President, I ask a further supplementary question. At estimates last week, the department confirmed that they are in fact still working on implementation plans for earn and learn. Has the government considered taking them off working on that and putting them to work on better provisions that will actually support young people into work and that do not kick them off income support for six months?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:22): The staff in the Department of Social Services, not surprisingly, work on preparing to give effect to the policy of the government of the day—policy as expressed in bills that have been introduced into the other place. But that does not in any way, shape or form prevent them from also working on other propositions. It is part of the core business of the Department of Social Services to work on propositions to improve employment prospects for young people. It is core business for the Department of Social Services to be working on policy alternatives. Senator Siewert, I would not want you to think for a second that the Department of Social Services cannot walk and chew gum at the same time.

Defence Personnel

Senator REYNOLDS (Western Australia) (14:23): My question is to the Leader of the Government in the Senate, Minister for Employment and Minister assisting the Prime Minister for the Public Service, Senator Abetz. Will the minister explain to the Senate how the Australian Defence Force personnel and their families will benefit from the government's decision to increase its pay offer to two per cent?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:24): Can I thank 'Brigadier' Reynolds for the question and acknowledge her long and distinguished service to the ADF. As announced by the minister and the Prime Minister today, the government is committed to increasing the ADF pay offer to two per cent per annum over the life of the agreement with effect from the next pay day. Today's decision follows considerable consultation and representations from the defence community. Over the decade from 2004 to 2013, annual ADF pay increases have totalled 38 per cent while annual median wage increases for Commonwealth public servants totalled 42 per cent compared to CPI, totalling 28 per cent. In other words, public servants have done around four per cent better than members of the ADF.

ADF personnel fell behind the Commonwealth public servants under the previous Labor government. In the years 2008 to 2013, annual ADF remuneration increases totalled 21 per cent while APS increases totalled 26 per cent. Further, defence as a whole suffered. The
government now needs to find an additional $16,000 million just to replace what Labor stripped out of defence in its six years of government.

Increasing ADF pay by two per cent per annum will increase the likelihood that, going forward, ADF members do better than inflation and politicians. Salary is, of course, only one important component. ADF personnel also receive competency-based allowances, free medical and dental treatment, subsidised housing and a range of other benefits. This increase allows the ADF to catch-up with the cuts they suffered under Labor. (Time expired)

Senator REYNOLDS (Western Australia) (14:26): Mr President, I ask a supplementary question. Is the minister able to advise the Senate of any representations which were made to the government on the issue of ADF pay?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:26): There have been many representations to the government and, if I might say, none as strong as those from 'Brigadier' Reynolds herself and her brigadier colleague Andrew Nikolic, the member for Bass, in the other place, along with a whole host of other members such as the member for Solomon, Natasha Griggs; the member for Herbert, Ewen Jones; the member for Eden-Monaro, Peter Hendy; and the member for Hughes, Craig Kelly. I notice Tasmanian colleague Senator Lambie walk into the chamber. She of course has also genuinely pursued this issue in the public space, as has the member for Gilmore, Ann Sudmalis.

Opposition senators interjecting—

Senator ABETZ: With all this interjection and commentary from the ALP, those ALP senators in this place might like to know that their own leader has just congratulated the Prime Minister on the increase. (Time expired)

Senator REYNOLDS (Western Australia) (14:27): Mr President, I ask a further supplementary question. Will the minister explain to the Senate how ADF members are likely to benefit from this offer as compared to inflation and as compared to a wage increase for politicians?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:28): Senator Reynolds is right to ask for such a comparison because, as we speak, parliamentarian's pay is frozen. There will be no increase in 2014-15. Evidence from the Australian Public Service Commission at Senate estimates last week noted that recent government pay offers should be seen in the context of falling inflation. Inflation for the year to December 2014 was 1.7 per cent with the RBA forecasting inflation to June this year of 1.25 per cent, while the National Australia Bank is forecasting a rate to December 2015 of only 1.2 per cent. If this is the case, ADF members who were awarded a 1.5 per cent increase last November, and will get further increases, would already be keeping level with inflation for these years. The two per cent pay rise is therefore likely to be better than inflation.

Mining

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (14:29): My question is to the Minister representing the Minister for the Environment, Senator Birmingham. In my engagement with communities relating to the need to balance economic development with minimising environmental harm, community confidence is key to progress.
Will the minister confirm that in his request for advice to the IECS dated 26 February 2015 relating to the Watermark project, he stated that the advice sought from IECS in April 2013, two months prior to the enacting of the water trigger amendment, met the legal requirements of the EPBC water trigger?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:30): I thank Senator Wang for the question and, given the question contains some very specific informational requests, I thank him for the prior warning. As you, and I am sure many other senators, are aware, the Minister for the Environment, Mr Hunt, has stopped the clock on the Watermark coal project to seek further information from the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development. This will ensure that the most up-to-date scientific information is utilised for the assessment of the project under our national environmental laws. This follows Minister Hunt taking the step of visiting the area and listening to the concerns of farmers—

Senator Cameron: It is the Barnaby bail-out scheme!

Senator BIRMINGHAM: You should try listening sometime too, Senator Cameron.

Senator Cameron interjecting—

The PRESIDENT: Order on my left! You should address your remarks to the chair, Senator Birmingham.

Senator BIRMINGHAM: As I was saying, this follows Minister Hunt visiting the area and listening to the concerns of farmers, Indigenous leaders and others—wanting to ensure those concerns are respected and responded to by ensuring we provide the best available scientific information in relation to assessing this project under the national environmental laws. The minister's recent request for additional advice from the IESC in relation to the Watermark project is to ensure we have that most up-to-date scientific information. I am advised that the advice provided by the IESC—and this is directly relevant to your question, Senator Wang—in 2013 did meet the legal requirements for seeking advice under the EPBC Act.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (14:31): Mr President, I ask a supplementary question. Could the minister explain how his advice could meet the legal requirements of the water trigger given that former Minister Burke wrote to the IESC on 12 March 2013 and withdrew any referral of the Watermark project to the IESC pending the amendment of the EPBC to include the water trigger in June that year?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:32): Whilst, as I understand it, Senator Wang is correct about that letter, I am advised that an amended request by the then environment minister, Mr Tony Burke, was submitted to the IESC on 17 April 2013—after the original request had been withdrawn. The amended request included reference to the water trigger—because the water trigger legislation had been introduced into the parliament by that stage. The amended request was submitted to ensure that the IESC advice to be provided did include consideration of that water trigger then before the parliament.

Senator WANG (Western Australia—Palmer United Party Whip in the Senate) (14:32): Mr President, I ask a further supplementary question. Will the minister confirm that he or his agency contacted the Watermark project manager in October 2013 to inform him that the
project would be a controlled activity under the water trigger and that no further contact was made regarding the IESC until last week?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:33): I can confirm that Minister Hunt issued a notice on 24 October 2013—that was one of the first actions he took as the Minister for the Environment—notifying the proponent of the Watermark coal project, and of course the public, that the water trigger would be applied to the project. The notice was published on the Department of the Environment website, as is normal practice. No contact has been made with the IESC since they provided their advice, which again is standard practice. The project was going through the New South Wales approval system until the final Planning Assessment Commission report was provided to the Commonwealth on 29 January this year. That is when the Commonwealth assessment recommenced. As I indicated in answer to the first part of the question, subsequent to that the minister has taken the step of stopping the clock on this project to ensure that the most up-to-date and relevant IESC advice is taken into account so that we have the most robust scientific information to make an informed decision. (Time expired)

Senator Wang: I seek leave to table documents related to my questions.

Leave granted.

Indigenous Affairs

Senator McKENZIE (Victoria) (14:34): My question is to the Minister for Indigenous Affairs, Senator Scullion. Can the minister advise the Senate on progress with the grant round for the Indigenous Advancement Strategy?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:34): I thank Senator McKenzie for her question. I can advise the Senate that I have now approved spending of $860 million over four years for projects through the grant funding round. This spending covers 1,297 projects right across Australia. These projects will support the Abbott government's key objectives in Indigenous affairs of getting kids to school, getting adults into work and making sure that communities are safe.

When we came into government at the end of 2013, we brought most Indigenous-specific services into the Department of the Prime Minister and Cabinet. There were 150 separate programs and services. These myriad programs were burying providers in red tape, some employing staff specifically to meet the reporting requirements of government across multiple funding streams. We had to bite the bullet. We have streamlined those 150 programs and services into five programs. We could have stuck with the old ways, but, as the latest Closing the Gap report revealed, we are not getting anywhere near closing the gap. As the saying goes, if we keep doing things the same way, we will get the same result.

That is not an approach that is good enough for this government—or indeed, I suspect, for this parliament. It is certainly not an approach that is good enough for some of the most disadvantaged people in our community. For the first time, this government has taken a holistic look at a whole range of services being delivered to support our firstustralians in achieving their aspirations—aspirations which are no different from those of others in our community: a better future for the next generation.

Senator Cameron: What did you cut the health funding for?
Senator SCULLION: The cuts you are referring to—

Senator Cameron interjecting—

Senator SCULLION: The Closing the gap report was based on data taken entirely during Labor's time in government. They should inform themselves about that. I am optimistic that the funding we are directing will improve the lives of Aboriginal and Torres Strait Islander people across Australia.

Senator McKENZIE (Victoria) (14:36): Mr President, I ask a supplementary question. Can the minister outline to the Senate how the grant round for the Indigenous Advancement Strategy will help Indigenous people?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:37): I do not think this government or parliament would pretend that there is a single silver bullet in this matter. I do not think the IAS will provide that either. Nothing that any government does will lead to an instant reduction in Indigenous disadvantage. What it will do, however, is focus our resources in key areas that we know will make a positive and long-term difference to the lives of Indigenous Australians. Most importantly, it is part of this government's new engagement with Aboriginal and Islander people wherever they live in our major cities or in the most remote community.

My staff in the Department of Prime Minister and Cabinet are now operating under a new regional structure with senior managers and staff much closer to the communities that they serve. They will work directly with community leaders and organisations to be part of a new partnership to deliver change for the better. This bill will work in particular communities to get children to school by asking the community about what they want us to do to help them. It will support our new approach to the Remote Jobs and Communities Program from July to get adults active and working every day.

Senator McKENZIE (Victoria) (14:38): Mr President, I ask a further supplementary question. Can the minister advise the Senate what action the minister has taken to improve the governance of grant recipients?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:38): We have to be smarter and more targeted about how this money that we invest is spent. I do not think we would argue that there has not been a waste in this space and that resources have not met the outcomes that we all want to see for our first Australians.

Taxpayers deserve to know that their investment is making a difference and that organisations receiving taxpayers funds are accountable for the money that they receive. We have simplified the process for organisations to receive funding and reduced the bureaucratic burden and reporting requirements. This allows organisations to get on with the job of delivering services on the ground for Indigenous Australians. Organisations that receive significant funding from the government will be required to meet new high standards that will be closely monitored and evaluated through these contracts rather than them having to report back to government. Aboriginal corporations will be supported by the Office of the Registrar of Indigenous Corporations. ORIC can provide advice to organisations on incorporation and can support the training of directors, members and key staff in good corporate governance.

(Time expired)
Employment

Senator DAY (South Australia) (14:39): My question is to the Minister for Employment, Senator Abetz. All over Australia, people over the age of 70 volunteer in op shops, Meals on Wheels, food banks, canteens, tuckshops, hospital shops, community gardens and so on. They comprise hundreds of thousands of Australians who work for no pay. There are also the grey nomads who travel around working on terms and conditions which suit them. Men and women who work beyond the age of 70 move from the government’s payroll to the private sector’s payroll reducing the burden on taxpayers. Raising mature-age-workforce participation adds billions of dollars to Australia’s GDP, and in the words of the Australian Institute of Company Directors recently, it is ‘the next big thing’. My question is: how can we make it lawful for these Australians to be employed under terms and conditions which suit them rather than the government?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:40): Senator Day’s question highlights, yet again, his clear commitment to assisting our fellow Australians to gain employment, whether they be the youth, which he has asked about before, or, on this occasion, those over 70.

I fully acknowledge those people to whom Senator Day referred, who make an outstanding contribution to our community, the volunteers who have already made a huge contribution and who now choose to continue to contribute to their communities and in many cases to their families as well.

The government does recognise that many Australians do want to continue to make a contribution to the workforce albeit on their terms. My department has just published a survey of more than 900 employers. Many employers when responding to the survey made a point of highlighting the experience, reliability, work ethic and strong communication skills that mature-age people bring to the workplace. Many employers also talk about the importance of government financial assistance. To that end, our Restart program provides incentives of $10,000 to employers who employ full-time mature-age job seekers who have been unemployed and on income support for at least six months. So far, already 956 of our fellow Australians have been benefitting from that scheme.

The government is also working hard to create more job opportunities. Coming directly to the senator’s question, I invite him and other senators to consider our reforms that we are proposing to the individual flexibility arrangements in the Fair Work Act, which will greatly assist in providing the sort of flexibility that those over 70 would wish and, indeed, need to be gainfully employed—(Time expired)

Senator DAY (South Australia) (14:42): Mr President, I ask a supplementary question. Rather than the punitive measure of raising the retirement age to keep people in the workforce, why doesn’t the government instead consider a less-stick-more-carrot approach by keeping the pension age as it is but letting people move off the pension and into the workforce under terms and conditions and at rates of pay which suit them?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:43): With respect, can I correct the honourable senator. We do not believe that increasing the retirement
age to gain the pension is a punitive measure. Indeed, it is a celebration of the fact that we live longer and we live healthier. So rather than it being a punitive measure, we ought to see this as a positive celebration of some of the wonderful advances that health and medicine have been able to do for us as a community generally.

Having said that, there is overwhelming evidence that if you are in work your mental health, your physical health, your self-esteem and your social interaction are all improved and enhanced, not only for yourself but for everybody else in your household. I know there are many employers actively seeking out older Australians. I will give a plug to Bunnings here; they do so, and they have many a retired tradesman providing help to do it yourselves. (Time expired)

Senator DAY (South Australia) (14:44): Mr President, I ask a further supplementary question. The ABS data out today shows that Australia's GDP growth is still sluggish and not fast enough to bring down unemployment. Deloitte Access Economics said that 'a mature-age workforce results in economic benefits that would rank with the gains that Australia has achieved from some of the major economic reforms of times past.' Will the government please allow workers who are aged 70 and over to do their own thing?— (Time expired)

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:44): I agree with Senator Day that more work needs to be done to help revitalise the Australian economy. We do have an Economic Action Strategy, an economic action plan, to do exactly that, and I know that Senator Day in general supports us in those endeavours.

I can inform the Senate that I was pleased just recently to join with a former senator of this place, the Age and Disability Discrimination Commissioner, Susan Ryan, to launch the Power of Oldness campaign, which focuses on the very positive contribution that older workers can make to the workplace. The campaign exposes the stark difference between the skills and strengths mature workers offer employers and organisations and the discrimination they face when trying to gain or maintain jobs. We seek to assist older Australians to maintain jobs and to gain jobs. (Time expired)

Australian Human Rights Commission

Senator SINGH (Tasmania) (14:45): My question is to the Attorney-General, Senator Brandis. I refer to the joint statement of the Australian Bar Association and the Law Council of Australia entitled 'Personal attacks on Human Rights Commissioner alarming say the legal profession's leaders'. Does the Attorney-General agree with the Australian Bar Association and the Law Council of Australia, who say:

…we cannot tolerate our public officials and institutions being subjected to this barrage for fulfilling their statutory duties.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:46): I do agree with those statements. In relation to the President of the Human Rights Commission, there have been no personal attacks on Professor Gillian Triggs, certainly not by me, certainly not by the Prime Minister, certainly not by anyone else that I am aware of. I do not want to belabour the point, but let me just say it again: it is the obligation of this parliament to hold public officials to account; it is the obligation of statutory office holders to fulfil their...
statutory functions; it is the obligation of leaders of agencies to keep those agencies in good shape. When the minister, when the government of the day, lose confidence in the holder of a statutory office, then it is nothing more than being truthful and candid with the public to tell them so. What I have said about Professor Triggs is the truth. I have lost confidence in her, and I have explained why. I have explained why at length. I have done so in a polite and respectful manner, but I have done so as I ought to.

Senator SINGH (Tasmania) (14:47): Mr President, I ask a supplementary question. I refer to comments from Robert Richter QC, who says that the Attorney-General's conduct in relation to the President of the Australian Human Rights Commission is capable of being construed as an attempt to get rid of a senior public officer for political reasons. What is the Attorney-General's response?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:48): My response is that I do not agree. I am very well acquainted with many in the legal profession. I think there are nearly 1,000 Queen's Counsel in Australia, and, do you know what, Senator Singh? They represent all variety of views. On this particular occasion, I do not agree with Mr Richter's remarks.

Senator SINGH (Tasmania) (14:49): Mr President, I ask a further supplementary question. Having lost his credibility and the confidence of the legal profession and the Senate, how is it tenable for the Attorney-General to remain in office?

The PRESIDENT: Senator Singh, you did not really direct a question to the Attorney. You just asked, 'How is it tenable?' I will invite the Attorney-General to address the question, but it was not really a direct question. But I will invite him to address whatever part of the question he wishes to.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:49): The point of the question seems to be that it is somehow untenable for an Attorney-General, or indeed any other minister, to be honest with the public in saying that they have lost confidence in the head of a statutory agency. That seems to be your point, Senator Singh. The truth is I have lost confidence in Professor Triggs, and I have been honest about it and I have explained why. If you think there is something inappropriate about that, my attention has been drawn to a report in yesterday's Melbourne Age newspaper:

Premier Daniel Andrews said he had "lost confidence" in WorkSafe chief executive Denise Cosgrove and chairman David Krasnostein.

The government asked for their resignations …

Senator Singh, you seem to be at variance with Premier Andrews. You seem to be saying there is something wrong in a minister saying they have lost confidence in a statutory office holder. If you have lost confidence in such an officer, you are obliged to be honest about it. (Time expired)

Green Army Program

Senator BACK (Western Australia) (14:51): My question is to the Assistant Minister for Education and Training, Senator Birmingham, representing the Minister for the Environment.
Can the minister update the Senate on the progress of rounds 2 and 3 of the government's Green Army initiative?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:51): Thank you, Senator Back, for that question on the Green Army Program, which is making exceptional progress in helping deliver practical environmental benefits to hundreds of sites around Australia, as well as providing valuable opportunities to thousands of young people to participate in environmental regeneration and to foster a new generation of community volunteers and those who will commit to making a difference in helping their local environment.

In fact, more than 500 Green Army projects have been engaged for delivery over the next three years in rounds 1, 2 and 3 of the project, which have been rolled out to date, with almost 5,000 young people aged between 17 and 24 expected to participate in these projects and gain the valuable benefit of the skills they will learn through participation, as well as the gift of a greater and better environment they will provide to their local communities through the types of projects involved. In total, the government expects to support some 15,000 young people through engagement in Green Army projects by 2018, and we are investing $525 million over the four years to deliver this vast expanse of environmental activism, environmental progress and, of course, hands-on practical experience for the young participants.

The feedback to date from those community organisations who are participating, as well as from the young people participating, is proving to be exceptionally valuable. The Green Army will make a real difference through the revegetation and regeneration of local parks; through habitat protection and restoration; by cleaning up our waterways, riverbanks and creek beds; through foreshore and beach restoration; and through the construction of boardwalks and walking tracks that will, of course, make the local environment even more accessible for more people to enjoy. (Time expired)

Senator BACK (Western Australia) (14:53): Mr President, I ask a supplementary question. I ask: can the minister explain to the Senate how training and experience provided through the Green Army is helping young Australians to find jobs?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:54): It is a very important question, because of course the Green Army project, whilst delivering practical environmental benefits, is also skilling young people with a sense of work culture and with practical skills. In fact, young people are paid a competitive allowance whilst receiving extensive training through participating in the Green Army Program. All participants receive a certificate I or II through their training, as well as mandatory work health and safety and first aid training. These are all, of course, practical skills and recognised qualifications that they can take while they look for work beyond the Green Army participation. But perhaps most importantly, as with other government programs like Work for the Dole, they also get the culture of participating in a work program—the discipline of attending and participating in this work program. So they get the training as well as the practical work experience to take the next step in their lives.

Senator BACK (Western Australia) (14:55): Mr President, I ask a further supplementary question. I ask if the minister can inform the Senate of what participants are saying about their experiences with the Green Army.
Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:55): Indeed, participants are incredibly positive about the experience they are getting through the Green Army Program. A number have been talking to media outlets, extolling the virtues of the Green Army Program, such as Jared Marsden, an 18-year-old from Mackay, who told the Daily Mercury:

I couldn't spend the whole day in an office ... With this opportunity, I get to help the planet and learn practical skills at the same time.

Jade from the Barossa Valley, speaking to ABC News, said, 'I've always wanted a career in conservation'—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator BIRMINGHAM: I am sorry, Mr President, that those opposite do not seem to care about the young people in this program and do not seem to take these opportunities seriously. Jade said, 'I've always'—

Opposition senators interjecting—

The PRESIDENT: On my left! Pause the clock. On my left! Senator Cameron!

Senator BIRMINGHAM: Thank you, Mr President. Jade of the Barossa Valley said:

... this has been a great experience ... I'm doing what I love, and if I wake up every day, going somewhere where I love going, I'm not fussed about the money at all.

(Time expired)

Racial Discrimination Act 1975

Senator O'NEILL (New South Wales) (14:56): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's plan to weaken section 18C of the Racial Discrimination Act because, according to Senator Brandis, 'People do have a right to be bigots, you know.' I also refer to the Prime Minister's decision to withdraw support for the Attorney-General's plan. Now the Prime Minister has flagged criminalising hate speech. What is the Attorney-General's position now?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:57): Talk about being flogged with a damp lettuce leaf! Senator O'Neill, the decision in relation to section 18C to take the reform of section 18C off the table was a decision of the cabinet. It was a decision of the cabinet, and in this government—which, unlike the government that preceded it, operates a proper cabinet process—all ministers of the government support all decisions of the cabinet.

Senator O'NEILL (New South Wales) (14:58): Mr President, I ask a supplementary question. I refer to senior Liberal Senator Bernardi, who said in the chamber—

Honourable senators interjecting—

The PRESIDENT: On my right and my left! Order!

Senator O'NEILL: Thank you. I am just trying to lift the tone of the chamber by being respectful. I refer to senior Liberal Senator Bernardi, who said in the chamber yesterday that
the Attorney-General's original proposed changes to 18C 'went a bit far'. Is Senator Bernardi right?

Honourable senators interjecting—

The PRESIDENT: Order on my left and on my right! We will reset the clock, thank you.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:59): I do acknowledge Senator O’Neill that Senator Bernardi is a senior senator. Senator Bernardi has graced this chamber for more than a decade with his presence and his intelligence and his wit.

Senator Fifield interjecting—

Senator BRANDIS: And his charm; quite right, Senator Fifield. Senator Bernardi is a very charming person, I agree. But I am a little taken aback, Senator O’Neill, at the suggestion that Senator Bernardi has overtaken me on the left of the ideological spectrum.

Senator Fifield: It was only a matter of time!

Senator BRANDIS: Senator Fifield, hush. I see by the look of rye bemusement on his face that Senator Bernardi himself is a little taken aback by that proposition. Suffice it to say, Senator, that 18C is off the table.

Senator O’NEILL (New South Wales) (15:00): Mr President, I have a further supplementary question. Does the Attorney-General agree with Arthur Moses SC who says the Attorney-General's understanding.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:01): I have not seen Mr Arthur Moses' remarks, so I am not prepared to comment on that which I have not seen. As the Attorney-General, it is my obligation to state the law accurately and candidly, and I always do.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Higher Education

Senator O’NEILL (New South Wales) (15:02): I move:

That the Senate take note of the answer given by the Assistant Minister for Education and Training (Senator Birmingham) to a question without notice asked by Senator Carr today relating to higher education reforms.

What a disgrace this government is. 'No cuts to health', the Prime Minister said, the very day before the election. 'No cuts to education,' he said. 'No new taxes,' he said. But we know now what he really meant when he made those commitments. His real plan was absolutely to cut health, cut education and introduce new taxes—a new fuel tax and now a new university tax.

…understanding of the law:

…is misconceived and plainly wrong. On no rational basis can it be asserted that Australians have a 'right to be bigots'.

What is plainly evident about the sneaky new undergraduate tax that this Abbott government is proposing is that it is under construction, in secrecy. It has been flushed out into the open, and that is the only way that we can hold this government to account—by
finding out the sneaky deals they are doing behind doors. We have seen a sneaky government in action for 520 days, now in their confessed 'bad-government phase' but not much different from what they purport to be the new government phase.

They have attacked Medicare. We have seen this pattern before. Tony Abbott, Joe Hockey and their cronies cooked up their plan for the GP tax behind closed doors. They did not have a word with doctors, who were just as surprised as the rest of Australia when all of a sudden they sprang it on us in the May budget.

It was only when Labor stood up for fairness alongside the health professionals of this nation that the deep problems of absolute unfairness of their GP tax was revealed. Then they had to try to have a go at fixing that disgraceful indictment on this identity we have as Australians about fair access to health. They had to make many changes as a result of the action of this side of the chamber, of Labor pushing them constantly to come out into the open.

This is what we are seeing again today. This absurd cycle is happening in the higher-education sector. The outrageously out-of-touch government has been forced to back down, on their hundred-thousand-dollar degrees, by Labor. Then we hear of another sneaky deal, their modus operandi, that they are trying to put through now, with the crossbenchers, through the side door—through the back door for many other things but through the side door now for this one.

This is a university tax that has been worked up in workshops between the education department officials and education analysts David Phillips and Professor Bruce Chapman. They hatched again this policy in a vacuum—same method as the GPs. Let's just bring this unconsidered idea, this ill-thought-out plan on an entire sector. That is how this chaotic government thinks policy should be made and this country governed. They know their solution to any issue is going to be unpopular, so they spring it on the unsuspecting public.

But you know what? The Australian public people are awake up to these sly tactics. We are figuring out right across the country how we cannot trust a single word that comes out of the mouth of this government. This undergraduate tax that they are proposing—that is under construction right now—is by a government hell-bent on building one thing: an unfair Australia. Destroying Australia's fair and equitable higher education is as much at the front of their agenda as getting rid of access to Medicare and access to the health care that Australians need. It is against education and against health. Their policies reveal it every single day.

Labor knows how important this issue is to the future of Australians and to the future of the nation. Australians understand and Labor understands that an undergraduate tax will take away the foundations of a fair go in this country. Young people cannot bear the burden of a $100,000 degree and go out and get a job or undertake a mortgage. Bank managers across the country will think of them as a debt risk after this government has got through with them. We must do everything we can to prevent this sneaky, dodgy, dysfunctional and chaotic government from advancing these thought-bubble policies that they cook up in the darkness and then try to bring out as some positive plan for the country.

Labor believes that access to higher education should not be based on the circumstances of a person's birth or where they live. We believe that it should be based on the clear principles of merit and access. This Abbott government does not understand; it never has understood.
And when the Prime Minister stood, bare-facedly staring down the camera and saying that there would be no cuts to education, no cuts to health and no new taxes we knew that he meant the exact opposite! (Time expired)

The DEPUTY PRESIDENT: Senator O'Neill, I should have pulled you up earlier in relation to using the correct titles of members in the other place. I was too slow out of the box myself, but I do remind all senators to refer to members in here and in the other place by their correct titles.

Senator CANAVAN (Queensland) (15:07): I listened to Senator O'Neill's contribution and I just cannot believe that these guys over there are such a shadow of their former selves—such a shadow! Right now I am reading the biography by David Day of Paul Keating. Paul Keating, regardless of the disagreements we may have had on this side, was a man of courage. He was somebody who was not afraid of the big ideas and the big challenges facing the nation. He was part of a government that was not afraid of making changes that sometimes were unpopular and that sometimes were not accepted. He was not even afraid of putting a consumption tax on the agenda, and that was not accepted at the time; he failed in that endeavour. But we have a Labor Party now which will never have the experience of failing in policy because they just do not have the guts to put anything up in terms of policy to deal with the issues facing this nation.

They are now resorting to attacking the guy who came up with their university policy in the late 1980s. Bruce Chapman was the man behind the idea of HECS. HECS was a system put in place by the Hawke-Keating governments. It was a good system; it was a system that has stood the test of time. It was a system in response to the unsustainable policies put in place by the Whitlam government. Those policies of free education could not continue. They could not continue in an environment where we want upwards of 40 per cent of Australians to go to tertiary education. We cannot have a free education system for 40 per cent of our young people. We cannot afford it.

The Labor Party knows that we cannot afford it too, because that is not anything they did when they were in government. Indeed, they walked away from it 25 years ago. And when they did, they had a guy called Bruce Chapman advising them on how to move away from it. They introduced the system called HECS, which gave people an income-contingent, non-means-tested loan to cover their education expenses. It made sure that there were no barriers in this country: if you were young, intelligent and wanted to get ahead you could go to university with no up-front costs. It is a good system.

At the moment, the government funds around 60 per cent of a student's course costs. It depends on different degrees and qualifications but, on average, the Commonwealth government stumps up 60 per cent of a student's costs at university. HECS—the loan aspect, which is called HELP now—covers 40 per cent of those expenses. The proposal that the government has put forward is that, rather than being forty-sixty, we move that to be about fifty-fifty. We do that because, of course, we have a big problem with our budget right now and we need to have some savings.

We also do it because we actually want to invest in higher education. We want to make sure that people can invest in higher education and that universities are not treated like some kind of New York flat where you cannot charge more than a certain amount of rent. What happens in markets when you fix a price and do not let them charge any more is that you do
not get investment in those markets. You do not get higher quality in those markets. I want to see a higher quality university sector. I want to see Australian universities become some of the best in the world, and the way we do that is to encourage investment in those universities. The government's proposals will do that. They will do that because they allow universities to set their fees commensurate with the services they provide and commensurate with the quality of those services they provide.

Then they can afford to attract the best talent to Australia to teach people in physics, chemistry and advanced engineering. They can afford to keep the best people in Australia in those disciplines, rather than see them go to universities overseas which are not as restricted as they are here in this country and which can pay them more money. I am all for keeping that talent in this country and I am all for making sure that our universities become stronger. I am also all for fighting for a fairer system that reflects the fact that the benefits of going to university accrue to those who are actually at university.

I myself went to university from a high school where not many people went to uni. I went to school in Logan, just south of Brisbane, and only around 15 per cent of my year 12 went to uni. At the time I thought it was very unfair that I was doing an arts-economic degree funded by the good people—my good friends—who had gone and got a trade or been an apprentice or who were in some other line of work, paying tax so that I could do a philosophy degree and think long and hard every day about whether this table exists.

That was very interesting. It was a very interesting exercise, but it was not particularly beneficial to the wider society and I was being subsidised for it. We need to make sure that we have the confidence to put forward the policies that improve our universities, and these do.

Senator POLLEY (Tasmania) (15:12): I am so pleased that the former speaker spoke about Paul Keating. I can assure him that when Paul Keating was Prime Minister of this country he actually governed for fairness in this country. That is a long way away from this Prime Minister.

All this Prime Minister is interested in, as we know and as the Australian people know, is governing for his own job. He is now the Prime Minister for backflips, quite honestly! When he gets turfed out from the prime ministership by those on the other side he can apply—

Senator Bilyk: He could join the circus!

Senator POLLEY: Yes! He could go for a job in the circus, because he has become quite the acrobat! We know that before the last election that Tony Abbott, as Leader of the Opposition, went to the Australian people, giving a commitment that there would be no new taxes. Of course, what happened when they got into government? We had new taxes, and here we are now with a super profit tax being proposed on university students.

We know that the fuel tax was introduced by the government, which said there would be no new taxes. This is also the government that said quite categorically to the Australian people in the election that there would be no changes to the pension. There have been changes to the pension; the indexation will mean that pensioners will get less money. The Prime Minister also said that there would be no cuts to education—quite frankly, another broken promise. And here we have the higher education of this country being based on whether or not your family has a big enough credit card to ensure that the kids can go to university. That is not the sort of fair Australia that we want.
Senator Abetz and I come from the state of Tasmania. Senator Bushby is also from Tasmania. I do not hear any of them speaking up in the interests of Tasmania. What we do know from the University of Tasmania is that they have been trying to do backdoor deals with the University of Tasmania. I support an extra $400 million going into the Tasmanian university, but be up-front about it. Tell us what it entails. Give us the details. I know, as the Tasmanian community and the broader Australian community know, these changes and these cuts to the university are not in the best interest of the students and not in the best interest of the productivity of this country or the economy.

But, no, those opposite will do whatever it takes, as they have demonstrated previously, to get the crossbench's support. I urge the crossbench to stay firm on this, because it is an important fundamental in this country that every Australian child should aspire to go on to tertiary education, whether that is at university or TAFE, and it should never come down to whether or not you can afford to go.

It also is a disadvantage for those people with disabilities to be able to go on to university. It is also a disadvantage for mature age students to go on to university. But we know that those opposite will only ever do what is in their interest. They are trying to mislead the Australian community by saying that all Australian universities across this country are in support of their proposal, and that is blatantly untrue.

We have seen the disgraceful way that they have been trying to take our university and our education system down the American track. Over and over again the country has rejected that. The Australian people have rejected that. Labor rejects that. It is not a good system, and we should not be trying to emulate the American system. And what do we have now? We have another new idea: let's just grab this idea. This is another failed policy that even the Conservatives in England rejected. Why don't you just come up with a policy, after consulting the wider community, that we are able to support? Why is it that you are so opposed to everyday Australians being able to aspire to go on to university?

If you, like my colleagues and I, visit university campuses on a regular basis and engage with them, you would know that again in my home state of Tasmania it is astounding the amount of young people currently going through university, as they have over the last 30 or 40 years, as the first of their family to go on to university. We should be encouraging our young people to aspire to achieve the best that they can, not to base their future on whether or not their parents can afford to send them on to university.

Senator McGrath (Queensland) (15:17): Labor, where art thou? Where are the Labor reformers of the Hawke-Keating era? Where are you? Where is the Labor Party of Chifley? Where is that light on that hill? Where is that reforming Labor Party? I do not know. Can someone please tell me? All we have from the modern Labor Party opposite—we do not have the light on the hill; we have this damp squib. We have the grey ghost of the Labor Party wandering around the corridors, looking for some policies, plans or values. All we get from the Labor Party, the Leader of the Opposition and those opposite are scare campaigns.

When you look at Labor's policy manifesto for the coming election, it is a very simple document. Open it up and it is going to have two letters in it. It is going to be 'no' in 18-point font because the Labor Party has become the party of negativity. Labor Party has become the party of saying no to anything and everything. The Labor Party does not—
Senator Abetz: Including their own savings.

Senator McGrath: Including their own savings. There is the Labor Party of the reforming Hawke-Keating era, and where has it gone? It has gone somewhere. Where are the people from that era? They are hiding because they are embarrassed about the modern Labor Party. The modern Labor Party does not have the courage of its convictions—

Senator Conroy: How's Boris?

Senator McGrath: Boris is doing very well, thank you very much. And let's talk about someone who does have the courage of his convictions, and that is Boris Johnson. You are not a toenail to Boris Johnson, my friend. Where is the Labor Party? All we get—

Senator Conroy: He had the courage to give you the boot! The closest you come to his toenails is when you got the boot!

The Deputy President: Senators, that is enough. Senator McGrath, if you could direct your comments through the chair and, Senator Conroy, if you could cease interjecting.

Senator McGrath: Thank you. I encourage Senator Conroy to do some reading in the first instance but also encourage him to read some of the books of Boris Johnson in terms of his views on higher education, because all this Labor negative party wants to do is say no. All they want to do is run scare campaigns. They want to run a scare campaign about taxes. Let's talk about their record on taxes in terms of the carbon tax. Let's talk about their record in government, but they do not want to talk about 2007-2013. To them it was some sort of Doctor Who episode that never actually happened; they went into the vortex and forgot about it!

I can understand why Labor would want to forget about 2007-2013: it was a terrible government. It made the Whitlam government look good. But at least the Whitlam government and Hawke-Keating governments had policies. They had values. As mad as Whitlam and his cabinet were, they had policies and they had values. But why is the modern Labor Party not talking about the reforms of the Hawke-Keating era? Why aren't you looking back in your history book, Senator Conroy? Open your history books up—

Senator Conroy: I was there.

Senator McGrath: Were you there? Tell us about what happened. Tell us about the reforms they made to higher education.

The Deputy President: It would be better if you addressed your remarks through the chair and not actually directly asked Senator Conroy to respond to you, because it does invite him to do so and it would be most inappropriate.

Senator McGrath: I don't think Senator Conroy needs much invitation to respond! But I encourage him, if he is going to speak shortly, to talk about what happened between 1983 and 1996 in terms of the reforms that the Hawke-Keating governments brought forward. For some reason that has become a black hole for Labor also. I do not know why it has become a black hole for them. They should be proud of that government. They should be as proud of that government as we are proud of the Howard government between 1996 and 2007—a strong, reforming government.

That is what this government is trying to do with our proposals and reforms to open up the university sector. The Labor Party know that the deregulation of fees will have no negative
impact on disadvantaged students. In fact, may I quote to you from the shadow Assistant Treasurer—

*Senator Conroy interjecting—*

*Senator Bilyk interjecting—*

**The DEPUTY PRESIDENT:** Order! Senator McGrath, resume your seat. Senator Conroy and Senator Bilyk, if you could cease interjecting that would assist the Senate.

**Senator McGrath:** I quote from the shadow Assistant Treasurer—a fine man, I am told—Andrew Leigh. This was in a book. He is another person who has written a book. Through you, Mr Deputy President, to those on those benches: you might want to read this book sometime. I am sure he will lend you one of the copies of his book. He might sign it for you! He said there is no reason to think that it would adversely affect poorer students. That is in relation to the deregulation of fees. Through you, Mr Deputy President: if your shadow Assistant Treasurer, Labor Party, is saying that—someone who has a PhD; he is quite a learned gentleman—why are you not supporting these reforms? Why are you scared of reform? Why are you scared of opening up the university sector to make it the best university sector in the world, so we can really grow the Australian— *(Time expired)*

**Senator Bullock** (Western Australia) (15:23): Australians know they can trust the Australian Labor Party to deliver in the fields of health and education. These are matters of critical importance to working families. They know that their health is their most valuable asset and that a good education is the best investment they can make in their children's future.

The Australian Labor Party shares their values. The Labor Party is the party of Medicare. For 40 years, the Labor Party has stood behind families to ensure affordable health care. Opposed to us, the coalition have never missed an opportunity to attempt to dismantle our health system or to impose additional costs on workers and their children seeking medical attention. This is an objective which they will pursue until the public pressure—the public anger—forces them into tactical retreat.

This is what we saw yesterday with their pause in the push for the GP tax. Make no mistake: this was just a pause. The plan for a new tax on health lies not in the bottom drawer but in the top drawer, ready to be reintroduced at the first opportunity. Education provides a similar story. From the Whitlam reforms to tertiary education in the 1970s to the vision and commitment of our current leader, Bill Shorten, Labor sees that only through education will Australia fully develop our economic potential, our scientific potential, our artistic potential—our people's potential.

The contrast is clear. The party which won government in 2013 on the promise of no cuts to health, no cuts to education and no new taxes has been proven over and over again to be the party of broken promises. Why is it that this government is so determined to deny young Australians the education they need to face the challenges of the future—to gain the skills that lead to better employment and a better future for themselves and their families? The government that promised no cuts to education is now hoping to woo the Senate with a higher education package which provides for $1.9 billion in cuts to universities, $100,000 degrees for undergraduates, $200 million in cuts to the indexation of the grants program, $170 million in cuts to research training, fees for PhDs and $80 million in cuts to the Australian Research Council. And, revealed in the media today, the clincher: the government proposes to tax its
way to a better education system with a new tax which its architect, Professor Chapman, is reported to have described—in a PR masterstroke—as similar to the Rudd government's mining super profits tax. Minister Pyne must be so proud!

Other media reports today claim:

... experts labelled the idea a "tax" by stealth on students, which could add a further $11,000 to the cost of some degrees.

This is a figure which is the same as that arrived at by the government's own adviser, Mr Andrew Norton of the Grattan Institute, who estimated a tax of more than $11,000 on top of the fees paid by a law student. The bright idea of a new tax—a tax by stealth—is simply another attack on students struggling to gain a useful qualification and establish a foundation upon which to build a better life. It builds on the burden of fee deregulation proposed by this government, and the current burden of over $30 million on student debt, to further move the cost of education onto students' shoulders—layer upon layer of additional burden—and force the cost of a decent education beyond the reach of young people from ordinary working families.

What is more, the new tax is already an idea tested and rejected by the Conservative government of the UK, as their minister for universities said in 2010:

... as soon as universities raise their fee above the threshold level, they face a rapidly rising levy which can drive their fees up even higher.

Senator Bushby: What's the threshold?

Senator BULLOCK: The threshold is to be determined. Rapidly rising deregulated fees and the prospect of $100,000 degrees driven up even higher by the imposition of a new tax—these are not the burdens which should be borne by our students. This is not a higher education package. This is just another broken promise from a government which must have had its fingers crossed behind its back when it misled the Australian people with promises of no cuts to health, no cuts to education and no new taxes.

This is a government not to be believed and not to be trusted. It is a government which must not be returned if we value our children's education and our children's future. (Time expired)

The DEPUTY PRESIDENT: The question is that the motion moved by Senator O'Neill be agreed to.

Question agreed to.

Budget

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:28): I move:

That the Senate take note of the answer given by the Assistant Minister for Social Services (Senator Fifield) to a question without notice asked by Senator Siewert today relating to the 'earn or learn' policy. Senator Fifield gave a response to my question about whether 'earn or learn' is 'dead, buried and cremated'. It would be no surprise to many people that the government is planning to continue with its cruel, harsh, 'earn or learn' policy, which condemns anybody under 30-years-old to going six months without any form of income support. Could you think of any policy better designed to make it even harder for young people to find work? I cannot. To condemn people to live on nothing will not help people find work; in fact it makes it even harder for
people to find work. It means that people cannot afford even the basic costs of living. They cannot even afford to meet the requirements to buy proper clothes in which to attend interviews, let alone be able to put a roof over their heads.

We know that if young people are kicked off income support for six months they will not be able to maintain their rent and they will not be able to maintain accommodation, making it even harder for them to find work. Bearing in mind the ill-considered policy of making people try to apply for 40 jobs a month that has been kicked out—unfortunately, they are still not sensible enough to realise just how bad the so-called 'earn or learn' policy is. When is this government going to realise that this will make it even harder for young people to find work? It is cruel and it is harsh.

Minister Morrison is apparently clueless about what to do instead of kicking young people off income support for six months. He said: 'Please, put something on the table'. He obviously is not listening to a whole range of community organisations, people who have been working to support young unemployed people into work. They have certainly been talking to my office and to me, and I am sure they have been trying to talk to the government. They have presented evidence to a couple of Senate inquiries about could be done. But the government is apparently not listening.

The Brotherhood of St Laurence, for example, have done extensive work with young people, helping them into work. I know they have documented this for government and for all of us, so that we can see the evidence. Some of the key things is establishing contact between young people and employers; mentoring them in the workplace; providing individualised supports that actually meet the specific young person's needs, not just a one-size-fits-all approach; case management with individualised support; not training for training's sake, but providing appropriate training that actually supports people into work. We need to make sure that young people have actually got housing, that they are able to access the basics. These are really important steps when you are helping people into work. In other words, kicking them off income support is one of the worst things you can do, because they need to be able to access the basics. We need to make sure that people are able to stay in school and that they are supported to stay in school. They need support to transition from school into further training or into things like apprenticeships and the workplace.

We need to deal with the issues around inequality because that is one of the things that the Senate income inequality committee inquiry found; we need to be addressing inequality because inequality also adds to people's inability to gain access to work.

Minister Morrison, there are plenty of ideas around if you only open your eyes and look at them. I could not believe it when I heard him say: 'If you have an alternative, come to us and put it to us and we might think about kicking young people off income support for six months'. Of course the department is still working on this. We heard that at estimates. And, yes, they might be working on some alternatives, but let's stop them wasting their time working on a cruel, harsh, mean policy. It is another one of your massive great big barnacles that needs to be cleaned off and dropped. It is cruel, it is inappropriate and it will not work. Drop it. Kill it.

Question agreed to.
NOTICES

Presentation

Senator O'Sullivan to move:
That the Senate—
(a) recognises and applauds the Federal Government's move to introduce better country of origin labelling rules to give Australians a clearer understanding of where their food originates; and
(b) further recognises that the Minister for Agriculture (Mr Joyce) and the Minister for Industry and Science (Mr Macfarlane) have been tasked with developing a new Country of Origin Labelling framework that will improve clarity for consumers.

Senator Waters to move:
That the Senate—
(a) notes that:
   (i) the Victorian National Party announced in February 2015 that they 'support landowners having the right to say no to coal seam gas extraction activity on their land',
   (ii) the National, Liberal and Labor parties voted down the Greens' Landholders' Right to Refuse (Gas and Coal) Bill 2013 in March 2014, a bill which would have given landholders the right to say no to coal seam gas extraction activity on their land, and
   (iii) the Greens re-introduced the Landholders' Right to Refuse (Gas and Coal) Bill on 4 March 2015; and
(b) agrees that landowners anywhere in Australia should have the right to say no to coal seam gas extraction activity on their land.

Senator Rhiannon to move:
That the following bill be introduced: A Bill for an Act to promote gender equality in the provision of international aid by the Commonwealth, and for related purposes. International Aid (Promoting Gender Equality) Bill 2015.

Senator Rhiannon to move:
That the Senate notes:
(a) the Australian Broadcasting Corporation's Four Corners program, 'Making a Killing' aired on 16 February 2015, exposed the abhorrent cruelty in parts of the greyhound industry and the horrific use of terrified live animals as live bait to 'blood' greyhounds in training;
(b) the extensive work of Animals Australia, Animal Liberation Queensland, and many others on this program;
(c) the entire Board and the CEO of Greyhound Racing New South Wales have been stood down;
(d) the Tasmanian Parliament will shortly vote on a joint house parliamentary inquiry into Tasmania's greyhound industry;
(e) that if the provisions of the Criminal Code Amendment (Animal Protection) Bill 2015 were enacted the program 'Making a Killing' could not have been made; and
(f) that self-regulation of the industry is clearly not working.

Senators Day, Leyonhjelm, Muir, Lazarus and Wang to move:
That the Senate welcomes the diversity of voices represented by minor parties and independents in the Senate.
**Senator Siewert** to move:

That the Senate calls on the Minister for Social Services (Mr Morrison) to give some certainty to young people and their families, and the Department of Social Services, by announcing that the Government's earn or learn measure that would see young people denied social security payments for 6 months of the year is dead, buried and cremated.

**Senator Rice** to move:

That the Senate—

(a) notes:

(i) the tragic death of a cyclist in Melbourne on Friday, 27 February 2015 involving a 'car dooring' incident,

(ii) the work of Australian cycling advocates in hosting the Australian Bicycle Summit at Parliament House, in the week beginning 1 March 2015, calling for infrastructure, safety and health measures that will increase the number of Australians cycling,

(iii) the importance of cycling as a healthy, clean and efficient mode of transport for Australians of all ages, and

(iv) the National Cycling Strategy endorsed by ministers in 2010, which aims to aims to double the rate of participation in cycling between 2011 and 2016; and

(b) calls on the Government to follow the lead of the United Kingdom Government which recently adopted a national walking and cycling investment strategy, including specific time-bound objectives and funding allocated to achieve those objectives.

**MOTIONS**

**Forestry Tasmania**

*Senator O'SULLIVAN* (Queensland—Nationals Whip in the Senate) (15:35): I move:

That the Senate—

(a) recognises and commends Forestry Tasmania's pre-season fuel reduction burn strategy across 3 500 hectares of forestry assets, such as plantations, as well as community assets in high risk areas of the state's north; and

(b) recognises that Forestry Tasmania:

(i) staff are trained to be able to support the Tasmania Fire Service when needed while normally being employed in forestry roles, and that this approach expands the state's firefighting capability in a cost effective way, and

(ii) is part of the Inter-Agency Fire Management protocol, along with the Tasmania Fire Service and the Parks and Wildlife Service Tasmania, a protocol unique among Australian fire management agencies providing for streamlined communications and a high degree of cooperation between the three organisations.

Question agreed to.

**Asylum Seekers**

*Senator LAZARUS* (Queensland—Leader of the Palmer United Party in the Senate) (15:35): I, and also on behalf of Senators Wang and Hanson-Young, move:

That the Senate—

(a) recognises that Australia has an obligation to protect the health, safety and welfare of people placed in detention by the Federal Government regardless of the location of the detention centres;
(b) notes the jurisdictional issues involving detention centres, especially those located offshore, lead to allegations of abuse in these centres being referred to local police in relevant states or territories or in the countries in which the detention centres are located; and
(c) calls on the Federal Government to urgently ensure that all allegations of abuse involving children in detention are referred to the Australian Federal Police and investigated on an individual basis.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:36): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: Thank you. This government is committed to removing children from detention. After six chaotic years of the previous government, in 2013, when the coalition took office, there were over 1,000 children in immigration detention; today there are less than 120.

All allegations of abuse involving children in onshore facilities are referred to either the AFP or state or territory police. All allegations of abuse involving children in Nauru are referred to the Nauruan Police Force. The Nauruan Police Force is supported by an AFP senior adviser based in Nauru. Where incidents of abuse involving children in detention have been brought to the attention of the minister or the department, appropriate investigations have been launched, such as that led by Philip Moss.

The government acknowledges the efforts of the Palmer United Party in removing children from detention through their support of the government's legacy caseload legislation last year. However, there are significant jurisdictional issues that can often impede or prevent the AFP investigating allegations which have occurred in a sovereign nation. The government is not able to support this motion.

Question agreed to.

BILLS

Landholders' Right to Refuse (Gas and Coal) Bill 2015

First Reading

Senator WATERS (Queensland) (15:37): I move:

That the following bill be introduced: A Bill for an Act to provide Australian landholders the right to refuse the undertaking of gas and coal mining activities on their land without prior written authorisation, to ban hydraulic fracturing, and for related purposes.

Question agreed to.

Senator WATERS: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator WATERS (Queensland) (15:38): I move:

That this bill be now read a second time.
Senator WATERS: I seek leave to table an explanatory memorandum relating to the bill and to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

LANDHOLDERS’ RIGHT TO REFUSE (GAS AND COAL) BILL 2015

The Landholders’ Right to Refuse (Gas and Coal) Bill 2015 will provide landholders with the right to refuse gas and coal mining activities on their land. It will also ban the practice of fracking (hydraulic fracturing) for coal seam gas, shale gas and tight gas.

Over the last decade we have witnessed a huge community campaign of resistance against coal, coal seam gas and shale gas which has united city and country, farmers, environmentalists, scientists and Indigenous Australians. We note in particular the work of the Lock the Gate Alliance and the many other individuals and groups who have resisted the destruction of our land, water and climate in the public interest. I wish to place on record the Greens’ support and admiration for this grassroots movement. On behalf of the Greens I have been privileged to play a role in that community campaign, and I look forward to continuing to do so. Very few predicted its success, but the campaign has upended the old certainties to challenge the fossil fuel industry and shown that organised people can defeat organised money. It is in their honour that I introduce this bill.

The intent of this bill is to allow farmers, graziers, residents, local councils and native title holders to say ‘no’ to gas and coal mining on their land. Right now, the balance between multinational mining companies and landholders is hopelessly skewed towards big coal and gas. This bill’s other purpose is to ban fracking, which poses an extraordinary risk to our land, water, climate and healthy rural communities.

There is rightly considerable concern within our community about the impacts coal and gas mining activities are likely to have on Australia’s food security. When Australia has so little good quality agricultural land, we must protect it from all other inconsistent land uses. Queensland farmers in the Darling Downs, for example, rely on the aquifers of the Great Artesian Basin for their water source. Without detailed understanding of the connections between underground aquifers in the Great Artesian Basin, coal seam gas activities risk a drop in the groundwater table from dewatering of coal seams to allow gas extraction, or contamination of aquifers with hydraulic fracturing fluid or naturally occurring BTEX carcinogens mobilised by fracking. Farmers in the Liverpool Plains and up in the Gallilee Basin equally have their livelihoods, and their ability to continue contributing to Australia’s long-term food security, threatened by the rapid expansion of water-intensive coal mining in their regions. And yet across Australia landholders have little to no rights under state laws to say no when these destructive industries seek to exploit coal and gas on their land. This is simply not right.

The surface and amenity impacts of coal and gas mining can have extensive impacts on farming operations, and pose significant risks to their surface and groundwater resources. Land farmed by families for generations is at risk of being lost by the myopic coal tunnel vision of current governments at both state and federal levels if the inadequate current regulation of these industries is not strengthened.

Native title holders too are unfairly excluded from decisions about the long-term future of their country. It makes a mockery of our commitment to self-determination for Indigenous communities that decisions about the most destructive and irreversible activities on their land are taken out of the hands of traditional owners.

Landholders must be given the legal right to decide that they would prefer to be able to keep farming or living on their land, and for their children and grandchildren to have that option, rather than be forced to negotiate merely the price of entry with big coal and gas companies. Without the right to say no, this
David and Goliath situation forced upon families and communities across Australia is even more weighted in favor of big coal and gas.

This bill facilitates the right of landholders to decide whether or not they want coal and gas mining activities to take place on their land. It does this by requiring gas and coal corporations to secure the written authorisation from relevant landholders before they can enter their land. That written authorisation must contain an independent assessment of the current and future risks associated with the proposed mining activities on, or affecting, the land and any associated ground water systems. The landholders must also be informed that they should seek independent advice and that they may refuse to give written authorisation if they choose to.

If the corporation unlawfully enters the land, they commit an offence for which a significant penalty accrues daily. Landholders can also seek an injunction from the Federal Court to restrain the entry where relevant authorisations are not in place, and the corporation must pay the costs of that application irrespective of the outcome.

The bill applies to all persons with an ownership interest in the land, which is broadly defined to include all persons with a legal or equitable interest in or right to occupy the land. This would include native title holders or those with native title rights and interests. It would also include local councils who own land such as road reserves. A corporation must obtain prior written authorisation from all persons with an ownership interest in the land before they may commence coal seam gas activities.

Importantly, this bill does not alter the ownership of the resources, which remain vested in the states. If the federal or state government decide that those resources are so needed, they may seek to compulsorily acquire the land, paying compensation on just terms or in accordance with state acquisition of land statutes. Those existing laws are a sufficient safeguard against a landholder 'unreasonably' refusing access authorisation, so this bill does not seek to address that issue.

The bill will only apply to gas and coal activities which begin after the bill's commencement.

Given the enormous threat climate change poses to all that Australia holds dear—our land and water, our environment, health, livelihoods and food security—the Greens believe it's high time that the fossil fuel age be rapidly brought to a close. Unlike the old parties the Greens do not support ongoing encouragement of these destructive industries across our landscape. The case against the expansion of these climate destroying industries is only compounded by the localised impacts these industries have on our water resources, our communities, and fragile marine ecosystems impacted by ever increasing pressures from industrial ports. The Great Barrier Reef is at risk of being listed as World Heritage In Danger due to the rapid expansion of coal and gas ports along its coastline being facilitated by dredging of fragile inner reef regions. The Greens are working to reign in the many impacts of these destructive industries.

This bill seeks to address one of these critical aspects by giving Australian landholders the right to say no to coal and gas mining on their land.

This bill also bans the practice of fracking for unconventional gas, including coal seam gas, shale gas and tight gas. This ban is warranted due to both the unprecedented level of risk and scientific uncertainty associated with fracking and due to the groundswell of community concern in the face of those risks.

Fracking presents an unprecedented risk to surface water, ground water, clean air and a safe climate. The evidence from across Australia and around the world has been mounting over recent years.

Threats to water resources from fracking are not adequately understood, but the evidence is mounting that they are severe and have potentially devastating consequences. Huge coal seam gas projects in Queensland were approved with minimal baseline data and hopelessly inadequate groundwater monitoring. Both of the major parties have approved huge fracking operations without adequate scientific certainty about their impacts.
Even though federal approvals for the Santos and British Gas Group gasfields were given in 2010, and further approvals were given to Arrow Energy in 2013, the scientific work to assess the risks of those projects has not been done. The CSIRO, the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) and the Environment Department’s Office of Water Science have not even commenced scientific work on the impacts of fracking chemicals on aquifers.

The current round of studies will not establish with any certainty the risks associated with mobilising naturally occurring BTEX carcinogens. Officials from the agencies concerned freely admit that the work on those risks is ‘preliminary’.

Risks associated with aquifer contamination, fracture growth, leaks from well casings and earthquakes caused by fracking are all poorly understood but potentially very grave.

Alarmingly, the human health impacts of fracking are also very poorly understood although mounting evidence shows that they can be severe. Gas leaks caused by faulty equipment and fissures in the earth, as well as contaminated drinking water are unacceptable risks for our rural communities to endure. In the gasfields of Queensland, at Tara and Chinchilla, residents have reported headaches, nose bleeds, skin rashes and nausea amongst children. In March 2013, a report into those complaints recommended that an air quality monitoring program be established, but two years later those residents are still waiting.

Studies in the USA have shown that the fugitive emissions of greenhouse gas from fracked shale gas are vastly higher than for conventional gas. The claims of the gas industry that CSG, shale and tight gas are low-emissions alternatives to coal simply are not supported by robust Australian studies. The CSIRO’s preliminary study of fugitive emissions from CSG found that further work was required. No investigation is planned to investigate fugitive emissions from fracked shale and tight gas, even though exploration permits have already been granted.

The precautionary principle, to which Australia has committed and which is written into our national environment laws, demands that where an action presents a risk of harm to the public or the environment, the absence of scientific consensus is not an excuse for regulators to do nothing. This bill implements the precautionary principle to ban fracking.

Across the world, the movement against fracking is building. Bans or moratoriums are in place or imminent in Canada in Quebec, Nova Scotia and Newfoundland. In Europe, they are in place or imminent in Germany, Wales, Scotland, France, Bulgaria, and the Netherlands, and in regions and cities in Switzerland and Spain.

In the USA, New York State and Vermont have banned fracking. Cities and counties in California, Colorado, Texas, Hawaii, Delaware and Washington DC have also imposed bans or moratoriums. Citizens in Poland have recently seen off an attempt by Chevron to open up their heavily agricultural country to intensive fracking after a 400-day campaign.

In Australia, moratoriums on fracking exist in Tasmania and Victoria. Local communities—too many to name individually—from Queensland to Tasmania are already leading the way by declaring themselves ‘gasfield-free’. This bill would align Australia with the growing international movement against this environmentally and socially reckless technology.

This bill would implement a ban on fracking by creating a civil penalty for any constitutional corporation with harsh penalties for non-compliance. It would allow the Minister for the Environment or other interested persons to seek injunctions to stop any proposed fracking operations.

I commend this bill to the Senate.

Senator WATERS: I seek leave to continued my remarks later.

Leave granted, debate adjourned.
Defence Legislation Amendment (Parliamentary Approval of Overseas Service) Bill 2015

First Reading

Senator LUDLAM (Western Australia) (15:39): I move:

That the following bill be introduced: A Bill for an Act to amend the law relating to defence to provide for parliamentary approval of overseas service by members of the Defence Force, and for related purposes.

Question agreed to.

Senator LUDLAM: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator LUDLAM (Western Australia) (15:40): I think this is the 30th year that this bill has been on the Notice Paper in one form or another. I move:

That this bill be now read a second time.

Senator LUDLAM: I seek leave to table an explanatory memorandum relating to the bill and to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

DEFENCE LEGISLATION AMENDMENT (PARLIAMENTARY APPROVAL OF OVERSEAS SERVICE) BILL 2015

Australia is one of the few remaining democracies that can legally deploy its defence forces into conflict zones without recourse to the Parliament: the decision is reserved to the executive alone. As kindred democracies around the world have enacted reforms to vest the so-called 'War Power' in elected Parliaments, Australia has remained anchored to a pre-democratic tradition founded in hereditary monarchies and feudal states.

If this anachronism had served Australia well, it might be possible to mount an argument that "if it isn't broken, it doesn't need fixing."

If the horror unfolding in Iraq does not comprehensively put this view to rest, it is difficult to imagine what would. On the basis of fabricated and wilfully misinterpreted intelligence, Prime Minister John Howard followed the United States and the United Kingdom into an illegal and open-ended war in Iraq. Our Parliament, and by extension the voting public of Australia, were cut out of the decision, despite the fact that hundreds of millions of people around the world organised and campaigned against the decision to go to war.

There are few credible analysts left anywhere who do not regard the decision by hardliners within the Bush Administration to invade Iraq as one of the most grievous strategic disasters in modern history. The vast majority of Australians were right, and the executive authorities in the US, the UK and Australia, were wrong. No inquiry into the decision to go to war has ever been held in Australia, only a handful of piecemeal attempts to pin the blame on intelligence services and shift focus away from the actions of the Howard Government.

At the time, Iraq was not threatening war. There was no connection or allegiance between the secular Baathist regime that ruled Iraq and the fundamentalist Al Qaeda networks responsible for the 9/11
attacks. There were no weapons of mass destruction in Iraq, and hadn't been since 1991. Intelligence agencies within the US, the UK and Australia understood these facts, but inflexible groupthink prevailed within the White House, Downing Street and the Prime Minister's office here in Australia. It was rumoured at the time that Australian Special Forces units were among the very first on the ground inside Iraq, even before President Bush went on live television to announce that Operation Iraqi Freedom had commenced.

Australia is entirely complicit in the violent, decade-long occupation that shattered Iraq's social and economic structures, and ignited long-dormant sectarian tensions that now threaten to plunge the crippled country into full-blown civil war.

At the time of speaking, Sunni fundamentalists considered too extreme to remain part of Al Qaeda have established a new Caliphate in territory carved out of Syria and Iraq. The brittle institutions of Iraqi governance, bombed into existence by the United States, now threaten to collapse entirely.

If there is a strategic policy failure more complete than the catastrophic invasion of Iraq, it is difficult to recall it. This dismal outcome was predicted at the time by many of those who opposed the war, but the executive's lock on the process means that the normal Parliamentary processes of critique and accountability were bypassed. Somewhere between 100,000 and one million Iraqis have paid for this obscene oversight with their lives.

Concurrently with the Iraq deployment, Australia has also fought a long, costly, and ultimately futile war in Afghanistan. The heaviest cost was carried by the Afghan people: tens of thousands of civilians killed, maimed and traumatised as the US Government's saturation bombing campaign transitioned into a long, untenable occupation. Forty one Australian soldiers have lost their lives in Afghanistan. Out of respect to them and their families, Parliament pauses to acknowledge their sacrifice when news breaks of another death. No such respects are paid to those Afghans who also paid the ultimate price; no-one even appears to be keeping count.

The erratic and secretive nature of the Abbott Government's military deployment decisions should seal this argument once and for all: no leader, no matter how perfect, can be trusted alone to make decisions such as this on behalf of the whole nation.

It is no longer tenable that the decision to deploy into conflict zones should be left to the executive alone. Our current Defence Act does not allow for any level of transparent decision making, scrutiny and debate, but this is an artefact of legislation, not the natural order of things.

The Defence Legislation Amendment (Parliamentary Approval of Overseas Service) Bill 2015 inserts a new section 50C into the Defence Act to require that decisions to deploy members of the Australian Defence Force beyond the territorial limits be made not by the executive alone but by Parliament as a whole. This means debate in both houses, followed by a vote.

This Bill was initiated by the Australian Democrats and supported by the Australian Greens, who took carriage of the Bill after 2007. It is the latest iteration of a Bill introduced into the Senate in 1985. This year it will mark its 30th year of languishing in plain sight while Liberal and Labor Prime Ministers alike reserve this power to themselves, plunging Australia into a tragic series of overseas expeditionary wars that have had little or nothing to do with the defence of Australia or collective security.

In August 2009, I referred the Bill to the Senate Standing Committee on Foreign Affairs, Defence and Trade. The majority of the committee resolved to refuse to take evidence in a hearing. Nonetheless, the Committee made a useful critique of the Bill without underlining its essential purpose, in its report of February 2010.

My dissenting report into the Bill provided the transcript of an informal hearing that we held, after the majority committee's short-sighted decision not to take evidence directly from witnesses.
This Bill would bring Australia into conformity with principles and practices utilised in other democracies including Denmark, Finland, Germany, Ireland, Slovakia, South Korea, Spain, Sweden, Switzerland and Turkey, where troop deployment is set down in constitutional or legislative provisions. Some form of parliamentary approval or consultation is also routinely undertaken in Austria, the Czech Republic, Italy, Japan, Luxembourg, the Netherlands and Norway. Our ally the United States has a similar provision that subjects the decision to go to war to a broader forum—section 8 of Article I of the US Constitution quite clearly says, "Congress shall have power to declare war". In the wake of the disaster in Iraq, the Westminster Parliament now holds the de-facto war power, a new convention that prevented a rushed deployment into Syria in 2014.

Arguments against vesting the power over troop deployment to Parliament include that it would be impractical, restrictive and inefficient. Such arguments ignore the fact that parliaments can and do make complex and nuanced decisions, rapidly when necessary. As we have seen, decisions about war and peace made in undue haste that do not enjoy the mandate of the population – expressed through the Parliament, if nowhere else – have no legitimacy.

There are appropriate exemptions made in this Bill to avoid interfering with the non-warlike overseas service with which Australian troops are engaged – referring in particular to new subsection 50C(11). There are also appropriate exemptions in the Bill to provide for the practicalities of situations where Parliament cannot immediately meet – referring to subsections 50(3) and (7), which provide for the Governor-General to be able to make a proclamation regarding the declaration of war, provided that Parliament is then recalled within a period of two days.

It is time that Australia joined its closest allies and like-minded democratic states by involving the Parliament in the decision to deploy the ADF. The entwined tragedies of our recent military misadventures, and the threat that history may soon repeat, make passage of this Bill more urgent than ever.

Once again, I commend the Bill to the Senate.

Senator LUDLAM: I seek leave to continued my remarks later.

Leave granted, debate adjourned.

BUSINESS
Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:40): I ask that government business notice of motion No. 1, relating to the consideration of a disallowance motion, be taken as formal.

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

Senator Leyonhjelm: I object.

The PRESIDENT: There is an objection.

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

That so much of the standing orders be suspended as would prevent a minister moving a motion to provide for the consideration of a matter, namely a motion to give precedence to government business notice of motion no. 1.

I must confess, I do very much like the cut of the jib of Senator Leyonhjelm. I think he is, on this occasion, being a little bit cheeky. I appreciate his objective here, which is to use any means fair or foul to see that the disallowance of this proposition occurs.

CHAMBER
The ordinary attitude, I guess, of colleagues in this place to the disallowance of matters is that the chamber should actually take a conscious decision one way or the other in relation to a disallowance matter. I know that Senator Dastyari has on occasion, I think with a matter related to FoFA, sought to run down the clock or seek to have debate and final determination by this place forestalled by a hard marker being hit.

I think that it is good practice in this place that we ensure that disallowance matters are not, in effect, determined by default but are determined by a conscious decision. I think today is the final day for this particular matter to be determined. I must acknowledge that Senator Leyonhjelm has become very quickly acquainted with the processes and procedures of this place. One cannot be too critical of him for seeking to avail himself of any and every opportunity that is legitimately available to seek to achieve his objective. But, as the Manager of Government Business in the Senate and as someone who thinks that with disallowance motions we should actually take a conscious decision to give the thumbs up or thumbs down to a disallowance matter, it is appropriate for standing orders to be suspended so that I may move a motion that would see us deal with this disallowance matter in a conscious and deliberate way. I probably do not need to detain the chamber much longer but I would be expecting at least another contribution on this suspension debate.

**Senator LEYONHJELM** (New South Wales) (15:44): My means are invariably fair and have never known to be foul whatsoever. Let me reassure Senator Fifield that my intention is not to win the debate on the disallowance by default. I am happy to allow debate to occur and for a vote to be taken on it today, but I do note that his motion regarding the routine of business allows only 15 minutes for debate, which I regard as insufficient. But it is not my intention to win on a foul.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (15:45): I indicate that—it may shock some people—for once, we will be supporting the government on the suspension. For those only listening, the minister almost fainted.

This is something that I have been involved with for an exceedingly long period of time. It is important that we deal with this today. The 15 minutes is only if we do not get to it by 6.15 pm, according to the motion. While I do not think that 15 minutes is normally reasonable, it will at least allow people to put their opinion on the record and allow us to deal with this; otherwise it will fall off and the disallowance will be in place by default. We do not think that is appropriate. I will certainly have a contribution to make when this comes on for debate, but we do think, as a safety precaution, this motion should proceed.

Question agreed to.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:46): I move:

That government business notice of motion No. 1 may be moved immediately and determined without amendment or debate.

Question agreed to.

**Senator FIFIELD**: I move:

That—

(a) so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect;
(b) on Wednesday, 4 March 2015, the business of the Senate notice of motion proposing the disallowance of the Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014, standing in the names of Senators Leyonhjelm and Day, for that day be called on no later than 6.15 pm; and

(c) if consideration of the motion listed in paragraph (b) is not concluded at 6.30 pm, the questions on the unresolved motion shall then be put.

Question agreed to.

COMMITTEES

Finance and Public Administration References Committee

Reference

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:47): At the request of Senator Lines, I move:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 10 August 2015:

Aboriginal and Torres Strait Islander experience of law enforcement and justice services, with particular reference to:
(a) the extent to which Aboriginal and Torres Strait Islander Australians have access to legal assistance services;
(b) the adequacy of resources provided to Aboriginal legal assistance services by state, territory and Commonwealth governments;
(c) the benefits provided to Aboriginal and Torres Strait Islander communities by Family Violence Prevention Legal Services;
(d) the consequences of mandatory sentencing regimes on Aboriginal and Torres Strait Islander incarceration rates;
(e) the reasons for the high incarceration rates for Aboriginal and Torres Strait Islander men, women and juveniles;
(f) the adequacy of statistical and other information currently collected and made available by state, territory and Commonwealth governments regarding issues in Aboriginal and Torres Strait Islander justice;
(g) the cost, availability and effectiveness of alternatives to imprisonment for Aboriginal and Torres Strait Islander Australians, including prevention, early intervention, diversionary and rehabilitation measures;
(h) the benefits of, and challenges to, implementing a system of 'justice targets'; and
(i) any other relevant matters.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:47): I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Aboriginal and Torres Strait Islander Peoples Recognition (Sunset Extension) Bill 2015, allowing it to be considered during this period of sittings.
MOTIONS

Employment

Senator RHIANNON (New South Wales) (15:48): I move:

That the Senate—

(a) notes that:

(i) the average unemployment rate in regional New South Wales has risen by 2.6 per cent since the Liberal/National Government came to office in New South Wales,

(ii) unemployment in regional New South Wales is now 8.5 per cent, compared to 5.8 per cent in the greater Sydney area,

(iii) more than 10 000 jobs have been lost in the Shoalhaven and Southern Highlands area – 16 per cent of the workforce – since the Abbott Government came to office,

(iv) the positions of the Illawarra Local Employment Coordinator and Employment Project Officer were cut as a result of the Abbott Government's 2014 federal budget,

(v) Australian Paper has announced the closure of its Shoalhaven Mill, resulting in the loss of 75 jobs in the Shoalhaven community, and

(vi) the Construction, Forestry, Mining and Energy Union has estimated that the closure of the mill will lead to the loss of 150 flow on jobs from Shoalhaven and $20 million in regional household income in the local economy; and

(b) calls on the Government to:

(i) reinstate the positions of Local Employment Coordinator and Employment Project Officer as a matter of urgency, and

(ii) commit to maximising paper purchases from local renewable paper producers.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:48): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The motion seeks to lay the blame at the feet of the coalition government for a decision of the previous Labor-Greens government. The local employment coordinators ceased as scheduled on 30 June 2014. This is the end date that was scheduled by Labor. Despite the opportunities in government, they never extended the program. The Australian government's employment priorities are articulated in the employment services model commencing 1 July 2015. The new system will include incentives to encourage greater local collaboration between employment service providers, employers and other stakeholders. This will provide the framework to more efficiently match job seekers with employment opportunities. The government is very focused on creating more job opportunities for Australians.

Question agreed to.

Budget

Senator LEYONHJELM (New South Wales) (15:49): I, and also on behalf of Senators Day and Madigan, move:

That the Senate recognises that:
(a) the Commonwealth Government’s net worth is negative (that is, negative $229 billion in 2014-15, according to the Mid-Year Economic and Fiscal Outlook), indicating that the value of liabilities being left for future generations exceeds the value of assets;
(b) budget surpluses improve the Commonwealth Government’s net worth;
(c) it is prudent to achieve budget surpluses on average over the medium term; and
(d) based on the expectations for economic growth and commodity prices set out in the Mid-Year Economic and Fiscal Outlook, it would be prudent to achieve budget surpluses at least by 2019-20.

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

The Senate divided. [15:54]

(The President—Senator Parry)

Ayes .....................32
Noes .....................31
Majority ...............1

AYES

Back, CJ
Bernardi, C

Birmingham, SJ
Cash, MC

Canavan, M.J.
Edwards, S

Day, R.J.
Ferravanti-Wells, C

Fawcett, DJ
Heffernan, W

Fifield, MP
Leyonhjelm, DE

Johnston, D
Manigand, JJ

Macdonald, ID
McKenzie, B

McGrath, J
Nash, F

Muir, R
Parry, S

O’Sullivan, B
Reynolds, L

Payne, MA
Ruston, A

Ronaldson, M
Scullion, NG

Ryan, SM
Sinodinos, A

Seselja, Z
Williams, JR

NOES

Bilyk, CL
Bullock, J.W.

Cameron, DN
Carr, KJ

Collins, JMA
Dastyari, S

Di Natale, R
Gallacher, AM

Hanson-Young, SC
Ketter, CR

Lazarus, GP
Lines, S

Ludlam, S
Ludwig, JW

Marshall, GM
McEwen, A (teller)

McLucas, J
Miele, C

Moore, CM
O’Neill, DM

Peris, N
Polley, H

Rhiannon, L
Rice, J

Siewert, R
Singh, LM

Urquhart, AE
Wang, Z

Waters, LJ
Whish-Wilson, PS
Senator Cormann did not vote, to compensate for the vacancy caused by the resignation of Senator Faulkner.

Question agreed to.

Workplace Relations

Senator RICE (Victoria) (15:56): I, and also on behalf of Senator Cameron, move:

That the Senate—

(a) notes:

(i) that the Productivity Commission has indicated it would examine penalty rates and the minimum wage in its inquiry into the workplace relations framework, and

(ii) that the Minister for Employment has:

(A) expressed surprise at the Productivity Commission examining penalty rates and the minimum wage and has ruled out any changes even if the inquiry recommends them, and

(B) at estimates subsequently refused to rule out a review of penalty rates; and

(b) calls on the Government to provide certainty to workers and businesses by directing the Productivity Commission to exclude the minimum wage and penalty rates from its inquiry into the workplace relations framework.

Question agreed to.

Donations to Political Parties

Senator WHISH-WILSON (Tasmania) (15:57): I seek leave to amend general business notice of motion No. 632 standing in my name for today relating to political donations.

Leave granted.

Senator WHISH-WILSON: I move the motion as amended:

That the Senate—

(a) notes that:

(i) the Australian Southern Bluefin Tuna Fisheries Association (ASBTA) recently donated $320 000 to the federal branch of the South Australian Liberal Party, $250 000 of which was donated before the 2013 federal election,

(ii) Fairfax Media reported on 24 February 2015 that ASBTA Chief Executive, Mr Brian Jeffriess, said these donations were decided in 2010 after the then Labor Government reduced the tuna quota in 2010, and

(iii) during the 2014-15 additional estimates hearing of the Rural and Regional Affairs and Transport Legislation Committee on 23 February 2015, the Parliamentary Secretary for Agriculture (Senator
Colbeck) gave evidence that fisheries quotas used to be set politically, but are now set by an independent commission, the Australian Fisheries Management Authority, based on science; and
(b) calls on the Liberal Party to return the $320 000 donation to ASBTA as an act of good faith to demonstrate that the fisheries quota system is independent, science based and beyond the reach of political donations.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: We have seen a large one-off donation to the Liberal Party from the Australian Southern Bluefin Tuna Industry Association—

Senator Ian Macdonald interjecting—

Senator WHISH-WILSON: I have heard a donkey bray before, but never have I heard one bray as loud and as long as Senator Macdonald.

Senator Bernardi: Mr President, I rise on a point of order. As a senior Liberal, I would ask you to reflect on what Senator Whish-Wilson said. I think it is most inappropriate and he should be asked to withdraw.

The PRESIDENT: I think it is borderline, Senator Bernardi. If Senator Whish-Wilson wishes to withdraw, it is a matter for him.

Senator WHISH-WILSON: We have a one-off donation of $320,000 to the Liberal Party from the Southern Bluefin Tuna Industry Association on the one hand and, on the other, a statement on the public record that suggests it was politically motivated around the setting of a fisheries quota. Parliamentary Secretary Senator Colbeck has met with the Southern Bluefin Tuna Industry Association and said that the idea of this donation was discussed. He has also said in estimates that fisheries quotas are above politics and based on science. I am happy to take him on his word if he gives back the donation to the Southern Bluefin Tuna Industry Association.

The PRESIDENT: Order!

Senator WHISH-WILSON: Mr President, I got cut short at least 15 seconds. Honourable senators interjecting—

The PRESIDENT: Order! I will have some order across the chamber. First of all, in relation to the timing of your remarks, Senator Whish-Wilson, you did stray, I think, from your written comments. So there is no additional time. The clock was paused during the point of order.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (16:00): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: As is usual, the government does not accept the premise or the construction of the motion of Senator Whish-Wilson, but I must admit that I was, before the moving of this motion, beseeched by a Tasmanian colleague to make a few observations. But I think I have now been beseeched by all my colleagues to make this observation: we should not forget the Australia Greens remain the recipient of the largest ever single donation from an individual in Australian political history. A $1.68 million donation from Mr Graeme Wood
was negotiated by the then leader of the Australian Greens, Mr Bob Brown, who was quoted in *The Age* newspaper on 8 January 2011, saying he would be ‘forever grateful’. Mr Wood said that when the Greens win and gain the balance of power that would probably be a good return on investment.

Question negatived.

**MATTERS OF PUBLIC IMPORTANCE**

**Higher Education**

The **PRESIDENT** (16:01): I have received the following letter from Senator Moore:

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

The Abbott Government's plan for $100,000 degrees and a new student tax.

Is the proposal supported?

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

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

**Senator KIM CARR** (Victoria) (16:02): The Minister for Education, Minister Pyne, apparently will do anything to try to persuade crossbenchers to support his unfair and unnecessary university package. He appears to be so desperate that he is now apparently abandoning a pledge repeated many times since these so-called reforms were announced in the budget. Hitherto, the minister has insisted that there would be no risk of price gouging if universities were allowed to set student fees at any level they want. But now Minister Pyne has belatedly realised that overcharging is a real prospect, and he is considering including a backdoor student tax in his package, a tax that will be imposed on universities if they raise fees over a set amount, a tax that will effectively force the fees that the students have to pay to actually go even higher. There could be no clearer admission—none whatsoever—that the government now acknowledges that the minister's fee package will lead to the $100,000 degree.

The minister does not like calling his new measure a tax. He prefers euphemisms like 'levy' or 'fine'. But let's speak plain English. This extra charge would be paid into consolidated revenue. It is a tax. This is a tax that will be imposed on students' fees even before they start repaying their HECS debts. The minister has no excuse for pretending that this will not further increase the cost of degrees. He does not have to do the maths to check this out. It has already been done for him. The backdoor student tax is a suggestion that has been made by Professor Bruce Chapman, and it is described in his submission to the current Senate inquiry. The Grattan Institute's Higher Education Program Director, Mr Andrew Norton, has modelled its effects, and he says:

Using the tax rates—

and I emphasise the words 'tax rates'—

in Chapman's submission, and a fee of $30,000 for a law student, we estimate a tax—

and I emphasise the word 'tax'—
of more than $11,000 …
This is from the government's own adviser, Mr Andrew Norton. You might feel that that is too bad for the lawyers, although many of them will not end up working in their chosen profession. But the calculation is exactly the same for veterinary scientists. It is almost identical for agricultural students, for engineers, for architects and for health scientists.

Mr Norton is a former adviser to Mr Pyne. Mr Pyne should heed his warning on the consequences of adopting this tax. The minister should also follow the counsel of his ideological cousins, the UK Tory government. In 2010 the British government rejected a similar proposal because it feared a student tax would force fees higher and put more strain on a student loans scheme in England. This is what the then UK Minister for Universities, the Rt Hon. David Willetts MP, had to say:
… as soon as universities raise their fee above the threshold level, they face a rapidly rising levy which can drive their fees up even higher in order to reach a given level of income.
This is precisely what will be happening here if this tax and the uncapped fees of deregulation become law. The notion this minister is peddling that a student tax would act as a brake on fees is a great fantasy.

The tax proposal is further proof of the minister's greatest miscalculation in his plans for deregulation. He fails to understand, or perhaps somewhat stubbornly refuses to admit, the financial consequences of his plans not just for universities but also for students and particularly for the nation as a whole. Unregulated fees will fuel inflation, increasing the cost of living for all Australians, and, instead of transferring costs from taxpayers to students, higher fees will actually increase the cost burden for taxpayers.

Already, the official budget documents show the total HELP debt blowing out from $25 billion to $52 billion in 2017-18. NATSEM's analysis shows that it is very likely that the proportion of bad debt will increase from 17 per cent to 30 per cent. The cost to taxpayers will blow-out by $3 billion a year. That is a lot of bad debt that exceeds anything this minister claims to be making as a contribution to the deficit. One can only imagine how grateful his colleagues in Treasury must be at the prospect of increasing fees leading to higher debts, which of course leads to higher bad debts because people simply cannot afford to pay them.

Minister Pyne has yet to grasp the consequences of deregulating fees. The message has not been lost across this country. The minister likes to pretend that all vice-chancellors are singing from the same song sheet on deregulation. Nothing could be further from the truth. The discords in the choir are becoming more and more audible over time.

While studying the warnings of Mr Norton and the United Kingdom government about the implications of a student tax, Mr Pyne should also read carefully the submissions to the current Senate inquiry. In particular, he should have a look at the RMIT University submission, which has this to say about the income-contingent loans and fee deregulation:
There are genuine concerns that the combination of fee deregulation and income-contingent loans provides an unsustainable funding environment and one that will compound student debts beyond reasonable or manageable levels.

The University of Canberra's submission expresses the same concern:
When coupled with a likely increase in 'default' by graduate debtors, it seems to us quite possible that the proposed funding scheme will become more expensive to the taxpayer than the current one.
The submission concludes with a stark warning:
Doing nothing would be better than plunging into the unknowable.

Mr Pyne should listen to the expert advice from the sector and from his own ideological allies about the dangers in the present course of action he is following. He should also listen to the Australian people, who have made it abundantly clear that they do not want an Americanised higher education system with its $100,000 degrees, nor will they want a student tax that drives the cost of degrees even higher.

It is time for Mr Pyne to prove that he can learn. And instead of making his package even worse by the inclusion of a student tax, a great big new tax—that is exactly what it is—he should withdraw the bill and go back to the drawing board. The minister has simply failed to do what he should have done at the beginning—that is, to talk to people on a broad basis. He should have gone through a process of having a green paper and a white paper to actually have a process where people can examine the details of his proposal. For the government to claim that they know nothing about this proposal after having hawked it around in secret across the corridors of this chamber and having, of course, seen Professor Chapman’s own submission where he said:

We spent several days with technical staff in the department developing our suggestion …

Professor Chapman also tells us that he has put in a submission to the Senate inquiry with the permission of the department and the minister himself. For the minister now to claim that he knows nothing about it, having thrown his proposal around and having tried to persuade senators that there is something different about this—

Senator Birmingham interjecting—

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Order! Order on my right!

Senator Carr, could you resume your seat. Senator Birmingham, each senator is entitled to be heard in silence.

Senator KIM CARR: It is a preposterous suggestion that this minister, through the goodness of his heart and because he is a decent man, provides access to the department to the top officials for several days, so that anybody can come along and develop a nice new plan.

The facts are clear: this is the last desperate throw of the dice by a desperate government, which is determined to try to impose a $100,000 degree regime on this country, which is determined to destroy the public education system of this country and which is oblivious to the social, economic and, might I even say, political consequences for the welfare of his own government. What we do know is that Professor Chapman has rung the bell on this. Unethical price rises will follow from the government’s proposal, despite all the claims to the contrary by this government to date, and now the government is actually acknowledging that.

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (16:13): Let me attempt to bring not only a little calm to the debate compared to the contribution we just heard but also attempt to bring a little sanity and truthfulness to the debate compared with the contribution we have just heard. Ever since the budget last year when Minister Pyne revealed the government’s plan to put the higher education system of Australia, our universities, on a sustainable footing with a sustainable funding model that would support them well into the future, all we have heard from the Labor Party is a constant barrage of lies, a constant barrage of scare tactics and a constant stream of fear mongering,
and we heard more of that today from Senator Carr. It is necessary to repeat again and again in this debate that first and foremost—

Senator Bullock: Mr Acting Deputy President Gallacher, I rise on a point of order. The President made a very firm statement about implying that members of this House were lying. And that is what we just had from Senator Birmingham. If we are going to enforce the standards which the President outlined, I think we might start now.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Bullock. Senator Birmingham, the President did make a statement about lies and lying attributed to other members in the other place and here. You may wish to reflect on the use of that particular descriptive word.

Senator BIRMINGHAM: If it pleases the chair, I will withdraw the word.

The ACTING DEPUTY PRESIDENT: Thank you.

Senator BIRMINGHAM: It in no way withdraws the reality that Senator Carr and those opposite have, for a continuous period of time, been running a scare campaign, a campaign involving fearmongering, a campaign involving mistruths and misinformation spread right throughout the Australian community.

Let us just be very clear about this. First and foremost, the reforms proposed by this government maintain at their heart very significant reforms adopted by a previous Labor government, the Keating government, and that is that there are no up-front fees for Australian students. Let us be very clear about that. There is nothing that Australian students or their families need fear. The fact that stands alongside that is that, ever since the HECS system was introduced, under the Hawke Labor government, we have seen university enrolments continue to rise. As the scale of fees has increased at numerous junctures in the life of HECS, university enrolments have continued to grow. Fees under HECS have not deterred student enrolments one iota. They have kept growing at every step, including each time those fees have increased.

Let us also be very clear that we are also trying to preserve another fundamental achievement of the Labor Party, and that is the uncapping of places for undergraduate students, the ability of universities to accept all those who are capable—and who qualify and who they choose to admit—to undergraduate degrees. We want to preserve that reform that Julia Gillard is so proud of. We want to preserve that reform, but to preserve it you have to make the funding system sustainable. You have to find a way to make sure our universities can continue to be the best in the world.

Another fantasy we just heard from Senator Carr is this notion of a tax. Professor Chapman, like anybody else, is free to put a submission to a Senate inquiry. We welcome everybody having a contribution in this debate, particularly everybody who is willing to have a thoughtful, considered and sensible contribution. We only wish that Senator Carr, Mr Shorten and the Labor Party might consider having a thoughtful, considered and sensible contribution and might actually present an alternative policy scenario to address the funding crisis that universities face over the long term.

Professor Chapman has put his forward. The Labor Party, of course, are desperate to run another scare campaign around that. We keep hearing them talk about this as a tax measure. The truth is that Professor Chapman's model—and it is for him to explain when he appears
before the Senate inquiry—proposes that, as universities choose to increase fees on the one hand, the level of Commonwealth subsidy, Commonwealth payment, to the university against that place may decrease on the other hand. There would still be a Commonwealth subsidy—a significant Commonwealth subsidy in many instances. There would still be the right of a student to put all of those fees onto their HECS debt and only ever have to repay them if their income reaches the HECS threshold. So there would still be enormous Commonwealth support for that place at university. There would be no tax. That is not a tax under any definition of the word. We often in this place have debates about whether somebody is calling something a levy or a fee or a duty or a charge to try to get away from the use of the word 'tax'.

Senator Kim Carr: Or a fine.

Senator BIRMINGHAM: This is not even a fine, Senator Carr. I will happily take that interjection. This is an incentive proposed by Professor Chapman for universities to keep fees low—a disincentive to increase their fees, in the sense that, if they do, the Commonwealth contribution will reduce to some extent. It is an alternative idea, and I look forward to the Senate committee examining it. And I look forward to at least the crossbenchers—who have shown a willingness to engage sensibly in this, to recognise that there is a problem—examining it as well.

The truth is there are problems with university funding in the future. There are serious problems. As Universities Australia have made clear themselves—and I will quote their CEO—failure of the package will condemn the university system to 'inevitable decline'. Inevitable decline—that is what the Labor Party seems to be happy to sign up to for Australia's universities. The coalition will not accept that. The coalition wants to achieve a model that allows our universities to retain world-class status, to provide great research and outstanding learning and to ensure our economy is equipped with graduates for the future who can help us to maintain the standard of living that Australians have come to rightly expect.

Senator Carr in his contribution actually did have a grain of truth. He highlighted some of the growth in the HELP system that will occur without changes. We are committed to the HELP system, but what Senator Carr failed to do in his contribution was outline any alternative that either deals with what he says is a problem around the growth in the HELP system or that might address the issues that universities face in terms of their funding sustainability. What we know from what he has mused about publicly, though, is that his way to cap growth in the HELP system is to cap the number of people who access it, to roll back Ms Gillard's reforms, the Labor Party reforms, and to go back to a cap on student numbers that would deprive thousands and thousands of Australians in future of the opportunity to access a university education.

Senator McKenzie: Not the rich kids!

Senator BIRMINGHAM: Senator McKenzie is right. Go down that path, the type of path that Senator Carr is proposing, and it is most likely that it will be the disadvantaged who miss out. In particular, it will be the disadvantaged who miss out, because, built into our reform package, is greater opportunity for people who may not automatically make it into university—in terms of pathways programs and the opportunity to undertake diplomas. If this bill does not pass, around 80,000 students will miss out on Commonwealth support each year by 2018—35,000 of them at the bachelor level through the proposal to expand the level of
Commonwealth support in terms of the range of institutions, and 48,000 who would be studying diplomas, advanced diplomas and associate degrees, valuable pathway courses for people to access undergraduate places in future. These are the things we stand to lose because those opposite will not engage in a constructive conversation or have already latched themselves onto and wedded themselves to Senator Carr's proposal to roll back to the days where government knows best, sets the caps on university places and tells universities how many people they can accept into what course. That is not acceptable to us.

We believe these have been good reforms, but they need to be underpinned by sound finances in the future. We believe that the model we have presented gives that opportunity to ensure that nobody will face an up-front fee and nobody will face a tax, contrary to what you will hear from those opposite. Every Australian will still have the opportunity, if they qualify, to be accepted to a university place under which they need not pay a cent up-front. They will continue to receive significant Commonwealth support, but the universities will also be able to access funding because of a flexible fee structure and because people, when they earn more through their lives, will be paying a contribution back to the university system. That is the important thing with the fairness here. We are asking those who benefit from the university system to help fund it in future, not those who miss out.

Senator RHIANNON (New South Wales) (16:23): The Liberal-National government are trying anything to win the numbers to get this higher education bill passed. What we saw announced today by Minister Pyne is not a compromise; it is the Abbott government's great big new tax. But it is not a tax on those who should pay, the big end of town; it is a tax on ordinary people. It is a tax on, effectively, prospective students, students and their families. They are the ones who will cop it if these measures go through. We know that because of the way it has been set out. It would be based on a sliding scale, between 20 and 80 per cent. The details of this tax have been set out. No matter what language the government may come up with, the proof is out there. That is what we are dealing with: something that is completely unfair and adds to the burden on students and their families. It is certainly not a compromise.

Why has this come about? The minister is spooked—that is why we have this debate on today. He was spooked because so many people across this country were starting to realise that the soft sell that came out of the budget simply was not true and that the government, from Minister Pyne across to the Prime Minister and all their spokespeople in this place, were not being honest with the public about the cost burden that was being pushed on students.

Remember that the original bill was slashing $5 billion out of higher education. It really was a budget savings measure, but you cannot take that much money out of higher education without putting a heavy cost burden on students. Yes, the current bill does not take $5 billion—it is about $680 million—but it still is about putting the cost burden onto students and their families. This is where the minister got spooked, because the understanding has been developing since that budget came down that $100,000 fees were something that people could more than likely face. If they wanted to do something like vet science, it could be $200,000. They are real figures. People were starting to realise that. The government was realising it was losing its support.

That is why what Minister Pyne has done has really brought back that whiff of desperation that is wafting around the government. This time, it is Minister Pyne who has delivered the latest problem that this government has, because he has concocted this very dodgy plan. It is a
dodgy plan because the government is trying to boost support in this place for this bill. This is what it is all about. It is another con job to try to convince, in the first instance, the crossbenchers: 'Wow! We should actually be supporting this, because we have a good plan for higher education.' You can hear what Minister Pyne would have been saying to the Prime Minister: 'Don't worry, Tony. I can get you the numbers in the Senate. I've got it all worked out.' I can hear the minister saying: 'It's perfect, Prime Minister. We can talk about limiting the fees that students will pay. At the same time, we'll actually be cutting the funding we have to give to the universities, and our friendly vice-chancellors can increase their fees.' He thought he had all bases covered, but it is a con job that has so quickly fallen apart. The wheels barely stayed on Pyne's wagon this time. As I said, it has been labelled a—

Senator McKenzie: You should get on board. It's a great wagon to ride.

Senator RHIANNON: I think you have already fallen off, Senator McKenzie, on this one, because Pyne's penalty plan is in fact more evidence that deregulation does not work. This is very relevant to the Pyne plan, because when he first launched, back in May, his great plan about deregulating fees he would argue that the marketplace is the way we can determine what fees should be and that students can get a fair deal there. But, all of a sudden, now he has really ditched the idea that the marketplace is the solution. Twitter has gone pretty wild about all these statements. This is from @daveyk317:

If Uni's can't keep the $ from increased FEES why INCREASE THEM?
To PREVENT EQUAL ACCESS to education, that's why!

That is what so many people have seen with what this government is up to. It is elitist. It is about putting the cost burden on students and their families, and that will mean it will be much harder for working people to get to our universities. (Time expired)

Senator LINES (Western Australia) (16:28): Whether it is the unemployed under 30 or students, the Abbott government wants them to carry a very big burden. Labor's position on higher education is clear. Bill Shorten has said:

Only through education will Australia fully develop our economic potential, our scientific potential, our artistic potential—our people's potential.

Labor will vote against these cuts to university funding and student support.

Labor will not support a system of higher fees, a new big tax, bigger student debt, reduced access and greater inequality. Labor will never tell Australians that the quality of their education depends on their capacity to pay. This whole mess that we are in today, this Minister-Pyne-inspired mess—the denials and the secret deals about what is happening to Australian universities under this government—starts with the Abbott government's broken promise of no cuts to education. The basis for this mess is the budget cuts that the government wants to impose on universities and university students.

The minister has acknowledged, as Senator Carr pointed out this morning, that he has been working with the crossbenchers to implement a plan by Professor Bruce Chapman, a plan described by Professor Bruce Chapman as a tax, a plan described by Mr Andrew Norton, the government's adviser, as a tax. In the usual chaotic style of the Abbott government—backflips and not quite telling the truth—the minister says one thing and another minister says another thing. The government has also called it a fine, but to me and any sensible person out there the design of this secret new scheme is quite clearly a tax. A tax is how I will describe it.
Now this latest thought bubble, this ill-conceived tax for high fees, will hit students and unknown numbers of universities, reduce their incomes as they pay this big fat new tax, this broken-promise tax, directly to government coffers. This latest tax thought bubble clearly confirms that the Abbott government has no idea what it is doing in higher education. All of this comes after the 2015 academic year has commenced.

I went to the University of Western Australia's O-Day. I asked students if they were worried about their futures under the Abbott government. All the students I spoke to told me they were very worried about their futures under the Abbott government, and they were very worried about the costs they were going to incur, the high costs to be imposed upon them by the Abbott government.

I want to focus on the big fat new tax thought bubble of the Abbott government. Andrew Norton gives examples of the tax in his submission, using Chapman's submission for his examples. If we look at humanities, fees above $6,500 but below $11,499 would incur a 20 per cent tax. Fees above $11,500 but below $16,499 would incur a whopping 60 per cent tax, and fees of $16,500 would have a massive rate of an 80 per cent tax. The undergraduate tax is a backdoor way to impose further cuts, far above the 20 per cent reduction in university funding already proposed.

The University of Western Australia met with me over their proposed fee of $16,000 per year for an undergraduate degree. They were at pains to point out that they had done their research. They had scrutinised their budgets, revenues and outgoings. A fee of $16,000 per year was what they needed to ensure their running costs were met.

This big fat new tax, another broken promise—'no new taxes'—would hit UWA's proposed fee, their carefully budgeted fee, their fee that covers their outgoings and provides revenue. This fee would be hit with the Abbott government's big fat new tax. Using the sliding scale of tax, surely adding the red tape that the government is so adverse to, applying the government's secret new tax, would incur a tax of $3,700 per year on UWA's carefully thought through undergraduate degree costs of $16,000 per year.

Is UWA going to take a $3,700 hit to its course fee? No, of course it is not. This new tax will be passed on directly to students. UWA will be recouping the $3,700 slug in tax that they will have to pay directly to the government from its $16,000 fee from students. This is what will happen. This is double taxation. Students will pay for their degrees through HECS and again through the undergraduate tax.

I would love to hear the Abbott government's justification for saying to UWA: 'You might have carefully researched the $16,000 fee, but now we're going to tax it.' To add insult to injury, this secret new tax has not been thought through—more egg on Minister Pyne's face. UWA will be paying more in tax to the government than what it receives in government subsidy, as the subsidy would be reduced to about $1,800 per year. How do they arrive at that? The reality is, this hastily concocted tax—and concocted is a favourite word today; Senator Rhiannon also described it as that—means for high fees in low-subsidy disciplines, the Abbott government's big fat new tax means UWA will pay more in tax than it receives in student subsidies. There will be more red tape for universities as they try to figure out taxes versus subsidies and more costs for students.
There would be no incentive for universities to limit fee rises under this proposal. In fact, the tax would fuel faster increases than would otherwise have been the case. The big fat new tax, the secret deal to try to get the crossbenchers on board, would also be extremely complex to implement. Universities would be required to provide the details of more than 10,000 courses to the government. You hear the government in here saying they do not want to interfere. That is the first thing that would need to happen. On top of that, there is monitoring by the ACCC. This approach was rejected—in 2010—by the UK coalition government. It just shows you how out of ideas the Abbott government is in its chaotic approach to higher education.

This thought bubble by the Abbott government demonstrates once again that they have no idea how universities work. They do not care about whether the kids in low-income families get to university and, as usual, they are just looking after their rich mates. This new tax will certainly ensure that only the children of the wealthy will be able to attend university. This is the same as their GP tax. It will be abandoned. It is just a matter of time.

Senator McKENZIE (Victoria) (16:36): It gives me great pleasure to rise this afternoon in this place and debate the Abbott government’s plan for $100,000 degrees and a new student tax! Senator Lines and others have made reference to the new secret tax. It is so secret that no-one in the government has any idea what they are talking about. It is so secret that Minister Pyne does not know about it.

Senator Kim Carr: That doesn’t surprise me!

Senator McKENZIE: It is so secret, Senator Carr, that Minister Pyne does not know about it.

Senator Kim Carr: Really? Read his quotes this morning!

Senator McKENZIE: Really! The secret new tax.

Senator Kim Carr: It’s the mushroom syndrome!

Senator McKENZIE: You have really overreached! Hundreds—

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Order! Senator McKenzie, can I remind you to address your remarks through the chair and not across the chamber please.

Senator McKENZIE: Certainly, Mr Acting Deputy President, my apologies. It is so secret that there has been no announcement. We have heard continually from the other side that Minister Pyne has made an announcement—that he has gone out to the masses and said that we are taxing students. What a joke!

They come in here with claims that we have made an announcement, which are completely false. And yet the opposition, like the claims of $100,000 degrees, continue to conflate and bring fear into the hearts of young students, particularly those who those on that side of this chamber should be most concerned about and who their electorates represent. They are those from lower-socioeconomic families who are the beneficiaries of this, our reform package.

Senator Kim Carr: $100,000 degrees are progressive?

Senator McKENZIE: We are very proud to be the socially progressive party of this particular policy area, Senator Carr. And if you had any bright ideas, you would not be calling a Senate reference inquiry to go out there into universities and private providers. We are not
calling those; we are not calling the private providers to Senator Carr's Senate inquiry on Friday, because they do not matter. Senator Carr has to be the most elitist Labor Party senator when it comes to education policy that I have ever come across. He is elitist: this is about the very students who Senator Carr should care most about—those from first-generation university families, those from rural and regional Australia, those from lower-socioeconomic families and those who struggle to get into university. They struggle not only with the ATAR but also with the aspiration. They are exactly the students who are the beneficiaries of the former Labor government's plan to have a demand-driven funding system. And we want to assist to make that system financially sustainable.

We want to make sure that system can continue. Professor Peter Lee is Vice-Chancellor of Southern Cross University and that is a university with a very high proportion of exactly the types of students that those opposite talk about. Senator Rhiannon also talks particularly about them, although as she is more concerned about inner urban areas maybe there are not so many lower socioeconomic families and poorer families. If those opposite cared about those kids they would want to ensure that they can continue to have access, like they do now.

Senator Carr's secret plan! The only secret plan that needs to be debated today is Senator Carr's secret plan to recap university places and ensure that white, grammar kids get to go to university. That is not good enough. It is not good enough for my kids out in regional Australia and it should not be good enough for the western suburbs of Melbourne or the western suburbs of Sydney and the like.

Senator Bilyk: Make up your mind! You don't even know what you're saying!

The ACTING DEPUTY PRESIDENT: Order, Senator Bilyk!

Senator McKenzie: Thank you for your protection, Mr Acting Deputy President! The only secret is that Senator Carr actually has a plan to recap places and to recap them by using the ATAR. What that actually does is ensure that those students from Tasmania, Senator Bilyk, who have a state system where they do not actually get an ATAR like other states because they do not do years 11 and 12 in the same numbers, are locked out. It means they are absolutely locked out. My students from rural and regional areas who have a lower ATAR are locked out and those from poorer families who have a lower ATAR are locked out. That is the only secret plan that needs to be debated today. It is an absolute joke and it is absolutely abhorrent that the Labor Party is purporting to recap fees based on ATAR. What the research shows, Senator Carr—through you, Mr Acting Deputy President—is that it does not matter what you got in year 12. If you can get the right pathway and make the right choices then you will be able to complete your bachelor degree and go on to further education with an excellent result. Your ATAR does not matter. (Time expired)

Senator Lazarus (Queensland—Leader of the Palmer United Party in the Senate) (16:42): Education is a fundamental contributor to successful and productive societies. We know that increasing investment in education, increases the success and productivity of a nation.

Given this, why is the Abbott government so intent on cutting investment in our education sector, increasing the cost of degrees, reducing the affordability of higher education and making it more difficult for Australians to better themselves? The answer is simple: the Abbott government is so far right in its mentality and ethos that it has lost touch with
everyday Australians. So, it is up to the rest of us to lead the way and represent the interests of all Australians because, clearly, the Abbott government has no intention of doing this.

Australia enjoys a high standard of living compared to many countries. We, our fathers and our forefathers have worked hard to put us in this very lucky position. But maintaining this position is going to require smarts—clever thinking—and an understanding that our future rests with our capability to lead, create and innovate.

We cannot compete on time and wages. Asian nations offer cheaper labour and lower levels of compliance, which means they can produce things far more cheaply. But, as we all know, cheaper is not better, and therein lies our opportunity. To be better, we need to invest in our country, our people, our industries and our education system. To be better, we need to be smarter. Being smarter means we will achieve more in the form of advancements across a broad range of industries, including technological advancements that deliver world-first inventions and scientific breakthroughs. Being smarter means we will augment our capacity to innovate and constantly improve all aspects of our economy. Being smarter means we will enhance and grow our skill levels and achieve unmatched levels of competency in new and emerging industries, as well as re-engineer existing industries.

We know that the world is prepared to pay and pay good money for cutting edge solutions and scientific breakthroughs. This is the playing field on which we should be seeking to compete. Increasing our country’s investment in education will propel us towards these goals. Reducing investment will only pull us backwards—backwards towards the dark ages. We will become the dumb country.

Australia is already considered a leading provider of quality education. The Australian government’s own benchmark report of 2015 confirms Australia is still one of the top destinations for international students, stating that Australia sits at No. 4. Australia generates significant revenue from our education sector as an export industry. Several of our universities make the rankings lists of top 100 universities in the world. Australia currently enjoys the highest secondary education enrolment rate in the world. We are sixth in the world for the percentage of people enrolling in tertiary education.

If we know we need to improve our investment in education to further our prospects as a nation in order to secure our future, why would any caring, sensible, responsible and forward-looking government want to cut investment in our higher education sector and push it beyond the reach of the people? The answer is simple: the Abbott government are not sensible, they are not responsible, they are not forward looking and they just do not care.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (16:46): I too rise today to speak on the MPI on the Abbott Government’s plan for $100,000 degrees and a new student tax. I do this because I am extremely concerned about this government’s plan to make higher education the exclusive reserve of the children of the most well off in our society. They want to make it harder for young Australians to aspire to a high-quality education. And, as much respect as I have for Senator McKenzie, I have to say I think her contribution today was one of the most bizarre I have heard in this place in the seven years I have been here. It was all over the show. I have to say I do not think she did her side much good.

In contrast to what the Abbott government is up to, Labor of course has a proud record of investing in higher education. During our last period in government Labor lifted investment in
universities from $8 billion in 2007 to $14 billion in 2013. We boosted the student population of Australia's universities to 750,000, putting another 190,000 students on campuses. I have spoken about education in this place quite a few times previously. I have talked about the transformative power of education and how it can help lift people out of poverty, but I will say this again: education is one of the most important investments we can make to improve the lives of individuals and to improve society in general. I find it incredible that this education minister and his Liberal government area doing everything they can to make higher education unaffordable. They are doing everything they can to scare young people from low-income backgrounds away from university education by putting a mountain of debt in their way.

According to media reports yesterday, on top of their plans for $100,000 degrees Mr Pyne wants to slug an additional tax on universities, which will be passed straight on to students. Mr Pyne has spent the last 12 months saying, despite all common sense, that price gouging will not happen under his plan for $100,000 degrees. Now he is preparing a secret tax plan to stop something he said would never happen as an attempt to please some crossbench senators. I would just like to say to the crossbench senators that are considering this proposal: this tax will not end up being paid by the universities. They will pass this tax straight on to the students. I ask them to consider this very seriously. They might have been misled into thinking this measure will stop price gouging, but it will have the opposite effect. There would be no incentive for universities to limit fee rises under this proposal. In fact, the tax would fuel faster increases than would otherwise have been the case.

And this tax is not a small impost; it is huge. I would like to quote Andrew Norton, Higher Education Program Director at the Grattan Institute, who said about the latest proposal:

Using the tax rates in Chapman's submission, and a fee of $30,000 for a law student, we estimate a tax of more than $11,000—an additional $11,000 a year on top of a course fee that would already rise to $30,000 under the government's higher education reforms. How can we expect students from low-economic areas to commit to such a debt?

To add insult to injury—and this is the real clincher for me—this tax is not even a new idea. It has been recycled. A similar project was rejected—and those on that side need to listen very carefully to this—by the Conservative government in the United Kingdom in 2010 for fear it would simply drive up fees and put more strain on the government's loan scheme. Anton Howes from the Adam Smith Institute, a UK policy think tank supporting free market ideas, wrote:

The unintended consequence of this risk-free environment for students and universities, coupled with a levy on increased fees would therefore be to drive fees higher, placing further strain on the government's ability to provide loans up-front, and perhaps prompting future government interference to mitigate this effect.

I would also like to quote the Hon. David Willetts, the UK Minister of State for Universities and Science and Conservative MP for Havant, who said in 2010:

As soon as universities raise their fees above the threshold they face a rapidly rising levy which can drive up their fees even higher in order to reach a given level of income. When the UK Conservatives ditch an idea because it will be bad for students, that is when we know it is going to be terrible for Australian students.
The Australian government should look to the world and implement the best ideas we find, not the worst and certainly not recycled ideas that have been rejected by the Conservative colleagues of those on the other side. Australia has a wonderful higher education system thanks to reforms firstly by the Whitlam government and then by subsequent Labor governments. We have many universities in the top 100 worldwide, and the strength of our universities stems from the premise that everyone, no matter what their background, should have the opportunity to go to university. This government's desire, for purely ideological reasons, to transform the Australian university sector into an American one is wrong and it will be disastrous for Australian students—and, I might say, for Australian society in general.

Australians are rightly proud of the university sector. Parents are proud that their children—often the first ones in their extended family—have the opportunity to go to university. Parents are proud that their children can gain tertiary skills they did not have the opportunity to attain. But these parents did not vote for these $100,000 degrees. They did not vote for this new tax on undergraduate degrees. The government never said before the election, 'We will make it more expensive your kids to go to university.' They did not say, 'We want to price students from low-income families out of higher education.' But that is what they are doing. The Australian people have been completely deceived by this government. Australian students and Australian parents are extremely angry about these harsh, thoughtless changes that they were not warned about. And unfortunately the ramifications of these policies are already being felt across the university sector. We have already seen enrolments down in some regions because students have been discouraged by the government's talk of increasing the cost of going to university. This is extremely unfortunate.

When the time comes to vote on university deregulation and this new, secret tax, I urge the crossbench senators to oppose it. Higher education is way too important to the future of our nation to be sacrificed. (Time expired)

Senator BACK (Western Australia) (16:53): The cat is out of the bag. There is a secret plan, all right. It is the Carr plan. Why are we in the dilemma we are in? It is simply because the Labor Party in government lifted the cap on enrolments and, typically of their inability when it comes to competitive policy, they failed to lift the cap on fees. What does Senator Carr want to do? He wants to reimpose the cap. That is what this is all about.

Senator Lazarus made mention of the excellence of Australian universities, and I agree with him. Let me then ask him the question: why is it that every vice-chancellor in this country, with the exception of two, is begging the Senate—the crossbenchers, the Greens and the Labor Party—to allow and introduce this legislation? I will tell you why not: because Senator Carr wants to see a reimposition of the cap.

He speaks of $100,000 degrees. Senator Lazarus, let me tell you: the under vice-chancellor of UWA, one of the top 100 universities in the world, has said that his three-year degrees will be $16,000 a year. The last time I was at university, three time 16 was $48,000—not $100,000. And an agriculture degree would be four times 16—that is $64,000, not $100,000. These are absolute twistings of the truth, as Senator Carr and Senator Lines and others know.

The director of the Australian Technology Network said: 'Do not be fooled by $100,000 degrees.' The Australian Catholic University says it does not anticipate a general and massive rise. What Senator Carr does not understand is that, in the world of competition, if someone wants to charge $100,000 for a degree that someone asked charges $64,000 for, do you know
what happens? Their lecture theatres are empty. Isn't that amazing for the Labor Party! Senator Whish-Wilson understands that if you want to charge 100 grand and someone else is charging 64 grand, the 64 grand will win out so long as the quality is good.

And that brings me to the point: why are Senator Carr, Senator Lines, Senator Bilyk and others wanting to cut this country down to the lowest common denominator? We are in an internationally-competitive higher education world. If we are mediocre we will lose students—Australian students and international students. The largest non-resources income-earning sector for our country will be decimated. I ask the question: why is it that the father of the Labor higher education reforms, John Dawkins, from my home state, favours fee deregulation? Mr Gareth Evans favours fee deregulation. The opposition shadow Assistant Treasurer, Andrew Leigh, favours fee deregulation. What doesn't Senator Carr get?

He gets it, all right. He wants to trash what Ms Gillard, in her capacity as minister, put into place and that was lifting the cap on enrolments. Heaven forbid—heaven forbid! The Council of Private Higher Education Providers, what did they say to us in the Senate hearing? Fees might come—listen for it, listen!—down. Not up—they will come down. Why? Because for the first time ever they will be allowed to participate in Commonwealth supported places.

So what is it that Labor is wanting to do, Senator Lazarus? What Labor is wanting to do is cut out the possibility of 80,000 students participating in pre-university degree courses—the people who do not have a chance yet; the lower socioeconomic students who will benefit from the Commonwealth scholarships that will come into play. Will they go to the Western suburbs of Perth? No, they will not. They will go to the low socioeconomic students. The rural and regional students of the universities I have worked in will be significantly benefited by these deregulated fees we want to bring in. I say to the Labor Party, and to the crossbenchers particularly: if you want to see Australia's universities become mediocre; if you want to see a lack of opportunity for low socio-economic students; if you want to see 80,000 students denied the opportunity of eventually getting a university education; if you want to trash the reputation of vice-chancellors like Paul Johnson from UWA and the other universities—the Group of Eight and Universities Australia—just go down the path you are going down. I say to you: you are damning higher education in this country and you are damning this opportunity for students who will now not get to university. (Time expired)

Senator MASON (Queensland) (16:58): Let me just remind the Senate how important this debate is. Australia is a superpower in minerals, it is a superpower in agriculture and it is a superpower in higher education. We are the 12th-largest economy on earth but we have the third-strongest university system on earth. Indeed, more than that, we educate more students per head of population than any other country on earth. So often we hear about Australia being a great sporting nation—great at the Olympics; a nation full of sports people. The truth is: we do higher education and education generally even better than we do sport. You do not hear much about this, but it is a fact. We came 10th in the Olympics and we are the third-best at higher education on earth.

Senator Back: Our largest export!

Senator MASON: Senator Back just said it is our largest services export industry. And it does not create pollution; it helps our soft power and diplomatic prowess. Education, higher education in particular, is a marvellous boon to this country.
All senators must ask themselves the following question: is the current system of uncapped undergraduate places sustainable and will it lead to a higher quality product for overseas students? Will it grow and enhance higher education and the desirability of studying in universities in this country? Is it possible, as the Labor Party is proposing, to continue to uncap undergraduate student places and place a cap on the fees that universities can charge? Will our universities maintain and improve their relative standing internationally under the current funding model? We all know that is impossible—unless of course Senator Carr really does propose to recap university places. Unless he does that, the quality will start to go down and everyone in the sector knows that.

The money is necessary to provide better research outcomes internationally, which of course always drives student demand for Australian universities. The second money is not going into research in our universities, foreign students will not have the same desire to come. Secondly, the money needs to be unlocked to provide a higher quality education for undergraduates. There is no other way than the government's approach, because there is no other money.

If you do not believe me, I can prove it. I can prove there is no other money. Go back to late 2012 to the mid-year economic update, when there was savage cut to research funding—when the Labor Party was in government, not crowing in opposition, but when they actually had responsibility for the budget. Then in 2013—May, their last budget—what did the Labor Party actually do? They cut funding to universities by $2.3 billion. As Dr Emerson said, that was to make the federal budget 'sustainable'.

No-one believes anymore in Cloud Cuckoo Land. Neither the Labor Party nor the coalition can unlock further money in the current budgetary context. It is impossible. The only way we can unlock money for universities—to improve research, enhance our capacity and improve undergraduate education—is by deregulating the system. Otherwise, the system will start to falter.

When I was at university a long time ago, the Labor Party and the left said that 'introducing tertiary fees will inhibit so many Australians from going to university—people from all sorts of socioeconomic backgrounds and women will not have the capacity to go to university'. Thirty years later, three times as many Australians go to higher education. Why? Because fees and the payment of fees unlock the system. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Williams): Senator Mason, your time has expired and also the time has expired for the debate.

DOCUMENTS
Consideration
Death Penalty

Senator SINGH (Tasmania) (17:04): I move:

That the Senate take note of the document.

Senator SINGH: I wish to speak about the letter tabled earlier today from the Ambassador of the Republic of Indonesia to a resolution of the Senate of 10 February, concerning Mr Sukumaran and Mr Chan.
I particularly want to highlight the nature of that resolution because the substance of it remains relevant today as much as it did when it passed in this place—and it passed with the agreement and support of both the Australian Greens and the coalition. That resolution called on Indonesia to give consideration to the circumstances of Mr Chan and Mr Sukumaran—their rehabilitation in prison, their suffering and that of their families—and commute their sentences to an appropriate term of imprisonment.

Today I still stand by the content of that resolution, despite acknowledging the letter that has been tabled the letter from the ambassador. Today particularly is of grave concern. The news that the two prisoners, Mr Chan and Mr Sukumaran, were going to be transferred to the island where they would be executed, is certainly not a good sign. I know that many Australians are feeling concerned and sad today. It is not a good sign that these men have been transferred. I think it is particularly concerning as well because there are two legal challenges currently underway.

Having said that, I think we need to hold out our hope. As the shadow minister for foreign affairs said: where there is life, there is hope. I think we need to hold onto that. We also need to hold onto the fact that these legal challenges are in place and should be allowed to run their course. I think we need to also continue to say to the Indonesian government that they weaken their case to the governments of other nations when they are pleading for clemency for their own people—with almost 230 of their own citizens on death row around the world.

There is also the point that has been made by both sides of this chamber, and that is the fact that these two young Australian men have clearly been rehabilitated. They are showing an example to the power of the Indonesian corrective system in the fact that they have been rehabilitated as prisoners. Obviously, not only have they rehabilitated themselves but they are also continuing to contribute to the rehabilitation of others. That, I think, needs to be considered seriously by the President. It is from the President and from all of the Indonesian government that we ask for clemency.

As a nation, we have had a strong relationship with Indonesia for many, many years. Now we continue, of course, to look at that strength of our friendship with Indonesia to appeal to the President of Indonesia, to the Attorney-General and to others in the government or in the legal system in Indonesia. We say to them to look at the rehabilitation of these men. The death penalty is not a deterrent to crime. We certainly stand very firm with the coalition in the efforts that have been made. I know some of those efforts have been joint efforts between the Labor Party, the coalition and the Greens. We certainly hold onto hope that the Indonesian government forgives these men, finds clemency for them and does not execute them, so that their lives are saved. I seek leave to continue my remarks later.

Leave granted.

Question agreed to.
COMMITTEES

Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Regulations and Ordinances Committee

Delegated Legislation Monitor

Senator BACK (Western Australia) (17:10): On behalf of Senator Williams, Chair of the Senate Standing Committee on Regulations and Ordinances, I present the Delegated Legislation Monitor No. 2 of 2015.

Ordered that the document be printed.

DOCUMENTS

National Mental Health Commission

Order for the Production of Documents

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:11): I table a document relating to an order for the production of documents concerning the mental health review.

Senator McLUCAS (Queensland) (17:11): by leave—I move:

That the Senate take note of the document.

Senator McLUCAS: This is a response to my request that was carried by the Senate yesterday to require the Minister for Health to table two interim reports and a final report of the National Mental Health Commission's inquiry into mental health services and programs in our country. This is the third time the Senate has agreed it is in the interests of our nation that these reports be tabled. I am very concerned that the government is again refusing to comply with the order of the Senate to present these documents for the public to be able to have a proper conversation about mental health services in our country.

I did not oppose the government's decision to undertake a review into mental health services. That is a reasonable thing to do. But I am critical of the way that this review has been conducted. It has been conducted by and large in secret. Firstly, we know that many of the organisational submissions to the inquiry have not been published, so there is not a proper open conversation. There is no transparency around what people have said to the commission as part of their submissions. Then we had the interim report in February and again in June. Neither of those reports to government have been published. There is no understanding in the mental health sector of what is being recommended in those essentially data collecting processes for the first two reports. Therefore, people are not aware of what data has been collected.

The reason I moved this motion yesterday was that the government had received, on 1 December last year, the final report from the commission. It should have been published there and then. The community and the mental health sector want to know what is in the report.
They want to know what the recommendations are so that they can participate in a discussion with government to be able to come to an agreed position about the future for mental health in our country. That is the way it should be done.

Instead, what I see in the document that has just been tabled, the minister says: ‘I again note that the tabling of these documents prior to deliberation by government would inhibit the ability of government to properly respond to the review.’ I read that to say that the government will respond to the review at the same time as it is tabled. That is not a good and proper way to conduct a public conversation about mental health services. I am not the only one who has that view. This is increasingly discussed in the mental health sector. Increasingly, very well respected organisations in the mental health sector are joining with me to call on the government to publish this document.

If we receive the government response at the same time that the report of the Mental Health Commission is received, it is done and dusted; there is no opportunity for an informed discussion around mental health services and programs in the country to then ensue. So I call on the minister to indicate to the Senate whether the government is going to produce not only the Mental Health Commission’s report but also the government response at the same time. Please advise the Senate so that we can have a conversation about mental health services. As someone said to me today, it is not just the government who is in this game; if we are going to improve mental health services in our country, we all have to be engaged—mental health consumers, the people who provide services to people living with mental illness, the government and the states and territories have to be engaged. That will not happen if the report and the government response are produced at the same time.

Question agreed to.
National Broadband Network—Select Committee—
   Appointed—
      Substitute member: Senator McEwen to replace Senator Bilyk on 12 March 2015
      Participating member: Senator Bilyk
   Public Works—Joint Statutory Committee—
      Discharged—Senator Heffernan
      Appointed—Senator Canavan.
Question agreed to.

BILLS

Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Measures) Bill 2014

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Designated Coastal Waters) Bill 2014

First Reading

Bills received from the House of Representatives.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:17): I move:
   That these bills may proceed without formalities, may be taken together and be now read a first time.
Question agreed to.
Bills read a first time.

Second Reading

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:18): I move:
   That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.

The speeches read as follows—

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (MISCELLANEOUS MEASURES) BILL 2014

Australia's success in the offshore petroleum investment market is underpinned by its comprehensive and well-established regulatory framework. Central to this framework is the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), a national regulator with the experience and technical capacity to effectively regulate in relation to matters of occupational health and safety, structural integrity, and environmental management.

In February 2014, the Commonwealth Government announced a new streamlined approach for environmental approvals for offshore petroleum activities. The approach makes NOPSEMA the sole environmental regulator for these activities in Commonwealth waters.

Streamlining has significantly increased regulatory efficiency in respect of petroleum activities in Commonwealth waters, as well as delivering clarity and certainty for industry participants.
Recognising these significant gains, the Commonwealth Government is seeking to streamline regulatory arrangements in respect of all offshore petroleum activities. As part of this process, the States and the Northern Territory are being encouraged to confer occupational health and safety, structural integrity and environmental management functions and powers upon NOPSEMA under their respective legislation in respect of those waters of the sea within their jurisdictional reach.

This would permit the States and the Northern Territory to benefit from the expertise and experience of an established national regulator, and increase the efficiency of the administrative process by minimising the number of regulatory agencies with whom industry participants must deal.

However, the Offshore Petroleum and Greenhouse Gas Storage Act in its present iteration includes a number of legislative impediments to conferral. For example, there is a requirement to conclude an intergovernmental agreement before conferral is permitted in respect of certain areas of the sea. In relation to others, conferral is not permitted at all.

The amendments in this Bill seek to remove these impediments, thereby permitting conferral across as wide a geographic area as possible.

This represents an important step towards the establishment of a single national regulator for all safety, structural integrity and environmental management matters in the offshore petroleum sector. Moreover, it underscores this Government's ongoing commitment to the maintenance and improvement of a strong and effective regulatory framework, and to a cooperative approach to the regulation of offshore petroleum activities.

The Bill further makes a number of technical amendments to the administrative framework relating to the taking of particular voluntary actions under the Act and regulations by multiple registered holders of a single petroleum title.

Due to the high cost of offshore petroleum operations, petroleum titles are often held by a consortium of companies. The Act at present provides a mandatory process by which titleholders may take an action, such as submission of an application or nomination, that is permitted, but not required, to be taken under the Act or regulations, where there is more than one registered holder of the relevant title. Such an action is defined under the Act as an 'eligible voluntary action'. The process requires the holders of the title to nominate one of them to take eligible voluntary actions on behalf of the group, and only the nominated person can take an eligible voluntary action.

However, application of the process in practice has created some confusion among titleholders, particularly in relation to the mandatory nature of the process, and also identified several unintended consequences.

The amendments in this Bill seek to clarify the operation of the process relating to the taking of eligible voluntary actions and, importantly, provide an alternative process for the taking of eligible voluntary actions that titleholders may elect to use instead of the current nomination process. The alternative process would require all of the registered holders of the title to take the action jointly, such as by all signing the relevant application or nomination. The current nomination process will also still be available for use where a group of titleholders prefer this option.

I commend this Bill to the Senate.

I would now like to take the opportunity to foreshadow another significant amendment to the Act.

As all present are no doubt aware, Australia's exploration and mining success is underpinned by its highly prospective geology, up-to-date geoscience data, and comprehensive information systems. The custodian of Australia's geographic and geological data is the national geoscience agency, Geoscience Australia.

As part of its core functions, Geoscience Australia has an ongoing responsibility to define the limits of Australia's maritime jurisdiction. Most recently, this work has resulted in a change to the boundary
separating Commonwealth waters from the coastal waters of Western Australia. These changes, centred on the North Scott and Seringapatam Reefs, took effect from May this year.

The revised boundaries around these reefs intersect three existing Commonwealth titles: one retention lease operated by Woodside Petroleum on behalf of the Browse joint venture, and two exploration permits operated by ConocoPhillips on behalf of the Poseidon joint venture. The maritime boundary changes mean that certain blocks previously falling within the jurisdiction of the Commonwealth now fall within that of Western Australia.

My Department is working closely with the Western Australian Government to ensure the stable progression of the Browse and Poseidon joint ventures, and to ensure the seamless and efficient transition of affected blocks from Commonwealth to Western Australian waters.

This work has uncovered a gap within the Commonwealth offshore petroleum regime administered under the OPGGS Act. This gap will be of particular concern should a change to maritime boundaries in future cause an area presently within the jurisdiction of a State or the Northern Territory to fall within Commonwealth waters.

At present, there is no legislative mechanism enabling titles over affected blocks to transfer, with continuity of tenure, from the jurisdiction of the States or the Northern Territory to that of the Commonwealth following a boundary change. Instead, affected blocks become vacant acreage in Commonwealth waters, and existing titleholders will lose title over those blocks. These titleholders may have already spent considerable sums of money and effort undertaking exploration activities under their title, and therefore titleholders should have continuity of tenure in the event of a boundary change.

While this will not impact current efforts in Western Australia, it is necessary to amend the Act to anticipate those circumstances in which a future boundary change results in a gain of Commonwealth jurisdiction over blocks. Given the ongoing nature of Geoscience Australia's effort to define Australia's maritime border, changes of this type are a realistic prospect.

The proposed amendment will provide for the automatic grant of a Commonwealth title over affected blocks to the existing holder(s) of a State or Northern Territory title at the time at which the State or Northern Territory title ceases to be in force.

The amendment is generic in nature, and it is intended that it will provide a workable model for other jurisdictions to adopt. This will allow for consistency across Australia's offshore petroleum legislative framework, eliminate the sovereign risk created by future boundary changes, and ensure continuity of tenure for existing titleholders.

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (REGULATORY LEVIES) AMENDMENT (DESIGNATED COASTAL WATERS) BILL 2014


The effect of those amendments in the Miscellaneous Measures Bill is to permit the States and the Northern Territory to confer particular functions and powers upon the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) in respect of all of the waters of the sea that are on the landward side of the Commonwealth offshore area.

NOPSEMA operates on a fully cost-recovered basis through fees and levies payable by the offshore petroleum industry. The Levies Act at present facilitates cost-recovery, by imposing levies in respect of
regulatory activities conducted by NOPSEMA in Commonwealth waters, as well as in the designated coastal waters of the States and the Northern Territory where functions and powers have been conferred by State and NT law.

Under the Levies Act, ‘designated coastal waters’ is defined to have the same meaning as within the OPGGS Act. Expanding the geographic coverage of ‘designated coastal waters’ under the OPGGS Act would therefore consequentially extend the area in respect of which levies are potentially imposed.

Legal advice obtained by my Department indicated that this consequential expansion of the application of the Levies Act will create a medium to high level of risk of constitutional invalidity, as it would potentially result in the imposition of taxation that discriminates between States or parts of States on the basis of geographic location. This Bill therefore amends the Levies Act to limit the operation of the levy regime to the area constituted by the existing definition of designated coastal waters. In other words, the Levies Act will continue to apply in the same area that it currently does, and not to the expanded area of ‘designated coastal waters’.

The effect of these amendments will be that NOPSEMA will not recover costs associated with regulatory functions performed in waters that do not fall within the existing definition of designated coastal waters by way of levies imposed under the Levies Act.

I note that, given the lack of current activity in these waters, this is unlikely to have a significant impact in the near future. The Commonwealth will bring forward alternative options to ensure that NOPSEMA will be able to fully recover costs associated with the performance of regulatory functions conferred by a State or the Northern Territory.

Debate adjourned.

Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Matters) Bill 2015

Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Amendment (Miscellaneous Matters) Bill 2015

First Reading

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:18): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:19): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—
OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (MISCELLANEOUS MATTERS) BILL 2015

This Bill contains three important measures making amendments to the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGS Act):

1. To ensure certainty and security of titleholders’ tenure in Commonwealth waters in circumstances where the boundary between Commonwealth and State/Territory coastal waters changes;

2. To clarify arrangements whereby the National Offshore Petroleum Safety and Environmental Management Authority is able to effectively perform regulatory functions as conferred under State or Northern Territory legislation; and

3. To make minor technical amendments to clarify and improve the operation of the Act.

The first and most significant measure is a response to recently identified coastal water boundary changes around Australia’s coastline.

Australia’s exploration and mining success is underpinned by its highly prospective geology, up-to-date geoscience data, and comprehensive information systems. The custodian of Australia’s geographic and geological data is the national geoscience agency, Geoscience Australia.

As part of its core functions, Geoscience Australia has an ongoing responsibility to define the limits of Australia’s maritime jurisdiction. Last year, this work resulted in a change to the boundary separating Commonwealth waters from the coastal waters of Western Australia. These changes, centred on the North Scott and Seringapatam Reefs, took effect from May 2014.

The revised boundaries around these reefs intersect three existing Commonwealth titles: one retention lease operated by Woodside Petroleum on behalf of the Browse joint venture, and two exploration permits operated by ConocoPhillips on behalf of the Poseidon joint venture. The maritime boundary changes mean that certain blocks previously falling within the jurisdiction of the Commonwealth now fall within that of Western Australia.

My Department has been working and continues to work closely with the Western Australian Government to ensure the stable progression of the Browse and Poseidon joint ventures, and to ensure the seamless and efficient transition of affected blocks from Commonwealth to Western Australian waters.

This work has uncovered a gap within the Commonwealth offshore petroleum regime administered under the OPGGS Act. This gap will be of particular concern should a change to maritime boundaries in future cause an area presently within the jurisdiction of a State or the Northern Territory to fall within Commonwealth waters.

At present, there is no legislative mechanism enabling titles over affected blocks to transfer, with continuity of tenure, from the jurisdiction of the States or the Northern Territory to that of the Commonwealth following a coastal water boundary change. Instead, affected blocks become vacant acreage in Commonwealth waters, and existing titleholders will lose title over those blocks. It is acknowledged that titleholders may have already spent considerable sums of money and effort undertaking exploration activities under their title, and therefore the Commonwealth Government believes that it is critical that titleholders should have continuity of tenure in the event of a boundary change.

While this will not impact current efforts in Western Australia where there is a movement of blocks out of Commonwealth waters into those of Western Australia, it is necessary to amend the OPGGS Act to anticipate and account for those circumstances in which a future boundary change results in a gain of Commonwealth jurisdiction over blocks. Given the ongoing nature of Geoscience Australia’s effort to define Australia’s maritime border, future changes of this type are a realistic prospect.
The proposed amendments will therefore provide for the automatic grant of an equivalent Commonwealth title over affected blocks to the existing holder(s) of a State or Northern Territory title at the time at which the State or Northern Territory title ceases to be in force.

This set of amendments is generic in nature, and it is intended that it will provide a comprehensive model for other jurisdictions to adopt in their own coastal waters petroleum legislation. Such a mirroring exercise will allow for consistency across Australia's offshore petroleum legislative framework, eliminate the sovereign risk created by future boundary changes, and ensure equitable treatment and continuity of tenure for all titleholders, whether located in Commonwealth or State/Territory waters.

Turning to the other measures in this Bill, it goes without saying that Australia's success in the offshore petroleum investment market is underpinned by its comprehensive and well-established regulatory framework.

In February 2014, the Commonwealth Government announced a new streamlined approach for environmental approvals for offshore petroleum activities, completing a bipartisan initiative commenced under the former government to reduce the regulatory overlap for the offshore petroleum sector. This made the National Offshore Petroleum Safety and Environmental Management Authority the sole environmental regulator for these activities in Commonwealth waters.

Streamlining has significantly increased regulatory efficiency in respect of petroleum activities in Commonwealth waters, as well as delivering clarity and certainty for industry participants.

Recognising these significant gains, the Commonwealth Government is seeking to further streamline regulatory arrangements in respect of all offshore petroleum activities. To this end, the States and the Northern Territory are being encouraged to confer occupational health and safety, structural integrity and environmental management functions and powers upon the National Offshore Petroleum Safety and Environmental Management Authority under their respective legislation in respect of those waters of the sea within their jurisdictional reach.

A conferral of these powers and functions on the National Offshore Petroleum Safety and Environmental Management Authority would permit the States and the Northern Territory to benefit from the expertise and experience of an established national regulator, as well as reducing regulatory burden by both providing a consistent regulatory framework across both Commonwealth and State/Territory waters, as well as minimising the number of regulatory agencies with which offshore petroleum industry participants must engage.

In December last year I introduced a Bill which contains amendments to permit conferral across as wide a geographic area as possible. The current Bill further clarifies conditions associated with a conferral including distinguishing between petroleum and greenhouse gas storage regulatory oversight and underpinning effective cost recovery arrangements for the National Offshore Petroleum Safety and Environmental Management Authority.

Finally, the Bill makes a number of technical amendments to the administrative framework to clarify and improve the operation of the OPGGS Act in relation to suspension of a condition and associated extension of the term of a title, and the consistent treatment of locations leading to the progression through types of title to underpin timely development of Australia's resources.

This collection of measures underscores this Government's ongoing commitment to the maintenance and improvement of a strong and effective regulatory framework, and to a cooperative approach to the regulation of offshore petroleum activities.
OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE (REGULATORY LEVIES) AMENDMENT (MISCELLANEOUS MATTERS) BILL 2015

This Bill makes a consequential amendment to the Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003 (Levies Act) that is made necessary by amendments contained in the Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Matters) Bill 2015. That Bill implements new arrangements in the Offshore Petroleum and Greenhouse Gas Storage Act 2006 to provide for the automatic grant of an equivalent Commonwealth title over affected blocks to the existing holder(s) of a State or Northern Territory title at the time at which the State or Northern Territory title ceases to be in force as the result of a coastal water boundary change. This automatic grant of title is provided with a specific name when it is an exploration permit to both reflect how it is brought into existence in Commonwealth waters and to distinguish it from other types of existing exploration permits.

The National Offshore Petroleum Titles Administrator (NOPTA) operates on a fully cost-recovered basis through levies payable by the offshore petroleum industry. The Levies Act at present facilitates NOPTA's cost recovery by imposing annual titles administration levies in relation to Commonwealth titles. To this end, the cross-boundary exploration permit title must be added to the definition of Commonwealth title in order to ensure NOPTA is able to cost recover for its oversight of these titles.

Ordered that further consideration of the second reading of these bills be adjourned to 12 May 2015, in accordance with standing order 111.

Australian River Co. Limited Bill 2015

Defence Trade Controls Amendment Bill 2015

First Reading

Bills received from the House of Representatives.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:20): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Second Reading

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:20): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIAN RIVER CO. LIMITED BILL 2015

This bill provides for the transfer of the assets and any outstanding liabilities of the Australian River Co. Limited to the Commonwealth in preparation for its voluntary deregistration under the Corporations Act 2001.
The Australian River Co. Limited was created in 1997 to hold the residual assets and liabilities of the government owned Australian National Line group following its partial sale in 1998. The Australian River Co. Limited has been in the process of winding up since 2002, selling the last of its vessels in 2012.

Today the company only exists to administer legacy liabilities from former employees relating mainly to workers' compensation, dating back to employment arrangements that typically existed decades ago.

The Government announced as part of the 2014-15 Budget that it would be delivering smaller, more rational Government involving the abolition or merger of Government bodies where possible to reduce the cost of government administration for taxpayers. The reforms are expected to deliver net savings over the forward estimates period.

As part of the second phase of the smaller government agenda, the Government decided that the Australian River Co. Limited would be wound-up by 1 July 2015.

The bill allows for the orderly transfer of assets and liabilities to the Commonwealth, and provides for the Commonwealth to be the company's successor-at-law, prior to bringing to a close the operations of the Australian River Co. Limited. The date on which the transfer to the Commonwealth takes effect will be set by proclamation.

I commend the bill to the Senate.

DEFENCE TRADE CONTROLS AMENDMENT BILL 2015

The purpose of this bill is to amend the Defence Trade Controls Act 2012 to address concerns about its impact on Australian industry and research institutions.

This bill will strengthen national security by enabling Defence to focus its regulatory attention on higher-risk activities with respect to the non-physical supply and transfer of Defence controlled goods while dealing more efficiently with lower-risk activities.

The original act established a two-year transition period during which offence provisions did not apply. This gave stakeholders an opportunity to work with Defence to address concerns with the act through the Strengthened Export Controls Steering Group.

Chaired by Australia's Chief Scientist, Professor Ian Chubb AC, the Steering Group has tested the legislation and advised Government over the last two years on these legislative amendments.

The Steering Group established a pilot program to test the regulatory impact of the act across different types of organisations, including universities, defence industry, government research agencies, small to medium enterprises, cooperative research centres, and medical research institutes.

The results of the pilot program and wider stakeholder engagement provided a strong evidence base to inform the amendments that are contained in this bill.

These amendments will:

- better target persons who are supplying sensitive technology commensurate with international practice;
- adopt a more balanced approach by only requiring approvals for sensitive military publications and removing controls on dual-use publications (that is, technology with both civilian and potential military applications);
- only require permits for brokering of sensitive military items and remove controls on most dual-use brokering, subject to international obligations and national security interests;
introduce obligations to regularly review the operation of the legislation to ensure it maintains an appropriate balance between the regulatory impact on stakeholders and the need to protect Australia's national security; and

delay the commencement of the offence provisions by 12 months to ensure that stakeholders have sufficient time to implement appropriate compliance and licensing measures.

The work of the Steering Group has been invaluable, and I would like to take this opportunity to express my gratitude to Professor Chubb and the Steering Group members for their work and leadership. Their reports have provided the Government with critical stakeholder perspectives.

I would also like to acknowledge the significant investments from the pilot organisations and the broader stakeholder community that have led to the development of these amendments.

Subject to the passage of this bill, my Department will work with stakeholders to help them prepare for the commencement of the offence provisions in 12 months' time. During this period, assistance will be provided by Defence through a number of aids to be developed in collaboration with the Steering Group and stakeholders.

It is important that this bill is passed before the offence provisions of the act come into force on 16 May 2015. This will enable industry and research organisations to implement sensible, balanced approaches to export controls within a better balanced regulatory system that protects our national security interests.

Ordered that further consideration of the second reading of these bills be adjourned to 12 May 2015, in accordance with standing order 111.

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

REGULATIONS AND DETERMINATIONS

Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014

Disallowance

Senator LEYONHJELM (New South Wales) (17:21): I, and also on behalf of Senator Day, move business of the Senate notice of motion No. 1:

That the provisions of subclauses 5(1), 5(4) and 5(5) of the Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014, as contained in Select Legislative Instrument 2014 No. 136 and made under the Competition and Consumer Act 2010, be disallowed.

Acting Deputy President, could I have some guidance as to whether there will be other speakers. Senator Day and I are both ready to speak. I understand there is a right of reply at the end.

The ACTING DEPUTY PRESIDENT (Senator Williams): Senators Cash, Cameron and Siewert have indicated that they will be speaking to the motion.

Senator LEYONHJELM: Thank you. The disallowance motion moved by Senator Day and me will prevent the Minister for Agriculture, Barnaby Joyce, from exempting monopoly grain marketer, CBH, from port access conditions that will apply to other port operators. Passage of this disallowance motion would remove the minister's power to exempt cooperatives from the code. I would make CBH subject to the same conditions as GrainCorp—no more, no less. This would ensure fairness in that the same rules would apply to all who seek access to ports for the export of their grain.
The government might mouth words about free markets and capitalism, but in agriculture the lure of agrarian socialism is never far from the surface. Since the end of the single desk, in 2007, various changes to legislation were made that took the wheat export market towards deregulation. We have moved far beyond the old days of the single desk. I support this progress.

One of the interim measures in the transition was the adoption of mandatory port access codes for the export of grain. Following the expiry of undertakings to the ACCC last October, access to port services is now governed by the code and general competition law. Adoption of the code last year was seen by the government as:

… a significant step towards free and open competition in the wheat export industry, which is a longer-term goal to which we have committed.

However, CBH was exempted from the code.

My disallowance motion does not relate to the entire regulation. I have no concerns about that. It seeks to remove the part that implies CBH, as a grower and cooperative, is somehow more virtuous in its dealings with grain growers than, say, a company limited by shares, and should therefore be given special consideration. Those who claim to welcome competition, when the exporter is a profit-oriented business, especially if it is a foreign multinational, recoil in horror when it is suggested the same competition rules should apply to a farmer-owned cooperative. This is despite the fact that the grower-owned cooperative is just as committed to making money.

The Minister for Agriculture is an agrarian socialist, ready to use rules, regulations and special exemptions to protect his constituency. In Mr Joyce's eyes, all grain exporters are equal, but some are more equal than others. Government authority is being invoked to prevent grain growers from having the freedom to deal with CBH's evil corporate competitors.

Let us take a moment to look at the central player and sole beneficiary of the minister's exemption from regulation. CBH handles 90 to 95 per cent of the grain produced in Western Australia. It is a cooperative, owned by around 4,500 wheat growers. CBH owns and operates the only wheat export facilities in WA, apart from the recently opened Bunge facility. It has 197 receival points and four bulk export terminals. It employs 1,000 permanent staff and has a turnover of close to $2 billion. It is no minnow.

On the east coast, GrainCorp handles about 70 per cent of the grain produced. That proportion is declining. At least GrainCorp operates in a competitive environment. A new terminal at Newcastle has been established, owned by the same CBH, plus Olam and Glencore. All these bodies compete with each other. Another privately owned storage facility also operates at Newcastle.

All of these players operate without special exemptions, in a free and competitive market. This means that the port operator with the greatest market power in Western Australia, CBH, is exempted from the port access code, even though it has the most scope to squeeze out competitors. Notwithstanding the perception that a growers' cooperative would act in a virtuous manner, CBH has form as a corporate bully. In 2013, the Australian Competition Tribunal removed the company's ability to tell those WA growers and marketers who use CBH's up-country storage facilities that they must use CBH transport services to deliver grain to port.
If any of the wheat export markets requires protection from monopoly practices, it is Western Australia, and yet that is exactly where the Minister for Agriculture is proposing a special exemption applies. It is ridiculous. Shadow minister Joel Fitzgibbon wrote recently:

The government wants to leave it to Barnaby Joyce to decide who will be covered by the code and who will to be. Indeed, Barnaby thinks the largest vertically integrated player in the market, and the market where there are the least players should be exempt from the code because it is a cooperative. This is an extraordinary proposition. It raises the spectre of a code covering all the players on the east coast, where there are more players and more competition, but potentially covering no players on the west coast, where there are less players and less competition.

This demonstrates that he gets it. Mr Fitzgibbon called the exemption 'a new market distorting regime' and that 'exempting cooperatives generally, or CBH specifically, was hard to comprehend.' I agree. The proposed exemption is an extraordinary proposition and I encourage his Senate colleagues to support the disallowance.

Senator CAMERON (New South Wales) (17:29): The reform process that this disallowance seeks to amend is one which has been corrupted by the Abbott government. The former Labor government had a plan for the ports used to export the nation's wheat post the wheat-for-weapons scandal and the dismantling of the single desk. Our 2008 legislation recognised the monopoly power of companies which market wheat and own the ports, and the risk that they would use their ownership of the ports to deny the entry of competitors in grains marketing. That would be a bad thing for the sector, for growers and for our economy.

The legislation also recognised that over time new port facilities would emerge, reducing the monopoly power of the older players, so it gave birth to a three-stage approach to promoting competition. The first stage—that is, 2008 to 2014—involved curtailing the power of the monopolists by forcing them to provide legally enforceable undertakings on port access and other matters to the ACCC. The second stage—2014 to 2019—was to be a period in which the market was subject to a prescribed code of conduct established under the Competition and Consumer Act. The code was to set rules for behaviour, disclosure, mediation and dispute resolution. The third stage was to be the dawn of a totally deregulated environment, one in which many more players, in a much more mature and competitive market, would be subject only to the general pro-competition provisions of the Competition and Consumer Act, as is the case in most markets. A decade seemed to be more than enough time to allow the market to grow and mature.

Under these arrangements, port operators would have had a capacity to apply to the ACCC for an exemption from the code on the basis that a port zone already had sufficient competition to guarantee fair dealings absent of a code. This makes sense. Why burden the market and its players with regulation when the market works fine without it? We have faith in the ACCC's ability to make such decisions, in the same way that we trust it to accept undertakings under the current regime.

Now the Abbott government wants to change our legislated plans. Firstly, the government wants to remove the certainty we provided on deregulation by removing the five-year sunset clause on the code. It seems the sector will remain subject to the whims of the minister of the day. Secondly, the government wants to leave it to Minister Joyce to decide who will be covered by the code and who will not. Indeed, Minister Joyce thinks that the largest vertically integrated player in the market and the market where there are least players should be exempt
from the code because it is a cooperative. This is an extraordinary proposition. It raises the spectre of a code covering all the players on the east coast, where there are more players and more competition, but potentially covering no players on the west coast, where there are less players and less competition.

The wheat industry is critical to the Australian economy, annually earning around $6 billion in foreign exchange and meeting our own domestic consumption needs. Developing the most efficient market and supply chain is critical for our international competitiveness and grower returns. Senator Leyonhjelm's disallowance seeks to knock out Minister Joyce's power to exempt co-ops.

On balance, Labor will not support the disallowance; rather, it will give the government's proposal an opportunity to work—but we do issue an appeal. The government has removed the five-year sunset clause for the code. It has been replaced by a review in three years time. We urge the minister to provide certainty by reinstating the sunset clause. Labor believes that within five years sufficient competition will exist in all port zones to allow the removal of all regulation beyond the general provisions of the Competition and Consumer Act.

In summary, Labor believes the government has erred in providing the minister with the power to exempt certain market participants, but will not stand in the way of its right to be proven wrong to have done so.

Senator CASH (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (17:34): The government opposes the disallowance motion. Australia's $6.8 billion wheat export industry is a reliable supplier of high-quality products. The coalition government released a mandatory port access code of conduct for bulk wheat exports on 19 September 2014. The code is made under the Competition and Consumer Act 2010, and penalties from that act apply to breaches of the code. The code applies to all port terminal service providers.

The code limits red tape by exempting port terminal operators that meet certain conditions from having to comply with certain code requirements at particular ports. Exemption significantly reduces the regulatory burden. However, exempt port terminals still have to comply with parts 1 and 2 of the code, including transparency and fair-dealing obligations, as well as our requirement to have standard terms and prices. There are two pathways to exemption: a competitive analysis by the Australian Competition and Consumer Commission, the ACCC, or by satisfying criteria relevant to cooperatives, as decided by the Minister for Agriculture. Exemptions are made on a port-by-port basis.

Cooperatives follow significantly different business models, which work to benefit members who are growers rather than shareholders. In recognition of this, subclause 5(1) provides for grower owned cooperatives to have their regulatory burden and associated costs reduced and, therefore, maximise returns to growers. The exemption only applies to cooperatives with sound governance arrangements and whose members account for more than two-thirds of all growers in the relevant grain catchment area. This power rests with the Minister for Agriculture, as it is not appropriate for the ACCC, which has specialised skills in undertaking competition assessments, to fulfil this role. The Minister for Agriculture needs to be satisfied that these conditions are met before approving the exemption. The Minister for Agriculture made a determination on 17 November 2014 to exempt all four of CBH Limited's
ports in Western Australia. The code includes safeguards that enable the minister to revoke a determination made under subclause 5(1).

Under subclause 5(5), exemptions can be revoked by the Minister for Agriculture if the circumstances for granting the exemption no longer apply, or if the minister is satisfied that the continuation of the exemption is not in the interests of relevant grain producers. Subclause 5(4) provides for grain producers, or groups of grain producers, to write to the minister if they are concerned about the impact of an exemption. I advise the Senate that, since the minister's determination on 17 November 2014 to exempt CBH Limited, no grain producers have raised concerns with the minister.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:37): I rise to make a contribution to this debate on the disallowance motion and also to let the Senate know that the Greens will not be supporting it. The Greens and I personally have been engaged in this debate on wheat export deregulation for almost all of my time in this place and I have seen the gradual deregulation of the industry.

I would also like to put on the record that one of the issues around the deregulation process has been the difference in the sector between the wheat growers and producers across Australia, with the east coast market being very different to the west coast market. That is what divided this place probably more than anything during the debate on the deregulation process, on getting rid of the single desk, because we are different in Western Australia! We export almost all of our wheat crop, whereas the eastern states do not export as much and they produce, largely, into the domestic market. Therefore, that has always complicated this issue. It has not been straightforward over the years and, for the people who are reading this transcript later on, unless you are deeply involved in the discussions you probably will not understand the trajectory we have been on over the last number of years as the deregulation process has unfolded.

I know colleagues across the chamber, from both major parties, who, within their own parties have different views on the deregulation process. So it has been a complicated process to get to where we have now got to. Wheat growers across the country have certainly been divided on this issue as well.

The Greens believe that it has taken a long time to get the Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014 to the point that we are at. The code is an important step that helps address the impact of both the deregulation process and the potential monopolies in port access which the wheat industry is still currently exposed to and has been concerned about for some time.

However, having said that, I also believe that allowing the minister, as well as the ACCC, to make an exemption for cooperatives such as CBH, will support a port access regime that reflects the operation of the WA wheat market—and I have already explained why WA is different—and does not distort the market in a way that would hurt WA growers.

Before I continue my remarks, I do want to note that this code makes provisions for the minister to consider all cooperatives. The cooperative in question, which we are presently talking about, is CBH, in my home state of Western Australia. It is an important part of the grain industry in my home state, so I will talk more about the specifics of this example in a moment. But I would like to be clear that if other cooperatives are formed and follow a
similar trajectory to the CBH experience, then they should also be considered for an exemption. The provisions in the regulation make allowance for that. This code, as it is written, does not privilege CBH and I would expect the minister to apply the objective criteria in determining exemptions for cooperatives.

The Greens will not be supporting this disallowance motion because it fails to acknowledge the work that has gone into developing the code over the years. The whole process to date, including the exemption for cooperatives, does not seem to respect the unique role that CBH has played and continues to play in the WA market as a grower cooperative that has operated in Western Australia since the 1920s.

During the deregulation process, the Greens amended the bill to introduce an independent industry advisory task force, which compiled a body of evidence and formulated recommendations for the good functioning of the industry. This task force used the residual fund from the dissolved WEA to investigate the next steps that government and industry should take towards better operational efficiency, as well as ensuring that future reforms provided a fair return to all wheat growers and producers, including those who are presently disadvantaged by the legacy of the single desk market arrangements and, in particular, the significant amount of infrastructure that is still under monopoly structures.

This compulsory port access code has been developed as a result of that work and has involved all aspects of the wheat industry, from growers to exporters and all those in between.

Given the vertically integrated supply chain, there are genuine competition concerns and the Greens continue to believe that, as I stated during the debate on the WEA repeal bill, in 2013, that the industry continues to require some oversight. Even CBH requires oversight. However, that oversight also comes from the WA government and so, even with an exemption, CBH will continue to be subject to state legislation that ensures that all growers can participate in the cooperative. It is still required to operate in a transparent, competitive manner and in alignment with many of the clauses in this code.

I would also like to say here that the issue was raised about CBH’s apparent non-competitive behaviour over transport infrastructure. That question was asked during the grains inquiry and the consideration of this code and CBH actually provided an answer as to how that particular situation eventuated. I do not think it was fairly represented in the comments that Senator Leyonhjelm made in talking to his disallowance motion.

Ultimately, farm gate prices are the most important thing here, and we have seen the pressure that big players in the market can put on our farmers, particularly smaller operators. The Greens, as I said, continue to support a level of government oversight in the market that prevents duopolies from engaging in the sorts of price wars that have occurred over other produce.

We know that cooperatives are one of the best ways for farmers to guarantee good prices. In WA, CBH operates for the benefit of WA grain farmers. Under state law, CBH must take all grain, so no farmer is excluded. In effect, there is no price distortion for WA farmers, as explained by Mr Simpson—he is the President of the Grains Section of the WA Farmers Federation—to the Rural and Regional Affairs and Transport References Committee earlier this year. He said:
I can sell to whoever I want to, from my farm. I can sell to any one of 15 or 20 different buyers. That grain then goes to port through CBH’s facilities, because they are the only ones there. And it all, whether I sell to CBH or whether I sell to anybody else, gets charged the same price.

He said:

CBH is mandated to sell everybody’s grain. You do not need any extra regulation to provide that. It is there and has been there since the market was deregulated. Most of the exporters in that state are very happy with it. You can find people out there who still believe the world is flat. There will always be people who will disagree with whatever system you have in place. But I think that system works very well. Growers do have a choice about who they sell to and who handles it. Except for the amount of profit they can make, there is nothing stopping any company from setting up grain storage systems in the West.

So, in this case, it makes no sense to put an additional impost on CBH when the state legislation already ensures that it has to treat all exporters equally.

Furthermore, we were reminded again at the committee inquiry that there is competition in the WA grain market, with over 50 per cent of WA wheat being bought and exported by organisations other than CBH. When speaking to the grains inquiry, Mr Simpson said:

I do not think the issues are in access agreements. I think the issues go back to philosophical backgrounds and whether they believe in the difference between corporates and cooperatives. As I have said, they have wanted to corporatise CBH from day one, I think largely because they think they can make a dollar out of it. Perhaps some of them do not have kids who are going farming so they figure they can make a dollar on their exit. … The surveys done not so long ago amongst the younger growers indicate that they, and all growers, are realising, as the gap opens up between the costs of our handling system and the costs of equivalent handling systems in the country, how valuable CBH is to them.

The foresight of the CBH Group has been shown through their acquisition of supply chain assets and port terminals and should not be punished. We believe that supporting this disallowance motion would indeed do that—that is, punish WA farmers.

We believe that we have got to this point in our wheat deregulation process through a long process of engagement with wheat farmers across the country. I do not always agree with everything that has happened through that debate, but I think that, on balance, we have tried to meet the needs of all growers throughout Australia. As I said at the outset of my contribution, it has been a very complex and intricate process to get where we are, because of the different needs of growers across Australia. The Greens will not be supporting this disallowance motion. We do not think it is the right move. We do support the exemption and believe that there are appropriate checks and balances for CBH already.

Having said that, I do not agree with everything that CBH does—I am not here to do that or say that—but I believe that there are enough checks and balances in place to ensure that the best outcome for growers in Western Australia is to support this regulation process. I must say that I believe we have the overwhelming support of farmers in Western Australia, my home state, for this regulation. It is only a minority of farmers in Western Australia who are asking for this disallowance to proceed.

**Senator DAY** (South Australia) (17:49): I rise to speak to the disallowance motion I have moved along with Senator Leyonhjelm. I do so because I believe there is no reason to treat two corporate entities differently under the law. In doing so, I am compelled to draw upon the life and times of a great South Australian, the late Mr Bert Kelly, a former member for Wakefield. Bert went into politics knowing at the time what needed to be done, and for the
next 20 years he educated his colleagues and the nation about the evils of protectionism. His leadership in this area was so successful that everyone thought protection would be irreversible. They were wrong, of course; it was not irreversible. Many years after the protectionist debate was over, Bert was still on his guard. ‘The really bad ideas,’ he once said to me, ‘never go away.’ Exempting CBH from port access conditions that apply to GrainCorp and other bodies is another one of those really bad ideas.

People who wish to make a profit have a variety of corporate structures from which to choose. They may opt to work as a sole trader, form a partnership, incorporate a company and limit it by either shares or guarantee, or adopt a cooperative or mutual structure. GrainCorp is a company limited by shares. CBH is a cooperative, owned by its members. Both organisations are successful and profitable. And both, because they are not charities or not-for-profits, should therefore be treated identically.

There is a widespread but erroneous perception that CBH, because it is a cooperative, must be good, while GrainCorp, because it is a corporation, must be bad. But, as Senator Leyonhjelm has already pointed out in his contribution, this is simply not the case. Like any large business entity, CBH is more than capable of throwing its considerable weight around.

Ideally, Senator Leyonhjelm and I would prefer port access markets in Western Australia to be unregulated. However, if they are to be regulated, like cases must be treated alike. This is one of the most basic principles of the rule of law. Our disallowance motion prevents the Minister for Agriculture, Barnaby Joyce—who I see is present in the chamber—from exempting CBH from port access conditions that apply to GrainCorp and other bodies. Cooperatives are not deserving, Minister, of this special treatment.

The ACTING DEPUTY PRESIDENT (Senator Williams): Order! Senator Day, please direct your comments through the chair.

Senator DAY: Mr Acting Deputy President, companies are not deserving of special treatment. Cooperatives are not deserving of special treatment. Business entities formed with a view to making a profit are not deserving of special treatment. They should all be treated alike.

The ACTING DEPUTY PRESIDENT: Senator Leyonhjelm, would you like to close the debate?

Senator LEYONHJELM (New South Wales) (17:53): No, thank you, Mr Acting Deputy President. I will waive that right.

The ACTING DEPUTY PRESIDENT: The question is that the disallowance motion moved by Senator Leyonhjelm be agreed to.

The Senate divided. [17:57]

The Acting Deputy President—Senator Williams

Ayes ....................2
Noes ....................42
Majority ................40

AYES

Day, R.J. (teller) Leyonhjelm, DE
Question negatived.

BILLS

Building and Construction Industry (Improving Productivity) Bill 2013

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator CAMERON (New South Wales) (18:01): I rise in continuation of my speech on this bill. I was describing the concerns that both the Senate Scrutiny of Bills Committee and the Parliamentary Joint Committee on Human Rights had in relation to the problems with this bill about trampling civil and political rights.

Personal rights and liberties will be trampled by clause 72, which provides for authorised officers to enter premises without a warrant. It is a cornerstone of justice and civil rights that a warrant issued by a court should be the basis on which authorities can enter premises. The fact that the explanatory materials accompanying the bills do not contain a compelling explanation for a departure from this principle demonstrates in the clearest terms that the government can find no justification for it. There is the question of whether the provision in clause 86, that the rules of evidence and procedures for civil matters applying in relation to the civil remedy provisions is consistent with rights associated with a fair trial, particularly when the penalties available under the bill are at the criminal penalty end of the scale. In relation to the main bill, the Parliamentary Joint Committee on Human Rights noted:
In relation to the main bill, the statement of compatibility does not include information and data which is necessary for an assessment of the human rights compatibility of the bill. On various occasions, the statement of compatibility and the explanatory memorandum make assertions or statements of fact which are not demonstrated by reference to supporting data.

The use of assertion, anecdote and allegation, as the government has done, without evidence, does not satisfy the requirement that the curtailing of human rights in Australia must be in pursuit of a legitimate objective.

These bills largely mirror the 2005 legislation that established the former Australian Building and Construction Commission. The supervisory committees of the ILO, the tripartite Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations found that the 2005 legislation breached Australia’s international obligations in respect of provisions that rendered some industrial action unlawful, the imposition of penalties and sanctions on workers and unions that engaged in industrial action, the unenforceability of project agreements, the National Code of Practice for the Construction Industry and associated guidelines, the investigative and enforcement powers of the ABCC, the absence of proportionality with respect to offences prescribed under the act, and the focus of the ABCC on investigating and prosecuting workers and trade union officials.

These bills repeat the breaches of Australia’s international obligations that were found in the 2005 legislation. The opposition firmly believes that no legitimate objective exists that would warrant the interference with human rights and Australia’s international obligations on the scale contemplated by these bills. The committee notes that any human rights engaged by legislation must be proportionate to the objective and ‘limitations on rights must go only as far as necessary to achieve a legitimate aim.’ The analysis provided by the Scrutiny of Bills Committee and the Parliamentary Joint Committee on Human Rights demonstrates the disproportionality of the limitations to be placed on human rights by these bills. They provide ample evidence that the bills should be opposed in their entirety.

The government claims that the ABCC’s earlier incarnation in the building and construction industry caused productivity growth in the industry of unprecedented proportions. The claims of enhanced productivity caused by the ABCC are based on reports prepared and endlessly recycled by Econtech and Independent Economics. They are not supported by the evidence. They are made on the basis of deeply flawed analysis that has not withstood scrutiny by academic and business economists and, recently, appraisal by the Productivity Commission in its draft report on public infrastructure. When you lose the Productivity Commission on this agenda, you have really lost the argument. They have been produced for the sole purpose of propping up the original flawed findings of the Cole royal commission and the case for the existence of the ABCC and its coercive powers. They do not provide a credible economic case for the re-establishment of the ABCC. The Productivity Commission concluded about the latest Independent Economics report:

… as it stands [it] should be given little weight.

The Productivity Commission has said that the arguments put forward by the government on this issue should be given little weight. The Productivity Commission considers the assumptions and the conclusions reached by Independent Economics and makes the following observations:
First, no judgment can be made about the effects of the FWBC from the data currently available. There is only one year of data and the conclusion ignores the fact that, even during the ABCC period, relative costs sometimes rose.

Second, over a longer period, the link between the IR regimes and productivity is not robust.

Third, even if the IE numbers were robust, concluding that IR is the exclusive factor explaining the trend fails to consider a range of rival explanations and considerations.

The Productivity Commission concludes its analysis by stating that Independent Economics results are:

… 'neither reliable nor convincing indicators of the impact of the BIT/ABCC', and cites the views of major business consultants who have also expressed doubts about the findings …

You are going to have government senator after government senator quote these findings, the findings that have been destroyed by the Productivity Commission, the findings that have been destroyed by independent economists. I again quote the Productivity Commission:

Major business consulting firms have expressed doubts as well ... For example, Allen Consulting argued in a report to the Business Council of Australia:

It is not feasible to link the size of the productivity shock to definitive evidence of recent performance. Events that have given rise to concerns about industrial relations unrest are too recent to appear in economic statistics.

Proponents of the ABCC have been unable to answer the detailed criticism of the assumptions and methodology adopted by Econtech and Independent Economics. Despite this, supporters of the ABCC, including the Prime Minister, the Minister for Employment and employer organisations, continue to use the reports as their fallback in support of these draconian laws.

As if to compound its errors, the government cites the domestic cottage construction industry as a model for efficiency and industrial relations practice in the commercial construction sector. However, recent reports from the Fair Work Ombudsman's audit program show the terms and conditions of people working in the domestic building industry are routinely and comprehensively undermined by employers. These contraventions include noncompliance with hourly rates of pay, allowances, record keeping and pay-slip obligations. The figures were particularly damning for apprentices employed in the domestic building industry. As the Fair Work Ombudsman notes:

Apprentices are usually young workers, in their first job and may be unaware of their rights.

The audit of 164 employers in Victoria showed that only 6.1 per cent of employers were compliant with regard to the pay, terms and conditions of their apprentices. Figures from the Tasmanian domestic building industry audit show similar noncompliance across the sector, again in relation to the most vulnerable employees: apprentices. The audit showed that there is a culture of noncompliance in the domestic housing sector in relation to the proper payment of awards and conditions of apprentices. The Victorian figures are startling in that 93.9 per cent of employers are acting outside the law in the domestic building industry. I note that the Fair Work Ombudsman revealed at budget estimates that they will be conducting two significant national compliance audits this year.

The opposition will be looking very carefully at the outcome of those audits in the building industry, on which the future of the commercial building and construction sector, according to the coalition, should be modelled. Unlike the existing act, the bill does not require the ABC commissioner to apply to the Administrative Appeals Tribunal for an examination notice.
However, the ABC commissioner must still provide a report, videorecording and transcript of the examination to the Commonwealth Ombudsman, who must then review the examination and provide annual reports to parliament. Effective oversight of the former ABCC and the FWBC and the proposed re-establishment of the building commission is essential.

The former ABCC was subject to no oversight. It had unprecedented coercive powers to conduct compulsory examinations and we found, only through budget estimates, that it botched every single compulsory examination notice under the stewardship of the then director, Mr Lloyd. Every one of the 203 compulsory examination notices issued by the ABCC under Mr Lloyd, from its establishment to November 2010, were invalid. There can be little confidence that without adequate oversight the ABCC’s extraordinary powers will not be misapplied if not misused.

In his review of the former ABCC, former Federal Court judge Murray Wilcox strongly recommended oversight of the ABCC’s coercive powers. Mr Wilcox recommended that the compulsory interrogation powers should be retained but with necessary safeguards. Those safeguards are in place now. The government wants to get rid of them. The bill’s provisions are a significant watering down of the safeguards that currently exist. The proposition that the Ombudsman will provide adequate oversight will be largely ineffective.

In his submissions to the committee inquiries into the establishment of the ABCC, the Commonwealth Ombudsman made it clear that his ability to effectively oversee the use of the ABCC’s coercive powers would be minimal. The ombudsman anticipates an increased workload if these bills are passed. He said in his submission to the Education and Employment Committee that this would not be an appropriate position, because the power to issue notice and conduct examinations is exercised properly. To ensure that we can— (Time expired)

Senator RICE (Victoria) (18:15): Across Australia today, thousands of Australians took to the streets to protest the government’s attack on their wages and conditions. They are standing up for their rights at work, and the Greens are proud to stand with them. The Building and Construction Industry (Improving Productivity) Bill 2013 is part of the government’s war on workers. It seeks to single out a section of the workforce—building and construction workers—and remove some of their fundamental rights. The government says it is interested in productivity and alleged unlawful activity on building sites. But their real agenda is clear. It is to weaken one of the most strongly unionised sections of the workforce.

This legislation is intended to bring back the draconian Australian building and construction commission. The government’s arguments for the ABCC are based on flawed modelling of productivity in the industry. Its proposed powers are extreme, unnecessary, undemocratic and they attack civil liberties. This legislation ignores what is already in place, the Fair Work Building and Construction agency, which was put in place by Labor, despite the opposition of unions and the Greens. Labor’s Fair Work Building and Construction agency, which replaced the former ABCC, already has very strong powers to deal with any unlawful behaviour in the industry. Further powers are not needed.

The real agenda here is to attack and weaken unions so that the government can bring back Work Choices. The Prime Minister has been waging an ideological war on workers for some time. Just this week we have seen the attempts to strangle unions in red tape and attacks on seafarers and mature workers. But the Prime Minister has form that goes back a long way
when it comes to attacks on the building and construction industry. It was the Prime Minister—then the Minister for Employment and Workplace Relations—who, in 2001, called for the Cole royal commission into supposed criminality, fraud and corruption within the building and construction industry. But after 18 months and $66 million of taxpayers’ money, the Prime Minister's expensive political stunt failed to produce one single criminal conviction. Investigation of crime, let alone organised crime, is a matter for the police, not for the ABCC. However, we had the Prime Minister and his ultraconservative backers continuing their failed crusade 15 years later.

The Australian building and construction commission's proposed powers include unfettered coercive powers, the power to conduct secretive interviews and the power to impose imprisonment on those who do not cooperate. These bills will arm the ABCC with powers to deny people the right to be represented by a lawyer of their choice. The ABCC will have powers to interview people in secret and to deny them the right to silence. In fact, previously when the ABCC was in operation it even prohibited people from disclosing that they had been interviewed by the commission, even when they had done nothing wrong. I do not know about you, but that sounds like something that I would expect in Russia or China not Australia. Nicola McGarrity and Professor George Williams from the Faculty of Law at the University of New South Wales have said:

... the ABC Commissioner's investigatory powers have the potential to severely restrict basic democratic rights such as freedom of speech, freedom of association, the privilege against self-incrimination and the right to silence.

Not only does this bill revive the ABCC but it extends its scope. It extends it beyond its former reach into picketing, offshore construction and the transport and supply of goods to building sites. The government did not come clean on this before the last election.

The government's argument for the ABCC is based on flawed modelling and evidence. It relies on a series of reports from Econtech, trading as Independent Economics, that were first commissioned by the ABCC at public expense and were later recommissioned by the Master Builders Australia as a political tool to push for the reinstatement of the ABCC. On 28 August 2013, the Fairfax federal politics fact checker found the Prime Minister's claim of $6 billion a year in savings in productivity and consumer costs in commercial construction to be mostly false. Previous Econtech reports have been dismissed by economists and academics for their mathematical errors and flawed methodology. They were totally disregarded as evidence by Justice Murray Wilcox in the ABCC inquiry. They were even removed from the ABCC's own website. Econtech's main argument is that costs are higher in the commercial building sector than in housing because of the higher number of union members in commercial building. As the CFMEU has said:

These geniuses have no understanding that building a single villa is a completely different undertaking from a multi-storey office tower.

Econtech's 2007 report, which purported to demonstrate that the ABCC had been effective in bringing about significant reform and improvement in the building and construction industry, was analysed in the report written by David Peetz, Cameron Allan and Andrew Dungan. Their report was appropriately titled 'Anomalies', damned 'anomalies' and statistics: construction industry productivity in Australia. The report concluded:
The great gains for construction industry arising, it was said, from the near equalisation of costs in the commercial and domestic residential sectors that was attributed to the ABCC have disappeared, like a mirage on the horizon.

Their analysis went on to say:

This close analysis of the Econtech data raises serious questions about the nature of regulation in the building and construction industry. Alleged economic benefits, used to justify denial of basic rights to employees in the industry—rights which everybody else is, at least at present, entitled to enjoy—are based on discredited cost data. In short, there do not appear to be any significant economic benefits that warrant the loss of rights involved in recent arrangements.

It is clear that the Abbott government has no facts to backup its claim that a revived ABCC will improve productivity and, even if it did, the question remains: at what cost, to the lives and working conditions of workers in an industry that faces many challenges in terms of safety?

We know that during WorkChoices and the ABCC under Prime Minister John Howard, fatalities for construction workers doubled to almost five deaths for every 100,000 workers. We have clawed the rate back since then, but the government seems to want to undo all this good work. Fatigue and stress are major contributors to workplace accidents and deaths. Safe conditions and good working conditions save lives. Fatality rates on major constructions are four times higher than on general construction projects. One construction worker dies at work every 10 days in Australia and 37 construction workers are seriously injured at work every day. We are talking the lives and the wellbeing of Australian workers, but the government seems hell-bent on waging this ideological attack.

Another aspect of this bill puts in place a building code, a draft of which has been released by the government.

Let us be very clear: in 8,465 words of prescriptive red tape, the government's proposed new building code strikes at the heart of the Australian way of life, undermining the fair go and basic human rights. The code's impact on working hours, job security, incomes and living standards, injuries and fatalities, opportunities for apprentices and older workers will devastate family life and our communities. It prohibits clauses in the construction Electrical Trades Union agreement that, among other things, guarantees a day off for Christmas and Easter, discourage discrimination against older workers, and ensure the rights of workers to have a safe workplace. The code represents the most extreme intervention into the conduct of private business ever seen in Australia and threatens crippling penalties on lawfully operating companies.

Much of the justification for the building code is based on the claim that there is a productivity problem in the construction industry. Yet a recent report by the Australia Institute reveals that productivity has never been higher in the industry and that there has been a large shift in incomes towards profits and away from workers. In reality, the code is an ideological attack on more than one million hard-working Australians that will undermine productivity.

The Greens will oppose this bill and we will oppose the government amendments. We urge the Senate to reject the bill.

Senator BACK (Western Australia) (18:26): I rise to support the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction
Industry (Consequential and Transitional Provisions) Bill 2013. The government is committed, as it said leading into the 2013 election, to doing all that is necessary to reform the building and construction industry and to reinstate the rule of law in this critically important sector to our country. The government wholeheartedly believes that workers deserve the right to go to work each day without fear of being harassed, intimidated or being the subject of violence. The former Labor government, led by the now Leader of the Opposition, Mr Shorten, undermines confidence in the building and construction industry, particularly in the states of Victoria and my home state of Western Australia. Abolishing the ABCC saw a return to the lawlessness, which I intend to point out in my contribution, and an increase in the number of days where work is simply not being done in the industry to the loss of workers, employers, productivity and, of course, taxpayers, who largely fund most of the major construction projects.

We just cannot afford to have a building and construction industry that is inefficient and that is unstable. We must have the restoration of the ABCC and its code to support the work that is critical for reform in this country. The contents of the bill reflect this commitment. I make the point that with the massive investment in infrastructure now underway and into the future, which is going to completely transform this country in its cities, in its regions and in its rural and remote areas, there has never has been a more important time for this to take place. The industry represents some eight per cent of GDP, equivalent almost to the mining industry in our country. The industry can be an incredibly important source of sustainable high-paying jobs with skills development and long-term employment prospects.

When the ABCC first existed, the building and construction productivity increased 10 per cent, the economy gained $5½ billion a year, we saw inflation reduced and we saw GDP go up. All of those stats are critically important to everybody in our community. As you know and as we all know, when projects are delivered on time and on budget there is more money for more projects. There is greater confidence in the industry, there is greater pride and there is greater investment from both Australian and, of course, international companies. Everybody benefits, but, more importantly, the Australian taxpayer, the economy and the consumer all benefit. Conversely, when there are undue delays, budget blow-outs, time overruns and cost overruns, we all know what the impact of that is: confidence goes, future prospects of projects decrease and nobody is the winner.

The bill of course re-establishes the ABCC so that we will have a genuinely strong watchdog to maintain the rule of law, to protect workers, to protect construction contractors and to improve productivity even further. The point needs to made that, whilst the focus of previous speakers has been on employees and workers, the ABCC will be equally directed towards rogue employers in the industry. We recognise of course that we want to be rid of them, as we do other rogue participants. We want to encourage further investment. We want to provide more jobs. We want to make sure there is prosperity for workers and for the economy. All of us as taxpayers in this country should surely want to see that we get the best value for the taxpayers' money.

The bill will prohibit unlawful industrial action, unlawful picketing and coercion and discrimination. Penalties that are high enough to provide an effective deterrent will apply. I will address those in a few moments, because we have seen breaches of the provisions at will at the moment, by some of the rogue operators and unions. An active regulator will be
established to have a range of effective remedies to counter unlawful behaviour through the courts. We are not talking about the normally operating industrial climate. We are not talking about the normal commercial relationships between project managers, project controllers and their workforces. We are talking about coercion. We are talking about failure of the rule of law. The Cole royal commission examined it in 2003 and noted that the construction industry was characterised by unlawful conduct. Commissioner Cole concluded:

These findings demonstrate an industry which departs from the standards of commercial and industrial conduct exhibited in the rest of the Australian economy. They mark the industry as singular.

Furthermore, he concluded:

… the rule of law has little or no currency in the building and construction industry in Western Australia.

And:

The building and construction industry in Western Australia is marred by unlawful and inappropriate conduct. Fear, intimidation and coercion are commonplace.

I heard the previous contributor, Senator Rice, speak about criminal charges as a result of the royal commission. It was never in the terms of reference of the royal commission to prefer criminal charges. So why do we have this trotted out so often about a commission whose role was to examine, to determine and to come up with recommendations? It was not there to come up with criminal charges.

Even the Labor Party in government acknowledged the need for a special regulator. The problem was that, having come into government, having been at the beck and call of the militant union the CFMEU, it still took them from 2007 to 2012, around five years, to eventually get rid of the ABCC—because they knew very well that it was necessary and important. So indeed did Justice Murray Wilcox. He stated very clearly the need for regulation in this industry over and above other industries in the Australian economy. What we saw the then Labor government do was to replace the ABCC with a toothless pussycat—not even a toothless tiger. It was without teeth and had temporary powers that were drafted—and this is interesting, because the Senate needs to address itself to this—to automatically sunset at the end of May this year. That is in less than three months time. So the Senate has got to make a decision. And it was only recently that the Heydon royal commission commented about:

… the culture of wilful defiance of the law which appears to lie at the core of the CFMEU.

That was from a recently retired eminent High Court Justice of Australia.

Mention was made by the previous contributor of Econtech. I am not going to quote from Econtech. I am going to quote from the Australian Bureau of Statistics, which I think most of us in this chamber would recognise as being an independent assessor and judge of data. I am going to quote from the ABS statistics for the June quarter and the September quarter of 2014. We will not, until 20 March this year, have the figures for the December quarter, but these are the figures we have. In all industries in the June quarter, there were just under two days lost per 1,000 employees in all industries—1.9. But for the construction sector—Senator Rice will be interested to know, as she says there is no significant difference between different industries—the figure for the June quarter was 6.1 days lost. These are ABS statistics—not Econtech, not CJ Back but ABS statistics. Let me go to the September quarter. In all
industries in the September quarter, the last one for which we have figures, the figure was 2.4
days lost per 1,000 employees. In the construction sector, the figure was 18 days lost per
1,000 employees. I reckon that is a pretty significant difference—6.1 days lost in the June
quarter, trebling in the September quarter to 18 days lost. The construction sector accounted
for some 56 per cent of the total working days lost in that quarter, and the number of days lost
was 750 per cent higher than all industries. I reckon there really is an issue that has got to be
addressed.

There is one table that says it all, and it is one that we all need to focus on. If we were to
give all industries a baseline of 100 per cent, I will then explain to you again Australian
Bureau of Statistics data. In the pre-ABCC days, between September 1999 and December
2000, if all industries' baseline was 100 per cent, that for the construction sector was 480, 4.8
times higher. This is the interesting statistic that I would suggest people focus on. We then go
to the years of the ABCC, January 2006 to June 2012. If the figure for all industries is again
100 per cent, do you know what it was for the construction sector, Mr Acting Deputy
President? It was 1.3 times that—130. So we have dropped from 480 to 130. And guess what
happened under the Fair Work Building and Construction agency, from July 2012 to
September 2014. Remember, the original figure was 4.8 times and it went down to 1.3. Put
your money on it, Mr Acting Deputy President: she is back up to 420 again. Those are the
ABS stats—through you to Senator Rice, Mr Acting Deputy President. Those are Australian
Bureau of Statistics figures.

In the home state of some of our senators, Victoria, I refer to the work of the CFMEU in
September, I think, of 2012, not long after the abolition of the ABCC. We saw the militancy
and violence demonstrated by that union, but what is interesting here for me, as a person who
has been an employer for many years and has been an employee in both the government
sector and the private sector, is that the workers on the Grocon Myer Emporium construction
site themselves, being blockaded, put an advertisement in the Herald Sun newspaper with an
open letter. Who was it to? Grocon? Myer? The Australian government? No. Do you know
who it was to? It was to their own union bosses, asking them to stop the blockades and give
them access to their own workplaces. This was within months of the ABCC ceasing to exist
and the toothless pussycat replacing it. It was not the employer—it was not Grocon. It was not
the construction contractors. It was not the wider community. It was not taxpayers. It was not
the police, whose horses were kicked. It was not they who put the ad in; it was the workers
themselves who asked their own union bosses whether they could please go back to work.
And in this place we hear the sort of commentary from those who are opposed to the
reinstituion of an organisation that will stop that happening.

On 4 September 2012—this is the degree to which control had been lost, with much of the
Melbourne CBD closed down—we had the senior CFMEU official Mr Christopher
addressing a crowd of over 1,000 protesters on Lonsdale Street with a megaphone, with fewer
than 100 officers present. This is what he said: 'There's 11,000 coppers in this country or in
Victoria. There's 30,000 members of the CFMEU—greater amongst the other unions when we
call on their support—so we're up round the 50,000 mark. So bring it on. We're ready to
rumble.' That is what we are dealing with in an industry that contributes more than 10 per cent
of the GDP of this country—one which is a tremendous employer, with ongoing work over
many years because of the commitment of this Abbott government to infrastructure projects. That is what we are working with.

We have had, as I said, Commissioner Heydon making reference to wilful defiance. We saw the ACCC investigation of the CFMEU boycott against Boral, in which 'ACCC Chairman Sims was confronted by the culture of silence and fear of reprisal that is a feature of the building and construction industry'. That is not my statement. Mr Sims made the comment:

… the ACCC has only been able to progress the investigation by compelling people to give evidence… Compulsory powers are necessary to break this culture of silence and shine a light—
those are his words, not mine—
on the intimidation, thuggery and fear of reprisal that has darkened the industry.

There have been comments about the need and the power to compel people to give information. For the information of all of us, and maybe those who are listening to this, you have the ACCC, which has these compulsory powers. You have ASIC. You have the Australian Prudential Regulation Authority, APRA. You even have Medicare, which has compulsory powers similar to those proposed by the ABCC. And as we know, of course, we have in this new iteration of the ABCC the requirement for the Commonwealth Ombudsman to report in the event of there being recordings of interviews with people who are required to answer. It has been said this afternoon that the Ombudsman does not think he has the power. Again, the Ombudsman is a statutory officer who appears before Senate estimates and will be required by this place. I have no doubt that all 76 of us have the capacity to ensure that the Ombudsman is up to the task. I have no doubt at all about that.

As we know, when the then Labor government abolished the ABCC to appease the CFMEU, it also slashed the maximum penalties for breaking the law by two-thirds. Where is this strong cop on the beat that I heard about a few minutes ago? This, of course, just encouraged the CFMEU to continue defying the law. Then we had that wonderful little situation that, if two parties actually settled an issue before the regulator had an opportunity to deal with it, of course the matter had gone away. The analogy, of course, would be that someone runs a red light and causes serious damage to another person, but one sorts it out with the other one behind the scenes and, when the police go to prosecute, they say, 'Oh, no, we've sorted all that out, thanks very much; we've done a deal.' Come on. That is not the way that we engage in industrial relations in this country. That is not the way that we are going to continue to get the confidence of the whole sector, the taxpayers of this country and those who invest, be they Australians or others.

Senator Rice's comments to you and the chamber, Acting Deputy President, are interesting. We recently had the situation in her home state of Victoria with Boral, the CFMEU and the Regional Rail Link project. It is one I know she and her party would be tremendously interested in, and yet we saw—

**Senator Rhiannon:** What about all the accidents on sites?

**Senator BACK:** Time is not going to permit me, tonight, to make any comments on the shameful and ridiculous and hopeless and horrific and cowardly attack on Mr Nigel Hadgkiss by Senator Rhiannon, in this place, last night. I do intend, in adjournment, to pick up on that particular case. In a sense, I thank Senator Rhiannon for drawing attention to herself. A more shameful, more disgusting or more cowardly attack on an official without the opportunity to
respond—a person with incredible skill, capacity and background—I have not seen. It was shameful. I will leave that for another time.

I return to efforts by the CFMEU to block the company Boral out of the opportunity to participate in construction contracts. If ever there was a case where the ABCC, in its new iteration, needed to encompass transport and off-site activities, look no further than Boral and its evidence to the Heydon royal commission. (Time expired)

Senator LINES (Western Australia) (18:46): Thank you, Mr Acting Deputy President Bernardi, for sitting in the chair longer than your roster for me. I rise tonight to put Labor's position on our opposition to the Building and Construction Industry (Improving Productivity) Bill 2013.

Before I go to the very stark and obvious wrongs of this bill, I want to talk about the ABS stats that were quoted by Senator Back. Senator Cameron said in his address that government senators would use the very discredited Econtech report, and we will wait to see if they do. The government certainly relied on it during the hearings we had on this bill. They also decided to use ABS stats. Never let truth get in the way of a good story. What they tried to prove, by using those ABS statistics, was that somehow the construction industry was out of control. They tried to leave the public with the impression that these were unauthorised lost days, but when questioned during the hearings that we had to explain the ABS statistics, what did we find? We found that they were almost 100 per cent due to protected industrial action. For people who are listening or watching and do not really understand the Fair Work Act, when unions and employers are bargaining there is an ability for unions to conduct a ballot and ascertain—if the negotiations are not going very well—whether members would be prepared to take forms of industrial action. It is perfectly legal and absolutely permitted under the Fair Work Act. That is what those ABS stats represent. They represent protected industrial action. That, I believe, was in the evidence presented at the hearings by the department—when we went to explore and unpick those stats that the government tried to hide behind and give the impression of an industry that was out of control.

Labor senators do not see the merit in this bill and oppose it in its entirety without amendment. The government has completely failed to establish an economic or productivity case for the ABCC. The government has failed to address the very serious incursions on human rights in the bill. The government has failed to establish the uniqueness of the building and construction industry, sufficient to warrant such draconian powers and penalties. The government has failed to establish that the coercive powers proposed for this second incarnation of the ABCC are subject to sufficient oversights and safeguards, and the government has failed to establish that the ABCC would improve occupational health and safety in the building and construction industry.

On that last point, you would think the government really did not care about occupational health and safety in the building and construction industry. It is one of the industries in Australia that has the highest rates of death—an appalling statistic. It is a tough industry, by the definition of the ACT report into safety in the construction industry, and yet it is one where the Abbott government has been completely silent.

I must say that during Senate estimates I questioned the Federal Safety Commissioner and Safe Work Australia about the construction industry, and the very best they could tell me was
that they put together a 10-year plan. When I put to them that we had some 28 deaths in the
construction industry last year and that deaths were on the rise—by their own admission; by
their own statistics—they told me that deaths had risen. I asked them whether, surely, it was
time to revise a 10-year plan. They said that there were no plans to do that.

I find it absolutely incredible that here we have an industry that is crying out for regulation,
but that regulation is about what is happening on building sites that cause so many workers to
die. Imagine kissing your family goodbye in the morning and then dying at work. I cannot
imagine the tragedy that families suffer when their loved one goes off to work, whether it be a
son or a daughter or a husband or a wife. No Australian worker should be dying at work. And
yet all we hear about from the Abbott government in relation to the construction industry is
the demonising of the CFMEU and some of the officials of that union. We never hear about
what a tough industry it is and what a high number of serious injuries and fatalities it incurs.

I am yet to hear the Prime Minister or Senator Abetz say anything constructive—anything
at all—about their plan to reduce the number of fatalities that we have in the construction
industry and to make it a safe workplace. We do not hear that at all.

Despite re-establishment of the ABCC seeming to be essential for this government when it
took power, the coalition has certainly taken its time in bringing it back to the Senate. At the
end of 2013 when we as senators encountered this unnecessary bill, the government attempted
to push it through the Education and Employment Committee, of which I am the deputy chair.
But it has taken another 15 months from that hearing to resurface on the radars of those
opposite. When we as senators were first asked to vote on passing the bill in 2013, only a very
small part of the parliament's scrutiny of the bills had been completed while, at the same time,
the government and the supporters of the re-establishment of the ABCC were calling for this
Senate effectively to abandon its role and simply pass the bills with minimal scrutiny.

The legislation committee was given a mere 18 days—18 days!—in which to consider the
bills and produce its report. Submitters were given only eight days to make submissions on a
wide range of very complex matters, and there was only one public hearing—just one public
hearing—on 26 November 2013, which was of a duration of just 3½ hours. Just 3½ hours
were available for the committee to receive evidence on increased penalties, increased powers
and increased coercion—just 3½ hours. The government does not want this bill to have any
real scrutiny—that was its plan at that time.

Since that time—in fact, a year ago now—the Senate Standing Committee for the Scrutiny
of Bills has assessed the legislation and the Parliamentary Joint Committee on Human Rights
has tabled their second report of this parliament, which raised very serious concerns that the
bills to re-establish the ABCC involved the limitation, curtailment and extinguishment of a
wide range of civil, human and political rights of people working in the building and
construction industry. Yes—you heard that correctly—in Australia, that is what the Abbott
government wants this parliament to do: to curtail absolutely the rights of a small section of
our workforce, to treat them like third-class citizens and to take away their rights in Australia,
which is a fair-go country.

Both of those committees wrote to the Minister for Employment seeking detailed evidence
to support the government's assertion that the interference with human rights contained in the
bill is necessary, reasonable and proportional. As far as I am aware, the government has yet to
provide responses to the concerns of either of those committees.
I do hope that the senators of the Palmer United Party, Senator Lambie and other crossbench senators can hear what Labor senators have to say on this bill. I am aware that the Palmer United Party senator, Senator Wang, had a very constructive meeting in my home state with UnionsWA. I hope that meeting was enough to assure Senator Wang and his fellow Palmer United Party senator, Senator Lazarus, that the bill is a political ploy set up by an ultraconservative, anti-union government to take away the rights of thousands of workers.

Workers in the Australian building and construction industry are not thugs—and that statement is not even something that the government argues with. The government does not claim that all workers in the building and construction industry are thugs. In fact, the government does not even claim that half of them are. The government is putting up this legislation to go after a handful of union officials and delegates who it believes need to be reined in with such draconian legislation. They are not criminals and they are not different from other workers. This is simply an anti-union push from the coalition that sets up harsh and special rules for one type of worker just so they can attack the Labor Party, the ACTU and the CFMEU, and paint their members as criminals of some kind.

As we know, criminals will go where they think they can make a profit, including the security industry, the heavy-haulage industry, the liquor industry and the banking and financial services industry, to name just a few. Any argument that these laws will quell organised criminal activity in the industry is well and truly displaced. The ABCC has no power in relation to criminal matters, and the argument that it can address that issue is deliberately misleading and entirely a political ploy.

It is the Cole royal commission that proponents of the ABCC claim provides the legal, intellectual and policy rationale for the existence of the ABCC in its pre-2012 form and for its re-establishment. This is the very royal commission set up by the Howard government that spent $66 million—$66 million!—of taxpayers' money, had just one prosecution in the criminal jurisdiction and the findings of which were deeply flawed. It gave rise to a cottage industry of economic modelling and reporting from the supporters of the coalition, anti-union movement, almost entirely devoted to propping up the Cole royal commission's flawed productivity analysis.

If people are committing crimes—and let me make this clear; this has been said by Labor senators and MPs over and over again—and if there are allegations of serious crimes, we have a police force to deal with those and union rules that will expel them. Let those already charged with the responsibility for those who break the law get on with the job. We do not need further overlapping jurisdictions. The Fair Work Act 2009 already regulates rights and restrictions of protected industrial action. The rate of disputation has not increased since the ABCC was abolished, and again this is not Labor's data; this data is direct from the ABS. Any additional rules are unnecessary, unjustifiable and an attack on working Australians.

Even the title of the bill is misleading and misleads Australians. They call it the 'improving productivity bill'. The bill will not improve productivity. The government when naming this bill relied on data from Independent Economics, formerly trading as Econtech, and it is inherently flawed. It was interesting that at the hearings we had in 2013 the government relied heavily on that information, which was absolutely discredited during those hearings. It has been proven incorrect—in fact I would say demolished—by the respected academic Professor David Peetz.
The claims of enhanced productivity caused by the ABCC based on reports prepared by Econtech and Independent Economics and recycled endlessly are not supported by the evidence. The alleged 9.4 per cent improvement in construction industry productivity attributed to the last incarnation of the ABCC is not even a finding of the 2013 Independent Economics report. This is a modelling assumption made up and only drawn from estimates of the preceding reports and not a finding. It was not a finding of the 2010 report tabled to the committee from the same company, nor the 2008 report coalition senators relied on to assume this improvement in productivity. Any representation that this is evidence demonstrating the success of the ABCC is neither accurate nor appropriate. As Senator Cameron said and I will repeat, it will be really interesting to see if the government relies on the absolutely discredited information, whether it is from the old or new names of Independent Economics or Econtech, again in this place.

Proponents of the ABCC have been unable to answer the detailed criticisms of the assumptions and methodologies adopted by Econtech and Independent Economics. Despite this, supporters of the ABCC, including the Prime Minister, the Minister for Employment and employer organisations, continue to use the flawed and discredited reports as a bedrock argument in support of this draconian bill.

The proposition that the bills would enhance productivity in the building and construction industry is highly objectionable given the evidence my Senate colleagues on the committee and I have heard. It is long past the time for the government to seriously address the health and safety issues in the construction industry. In fact, as I said earlier, the only points that the government raised in relation to health and safety are again to attack the unions. We have heard in this place, in the media and in the other place, that when the government speaks about this it claims that the CFMEU uses its rights to inspect safety as some kind of hoax to get onto sites. I do not know how that can be justified when we have an industry which has one of the highest workplace death rates in this country—that a government would stoop so low as to suggest that union officials and others use safety as some kind of mask to get on site. The independent statistics on workplace deaths in the construction industry speak for themselves, and it is long past due for government to look at what regulation is needed to ensure that people go to work in the morning and come home in the afternoon.

The ACT has conducted an inquiry into safety in the construction industry, and there were some 28 recommendations in the report that was produced. The ACT government has committed to introducing all of those recommendations. The report acknowledges that it is a tough industry and that there is a culture change that needs to go on, but we do not hear any of that from the Abbott government. We hear this continued demonisation of union officials under the guise of the parliament to name officials and to say whatever they like about them whether or not it is true, to make these character assassinations day in, day out, at Senate estimates, at any inquiry we have into the construction industry where parliamentary privilege applies. The government thinks it can just malign people.

It is well past time for the government to pay serious attention and look at the regulation that needs to go on to prevent workplace death. That is the issue in this sector. The issue is serious injury. The issue is workplaces which just would leave you wide-eyed if you saw the kind of danger that workers are confronted with every single day. In my home state of Western Australia we have had some truly shocking accidents in that industry.
Finally, I want to remind the chamber that Labor does not support this bill that has come up. We cannot justify its existence. I will leave it there. *(Time expired)*

**Senator McKenzie** (Victoria) *(19:06)*: It gives me great pleasure to rise and speak in support of the Building and Construction Industry (Improving Productivity) Bill 2013. It is indeed a topic my fellow members of the Senate Education and Employment Legislation Committee discussed at estimates last week, where we traversed these issues with the current director of the building and construction inspectorate in much detail. Senator Cameron was belligerent, almost, at times in his harassment of that public official. When we talk about safe workplaces—workplaces where people can flourish and grow and do their very best work—I would argue that treating public officials the way some of them have been treated, and particularly Mr Hadgkiss at that public estimates hearing, by the opposition is not exactly how we want to be conducting ourselves.

But this bill and the measures included in it—in terms of setting up our government's election commitment to re-establish the building and construction commission—is well canvassed. It is not a new issue. It is an election commitment we were very up-front about wanting to deliver. In fact, the education and employment committee has held numerous inquiries into this particular issue and we hear the same evidence time and time again. It does not matter whether it is the legislation committee taking evidence from unions and those involved in the building and construction industry at the coalface or employers and industry participants, it is the same evidence given. Yet the Labor Party refuses once again to respect the mandate of the Australian people, given at the last election, for a suite of election promises by the then Abbott opposition.

What we do know is that building construction is a significant industry, contributing an enormous amount to our GDP—eight per cent. That is a lot of jobs. It is a lot of apprentices. It is a lot of small businesses, when you look at small to medium self-contractors. And it underpins so many of our further productivity issues because it provides the infrastructure we need to do all the other things we need to get on with and do within our economy. We need to ensure that young apprentices, men and women, can go to work to a safe workplace—and I agree with you, Senator Lines; we absolutely want safe workplaces—and be free of harassment and bullying and intimidation. That was not the evidence we were given. It was not the evidence the Cole royal commission was given on these sites and it is not the evidence we hear time and time again in our committee. Whether it is at estimates, at a reference committee looking into the bill or at a legislation committee looking at the bill, time and time again we hear of these incidents of intimidation and bullying by union members.

We hear of right-of-entry permits being signed by unions where it is very clear that the person they have vouched for is not a fit and proper person. Yet the union organisation either supports somebody who has a criminal record getting a right-of-entry permit—they know about it and do not worry about it—or, equally an issue, does not do the due diligence required to ascertain if they are a fit and proper person. When we look at who we are letting into workplaces, onto sites, to meet with workers and move around very dangerous areas we want to make sure they are fit and proper people.

Effectively, right-of-entry permits are a permit to trespass. That is fine if we are looking into safety; that is not a problem. But we need to make sure they are fit and proper people. We need to ensure that oversight bodies such as the one we are proposing have the right powers to...
deal with this issue and get to the heart of it because we hear, time and time again, these stories of militant and threatening behaviour—and behaviour against female workers, which I find particularly disturbing. I would argue that, despite the best efforts of those around the industry, building and construction is a highly gendered workplace. We want to get more women into the workplace. We want to get them out onto construction sites becoming young apprentices and contributing to the building and construction industry as they do to so many industries. But they are not going to do it if it is a workplace full of intimidation and bullying—full of situations where people coming to check on a work site, from the existing workforce under Mr Hadgkiss, are being sworn at and having their personal details put on social media and the like.

That is the evidence we have heard. To stand there and say it is a campaign by the coalition against unions and union representation and law-abiding citizens misses the point; it misses all the evidence you have heard yourself and that our committee has heard time and time again. I am baffled as to why you continue to support that type of behaviour being acceptable in any workplace, because it simply is not. Clearly the measures we have in place right now are not adequate because it is still happening.

I want to look at why we need to return to the ABCC. What we are wanting to do is enhance the productivity of this engine room of our economy and support the industry to do what it does. We need to be looking at lost productivity through changes in industrial law and arrangements; we have seen more and more days lost onsite as a result of the Fair Work Building and Construction being set up as opposed to our original proposal and the proposal before the Senate today. For instance, there was a big spike in the number of days lost in the September 2014 quarter. In September 2014, we had 18 days lost per 1,000 employees. Across all industry, there were only 2.4 days lost per 1,000 employees. That means that small business owners who are contractors or building construction companies are losing significant manpower—let's face it, that is what it is—onsite which is significantly delaying construction and causing significant increases in costs not only for the private sector but, indeed, for government. Anybody from my home state of Victoria, like Senator Carr, will appreciate the days lost in the building and construction of the desalination plant down in south Gippsland, just out of Wonthaggi. We saw the CFMEU run rife there. To not be able to have a tough cop on the beat able to actually deal with that issue in a timely manner with real penalties is a problem.

The current industry-specific regulator advises that the unlawfulness in the industry that was a feature in Victoria and Western Australia has now spread to other states—Queensland and South Australia. So it is not just my home state. We know about the Myer Emporium dispute, where the violence spread out into Melbourne city streets. We know about the Little Creatures brewery site in Geelong, where we suffered violent disputes, where picketers were accused in court documents of making throat-cutting gestures et cetera. This behaviour is just unacceptable in the modern workforce. We should all be ensuring that nobody is subject to that sort of behaviour.

Yes, as Victorians, we are very aware—too aware, I would suggest—of the militant behaviour of the union movement, and the CFMEU in particular. We do not want the good citizens of Victoria, the good workers, actually subjected to that. Yet you will not help us put the shoulder to the wheel; essentially you are not supporting the fact that these types of unions
and this type of behaviour undermines the legitimacy of unions more broadly in our social fabric and as part of our society.

Unions do have a role to play. We want to have safe workplaces and collaborative arrangements, flexible arrangements, so that all Australian workers across all industries can earn enough money to support their families, can have worthwhile and long-lasting careers and can actually participate in driving our economic development as a nation. There is a role for unions in that discussion. So, every time you have a CFMEU official arm in arm with a Comanchero, it undermines it. Every time you have a union official swearing at women, swearing at workers, bullying them on social media sites—and affecting their work practices it ensure they end up attending counsellors for their own mental health—you have to step back and ask: are we actually achieving our goals here as a conglomerate of the union movement for those opposite.

We know that when Labor abolished the previous ABCC it also slashed applicable penalties by two-thirds. You abolish it but then you also abolish the penalties for this type of behaviour. It only makes it cheaper for the CFMEU. They are happy to pay it. It is money for jam, because it helps in their spread of membership drives; it assists in the unlawful behaviour that we all know is going on and has gone on for millennia in building and construction. This particular industry, from BLF days, has been subject to this type of behaviour and does need an ABCC so that it can actually regulate and prosecute appropriately unlawful behaviour.

I have been personally interested in the Boral case in particular. The ACCC has not usually had to play a role in industrial matters. I met with Mr Sims about this at the time to ascertain why the secondary boycott behaviour that was going on, through the industrial action taken by that union, was not being examined by the ACCC as anticompetitive. He assured me that he was looking into the matter; however, the problem was that he was finding it very difficult for people to come forward and give the evidence that he required to act. That is not uncommon in these cases where bullying and intimidation occur. People do not want to have to put themselves at risk. The fact that this is occurring and undermining the good name of some unions and the union movement as a whole is very concerning.

I think what Rod Sims recently said is telling. He said that it was very difficult to get people to come forward to give evidence against John Setka and Shaun Reardon—who were both CFMEU officials and were leading the charge, if you like, against Boral. He said the ACCC had only been able to progress the investigation by compelling people to give evidence, giving them the protection they so desperately needed.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lines) (19:20): Order! I propose the question:

That the Senate do now adjourn.

Hadgkiss, Mr Nigel

Senator Rhiannon

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (19:20): This evening I want to talk about a manifest abuse of the privileges we have in this place by a
senator so that she could besmirch the personal reputation of a senior statutory officer holder by smear and innuendo of the worst kind, without a single shred of evidence.

Last evening as the adjournment debate drew to a close, Senator Rhiannon of the Australian Greens delivered a speech that unfolded as a personal attack on a senior Australian public servant who holds an important statutory office. In delivering her smear, she cleverly tried to avoid direct accusation, preferring the coward's way of attacking by imputation. This attack on the director of Fair Work Building and Construction, Mr Nigel Hadgkiss, occurred in the context of a long-running CFMEU smear campaign against him. This campaign is part of a broader smear campaign being spearheaded by the union's national secretary, Dave Noonan, who has a record of smearing and victimising anyone brave enough to speak out about the behaviour of his union.

The CFMEU's agents of influence in this place have repeatedly tried to attack this public servant. Following estimates in October last year, the CFMEU's former employee Senator Wong asked a question on notice relating to Mr Hadgkiss's career and his achievements. This question asked for a range of details about his background, including details of all 15 commendations received by him—

Senator Rice: On a point of order, Madam Acting Deputy President. This is an attack on a fellow senator. I want to ask whether the senator has been told of this, as I understand is the normal courtesy?

The ACTING DEPUTY PRESIDENT (Senator Lines): It is a courtesy; you are correct, Senator Rice. But it is not a point of order.

Senator O'SULLIVAN: The insinuation of the work by Senator Wong related that these commendations were somehow not genuine. Not surprisingly, all of the 15 of these commendations were exactly as they appeared. At Senate Estimates last week, the CFMEU's most faithful advocate, Senator Cameron, again attempted to smear Mr Hadgkiss. This time, Senator Cameron made the absurd allegation that Mr Hadgkiss was compromised by receiving a cup of tea from building companies—a totally pathetic assertion.

Senator Kim Carr: I rise on a point of order. I raise a similar point that has been raised so far. There is a customary practice in this chamber that if you are to besmirch the reputation of another senator you at least provide the courtesy of informing the senator so that they may well want to be here to hear these remarks, and may well refute them. Given that the senator has not actually said that he has actually contacted the senator, I take it that, in fact, the opposite is the case.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Carr. As I said to Senator Rice, it is a courtesy of the Senate to advise senators if they are going to be speaking about them. But it is not a point of order.

Senator O'SULLIVAN: But as Dave Noonan's and the CFMEU's desperation has increased, so too has the level of smears. Last night, the CFMEU's desperation reached a new level when it sent the Greens senator, Senator Rhiannon, to use privilege to again attack a distinguished statutory officer holder, bizarrely accusing him of somehow being complicit in murder and torture in Northern Ireland. Senator Rhiannon based her whole tissue of smear on the fact that Mr Hadgkiss—
Senator Rhiannon: I rise on a point of order. Accuracy is needed. I in no way accused anybody of murder. And I actually set that out in the speech.

The ACTING DEPUTY PRESIDENT: I believe that is a debating point.

Senator O'SULLIVAN: So the basis of this tissue of smear was that one time Mr Hadgkiss visited the Royal Ulster Constabulary in Northern Ireland as a member of Australia's premier national crime authority. Then she went on to provide the Senate with a colourful and selective history of the formal Royal Ulster Constabulary. At this point, it is worth recounting the record of CFMEU smears, led by its chief smear merchant, National Secretary Dave Noonan. Mr Noonan is well known for his regular visits to Parliament House, so we should not be surprised that Senator Rhiannon has now been activated as part of his union's smear campaign.

The CFMEU's corrupt and criminal activities were exposed at various points last year in the Heydon royal commission. Each time, this evidence was met with smears and retribution from Dave Noonan. This prompted counsel assisting the royal commission to conclude that there had been a: 'CFMEU slur campaign against witnesses who were willing to give evidence against them.' This slur campaign was extensive and shameful. When Boral CEO Mike Kane blew the whistle on the CFMEU blackmail and secondary boycotts, Dave Noonan personally attacked Kane as the CEO of a multinational company. When CFMEU official Luke Collier had intimidated and threatened FWBC inspectors at Barangaroo, including calling a female inspector an 'f-ing slut', Dave Noonan excused this behaviour by saying that swearing on building sites was nothing new.

Last November, brave whistleblowers in the New South Wales branch of the CFMEU came forward on ABC to reveal the union's involvement in:

...corruption, association with murderers, association with gangsters, association with terrorists, money being paid to union officials, union officials intimidating other union officials, union officials being forced out of their jobs and their careers...

So what was Dave Noonan's response to that? He issued a press release smearing the whistleblowers as:

...a faction operating within the NSW branch of the CFMEU that is attempting to destabilise the current leadership...

When Assistant Commissioner of Victoria Police Stephen Fontana implicated senior CFMEU officials in direct links to organised crime, counsel for the CFMEU tried to smear the assistant commissioner by asserting that he was engaged in cultural warfare and outrageously claimed that, in fact, Victoria Police was part of the problem. It was no surprise that Dave Noonan's union would attempt to use a compliant Senate in the parliament to again engage in its smear campaign against those who reveal the ugly truth about this corrupt union.

What was notable about Senator Rhiannon's speech last night was not just its sheer desperation and Noonan-inspired level of spite and rage but its absolute utter hypocrisy:

I urge Hadgkiss to provide details about his past.

Let me say that again, but this time more slowly so that the irony is not lost:

I urge Hadgkiss to provide details about his past.

If Senator Rhiannon is now demanding of others that they explain their past then she is certainly inviting reflection on her own past. And what an interesting past it is! Senator
Rhiannon, as we know, was a longstanding member of the Communist Party of Australia and its Moscow-aligned successors. When her heroes and mentors in the Soviet Union were running a police state that engaged in arbitrary arrest and mass torture, ran concentration camps, conducted unilateral invasions of sovereign states and oversaw all amounts of human rights abuses—

**Senator Milne:** I rise on a point of order. I draw your attention to the standing orders where senators are not permitted to reflect upon the intent or character of other senators.

**The ACTING DEPUTY PRESIDENT:** My understanding is that it is custom and practice and not part of the formal standing orders. A number of other senators have raised the point, as well.

**Senator O'SULLIVAN:** Lee Brown, as Senator Rhiannon was then known, was not only a fellow traveller but a proud and passionate pro-Soviet communist. So tonight I make exactly the same demand of Senator Rhiannon as she made of Hadgkiss in exactly the same terms: I urge Senator Rhiannon to provide details about her past. Of course, I am not the first person to ask this of Senator Rhiannon. She has many questions still to answer. As a former ASIO intelligence officer said, as quoted in a story entitled ‘Secret past of Greens senator Lee Rhiannon’ in The Australian on 28 January 2012:

> Because of Lee's parents' political disposition, the Soviets were starting to groom Lee as a future fully fledged recruit, and getting in as early as possible so that they could maximise the degree to which they could define her cover and career. And maximise they did. The same report also quotes recovering communist Mark Aarons, a former associate of the Brown family, who wrote:

> In 1977, Rhiannon led an SPA delegation to Moscow—

**The ACTING DEPUTY PRESIDENT:** Excuse me, Senator O'Sullivan. Are you quoting? You know the custom is to refer to Senator Rhiannon by her full title. I apologise if you said you were quoting, but I did not hear that.

**Senator O'SULLIVAN:** I am indeed quoting.

**The ACTING DEPUTY PRESIDENT:** Thank you, Senator O'Sullivan. Can you just make that plain.

**Senator O'SULLIVAN:** I will. The quote continues:

> at the invitation of Leonid Brezhnev's neo-Stalinist regime.

And I further quote:

Rhiannon edited the pro-Soviet and Soviet-supported monthly magazine Survey, founded by her father, from his retirement in 1988 until it ceased publication, staying at the helm even after the fall of the Berlin Wall.

On her visit to Moscow, Senator Rhiannon also studied at the International Lenin School In Moscow. However, she has never divulged exactly what it was she studied or what other activities she engaged in whilst in Moscow. So I invite her to provide these details of her past.

Senator Rhiannon has never explained what arrangements she had with Moscow as an agent of influence, nor has she ever explained what she received in return. As Mr Aarons also said of Senator Rhiannon in 2010, 'I could not conceive of someone of my age and experience supporting Moscow's politics.' Yet that is what Lee Brown, as she once was, did. Even
communists with a conscience, such as Mr Aarons, have denounced Senator Rhiannon's lack of conscience in supporting the Soviet Union.

Last night, Senator Rhiannon delivered an appalling smear against Mr Hadgkiss on behalf of the CFMEU. She asserted that because Mr Hadgkiss visited Northern Ireland at a time when certain violent acts were taking place, that he is somehow implicated in those acts. Senator Rhiannon herself stated, 'There is no suggestion that Hadgkiss was involved in crimes committed by the RUC.' Of course there is not. But that did not stop her from claiming that he is somehow implicated in anything that the RUC might have done. Just a few lines later in her speech, after detailing some particular incidents that occurred in Northern Ireland, she reverses this position and says, and I quote again, 'Hadgkiss cannot use the excuse that the crimes perpetuated by the RUC were not known when he visited.' This is the lowest form of smear: when no evidence exists, simply assert 'guilty by association', no matter how ludicrous the claim, in the hope some mud might stick. As Senator Rhiannon's hero Vladimir Ilyich Lenin once said, 'A lie told often enough becomes the truth.' (Time expired)

Homelessness

Senator O'NEILL (New South Wales) (19:32): Tonight I want to make some remarks about a very important issue that is affecting communities right across this nation but particularly communities on the Central Coast. I would like to begin with the insightful words of 17-year-old Tahlia Mathieson, a student from Kincumber High School who has a keen sense of social justice. She won the Lions Youth of the Year Zone 1 Final on the Central Coast just last weekend. In her speech she said:

You're standing at the checkout at Coles, you sponsor a child in Uganda, you hold strong views on the terrorist regimes of ISIS, you watch the ABC to inform yourself of current global situations and you advocate for equality, Tahlia.

She also said:

Yet did you ever think that the person next to you in this slow moving queue was below the international poverty line?

One in every five Australians struggles to finance their basic living requirements. That is approximately 4,626,000 individuals that we fail to recognise as in need.

But not everyone ignores need. Labor certainly sees need and our policies reflect our response to that need. Last week, powerful social agencies including St Vincent de Paul acknowledged problems with homelessness. Indeed, St Vincent de Paul launched their social justice statement on affordable housing and homelessness. International Women's Day is this week, and there have been many speeches and important gatherings here in Parliament House. I absolutely acknowledge, participate in and celebrate International Women's Day. It is a vital day to reset our course and dedication to social justice. But I mourn the lack of progress in women's equity issues such as equal wages and superannuation. Right now, many retired women are living their final years in poverty through a lack of retirement savings. Right now, a woman is being overlooked for a higher position because of her gender. But right now, more tragically, a woman is being assaulted, abused or even killed as a result of domestic violence. That is why, in that context, government policy and the budget choices a government makes matter so much for the community in which we live.
Domestic violence and family violence can happen to anyone. It touches all ages, all cultures, all social and economic backgrounds. Women are much more likely than men to be the subject of domestic violence. Happily, there are strong survivors of family violence. Rosie Batty is one such survivor. I was so proud to meet her this week, and I am amazed at the influence she has had already this year as Australian of the Year. She is brave, generous and she is teaching this nation.

Domestic and family violence is a scourge in this country. It is the driver of many social and economic problems. Among them, most significantly, it is a key driver of homelessness. Not all people will become homeless as a result of domestic and family violence. Like many other contributing factors to homelessness, domestic and family violence is more likely to trigger homelessness when someone has limited economic and social capital available to them.

When a woman decides to leave an abusive relationship she often has nowhere to go. This is particularly true of women with few resources. A lack of affordable housing and long waiting lists for assisted housing mean that many women and their children are forced to choose between abuse at home and life on the streets. Domestic violence is a major factor contributing to the homelessness issues of so many families in this country, particularly for women.

All Australians are affected by the shortage of affordable and available rental housing, but women, particularly those who are reliant on part-time wages or salaries or parenting payment may be more at risk than men.

One of the main reasons is related to gender-based economic/financial inequality. On the whole, we sadly know that women earn much less income than men.

On the Central Coast of New South Wales, homelessness is considered by local welfare organisations to be one of the region's serious, burgeoning problems, disguised beneath the idyllic beachside setting. It is guesstimated—because figures for the region are lumped in with statistics for Sydney—about 1,500 people on the Central Coast will not have a place to sleep tonight, and that is from a population of just under 300,000. That estimate includes not only those sleeping rough but also those who get by couch surfing at friends’ or relatives’ houses and those who sleep in a car or in caravan parks.

Labor believe all Australians deserve ongoing, affordable and safe housing. Our policy settings and our budget reflect those beliefs. We believe that Australians should have a place where they can raise a family, that is a secure base for their working lives and a foundation for interaction with the wider community. It was Labor in 2009 that introduced the $1.1 billion National Partnership Agreement on Homelessness with the states and territories, with the aim to halve homelessness by 2020.

The Abbott government has shot down that target by gutting the National Partnership Agreement on Homelessness. The situation on the ground is absolutely desperate. At Lake Macquarie, to the north of the Central Coast, there is now a facility called Our Backyard. It gives men and women, couples and families, who are sleeping in their cars a place to safely park and have access to bathroom, kitchen and laundry amenities. Our Backyard is a sound idea that has responded to a desperate situation—women and their children fleeing an abusive partner who have no money for urgent accommodation and nowhere but the backseat as a
bed. They cannot find respite from a dysfunctional environment and they seek this as their equivalent to home.

Let me cite some examples from cases reported by local groups about a problem on the Central Coast. Only one per cent of property in Gosford is actually available for rent. There are pockets of up to 30 per cent youth unemployment on the Central Coast. If these kids are kicked out of home, they are unlikely to be able to pay for the little lodging that is available and chances are they will end up homeless. Women and their children fleeing violent relationships seek emergency accommodation. The local shelter may be full and a mother may not have ready access to money for a motel and, not wanting to return to domestic dysfunction, they join the search for stopgap housing from the limited stocks available.

What has the Abbott government done for these people in this situation? For a start, the Abbott government chose a policy and delivered a budget that cut $44 million worth of funds from the homelessness services across this country. This financial year, this means that the operations that look after homelessness and manage to help people at a time of great need in this very wealthy country that we live in cannot pay their wages, and there is nothing left in the till for repairs, improvements or new equipment. Many people are giving their time without payment to assist. Worse still, these vital organisations are currently in absolute limbo, not sure whether they will even be in existence in a matter of weeks when their funding runs out.

The Abbott government has given no indication as to whether NPAH will be renewed or for how long. Labor brought it in with a four-year guarantee. The coalition has only agreed to maintain funding in annual chunks. As recently as last week, there was no response to questions at Senate estimates hearings as to whether the agreement will be continued. There has been no answer from this government—a stony silence. Uncertainty persists, despite an unprecedented letter to the Minister for Social Services, Scott Morrison and copied to Prime Minister Abbott from the CEOs of 50 homelessness organisations. They titled their letter, 'You do your budget planning on a four-yearly cycle; please let us do the same'. Among the 50 signatories calling on this government to do the right thing are the Salvation Army, Homelessness Australia, St Vincent de Paul, ACOSS and an array of women's domestic violence support services.

On the Central Coast, the Narara Community Centre in conjunction with the St Vincent de Paul Society supply emergency relief for struggling local families. It has had its annual funding of $120,000 refused and will remain open for an uncertain period of time. Today, when the Prime Minister was asked a question, he had a very short response. For 44 years of service from the Narara Community Centre, they got one sentence and no money commitment from the government. The Prime Minister's entire response was, 'Speaker, my understanding is all these organisations have had their funding confirmed for the rest of this financial year.' Forty-four years serving a community and, right now, in the midst of a housing and a homelessness crisis, that is all the Prime Minister of Australia could say to that community. This government is a disgrace. (Time expired)
Raupach, Professor Michael
McMichael, Professor Emeritus Anthony

Senator MILNE (Tasmania—Leader of the Australian Greens) (19:43): As a passionate believer in the importance of science and evidence based research, and especially in the need for strong and urgent action on global warming, which threatens the very life-support systems of our planet, tonight I pay tribute to the lives of two outstanding Australian climate scientists.

I would like to start by talking about Professor Michael Raupach, who had a long career at the CSIRO and was the inaugural chairman of the Global Carbon Project. He died on 10 February this year aged 64. It is a very sad loss for the science community and for Australia, and I want to pay tribute to him and to his courage. I will talk later about Professor Emeritus Tony McMichael, but first Michael Raupach.

During his PhD studies, a long time ago, he built his own measurement and data-processing system, becoming a pioneer in a technology that is today replicated at hundreds of flux towers in a global network. He had a 35-year career in CSIRO as a great science leader, and he was also a contributing author to the Intergovernmental Panel on Climate Change's *Fourth assessment report*. He became the ANU Climate Change Institute director in 2014. During his career he published more than 150 scientific papers and 50 reports. He edited two books. In recent years he co-chaired the working group drafting the Australian Academy of Science booklet *The Science of Climate Change: Questions and Answers*.

Last year, Professor Raupach moved from CSIRO to take up the directorship of the Australian National University's Climate Change Institute. His work on the global carbon cycle and global carbon budget showed the rapid growth of emissions and declining efficiency of natural carbon sinks, explored current and future emission trajectories linked to economic development and devised ways to think about the responsibility of nations to address climate mitigation. He was an outstanding climate scientist but, more particularly, he had enormous courage in not only doing this research but in communicating that research to the public and having the courage to go out there and take this on.

In a speech to the Australian Academy of Science he said:

To pretend that science, and in particular environmental science, can remain at the side of that debate is simply no longer tenable, … and any statement environmental science chooses to make carries implications about those choices and there is a very important call for the scientific community to be fully engaged in that public debate, fully participating in it.

He had been doing that for decades and, in particular, in the early years he was part of the action against nuclear weapons, scientists against nuclear weapons, as long ago as the 1980s. He was a scientist committed to celebrating nature and the natural world and to alerting us—and future generations, of course—to what is going on with global warming. I want to particularly pay tribute to his passion and his intellect. He had enormous respect from the scientific community and he had great courage.

As Professor Will Steffen has said, he was:

… an outstanding scientist, always rigorous and insightful.

He demonstrated great leadership on the global carbon project and:

He was a wonderful human being. We are all going to miss him very much.
I would just like to conclude with his own words with regard to the late Professor Michael Raupach. When he was asked about his feelings about global warming, he had this to say:

My feelings about climate change are a mixture of awe, hope, despair, frustration and anger.

Awe: Climate change is part of climate and climate is part of the natural world that sustains us. It is majestic and beautiful.

Hope: Humans are incredibly smart. We have the capabilities to repair climate and to lighten our footprints to what the planet can sustain.

Despair: Humans are incredibly dumb. We find it very hard to think beyond me, here and now. Yet, our task is to fix a generation of problems that are global and centennial—to learn to share a finite planet.

Vale Michael Raupach.

I now move to talk about the late Professor Tony McMichael who died in September last year at the age of 71. He too was an outstanding, imminent Australian epidemiologist. He retired in 2012 from the Australian National University, where he previously had held the National Health and Medical Research Council Australia Fellowship. He was a very valued member of the Intergovernmental Panel on Climate Change, was a lead author, and since 1993 he had been out there on the issue of global warming and particularly on the impacts on public health. He had a deep knowledge of earth sciences. He had a deep knowledge across archaeology, geography, climatology and health. He did incredible work on epidemiology. He is interest in patterns of infectious disease emergence and spreading focused on emerging health risks to poorer populations, and he went on to talk about what was going to happen with global warming. He said the greatest impact of climate change in poorer populations will be:

… the sheer burden of disease, the increase in numbers of deaths from things like cholera and dysentery in a warmer world, in a world more prone to flooding, and the overloading of sanitation systems. That I think will be a major problem unless we can get seriously engaged in the eradication of poverty and the improvement of living conditions in these poorer parts of the world very quickly.

He was a very well published academic, including over 300 peer reviewed papers, 160 book chapters and so on in terms of a brilliant academic career. But I also wish to just refer to something that he said in 2013:

A shared public understanding of these potentially great risks to the human social-ecological system should now be reinforcing the urgent need to take national preventive action.

This will require an extraordinary trans-political response, comprising strong leadership from the Australian government via open and community-engaged discussion of this fundamental threat to human societies, their populations and the natural environmental systems that supports all life.

Professor Tony McMichael was regarded extremely highly not only here in Australia but right around the world as an epidemiologist, as a scientist and as a person who cared very much about this and future generations. In his own words, he said:

It's hard to imagine that people are doing so much damage to the natural world. It's sad when a society like ours can't see further than its bank balance—and stumbles blindly into a future when children won't be able to enjoy the flowing rivers, mountain snow, coloured birds and bush animals. Don't we have any responsibility for other creatures, forests and rivers? I'm rather ashamed of our behaviour.

It seems so silly to go on behaving like this—though, from hearing our politicians speak, it seems that making and consuming more and more is the point of life. Surely the dreadful heat we have suffered
from in recent heatwaves, and the awful bushfires that have terrified rural communities in the past couple of years, are telling us that something is going very wrong.

He finished that statement by saying: It's really sad that some of our local children seem quite puzzled and worried by what they see on TV about this, and hearing what adults say I hope my family and our community can try and help solve these frightening problems.

They both did do everything to try and solve these problems. In 2050 people will look back and say why in Australia did we not take the action we knew was necessary from the science, and I want to say to people in 2050 that people like Professor Tony McMichael and Professor Michael Raupach did tell everybody. They did have the courage to stand up. They did have the courage to speak out for now and for future generations. I pay tribute to them both for the courage and the scientific endeavour and the care that they showed in the time that they lived.

Senate adjourned at 19:52

DOCUMENTS

Tabling

The following documents were tabled pursuant to standing order 61(1) (b):

Department of Finance—Campaign advertising by Australian government departments and agencies—Report for 2013-14—Replacement pages [4].

Foreign affairs—Indonesia—Mr Myuran Sukumaran and Mr Andrew Chan—Letter to the President of the Senate from the Ambassador of the Republic of Indonesia (Mr Riphat Kesoema), dated 26 February 2015, responding to the resolution of the Senate of 10 February 2015.


Western Australian Fisheries Joint Authority—Reports for 2005-13.


Tabling

The following documents were tabled by the Clerk pursuant to order:

Departmental and agency contracts for 2014—Letter of advice pursuant to the order of the Senate of 20 June 2001, as amended—Social Services portfolio.

Indexed lists of departmental and agency files for the period 1 July to 31 December 2014—Statements of compliance pursuant to the order of the Senate of 30 May 1996, as amended—Comcare.

Department of Employment.

Department of Social Services.

Seafarers Safety, Rehabilitation and Compensation Authority.