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**SITTING DAYS—2015**

<table>
<thead>
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<th>Date</th>
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<td>March</td>
<td>2, 3, 4, 5, 16, 17, 18, 19, 23, 24, 25, 26</td>
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<td>November</td>
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</tr>
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<td>December</td>
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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

Governor-General

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

Senate Office holders

President—Senator Hon. Stephen Parry

Deputy President and Chair of Committees—Senator Gavin Mark Marshall

Temporary Chairs of Committees—Senators Christopher John Back, Cory Bernardi, Sam Dastyari, Sean Edwards, Alexander McEachin Gallacher, Susan Lines, Deborah Mary O'Neill, Nova Maree Peris OAM, Dean Anthony Smith, Zdenko Matthew Seselja, Glenn Sterle, Peter Stuart Whish-Wilson and John Reginald Williams

Leader of the Government in the Senate—Senator Hon. Eric Abetz

Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC

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

Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy

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

Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips

Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz

Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC

Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion

Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash

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

Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy

Leader of the Australian Greens—Senator Richard Di Natale

Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and Senator Larissa Joy Waters

Chief Government Whip—Senator David Christopher Bushby

Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston

The Nationals Whip—Senator Matthew James Canavan

Chief Opposition Whip—Senator Anne McEwen

Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart

Australian Greens Whip—Senator Rachel Siewert

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

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<th>Senator</th>
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<td>Gallagher, K.</td>
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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.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.
(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.
(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice C. Milne), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

AG—Australian Greens; ALP—Australian Labor Party;
AMEP—Australian Motoring Enthusiast Party; CLP—Country Liberal Party;
FFP—Family First Party; IND—Independent, LDP—Liberal Democratic Party;
LNP—Liberal National Party; LP—Liberal Party of Australia; 
NATS—The Nationals; PUP—Palmer United Party

**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
<table>
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<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>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>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister on Counter-Terrorism</td>
<td>Hon Michael Keenan MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>Senator the Hon. Michaelia Cash</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>Hon. Charles Porter MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>Hon. Alan Tudge MP</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong></td>
<td>Hon. Warren Truss MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td></td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>Hon. Jamie Briggs MP</td>
</tr>
<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>Hon. Julie Bishop MP</td>
</tr>
<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>Hon. Andrew Robb AO MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>Hon. Steven Ciobo MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Trade and Investment</td>
<td>Hon. Steven Ciobo MP</td>
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<tr>
<td><strong>Minister for Employment</strong></td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td>Assistant Minister for Employment (Deputy Leader of the House)</td>
<td>Hon. Luke Hartsuyker MP</td>
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<tr>
<td><strong>Attorney-General</strong></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>(Vice-President of the Executive Council)</td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td>Minster for Justice</td>
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<tr>
<td>Parliamentary Secretary to the Attorney-General</td>
<td>Hon. Michael Keenan MP</td>
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<tr>
<td><strong>Treasurer</strong></td>
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<td><strong>Minister for Small Business</strong></td>
<td>Hon. Joe Hockey MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>Hon. Bruce Billson MP</td>
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<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>Hon. Joshua Frydenberg MP</td>
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<td><strong>Minister for Agriculture</strong></td>
<td>Hon. Kelly O'Dwyer</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Agriculture</td>
<td>Hon. Barnaby Joyce MP</td>
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<tr>
<td><strong>Minister for Education and Training</strong></td>
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<td><strong>Minister for Social Services</strong></td>
<td>Hon. Scott Morrison MP</td>
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<tr>
<td>Assistant Minister for Social Services (Manager of Government Business in the Senate)</td>
<td>Senator the Hon. Mitch Fifield</td>
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<td>Minister for Human Services</td>
<td>Senator the Hon. Marise Payne</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Industry and Science</td>
<td>Hon. Karen Andrews MP</td>
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<td><strong>Minister for Defence</strong></td>
<td>Hon. Kevin Andrews MP</td>
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<tr>
<td>Minister for Veterans' Affairs</td>
<td>Senator the Hon. Michael Ronaldson</td>
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<td>Title</td>
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<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon. Michael Ronaldson</td>
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<td>Hon. Stuart Robert MP</td>
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<td>Parliamentary Secretary to the Minister for Defence</td>
<td>Hon. Darren Chester MP</td>
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<tr>
<td>Minister for Communications</td>
<td>Hon. Malcolm Turnbull MP</td>
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<td>Parliamentary Secretary to the Minister for Communications</td>
<td>Hon. Paul Fletcher MP</td>
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<tr>
<td>Minister for Immigration and Border Protection</td>
<td>Hon. Peter Dutton MP</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
<table>
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<tr>
<th>TITLE</th>
<th>SHADOW MINISTER</th>
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<td><strong>Leader of the Opposition</strong></td>
<td>Hon. Bill Shorten MP</td>
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<td>Shadow Minister Assisting the Leader for Science</td>
<td>Senator the Hon. Kim Carr</td>
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<td>Shadow Minister Assisting the Leader for Small Business</td>
<td>Hon. Bernie Ripoll MP</td>
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<td>Shadow Parliamentary Secretary for Small Business</td>
<td>Julie Owens MP</td>
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<td>Hon. Tanya Plibersek MP</td>
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<td>Senator Claire Moore</td>
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<td>Manager of Opposition Business (Senate)</td>
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<td>Shadow Minister for the Centenary of ANZAC</td>
<td>Hon. David Feeney MP</td>
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<td>Shadow Parliamentary Secretary for Foreign Affairs</td>
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<td><strong>Leader of the Opposition in the Senate</strong></td>
<td>Senator the Hon. Penny Wong</td>
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<td>Hon. David Feeney MP</td>
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<td>Shadow Minister for Veterans’ Affairs</td>
<td>Hon. David Feeney MP</td>
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<td>Shadow Parliamentary Secretary for Defence</td>
<td>Gai Brodmann MP</td>
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<td>Hon. Anthony Albanese MP</td>
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<td>Shadow Minister for Regional Development and Local Government</td>
<td>Hon. Julie Collins MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for Regional Development and Infrastructure</td>
<td>Hon. Alannah MacTiernan MP</td>
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<td>Shadow Parliamentary Secretary for External Territories</td>
<td>Hon. Warren Snowdon MP</td>
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<td>Hon. Dr Andrew Leigh MP</td>
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<td>Shadow Minister for Financial Services and Superannuation</td>
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<td>Senator the Hon. Lisa Singh</td>
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<td><strong>Shadow Minister for Higher Education, Research, Innovation and Industry</strong></td>
<td>Senator the Hon. Kim Carr</td>
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<tr>
<td>Shadow Minister for Vocational Education</td>
<td>Hon. Sharon Bird MP</td>
</tr>
<tr>
<td>Shadow Assistant Minister for Higher Education</td>
<td>Hon. Amanda Rishworth MP</td>
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<td>Shadow Parliamentary Secretary for Manufacturing</td>
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<td>Michelle Rowland MP</td>
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<td>Shadow Parliamentary Secretary for the Arts</td>
<td>Hon. Michael Danby MP</td>
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<td>Hon. Kate Ellis MP</td>
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<td>Hon. Amanda Rishworth MP</td>
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<td>Shadow Parliamentary Secretary for Education</td>
<td>Julie Owens MP</td>
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<tr>
<td>Shadow Minister for Agriculture</td>
<td>Hon. Joel Fitzgibbon MP</td>
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<td>Shadow Minister for Rural Affairs</td>
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<td>Shadow Minister for Resources</td>
<td>Hon. Gary Gray AO MP</td>
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<td>Shadow Minister for Northern Australia</td>
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<td>Hon. Warren Snowdon MP</td>
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<td>Hon. Catherine King MP</td>
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<td>Stephen Jones MP</td>
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<td>Shadow Minister for Sport</td>
<td>Senator Hon. Jan McLucas</td>
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<tr>
<td>Shadow Parliamentary Secretary for Health</td>
<td>Hon. Bernie Ripoll MP</td>
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<td>Shadow Parliamentary Secretary for Health</td>
<td>Nick Champion MP</td>
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<td>Shadow Minister for Families and Payments</td>
<td>Hon. Jenny Macklin MP</td>
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<td>Shadow Minister for Disability Reform</td>
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<td>Senator the Hon. Doug Cameron</td>
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<td>Shadow Minister for Housing and Homelessness</td>
<td>Senator the Hon. Jan McLucas</td>
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<td>Senator Claire Moore</td>
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<td>Shadow Minister for Communities</td>
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<td>Shadow Minister for Immigration and Border Protection</td>
<td>Hon. Richard Marles MP</td>
</tr>
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<td>Shadow Minister for Citizenship and Multiculturalism</td>
<td>Michelle Rowland MP</td>
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<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Hon. Matt Thistlethwaite MP</td>
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<td>Senator Helen Polley</td>
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<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Hon. Brendan O'Connor MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment Services</td>
<td>Hon. Julie Collins MP</td>
</tr>
</tbody>
</table>
CONTENTS

MONDAY, 14 SEPTEMBER 2015

Chamber
DOCUMENTS—
   Tabling................................................................................................................. 6627
COMMITTEES—
   Meeting .................................................................................................................. 6627
PERSONAL EXPLANATIONS—
   Media ..................................................................................................................... 6627
BILLS—
   Water Amendment Bill 2015—
      In Committee...................................................................................................... 6628
      Third Reading..................................................................................................... 6631
   Treasury Legislation Amendment (Small Business and Unfair Contract Terms)
      Bill 2015—
      Report of Legislation Committee ..................................................................... 6632
      Second Reading................................................................................................. 6632
      In Committee...................................................................................................... 6650
      Third Reading..................................................................................................... 6664
   Civil Law and Justice (Omnibus Amendments) Bill 2015—
      Second Reading................................................................................................. 6664
      Third Reading..................................................................................................... 6667
BUSINESS—
   Rearrangement ..................................................................................................... 6667
BILLS—
   Environment Protection and Biodiversity Conservation Amendment
      (Bilateral Agreement Implementation) Bill 2014—
      Second Reading................................................................................................. 6667
MINISTERIAL ARRANGEMENTS .............................................................................. 6677
QUESTIONS WITHOUT NOTICE—
   Prime Minister...................................................................................................... 6677
   Trade with China .................................................................................................. 6679
   Fair Work Commission ......................................................................................... 6680
   Trade with China .................................................................................................. 6681
   Climate Change ..................................................................................................... 6682
   Asylum Seekers ..................................................................................................... 6685
   Mantach, Mr Damien ............................................................................................. 6686
   Trade with China .................................................................................................. 6688
   Climate Change ..................................................................................................... 6689
   Trade with China .................................................................................................. 6690
   Telecommunications .............................................................................................. 6692
   Trade with China .................................................................................................. 6692
QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS—
   Prime Minister...................................................................................................... 6694
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
   Answers to Questions............................................................................................ 6694
PETITIONS—
   Same-Sex Relationships ....................................................................................... 6703
### CONTENTS—continued

NOTICES—
- Presentation
- Presentation

BUSINESS—
- Leave of Absence

MOTIONS—
- Community Affairs References Committee

MATTERS OF PUBLIC IMPORTANCE—
- Prime Minister

DOCUMENTS—
- Consideration

DOCUMENTS—
- Centrepay
  - Order for the Production of Documents

BILLS—
- Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015
  - First Reading
  - Second Reading
- Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015
  - First Reading
  - Second Reading
- Australian Defence Force Cover Bill 2015
- Australian Defence Force Superannuation Bill 2015
- Defence Legislation Amendment (Superannuation and ADF Cover) Bill 2015
- Gene Technology Amendment Bill 2015
- Passports Legislation Amendment (Integrity) Bill 2015
- Australian Radiation Protection and Nuclear Safety Amendment Bill 2015
- Acts and Instruments (Framework Reform) (Consequential Provisions) Bill 2015
  - Assent
- Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014
  - Second Reading
- Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015
  - Second Reading

ADJOURNMENT—
- Member for Wentworth
- Economy
- Sugar Industry
- Climate Change

DOCUMENTS—
- Tabling
CONTENTS—continued

Tabling.................................................................................................................. 6775
Tabling.................................................................................................................. 6775
Monday, 14 September 2015

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

DOCUMENTS

Tabling

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

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

COMMITTEES

Meeting

The Clerk: The following notifications have been received:

Economics Legislation Committee—public meeting during the sitting of the Senate today, from 5 pm, to take evidence for the committee's inquiry into the provisions of the Asian Infrastructure Investment Bank Bill 2015.

Finance and Public Administration Legislation Committee—public meeting during the sitting of the Senate on Monday, 12 October 2015, from 10 am, to take evidence for the committee's inquiry into the Australian Government Boards (Gender Balanced Representation) Bill 2015.

Foreign Affairs, Defence and Trade Legislation Committee—public meeting during the sitting of the Senate on Thursday, 17 September 2015, from 9.30 am, to take evidence for the committee's inquiry into Schedule 2 of the Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015.

Parliamentary Joint Committee on Intelligence and Security—public meeting during the sitting of the Senate on Thursday, 17 September 2015, from 12.30 pm.

Joint Standing Committee on the National Capital and External Territories—public meetings during the sittings of the Senate, from 10 am—

Thursday, 26 November 2015
Thursday, 3 December 2015.

The PRESIDENT (10:02): Does any Senator wish to have the motion put on any of those questions? There are none.

PERSONAL EXPLANATIONS

Media

Senator LAMBIE (Tasmania) (10:02): I seek leave to make a short, two-minute personal statement.

Leave granted.

Senator LAMBIE: Today I referred journalist Stephen Drill to the Press Council of Australia for investigation after he interviewed and posted a video of my son for the Herald Sun and other Murdoch media websites.

Unlike Mr Drill, my purpose in publicly disclosing controversial personal information about my son was to protect and persuade him to voluntarily accept ice detox and drug rehabilitation, because we do not have involuntary detox in this country. It was a risk; however, I felt I had no other option open to me because he was in grave danger. It worked.
Early last week, my son contacted me and agreed to treatment, which I immediately organised with the help of a barrister and the staff of Teen Challenge, a national organisation that specialises in drug rehabilitation.

Everything was going smoothly until Mr Drill contacted my son and interviewed him last Friday. When Mr Drill conducted his interview, my son was vulnerable, drug affected, with diminished capacity and part of an official drug rehab program, having signed a Teen Challenge document two days earlier. As part of this Press Council investigation, I would like Mr Drill to explain why, after the interview, my son chose to leave home again and stop his rehabilitation process.

There may be other journalists who are tempted to copy Mr Drill and use the public interest excuse to chase my son for an interview. My message is simple: interview him by all means, but only after he is rehabilitated and back in control of his actions and thoughts. I will deal with the criticism that I am bad parent and a worse politician then. Because, if you chase him or any other ice addict at this stage of their rehabilitation, you are endangering their recovery and acting as a mouthpiece for a dangerous drug addiction that will do anything and say anything in order to be fed and nourished.

The bottom line is that my son would have been in rehab today if Mr Drill had not contacted him.

BILLS

Water Amendment Bill 2015

In Committee

Debate resumed.

The CHAIRMAN (10:04): The committee is considering the Water Amendment Bill 2015 and amendments moved by Senator Leyonhjelm.

Senator LEYONHJELM (New South Wales) (10:04): This bill is proposing some sensible amendments to the Water Act to cut buybacks from farmers to 1500 gigalitres, and I support that. However, I have moved two amendments which I think I should explain once again for the benefit of the chamber.

The first amendment will counter water hoarding by the Commonwealth Environmental Water Holder. As the law currently stands, the Commonwealth Environmental Water Holder is required to hold and store water even when environmental watering plans have been fully utilised. My amendment removes the ban on selling water that is excess to environmental needs by removing a requirement to retain water if it can be stored for a future accounting period.

This idea, I believe, is supported by the National Party—certainly by the Victorian Nationals leader, Mr Peter Walsh, former water minister in Victoria. I do not see why it should not be supported at least by the Nationals in this place.

The second amendment that I am proposing increases the total water that can be used by farmers in the basin by around one per cent. This is a modest change that will benefit farmers and not threaten the environment. The increased water for farmers is achieved by reducing water use reduction targets listed in the Basin Plan.
The government argues these sorts of amendments will fall out of their current review process, and we should not proceed with them now. Quite frankly, I think that amounts to the government saying, 'We want our name on these measures, not your name, Senator Leyonhjelm.' I do not accept that. We have a responsibility in this parliament to promptly amend Commonwealth law when a clearly beneficial change is before us. We should not delay in the hope that bureaucratic committee processes will come up with something sensible in a timely way.

These amendments do not threaten environmental outcomes, and additional water will also be available to farmers who wish to purchase it at a reasonable price. They will improve the Basin Plan and deliver practical benefits to basin communities and the environment. It will also send a signal to the basin communities that we, in this place, feel their pain and are not indifferent to their trials.

The inquiry I am chairing will recommend more substantial reform but, in the interim, these measured and modest amendments signal a resolve to improve outcomes and reduce the uncertainty of necessary water reforms. I do intend to call a division on these amendments.

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (10:07): I have already spoken briefly to Senator Leyonhjelm's amendments but, given it is a new day of the Senate, I will touch on them again. At the broad level, the point that I would make in terms of the government's opposition to these amendments—and it is one that I reflect upon, having been for most of the time of this government the responsible minister for water and the Murray-Darling Basin and for a good period of time in opposition previously the responsible shadow minister—is that a careful management approach is required across the basin. It is not just careful management in balancing water use between economic needs and environmental needs but also in balancing the expectations between those whose communities depend upon the river system for their sustainability and those of course who live alongside the river system and, in a different way, whose communities depend upon the health of the river system—that balance between water users' need for water, and tourism and activities and others' need for a healthy river.

So there is a need to balance the environmental and economic outcomes. There is a need to balance those community expectations and then there is a need to make sure that, in doing it, you actually are achieving support and agreement amongst the five different jurisdictions that have a role in relation to the operation of the Murray-Darling Basin system and, in particular, the Basin Plan.

That is not to say, Senator Leyonhjelm, that your issues are not worthy of merit. But it is to say that, in this instance, process—much as process frustrates you at times and, to be honest, it frustrates me at times—is important if we are to hold what is a delicate arrangement together for the health of the river and the communities who rely upon it. And it is important that we do work through with the states and territories any changes to the Water Act, rather than simply bring them in and risk the support of the states and territories for the overall operation of that act.

I have given the commitment that the government will, of course, be responding to the Water Act review, which was commissioned last year and finalised last year. It provides some important recommendations in relation to how trading by the Commonwealth Environmental Water Holder could be amended, and it presents those recommendations in a careful and
nuanced way with a number of conditions about how such trading amendments could be enacted. I do to note in relation to your amendments as they relate to the carryover of water that carryover is an important function for any environmental water holder, just as carryover rights are important for irrigators. In terms of establishing an environmental water holder what we have is a human intervention, a governmental intervention, in trying to best replicate and best optimise environmental outcomes in what is now a highly regulated river system.

The Murray-Darling, particularly the southern connected system, never outside of major, major flood events, flows freely. It is a highly regulated system in which there are active interventions made to determine what an appropriate level of flow is in terms of managing the risk to property, managing access to water for irrigators and managing water quality, particularly in the southern parts of the system. With such a regulated system, to try to best replicate environmental actions, the Environmental Water Holder was established to hold irrigation licences, like any irrigator, and to be able to then use those licences in a way that can optimise environmental outcomes. To be able to do that, the Environmental Water Holder needs to be able to make decisions in some years to not use those allocations and to load them up for use in another year in order to best replicate some of those environmental flows and to get an optimal environmental outcome.

So, in terms of your overall package of amendments, there are areas where the government has concerns about the nature of the amendment and there are other areas where we are sympathetic but do need to go through the proper processes. I appreciate your passionate interest and your representation for some of the communities of the basin, the communities whose passions and views I am very familiar with. I am eager to continue to work, as the government is, with you, with the crossbenchers, with the committee and with the opposition, who have continued a history of bipartisanship in this policy area, to ensure that future changes to the act, just as those that the Senate, I trust, will agree upon today, are delivered in a way that continues support for the Basin Plan and water reform in Australia, rather than risks jeopardising support for it by any of the different stakeholder groups.

The CHAIRMAN: The question is that amendments (1) and (2) on sheet 7752, moved by Senator Leyonhjelm, be agreed to.

The committee divided. [10:18]
(The Chairman—Senator Marshall)

Ayes ...................... 6
Noes ...................... 39
Majority............. 33

AYES

Day, RJ
Lazarus, GP

Leyonhjelm, DE (teller)
Madigan, JJ

Muir, R
Wang, Z

NOES

Birmingham, SJ
Bullock, JW

Bushby, DC
Cameron, DN

Canavan, MJ
Carr, KJ

Cash, MC
Collins, JMA
Question negatived.

Bill agreed to.

Bill reported without amendments; report adopted.

**Third Reading**

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) (10:21):

I move:

That this bill be now read a third time.

**The DEPUTY PRESIDENT:** The question is that the motion be agreed to.

The Senate divided. [10:25]

(The Deputy President—Senator Marshall)

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**AYES**

- Birmingham, SJ
- Bushby, DC (teller)
- Canavan, MJ
- Cash, MC
- Day, RJ
- Fawcett, DJ
- Gallacher, AM
- Ketter, CR
- Lazarus, GP
- Lindgren, JM
- Ludwig, JW
- Madigan, JJ
- McEwen, A
- McKenzie, B
- Bullock, JW
- Cameron, DN
- Carr, KJ
- Colbeck, R
- Edwards, S
- Fifield, MP
- Gallagher, KR
- Lambie, I
- Lines, S
- Macdonald, ID
- Marshall, GM
- McGrath, J
- Moore, CM
AYES
Muir, R
Peris, N
Ruston, A
Sterle, G
Wang, Z
Xenophon, N

O'Neill, DM
Reynolds, L
Ryan, SM
Urquhart, AE
Williams, JR

NOES
Di Natale, R
Ludlam, S
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
McKim, NJ
Rice, J
Waters, LJ

Question agreed to.
Bill read a third time.

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


Ordered that the report be printed.

Second Reading

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

Senator KIM CARR (Victoria) (10:28): I would like to speak on the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015. The opposition will be supporting this bill and I must say, while the Senate report has only just in the last few minutes been tabled, it is unusual in that we do not have sufficient time to study the detail of that report. I note that a number of stakeholders have raised with the Senate committee report—and I think that in the few minutes I have had to look at this it is quite apparent that there have been issues of concern raised with the economics committee and the senators directly. It is important to acknowledge those issues, and I note that the opposition has a number of additional comments in this report which reflect the concern that has been expressed in the course of the Senate inquiry.

This bill amends the Australian Securities and Investments Commission Act 2001—the ASIC Act—and the Australian Consumer Law, which is set out in the Competition and Consumer Act 2010. It extends the unfair contract term protections currently available to consumers, so that they also cover businesses with fewer than 20 employees, where these businesses agree to standard form contracts for transactions valued at less than a prescribed
threshold. Under this bill, the applicable threshold for contracts is $100,000, or $250,000 if its duration is more than 12 months. Contracts above these thresholds would continue to be treated in the current way. The up-front price for contracts is defined in the ASIC Act. It must be disclosed at or before the time the contract is entered into.

Part 2 of the ASIC Act contains provisions that protect consumers from unfair contract terms. This bill extends these provisions to also cover small business contracts. The existing concepts of 'unfair' and 'standard form contract' can be found in sections 12GB and 12BK of the ASIC Act. The Act and the Australian Consumer Law currently contain minor consumer unfair contract term protections. The ASIC Act applies to financial services and products, while the Australian Consumer Law applies to the supply of goods and services other than financial services or products and the sale or grant of an interest in land.

The government has indicated the Australian Competition and Consumer Commission was provided with $1.4 million in the 2014-15 budget to support the implementation of this bill. However, what concerns many stakeholders is the government's own estimate of the additional compliance costs for business. The government's explanatory memorandum points out that:

Persons who offer contracts to small businesses may incur a once-off transitional cost (including seeking legal expertise) to implement any system changes and ensure contract terms comply with the unfair contract terms law. This cost is estimated to be $50 million in the first year …

Many businesses have informed senators and informed the Senate inquiry that they feel that this estimate is on the conservative side and they claim this will add many millions of dollars in red tape compliance costs for business. The explanatory memorandum also notes:

Businesses that offer low-value standard form contracts to small businesses may need to review and amend their contracts to ensure they are compliant with the new protections.

Labor senators have received many representations from the business community who have noted their strong concerns about these costs, along with other substantive issues. These issues are contained in the additional comments made by Labor senators in the report that has just been tabled. They include the narrow definition of what is a small business; the lack of a comprehensive disclosure regime to encourage small businesses to seek professional and legal advice before entering into a contract with another business; the lack of a reasonable time limit within which a small business can advise if they consider part or all of the contract is 'unfair' to ensure contract certainty; the definition of 'up-front price'; the short time period for businesses to change their contracts before the legislation takes effect; the $100,000 up-front price threshold for a small business contract; the inclusion of retail leases in the bill; and the inclusion of franchised businesses operating under the Franchise Code of Conduct. These are matters that we believe the government has an obligation to take on board.

The Senate Economics Legislation Committee—which I know is extraordinarily overworked—has managed to examine these matters, and there is no doubt that there will be those that will welcome the measures in this bill; however, there needs to be attention paid to the concerns that are being expressed about the detail regarding the implementation of this legislation.

Labor understands that small businesses, like consumers, are offered contracts on a 'take it or leave it' basis and often lack the resources to understand or negotiate contract terms. This can result in some risk for small businesses, which are often less able to access legal and other
advice to help them manage risk. In addition, the costs of obtaining legal advice are sometimes disproportionate to the benefits that any legal advice of this type will provide. Peak representative groups have expressed their concerns about this matter in many different ways and in a wide range of fora.

Labor appreciates that this issue is a very real one for people directly affected. Equally, and as importantly, when a change of this nature, a change of this significance, is being considered, there will undoubtedly be those who have opposing views, and the consequences of such a change will have a negative impact on their business. I think their concerns need to be directly addressed.

We are conscious that many in the business community have concerns about what they see as the far-reaching impacts of applying unfair contract protections on business-to-business interactions. They have expressed the view that, while these measures outlined in the bill would have some protections for small business, extending them would also expose other small businesses to claims from other small businesses themselves regarding unfair terms.

It is important to note here, in response to the regulation impact statement that the government has issued for the consultation, that the Office of Best Practice Regulation observed that the regulation impact statement acknowledges, firstly, there is limited empirical evidence about the scope of the problem being experienced by small business and, secondly, the benefits and the costs of options are difficult to measure. It is clear from this that the coalition's commitment prior to the election—and, again, once in government, in its option paper that it was intent on bringing in this legislation—needs to be assessed against their own statements in the Office of Best Practice Regulation.

The Labor Party was not the only one that, at the time that the option paper was released, noted it appeared to be doing little more than seeking evidence to support an extension of an unfair contract term protection to small business through legislation. The result of this approach is that some stakeholders see this bill as having the potential to seriously damage business confidence and business certainty. That is why we are highlighting the concerns today. It is often said that, without proper and rigorous analysis, we can end up with laws that are not, in fact, fit for purpose. On this side of the chamber, we are seeking to prevent that, where possible.

Labor is also aware that there remain serious concerns in some quarters about the inclusion of retail leases in the bill. There have been concerns expressed to the opposition by those from the financing and banking sectors, the automotive industry and even the franchise sector itself. The opposition would like the minister to take seriously the concerns that are being expressed. It is not Labor's position, one way or another, to support or oppose the views of the stakeholders. We are not saying necessarily that the evidence is there to sustain that claim, but there is no doubt the claims are genuinely felt. But it is important for us to acknowledge that these are concerns that call on the government to continue a dialogue with those who are making those criticisms.

As I said at the outset, Labor will support the bill but, at the same time, we want to ensure the legislation does not end up creating a situation where both parties to an agreement lose out
because of the way in which the implementation of a well-intentioned but ill-conceived proposition occurs.

It is important to recognise that it was under a Labor government that we introduced a national law to regulate unfair terms in contracts between individual consumers and businesses in 2010—I think it was a process commissioned by Mr Bowen, when he was the minister responsible for small business in 2009. We saw that as an important part of Australian Consumer Law reform. It is also worth noting the unfair contract provisions for consumers have only been in place since 2010, so any view on their effectiveness in such a short time would need to be viewed with some caution. Indeed, the minister only announced the review of the Australian Consumer Law last month. Nevertheless, we will observe any findings of that review and we will study them very closely.

In terms of the current laws, the status quo means that a small business has no legal protections if a term in the standard form contract is unfair, unless there is some other factor such as an unconscionable conduct, or misleading or deceptive conduct, occurring in the context of the contract. For most people, that means a small business does not have recourse to the protections set out in Australian Consumer Law which render unfair terms in standard form contracts void when they are entered into by an individual consumer. The key small business stakeholders and various interest groups strongly back the changes that address this issue, and that is why we are supporting the bill.

However, given the concerns that I have outlined, Labor is of the view that the government should commit to a two-year post-implementation review of the legislation to actually judge its effectiveness for those directly concerned.

This is consistent with good practice and with the government's recently announced review of the Australian Consumer Law. A two-year post-implementation review acknowledges the concerns raised by some stakeholders regarding the high costs of compliance and the red-tape burden imposed by the bill, while providing support for the majority of small business stakeholders who are in favour of the bill. It is well known that the coalition went to the last election committing to extend unfair contract protections to small business. But it is equally important for the coalition, now they are in government, to hear and act on the concerns of all stakeholders when serious issues are raised in relation to small business.

Labor will support the bill. I understand there are some amendments being proposed, and we will give serious consideration to those when they are moved.

Senator WHISH-WILSON (Tasmania) (10:40): The Greens also support the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015. We not only had a policy in 2012-13 going to the election to introduce similar legislation; we actually had legislation drafted back in 2013 to do similar. We have long been a supporter of small business in this country, and giving them as level a playing field as possible in terms of broader competition policy and tax breaks, instant asset write-offs and small business commissioners. Recently we have stood in this chamber and debated the Australian Small Business and Family Enterprise Ombudsman Bill 2015, which was brought forward by the government, which the Greens also supported and we also had similar legislation drawn up while we were in government with Labor in 2013. So we will be supporting this bill.
We will be moving some amendments, which I can go into more detail on when we government in committee. We also agree with the Labor Party that it would be useful to have a review mechanism put in place now so that these bills can potentially be finetuned and the concerns that have been raised—and a number of them are valid concerns—can be quantitatively and qualitatively assessed over the first couple of years of operation of these laws. We would like to see the thresholds extended to include a larger number of small businesses. On our calculations, around 80 per cent of small businesses will be covered by the $100,000 up-front price payable. In recent weeks we have been meeting with stakeholders who would like to see that extended. So one of the amendments we will be moving will be to increase that to $300,000. On our calculations, that would capture about 95 per cent of small businesses under the definition in this bill. When we go in committee, I will raise some issues with the minister about why that definition was used.

We do not believe that that increase would be any problem in terms of any complications with the legislation that is before us, but it would capture a larger number of small businesses in their contract negotiations—if you could even call them negotiations. It has been made very clear in the explanatory memorandum that a number of small businesses in these situations—whether it is lease payments or negotiating the provision of goods and services or the purchase of goods and services—do not classify these things as negotiations. They get 'take it or leave it' contracts. Some of them know that these contracts are unfair but they do not have the resources to appeal them, and if they do not take what they are given they are very easily put out of business. The Australian Newsagents Federation, ANF, made a submission to the Senate Economics Legislation Committee in which they talked about how difficult it is for some of their members when there are only one or two suppliers of the goods and services that they need to conduct their businesses, how the contract terms can unfairly disadvantage them and also about the limited rights of repeal they have in relation to these contract terms.

We believe in small business because small businesses are people. Small businesses are your mums and dads, your cousins and the person down the street. Nearly five million people are employed by small business across this country; nearly two million small businesses are registered. Most of them are operated by one or two people. They are often stalwarts of our local communities, and they are often disadvantaged when compared with big business in terms of their resources and the conditions they operate under. We believe in giving them a fairer go by doing things such as lowering their tax, and the Greens wanted to have tax lowered to 28 per cent. We have seen something similar to that from the government. We want to give them advantages in terms of instant asset write-offs, and we want to strengthen competition powers.

It would be wrong if I were not to mention that at this time we are very disappointed with the federal government, which seems to be dillydallying on an effects test in this country. An effects test is critically important for competition policy. It has long been the Holy Grail for a number of small business groups and for farmers in this country—the ability to at least have a provision that provides a better level playing field. I would not say it is a silver bullet in terms of making the playing field more competitive in this country, but it is better than what we currently have.
I know Minister Billson has been out there advocating for an effects test. It was recommended under the government's own Harper review, albeit a watered-down version of an effects test. We would like to have seen a stronger version of that, like the initial publication in the consultation paper, but it is better than what we have now. At least it will allow in future the potential for these things to be challenged by small business groups if they feel that they are being unfairly disadvantaged or shut out of the market by big business such as the duopoly. Certainly farmers' groups have also been calling for a change to competition policy in this country. While we support what is coming before us today, and it is something that my party has long advocated for, we still urge the government—while they have this opportunity and the Greens in the Senate who will support an effects test provided that the legislation is sound and delivers in line with what we have been discussing—to bring the legislation to the Senate soon so that we can get this passed into law before the next election. We support an effects test, like we support business-to-business contract terms similar to what we have seen in place for consumer-to-business contracts.

On that point, I asked Choice, who I happened to meet with very recently, how things had gone with the consumer-to-business laws that were put in place over the Competition and Consumer Act. They said that these things had gone very well and that the ACCC has been quite successful and robust in its prosecutions of unfair contract terms under the Consumer Law. They felt that the system has worked fairly well. There are some complications. We are comparing apples with oranges here in terms of small business to big business contracts versus consumer-to-business contracts, and we will need to go into some of that detail in committee. It is something, I agree with the Labor Party, that should be reviewed without taking away from the certainty of giving small business better competition policies and better tools to tackle unfair contract terms.

The Bills Digest spells a lot of this out in detail for us, but I would say—and I noticed that Senator Carr did not go so far as to mention this—that we probably should have had at least a day in committee for an inquiry on this. This did not go to an inquiry. While there is a lot of information that has been well set out here by the economics committee, we really probably should have had an inquiry into this.

Senator Edwards: We did—a couple of hours in Melbourne.

Senator WHISH-WILSON: I must have missed that. This probably could have done with a bit more than a couple of hours. I think it is quite important, given some of the potential complications and the concerns that have been raised by, for example, the franchise holders in this country. It would have been good to get a bit more information around that. Nevertheless, I have read all of the information that we have been given. As I mentioned earlier, the Greens have had a longstanding position to extend these unfair contract terms and to legislate to give small business a much stronger, much more level playing field in terms of negotiating these contracts, especially when we are dealing with the situation where a lot of them are, 'take it or leave it'. But we will be proposing a number of amendments in committee and we are glad that the government is standing up for small business.

While this Senate is in place, I would still urge them to bring an effects test before this parliament so we can do something more for farmers in this country who have long suffered under the power of the supermarket duopoly with their market concentration. Of course that is what COSBOA and other small business groups have been advocating for.
Senator EDWARDS (South Australia) (10:50): I also rise in respect of the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015. I certainly appreciate the comments made by the other senators—Carr and Whish-Wilson—and the important indication that they are largely in support and they have flagged that they might want to make some comment in committee. However, it would appear that this initiative from Minister Billson has received fairly universal acceptance.

Just for the record, there was an inquiry into this bill, which was conducted in Melbourne several weeks ago by the Senate Economics References Committee of which I am deputy chair, and we heard from a number of stakeholders in this space who raised concerns about the various drafts of the bill. Those concerns were discussed with the minister formally and informally, as you would expect in these environments, to a point where we will table a report later on this afternoon, I suspect, to which members will be able to talk, if they would like.

This bill gives effect to an election promise which was made prior to the last election to provide what was termed a 'fair go' to small businesses by extending the unfair contract term protections which already are in place for consumers but not for the small business sector.

In framing this bill, the government has consulted widely. I think there was a 10-week consultation process which was to gather information about the extent of the problem and canvass the views which, as I say, culminated in a Senate references hearing in Melbourne.

The government received 80 submissions, and there were about 300 survey responses. Also included in the consultation were Commonwealth, state and state and territory consumer affairs ministers and they formally agreed to amend the Australian Consumer Law in April. They have been in the loop and that is obviously required under intergovernmental agreement for Australian Consumer Law.

This legislation has been far and wide, and I must say it is world-leading legislation and, from the positive comments from those opposite and on the crossbenches, it would seem quite popular.

In line with the Corporations Agreement of 2002, the Commonwealth has notified the states and territories that these legislative protections would be mirrored in the Australian Securities and Investment Commission Act of 2001. There were certainly no objections raised at that time. Based on those consultations, the public was invited to comment in May. There has been quite a lot of input into the drafting of this bill. I note that Senator Whish-Wilson will be make contribution during the committee stage and I think that is healthy, given everybody's positive sentiment.

Overall, the feedback showed that small businesses across a wide range of industries across this land have concerns about unfair terms and, like those in the consumer protections, they were looking for it.

There are some two million small businesses in Australia, and they are vulnerable to the inclusion of unfair terms in standard form contracts because, just like consumers in rental agreements at the electrical stores and those types of things, they do not often have the time or the expertise—and certainly nobody has lawyers in house at that level of business—to critically analyse a lot of the contracts that are offered to them. For example, it could be a lease on a property or it could be a banking contract. This legislation is about providing those two million businesses out there in Australia with a bit of an umbrella when it comes to the
kinds of contracts that you would expect as a normal part of business. The feedback that was received will seriously guide the implementation of this law once it comes into effect, which is set down to be six months from the time of assent.

This legislation will extend the unfair contract terms protections to cover standard form, small business contracts that are valued below a prescribed threshold. It contains amendments to Australian Consumer Law, which will flow on to the Australian Securities Investment Commission Act. This will enable a court to declare void an unfair term. This relates to a unilateral change in price and, if you are dealing with a duopoly in, say, the retail supermarket sector and you are a small business supplying into that sector, it will mean that you have some recourse available to you.

This applies to a contract where at least one party was a business with fewer than 20 employees when it agreed the contract—so fewer than 20 employees when the contract was entered into; not pre-empting the growth of a business—or the contract value does not exceed $100,000 or, if the contract is for more than one year, it does not exceed $250,000. The size of a business will be determined by a head count, and that is a reasonable position to take. The head count measure has been found by the Australian Bureau of Statistics to provide a good proxy for small business and the figure of 20 full-time equivalent employees has served government policy well over time. The size of a business is important, but so too are the threshold limits for day-to-day transactions.

Where advice on a contract's terms may be disproportionately high, the onus is on a small business to undertake due diligence for high-value contracts fundamental to the success of their business. So this legislation does not obfuscate the obligation on small businesses to undertake due diligence on contracts of a higher value. There can be significant differences between high-value contracts and those day-to-day contracts that are thrust before small businesses. It is certainly not the role of our government—and this has been a mantra of this government—to be a nanny to small business. It is reasonable for small businesses and large enterprises to seek advice on larger contracts. It is my experience that responsible small businesses and ones that are somewhat entrepreneurial understand this responsibility.

This bill is an important reform that will have significant positive impact on Australia's two million small businesses. Before I complete my contribution here this morning, I want to outline two concerns that were raised at the hearings by stakeholders and that were taken to the minister. The first issue concerns the lack of a comprehensive disclosure regime to encourage small businesses to seek professional legal advice. This policy was designed to address the take-it or leave-it contracts only. Contracts that involve the need for diligent negotiation were not included because those contracts are not standard-form contracts. So that is quite a reasonable position that the minister has taken.

The second issue which came up was the contention by some of the larger stakeholders, mainly the Australian Bankers' Association, that the period for implementation at six months was too short. But, having discussed that, the transition period for implementation of the new protections does follow the input from the majority of stakeholders. Some parties have argued for a longer transition period and some have argued for a shorter transition period. Those small businesses that would be direct beneficiaries of this have argued for a shorter time frame. The ones which have to make substantial changes have argued for a longer time frame, and that is not unusual. The government considers that the transition period balances these
priorities. When you have such world-leading legislation, it is always hard to find a position which will give happiness, peace and order to every stakeholder.

In order to assist businesses to comply, the ACCC will work with businesses and industry groups to identify any kind of problematic terms which come about and they will encourage compliance. This approach was taken for consumer protections and led to most businesses choosing to delete or amend any of the problematic terms. In order to address this the ACCC has been provided with resources. An additional $1.4 million has been provided to support businesses to comply with these extensions of protections. This will obviously include the ACCC releasing guidance material at the start of the six-month transition period. Information will be key to the implementation of this and communication has been resourced. Those small businesses will be set to enjoy the benefits of this legislation in the shortest possible time frame. For the bigger businesses, where it is problematic for them to make the transition in a quick manner—they move a little more slowly—they will also enjoy the support of the ACCC through a transition period.

I am pleased to see this legislation come before the chamber. I am pleased to hear the conciliatory remarks about it and I look forward to the committee session.

Senator XENOPHON (South Australia) (11:05): I support the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill. At the outset I want to congratulate the work of the Minister for Small Business, Bruce Billson. We do not see eye to eye on all issues, but I think he has brought a lot of energy to that portfolio. He has done a lot of good work for small businesses and I think he has been a very good small business minister. I know in this place you tend not to say anything nice about someone who is not on your side of politics. In fact, sometimes people do not say very nice things about other people on their own side of politics.

Senator Canavan: You are exaggerating.

Senator XENOPHON: I do not think so, Senator Canavan. I am just making the obvious point that Minister Billson has been doing a lot of very good work and he should be congratulated for the energy and the diligence that he has put into the work that he has been doing. I disagree with him in one respect about the effects test, in terms of section 46 of our competition laws. The proposed changes—which seem to have been sidelined or put on hold or in cryogenic freeze by the coalition party room, or the Liberal Party room in particular—should go further. Having a substantial lessening of competition fettered to the proposed changes would, I think, render that cause largely ineffective.

These changes in terms of small business and unfair contract terms are definitely welcome. The genesis of these changes, the background to this bill, was in May 2009. I will refer to the Senate Economics Committee report. I did not participate in that particular committee report. With Senator Edwards as Chair of the Economics Legislation Committee—and he is deputy chair of the references committee—as usual, the committee did a very good and thorough job of analysing the legislation, more than ably assisted by a very capable secretariat, of course. The committee report says:

In May 2009 then Minister for Consumer Affairs, the Hon Chris Bowen MP—
issued draft legislation to prohibit unfair contract terms. The proposed law, which ultimately became the Australian Consumer Law, covered business to business as well as consumer to business contracts.

I am referring here to paragraph 1.21 of the committee report. It goes on:

In relation to business to business contracts, the then Minister said:

Standard-form contracts are used by parties irrespective of the legal status or nature of the party to whom the contract is presented, and without any effective opportunity for that party to negotiate the term. In such cases, it would be invidious to suggest that the same term, which may be considered unfair in relation to a contract entered into by a natural person, would not be similarly unfair in relation to a business, where neither of them is in a position to negotiate the term.

However, disappointingly, the former government put that to one side, put it in the too-hard basket, for a number of reasons. I do not want to be unduly critical of them but I think they made a mistake by not including the protections for business-to-business contracts, because that is essential. It is not a level playing field when a small business is negotiating with a multibillion dollar corporation. When a business that might have a turnover of a few million dollars a year is negotiating with a big company, if there is a dispute, there is no level playing field.

So these changes are welcome. I do have some reservations in respect of some parts of the bill. I worry that the definition of ‘small business’ is—

**Senator Whish-Wilson:** Problematic.

**Senator XENOPHON:** It is problematic. Thank you very much, Senator Whish-Wilson. I think that the current thresholds that have been proposed are too low. If you have a truck-driving contract—and I know Senator Sterle, who is in the chamber, could relate to this—with a business and it is over $100,000 a year, then you will not be covered. The Australian Greens have put up some amendments to increase those thresholds significantly, but not in a way that goes against the spirit of it applying to small businesses, so I think those amendments deserve support and need to be looked at. The onus is on the government to indicate what they will do about that, because I think we will emasculate this piece of legislation unless there are higher thresholds.

The second issue, and Senator Edwards referred to it, quite fairly, is the concerns of the Australian Bankers Association in terms of a business which has 20 employees or fewer, where that business might be involved in merchant banking, it might be involved in derivatives, it might have a multibillion dollar a year turnover and it might be a subsidiary of a parent company such as a major bank. I would have thought that a business like that was big enough, given its financial transactions, to look after itself. The Australian Bankers Association has made some reasonable points about the bill applying in these circumstances, but I would like to hear from the government in the committee stage of the bill about those concerns, because I think it could be anomalous if we put our energies into covering businesses such as those, which might have a multibillion dollar a year turnover, and not those genuine small businesses that need the support and the framework of protection in this bill.

The Council of Small Business of Australia in its submission of 27 August 2015 to the Senate Economics Legislation Committee made a very reasonable point, saying:

We agree with the approach of the legislation and understand the need for this ground breaking legislation to perhaps tread carefully in its first flush.
Our area of greatest concern is around the threshold for the initiatives of the legislation to take effect. We consider these thresholds to be too low as it will not pick up some of the worst contracts imposed upon small business from big businesses including leases, newsagent contracts and franchises.

That is picked up in the Greens amendments. If we are going to do this, let us do it properly. Let us deal with all contracts with small businesses, such as for newsagents and in leasing arrangements, where clearly there can be unfair contract terms. I think that is something that needs to be done. I know, Mr Acting Deputy President Bernardi, what a great supporter you are of small business. If you enter into a lease in a Westfield supermarket, it is well over the threshold that this bill is proposing. These are matters that the government needs to address.

The government also needs to address another broader issue, and that is access to justice. If you are involved in a commercial dispute before the courts in this country, even if it is in a lower court—not in the Federal Court or a supreme court of a state, or even if it is in a district court or the magistrate's court—you could be risking many tens of thousands, indeed hundreds of thousands, of dollars in order to try and enforce your rights. There is something fundamentally wrong with our system of access to justice in this country, because there are so many small businesses in particular, with respect to commercial disputes, that are terrified of exercising their rights. Even if they are told by their lawyers that they have a pretty strong case, but it is not 100 per cent, they are scared of running that case because of that 10 per cent risk factor where they could lose the case and lose everything—lose their business, lose their home. We have a legal system in this country; we do not have a justice system.

I would like to ask the government whether it considers that these changes will make it easier and more cost-effective for Australians to access justice in circumstances where they are involved in a commercial dispute, because, clearly, removing unfair contract terms will tip the balance and level the playing field in favour of small businesses, which are a significant driver of jobs growth in the economy. That is why I think we need to look at incentives for small businesses, as well as to ensure that they can compete fairly with big businesses in this country.

The final comment I want to make goes to the issue of a very big business, and that is defence procurement—making submarines and naval ships in this country. The significance of ensuring that we maximise procurement in this country for Australian content cannot be understated in terms of its impact on small businesses.

In South Australia, we have the worst unemployment rates in the nation. We are looking, I am afraid, at double-digit unemployment figures unless there is urgent action in terms of the transformation of our automotive sector, from which we will see the departure of General Motors Holden, Ford and Toyota as car makers in this country by the end of 2017.

I know that Senator Kim Carr, who is in the chamber, has been a passionate supporter of this industry, but we also need to be passionate supporters of having the best transition plan to grow jobs in other sectors of the automotive components sector—the small businesses in the automotive aftermarket industry which Senator Ricky Muir has been a great advocate for, or the motor trades associations around the country, where there are many tens of thousands of jobs in retraining and skills to grow that sector. Cars need to be serviced, preferably by locally trained workers. The Federation of Automotive Products Manufacturers has now merged into the VACC in Victoria, but all their manufacturers—small, medium and large businesses—are desperate for a transition plan to help them do other things in the economy. Of course, we
need a transition plan for the existing car makers to ensure that the R&D and the engineers stay in this country so we can still be a driver of innovation.

Defence procurement is important, as we know from the German bid. I understand that something like 2,000 companies could be involved. Local businesses and small businesses could be involved in any local build of a submarine, which is absolutely critical to South Australia. The government needs to say that, because of the unemployment rate, because of the evidence given to the Senate inquiry on shipbuilding to date, taxpayers will unambiguously get better value for money in the medium and longer term by having submarines built, maintained and sustained in Australia. If you build something here, it is cheaper in the longer term to sustain it here as well. But the impact on small businesses in terms of confidence and having a strong economy and strong jobs growth is absolutely critical.

We can have all the best provisions to tackle unfair contract terms in the world but, unless small businesses are thriving, prospering and making goods or providing services in the marketplace, where there is demand for their goods and services, this legislation is somewhat hypothetical. We need to have a strong basis of demand and growth for the small business sector to prosper.

So I look forward to the debate in the committee stage of this bill. I look forward to the government explaining the concerns expressed by COSBOA, dealing with the Greens amendments, which I think have a lot of merit, and also dealing with the concerns of the Australian Bankers Association, which I think on the face of it seem quite reasonable. So I look forward to the committee stage of this bill. I again commend Minister Bruce Billson for his very hard work in this area.

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (11:17): I too rise to give support to the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015 and credit to the government for bringing it forward. It helps conclude a process that has lasted almost a decade now. The then Treasurer Peter Costello sent an inquiry to the Productivity Commission in 2006 to look at Australia's consumer law and that inquiry came back with a recommendation to establish unfair contract terms. By the time that inquiry was considered by the government, there was a new Labor government and some of the recommendations were included in changes made to the then Trade Practices Act in 2010—and the Trade Practices Act became the Competition and Consumer Act at that time. But there was one crucial aspect that was missed when the then Labor government moved our consumer law from the Trade Practices Act to the Competition and Consumer Act and introduced unfair contract terms: the unfair contract terms of that time did not apply to small businesses.

My view is that for many small businesses in their dealing with larger businesses they are not dissimilar to consumers in their ability to negotiate and their ability to get across the detail and understand it. Small businesses are very much like consumers when they have to go and negotiate with a larger business and therefore deserve protections similar to those which exist for consumers. That is reflected in our existing competition law, at least as it existed before this review occurred.

We have unconscionable conduct provisions in our current competition law which apply to consumers and small businesses alike. Indeed, these unconscionable conduct provisions have been used by the ACCC recently to take action against Coles in particular due to some of its
unconscionable practices vis-a-vis small businesses. Those who argue that unfair contract terms should not apply to small businesses—and the Labor Party did argue that when they introduced these changes a few years ago—have to ask: why do we have a situation where unconscionable conduct laws apply to small businesses? If they did not apply to small businesses, the ACCC would not have been able to take action against Coles last year in the Federal Court and we would not have had the outcome where finally I think we are getting a bit of a response, with some of the supermarkets changing some of their practices, which have clearly been inappropriate and have now been found to be unconscionable under our competition laws.

This piece of legislation finishes a process that has been a decade long and extends unfair contract terms to consumers. I would like to take a little while to explain why we should have unfair contract terms at all, including for consumers. There are a few reasons why we need to update our laws to include unfair contract terms. The first is that products and services in our economy have become increasingly complex. The average consumer now will probably sign up to hundreds of pages of legal contracts and legalese in their daily life each year—a case that probably did not exist decades ago. Anybody who uses the internet or a computer will often be subject to having to agree to large legal contracts, usually relating to end user licence agreements. Anyone who buys a mobile phone likewise will have large contracts that are complex and full of detail that average consumers and indeed small businesses may find it difficult to get across.

Most of us, of course—and I put myself in this bucket—sign these things without reading perhaps a word and certainly without reading the entire contract. So it is easy for a larger business with teams of lawyers to potentially slip things through which are clearly unfair and which a reasonable consumer would not sign up for if they had the time and the wherewithal to be able to get across these things. That is the principal reason.

The other reason, though, is simply to reflect that there is an imbalance in negotiating positions and power between larger and smaller entities, and that gives rise to the possibility that that relationship can be abused to implement unfair arrangements. That can be ultimately counterproductive to the wider creation of those relationships and to market exchange, because we want to encourage people to come into those arrangements with confidence that they will be protected against unfair practices and protected against those unfair practices without having to be on their watch all the time or having to go to lawyers or bankers or other people or other agents to help them deal with every little mundane purchase in modern life. Having a law that provides this protection will allow consumers to have more confidence in the transactions that they enter into. After this law passes, small businesses as well will have the confidence to enter into contracts without being subject to abuse.

The other reason these laws should be expanded is that legal action in Australia has become increasingly costly. I support the comments that Senator Xenophon made just before me that access to justice is a real issue in regard to competition law as it stands at the moment. But it does not just relate to section 46 or other provisions of the Competition and Consumer Act; it also relates to the unconscionable conduct provisions as well. There are great similarities between unfair contract terms and unconscionable conduct. Many things that would be unfair would be unconscionable as well. ‘Unconscionable’ generally is taken to mean ‘taking advantage of a relationship in an unreasonable way’, and many of the terms of
this bill go towards whether or not a larger business has used its power to impose obligations on contractors that would be unreasonable or perhaps unconscionable.

That gives rise to the question: why do we need this law in addition to the unconscionable conduct provisions we already have? That primarily goes to the fact that it has become extremely costly to proceed with an unconscionable conduct case. Indeed, it is extremely rare that a small business or consumer would actually do so. We have had the ACCC—and I give credit to Mr Rod Sims as the chair of the ACCC—be a little more assertive in taking those cases to the Federal Court or to litigation, and I believe that that has had some beneficial impact on the use of unconscionable conduct. But it is still the case that, as it now stands, primarily there is a need for the ACCC to be involved in taking any kind of action on an unconscionable matter. They did do that last year in regard to Coles where there was conduct that was clearly in breach of any proper standard of conduct. But it is a costly process and it is one that they cannot replicate over and over. So I believe we need these laws because unfair contract term laws are more definitive and less subject to detailed litigation debate. Therefore, they are likely to be implemented and acted upon by regulators and private individuals alike at a much cheaper cost and hopefully will develop into a much more detailed law.

I will just spend a little time explaining why the issues around unconscionable and unfair conduct remain very live in the context of the case last year against Coles. It is often put that if a business is acting in a way that is unfair or, indeed, unconscionable then the particular customer or business partner should leave that relationship and go and choose a different path. The problem with that analysis is that it does not take account of the fact that small businesses and consumers often have little choice in contracting with larger businesses. Those power relationships were played out very clearly last year in that Federal Court case in regard to Coles, because in that case it was revealed that the ACCC used its investigatory and subpoenaing powers to obtain internal documents from Coles that revealed conduct that I think every Australian would find contemptible.

Unfortunately, senior managers at Coles appeared to be engaged in a common practice of demanding extra contractual payments from their suppliers to meet certain internal revenue targets. For example, there was a case involving a household goods supplier who was emailed a request from their Coles buyer saying: 'You need to pay us'—I think it was a sum of just over $200,000—'by the end of the week or we may not have a relationship next year.' That is very sharp commercial practice. I would also suggest that it is actually quite unconscionable to demand from a business partner a payment that is completely outside of the contract, that does not rely on any particular breach of the contract by the supplier but is simply a use—and I would say abuse—of the particular power that a large business has over a smaller one.

I give credit to the ACCC in that they were able to take a case of that kind and bring that conduct to light. The fact that it has been brought to light—and it was brought to light only because the ACCC could use its powers to subpoena documents from Coles—does indicate to me that there is, I am sure, other behaviour that goes unreported and unnoticed that similarly would be unconscionable or unfair, and we should have laws in place that allow private individuals and actors to help bring a spotlight to that particular conduct and make sure it is not a common practice in our marketplace, because it will undermine confidence across a broader business and consumer sector if it is. That is what this law will help to achieve.
By expanding the law to small businesses I hope that we can create the conditions where the law will be used more. While unfair contract terms only apply to consumers there are limits on how much court action and how many claims will be made under this piece of legislation, because consumers generally only have smaller transactions and only have at risk smaller amounts of money in any particular dealings they have with larger businesses.

So if there is some type of unfair conduct—and I myself have sometimes felt that some of the contracts I have had with mobile phone companies and others have not gone exactly the way they should have and maybe are unfair—I personally would not have the incentive to take action on those things. I would generally just walk away, put it down to experience and the school of hard knocks and move on with my life. It is just not worth the hassle for me to take it up. But if everybody is like that there is no discipline in the marketplace against such conduct. That is why expanding this law to include small business contracts will hopefully provide that opportunity to a different group of participants in the marketplace—a group that have greater incentive to use this law and to take action if there are any issues, because obviously small businesses will sign contracts that are generally larger than consumers do, notwithstanding the fact that they often find themselves in the same powerless position as consumers.

That gives rise to the question of what we should define as a small business and how we should quarantine this only to those participants in the marketplace that find themselves in that position. I might be wrong on this, but I am told that there are something like 19 different definitions of a small business in Commonwealth legislation. I realise that that is perhaps not ideal, but sometimes life is messy. Sometimes you have to define the parameters of small business in accordance with what you are trying to achieve in this law. So I can understand why, in this law, the government chose the 20-employee limit, which is a common definition as it stands, and also used a contractual value amount to limit its scope to contracts that are under a certain amount. Of course, once you make any definition and draw any boundaries there are potentially exceptions beyond those boundaries that look anomalous.

I note that Senator Xenophon earlier raised issues around participants in the banking sector who may be very small companies but, nonetheless, deal with very large and sophisticated contracts. I would make two points on that. Firstly, this legislation only applies to what are known as standard form contracts. If those businesses are entering into complex contracts they are unlikely to be standard form, but I do not discount that there may be the odd occasion where standard form contracts continue to prevail. The other point I would make is that I have been a member of the Senate Economics Legislation Committee, which reviewed this particular piece of legislation, and that committee has recommended that a review process be conducted by the government after three years to ensure that issues like those that Senator Xenophon raised can be dealt with and looked at to see if these definitions are working effectively.

The second issue is around the definition of the threshold value in contracts, which has been set at $100,000 for an annual contract and, I believe, $250,000 for a contract that is longer than 12 months. The committee received a substantial number of submissions about those levels. Clearly those levels would restrict a number of small businesses from using this law, and I share some of the concerns that that will unduly limit access to these protections by businesses that are otherwise small but sign contracts above and beyond those particular
threshold levels. Nonetheless, I understand that the government has had to come to some decision on this amount and has had to negotiate this amount with the various state and territory governments around Australia, given that it is an amendment to competition laws, which are harmonised and are subject to a COAG process. In my view those thresholds too should be part of that review after three years to see if they have unduly restricted access to this improvement in our law and, in particular, whether they have unduly restricted the ability of small businesses to take action in the courts. As I said earlier, one of the great advantages of this bill is that we will expand access to the law to a group of entities that can have the incentive and at times the resources to take legal action. But if these thresholds have mitigated those potential benefits they need, and deserve, to be looked at again.

I again commend the government for pushing this forward. With the limited time available I would also like to comment briefly, as Senator Xenophon did, on the effects test and other aspects of our competition law, because these issues are all interconnected. As I said, we partly need this bill because our unconscionable conduct laws are costly and hard to navigate. We also have in section 46 an issues of market power provision which, as I have said publicly, is not working and is certainly not used much anymore, or at least has not been used successfully for more than a decade. That needs finetuning as well. We have some recommendations from the Harper review in regard to that. I broadly support those recommendations and would hope to see that something is done to provide not just greater access for small businesses to unfair contract terms but also greater access under the generic misuse of market power arrangements that exist in our Competition and Consumer Act. I also note that the National Party conference passed a motion on the weekend supporting that position, and I hope that the government does consider these issues as it responds to the Harper review in due course.

Finally, I would like to repeat that we would not have this law, we would not be making these amendments, if it were not for the fact that the coalition government was elected two years ago. It had been the policy of the Labor Party not to expand unfair contract terms to small businesses. They made arguments about that when we proposed putting unfair contract terms into our competition laws, saying that businesses do not need these protections, that it should only be quarantined to consumers. I believe that view is wrong. We should treat many small businesses similarly to consumers in our competition law. They should be protected not only because they can sometimes be the greatest victims of anticompetitive acts but also because they can be the greatest policemen in making sure that no more anticompetitive behaviour occurs than is needed.

I compliment the government, in particular Minister Billson, for bringing this amendment forward and taking it through the various processes you have to go through to get competition laws changed in this country. It will be a substantial improvement in our laws. It will be a greater protection for the millions of small businesses that exist around Australia, and it is another demonstration of how the Liberal and National parties support small business, want to see small businesses thrive and want to make sure that big business is not a protected species in this country but rather that big businesses are always and everywhere threatened by the emergence of new businesses that have better products and can make sure that consumers have diverse range of choice from those products.
Senator CORMANN (Western Australia—Minister for Finance) (11:37): Firstly, I would like to thank all of those senators who, like Senator Canavan, have contributed to this debate. The Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015 demonstrates the government's commitment to supporting small businesses by extending to them the unfair contract term protections currently available to consumers.

The government consulted widely in formulating this bill. The 10-week public consultation process conducted in 2014 gathered information about the extent of the problem and the potential policy options. Over 80 submissions and around 300 survey responses were received as part of this process. In April of this year, Commonwealth, state and territory consumer affairs ministers formally agreed to amend the Australian consumer law as required under the Intergovernmental Agreement for the Australian Consumer Law. In line with the Corporations Agreement 2002, the Commonwealth notified the states and territories that these legislative protections would be mirrored in the Australian Securities and Investments Commission Act 2001.

Public comment was sought on the exposure draft legislation, where almost 50 stakeholders made submissions on the drafting of the bill. Feedback through these consultations has indicated that small businesses across a wide range of industries have concerns about unfair terms. Small businesses, like consumers, are vulnerable to the inclusion of unfair terms in standard form contracts because, like consumers, they often do not have the time or legal expertise to critically analyse the contracts offered to them. To address this problem, there was significant support for an extension of the current consumer unfair contract terms law to the small business sector.

This bill extends to consumer unfair contract term protections to small businesses when they agreed to low-value standard form contracts. A court will be able to declare void and unfair term—for example, one that allows one party to unilaterally change a price—contained in a contract where at least one party was a business with fewer than 20 employees when it agreed to the contract and the value of the contract does not exceed $100,000 or, if the contract is for more than one year, $250,000.

Having a transaction value threshold limits protections to day-to-day transactions, where the cost of seeking advice on a contract's terms may be disproportionately high, while maintaining the onus on small business to undertake due diligence for high-value contracts. This bill will have a significant positive impact on Australia's two million small businesses. It is time that small businesses, who often face the same vulnerabilities as consumers, received the same protections when offered take-it-or-leave-it contracts.

Labor has raised several concerns with the bill in their additional comments in the economics committee's report. First, they question the narrow definition of small business. In response, I note that 'businesses with less than 20 employees' has been chosen for the definition as it is a commonly used headcount measure and has been found by the Australian Bureau of Statistics to provide a good proxy for a small business. The headcount approach is also considered to be the easiest the small businesses to implement. It should provide a simple way for all businesses to record the size of their business at any point in time. Labor has also queried the lack of a comprehensive disclosure regime to encourage small businesses to seek professional and legal advice before entering into a contract with another business. The policy
is designed to address take-it-or-leave-it contracts only. Contracts that involve the need for
diligent negotiation are not included, as those contracts are not standard form contracts.

Labor questioned the lack of a reasonable time limit within which a small business can
advise if they consider part or all of the contract to be unfair in order to ensure contract
certainty. The government's view is that the nature of some contracts and terms are such that
it may not be apparent that a contract term is potentially unfair until such a time as it is
applied. Applying an arbitrator time limit for the identification and notification of potentially
unfair contract terms would undermine the effectiveness of these protections. Labor has also
questioned the definition of 'up-front price'. The government's view is that this means the
amount disclosed to the other party at or before the time the contract is entered into. Any
future payments will be included as long as they are clearly disclosed at or before the time
that the contract is entered into.

Further, Labor also noted concerns with the time period for businesses to change their
contracts before the legislation takes effect. The government's judgement is that the transition
period for implementation of the new protections follows details stakeholder consultation.
Parties have argued for both a longer transition periods to assist businesses to ensure
compliance and a shorter transition period to offer small businesses these essential protections
as early as possible. The government considers that the transition period in the draft
legislation balances these priorities appropriately.

In order to assist businesses to comply, the ACCC will work with businesses and industry
groups to identify problematic contract terms and encourage compliance. This approach was
taken for the consumer protections and led to most businesses choosing to delete or amend
problematic terms. The ACCC has been provided with $1.4 million to support businesses in
complying with the extension of the protections to small businesses. This will include the
ACCC releasing guidance material at the start of the six-month transition period.

Finally, Labor and some other senators have questioned the $100,000 up-front price
threshold for a small business contract. The reforms apply only to contracts worth less than
$100,000 or $250,000 for contracts longer than one year. The consultations indicated that
these thresholds covered the majority of small business transactions. The $100,000 threshold
for the up-front price balances the interest of protecting small businesses with the need to
ensure that businesses undertake due diligence for large transactions.

We will be conducting a post-implementation review to make sure that the unfair contract
terms protections are working as intended. That review in five years is the right way to
consider how the thresholds are applying in practice. The bill introduces measures that will
give confidence to small businesses when entering into transactions and support them to
grow, invest and create jobs. It is a significant reform that will bring benefits to the broader
Australian economy and is part of our long-term plan for a stronger, more prosperous
economy, where everyone has the best possible opportunity to get ahead. I commend this bill
to the Senate.

Question agreed to.

Bill read a second time.
In Committee

Senator WHISH-WILSON (Tasmania) (11:45): I want to begin by focusing on the issue of the definition of a small business. We have heard today that there are numerous definitions for small businesses. It is obviously something that deserves a wider discussion and a wider debate. I note that when we in this chamber debated and passed legislation for a tax cut for small business and for depreciation allowances to be raised significantly on assets we used a $2 million turnover threshold. Originally the government had proposed a tax cut for small businesses with a threshold of less than $5 million, if my memory serves me correctly—certainly, that was what was put out into the media—and later that was changed to $2 million. The Greens have always used a $2 million-turnover threshold in our policy on small business, but I understand the ABS and ASIC use a threshold of 15 or 20 employees. Senator Xenophon raised a point in relation to the Australian Bankers' Association's submission around the potential for financial securities firms with fewer employees to be writing literally tens of millions of dollars, if not more, in revenue—for example, they could be working on derivatives.

We also have the very obvious situation arising now in the new economy. Senator McKim is not here, but he is a big fan of the shared economy. We have seen virtual businesses, like Uber and others, that are low-employee businesses, generating billions of dollars of revenue. I think this is something we need to consider. My question to the minister is: will your five-year review include looking at potential uses or abuses of this system by businesses that in revenue terms are obviously significantly larger businesses than most small businesses? Will you consider, in line with some of the submissions we have seen, reducing the time frame for conducting your post-implementation review to two years rather than five years? If not, can you explain why five years is appropriate?

Senator CORMANN (Western Australia—Minister for Finance) (11:48): In response to the final question, the five-year review period that is contained in the legislation is an outer limit. It is open to the government to conduct the review sooner. I do not think we would want to do it too soon, before we had a reasonable amount of lived experience to make an informed judgement as to whether and to what extent there ought to be further improvements to the framework that has been put in place through this legislation.

The other issue that Senator Whish-Wilson raised was about the definition of a small business. When you pursue a tax cut for small business, the assessable income levels are not necessarily a key determiner when it comes to drawing a line in the sand as to who is in and who is out. But for the purposes of this exercise of extending to small business protections that are generally available to consumers, in the context of unfair contract terms, our advice, and what has come out of the consultation process, is that the easiest way for small business to apply an appropriate test is to look at the headcount—and that is what I said in my summing-up speech. 'Businesses with less than 20 employees' has been chosen by the government for the definition as it is a commonly used headcount measure and has been found by the Australian Bureau of Statistics to provide a good proxy for a small business. The headcount approach is also considered the easiest for small business to implement. If you wanted to apply to this context any other indicator, as legitimate as it might be in the context of the tax system, you would add a further complication to the way the proposed protections
in this legislation would be applied to small businesses, and that is certainly not something that the government would want to do.

Senator WHISH-WILSON (Tasmania) (11:50): Could I move to the issue of the transaction value thresholds. From reading the explanatory memorandum, I understand that a survey was conducted which, over a period of months, talked to small businesses and collated data and information on what might constitute a threshold that would be useful for this bill in respect of the unfair contract terms that we are looking at. The value that the government has come up with is $100,000 within a year and $250,000 over a longer period of time. Can you confirm that that would cover 80 per cent of the businesses you surveyed and whether you feel that the other 20 per cent, who would still constitute small businesses, would unfairly miss out if we were to have in place a transaction value threshold that did not incorporate the majority of small businesses? I refer you to the use of the word 'most' in paragraph 1.13 of the draft explanatory material, which stated:

The consultation process indicated the preferred transaction value threshold would encompass most small business transactions.

Senator CORMANN (Western Australia—Minister for Finance) (11:52): I thank Senator Whish-Wilson. The first point I would make is a correction to what the senator has just said: we are not excluding any small business. If you are a small business with up to 20 employees, you are eligible for this extended protection from unfair contract terms, which at present is only available to consumers.

This is ultimately a matter of balance. What we have said is that we only propose to extend this protection from unfair contract terms to transactions of up to $100,000 when they are payable under a contract of 12 months or less and $250,000 for the up-front price payable under a contract for more than 12 months. Obviously, this is a matter of balance. It does cover 80 per cent of small business transactions. In the context of the small businesses and the stakeholders that we have surveyed, the threshold is set to provide the right balance between giving small business confidence to engage in contracts while encouraging them to seek legal advice for more substantial contracts.

Obviously, when you make a decision to extend to business a protection that, historically, has only applied to consumers, you do need to draw a line somewhere in order to ensure that you do not go too far. The current figure was the product of very extensive consultation with the sector about what would be a suitable way to capture most day-to-day contracts. The thresholds take into account that lengthy consultation with industry. Our consultation included liaison with the states and territories, and they all endorsed that figure. Our bill, in its current form, gives small business protections that they have never had. Amendments that force this back to consultation could derail this process and, therefore, prevent small businesses from enjoying these benefits. I would have thought that it would be better to get this bill through, see how it operates in practice and then make a judgement on what further adjustments may or may not be appropriate after the review, which has to take place within a five-year period.

I know that Senator Whish-Wilson has flagged an amendment to essentially increase the threshold of the up-front price payable under a contract of 12 months or less from $100,000 to $300,000 and to increase the up-front price payable under a contract of more than 12 months from $250,000 to $1 million. The government will not be able to support these amendments. Indeed, if the amendments carried, we would not be able to support the amended bill in that
form in the House of Representatives, which would mean a delay in this additional protection, which we are proposing to put in place for small businesses in appropriate circumstances—namely, in the context of contracts of up to $100,000 where the up-front price is payable under a contract of 12 months or less and up to $250,000 where the up-front price is payable under a contract of more than 12 months. So I would encourage the Senate to keep that in mind.

I understand the argument that Senator Whish-Wilson is putting forward. Ultimately, it is a matter of judgement; it is a matter of balance. We believe that we got the balance right, based on the extensive consultation that we have conducted. Ultimately, the safeguard is that there is a review due to take place down the track, so we will be able to reassess as to whether there ought to be an adjustment to where that line in the sand is drawn. I would very much urge the Senate today to support this bill, as proposed by the government, in order to get this additional protection for small business underway as soon as possible and for us to have a conversation about what further improvements might be made down the track at a later stage.

Senator WHISH-WILSON (Tasmania) (11:56): I notice a number of stakeholders said that they were disappointed with the legislation—obviously, there are criticisms in different areas—simply about the fact that it did not meet the spirit of the government's promise, going to the last election, that they would extend to small business these contract terms from consumer law. For example, the Australian Newsagents Federation said:

The majority of Newsagents have approx. 6-8 main multi-year contracts …

These contracts will in most cases be excluded by the current bill thresholds. These are the contracts that can often lack equity, that cause small business owners stress, and that can also restrict their control to manage their own businesses.

These are important submissions that are made by key stakeholders in this debate. They also raise concerns about a number of issues in relation to what constitutes the up-front price payable in the UCT Bill and they make some suggestions there about amendments to the legislation that we have here in front of us. They also talk about exempting the up-front price of the goods and services and exempting the main subject matter of the contract. There are a number of exemptions that we could have sought today to finetune this bill. I accept the minister's assertion that these are things that could be reviewed in two years time or in five years time. But I think this issue, where we could simply extend the transaction value threshold from $100,000 to $300,000, will not do anything to impact the legislation. It should not have any issues across the small business community. I notice a number of groups that represent larger businesses put up criticisms of this bill; they do not want to see it happen. I think this is a very simple one for us to do here today. It would be very disappointing if the government did not show any flexibility in this regard. These are, I think, very good amendments that we can say, now, with confidence will capture 95 per cent of small businesses in this country, which is much more in the spirit of what the government promised when it promised this legislation going into the last election. It would be an easy thing to do.

I think it is threatening the Senate, as you have just done, Senator Cormann, to say that it will be on our heads if this legislation gets rejected by the upper house in this country, when actually what we are asking to do is very simple and would improve the bill, and it probably has majority support in the Senate. I would ask what particular issue you have with extending
this to $300,000. In asking you that, I would like you to consider another thing that the Australian Newsagents Federation said in their submission:

… in the exposure draft explanatory material ‘context of amendments’ 1.7, it argued a rationale that higher value thresholds should be excluded on the basis that, ‘it may be reasonable to expect that they (small businesses) undertake appropriate due diligence (such as seeking legal advice)’, and that, ‘the onus on small businesses to undertake due diligence when entering into high-value contracts’ should be maintained. It is overly simplistic and ingenuous to assume that by taking legal advice and doing due diligence that a small business operator will necessarily be able to inject equity and fairness into their contracting relationships with several multinational organisations who they contract with, or to easily walk away without losing their business, particularly on renewal. This is unrealistic when the more powerful party may use their market power to be particularly inflexible.

They do state in their submission that the majority of their standard form contracts are for over $100,000, yet under your definition they constitute small businesses, with newsagents being employers of just a few people. So why is this an example here, where essentially your legislation is take it or leave it? Can you address those concerns?

Senator CORMANN (Western Australia—Minister for Finance) (12:01): Let me right up-front object to Senator Whish-Wilson's suggestion that I was somehow threatening the Senate. That is just a ridiculous, juvenile, union politics type proposition. What I was doing was presenting very clearly the government's position. In the same way that Senator Whish-Wilson is quite entitled to express the view of the Australian Greens, I am entitled to present a view on behalf of the Australian government. It is the Australian government which is proposing this reform, this additional protection for small business from unfair contract terms. What I am doing, Senator Whish-Wilson, is providing some advice to the Senate about what the implications of certain courses of action would be. Obviously it is entirely up to the Senate to make its judgement, but it would be very remiss of me not to be very clear about what the implications of different courses of action would be.

The second correction I have to make is that all of Senator Whish-Wilson's commentary and all of his questions seem to suggest that somehow we are excluding from this legislation some small businesses that otherwise come within the scope of this legislation. That is just not true. If you qualify as a small business under the definition of 'small business' in this legislation—that is, if you have fewer than 20 employees in your headcount—then you qualify for the protections that come, in terms of protections so far available only to consumers, from unfair contract terms.

It stands to reason that you do not want to offer that protection on an open-ended basis. It is a level of interference in the free market, and you ought to do that in a cautious and balanced way. In the way that we have determined these thresholds, based on extensive consultation, we are confident that our additional protection will cover 80 per cent of small business transactions by relevant and eligible small businesses. It would be bad economic policy if we were to increase the threshold by too much, because the message we would be sending to small business is that they do not need to do their homework in relation to some of their larger contracts. We would be suggesting that small business do not have to do their due diligence when it comes to these larger contracts: 'Don't worry; the government is here to protect you.'

We have said that a certain category of transactions—transactions of up to $100,000 in value for contracts of 12 months or less or up to $250,000 in value for a period of more than 12 months—will come within the scope of this extended protection, which historically has
been available only to consumers. We are making that available to small business, consistent with the commitments we made in the lead-up to the last election. We are keeping faith with the commitments we make to small business in the lead-up to the last election. So, as well as having delivered a tax cut for small business, as well as having pursued wide-ranging reforms to strengthen the position of small business in our economy, this is another part of our broader economic plan to strengthen growth, create more jobs and create better opportunity for people to get ahead.

In the end, when you put in this additional regulatory mechanism, you have to draw the line somewhere. We have made judgement, based on consultation, having considered all of the outcomes of that consultation very carefully. Senator Whish-Wilson is entitled to disagree with the judgement the government has made. All I would say is that the government is very confident that we have got this right. This will be subject to review down the track and there might well be some adjustments once we see how this operates in the market. But, if this does not proceed through the parliament based on the proposition that the government has put forward, you are preventing small business from getting access to this additional protection from unfair contract terms. That is a matter of fact. That is not a threat; that is a matter of fact. In the end, I would say to the Senate: please consider this as you are making final judgements on which way to vote in relation to the Greens amendments.

Senator DAY (South Australia) (12:06): I do not want to disappoint the minister, but I will be moving an amendment that the threshold be moved not to $300,000 but to $500,000.

The TEMPORARY CHAIRMAN (Senator Gallacher): Senator Day, are you seeking leave to move this amendment?

Senator DAY: Not at the moment; I am just speaking in this current discussion. Minister, I have been an independent contractor; I have been on both sides of the desk on this.

Senator Cormann: You are big business.

Senator DAY: I was not always a big business; I was a very small business; I started off as a trade contractor. So I know both sides of this argument. I accept and acknowledge the sincere view of the government and its advisers that a $100,000 limit is about right. But, with all due respect, I think I would lean towards the balance in judgement—I think that was the minister's phrase: that it was a matter of balance in judgement—and I would be more inclined towards the judgement of those who are actual practitioners in this field and independent contractors rather than the government's view.

At the moment, there is not a threshold. Somewhere around $100,000 has been the figure that the government has landed on. It has been suggested that it should be at least $1 million, or in fact some would suggest that there should be no limit at all to the availability of access to contracts that are deemed to have unfair provisions. I for one am a great believer in law of contract. I think the sanctity of contracts is absolutely essential in a modern economy. The terms are what they are. When you sign a contract, 'You pays your money and you takes your chances,' as we used to say. As to so-called 'unfair contracts', I really do not like that term; it is an oxymoron or a contradiction in terms. But when we get these 'unfair terms' or 'non-contract terms' within a contract that say, for example, that one of the terms is that one party can just change its mind unilaterally, change numbers or change dates, then that is not a
contract. All right—both might sign to say that. But I think that particular issue does need to be addressed.

Minister, $100,000 in a contract is not very much these days. A lot of contracts go for a lot higher than that. I have seen many, many small businesses—even employers or organisations with more than 20 employees—sign contracts that are much, much higher than that, and then they are subjected to all sorts of terms and conditions which really do not belong in any self-respecting contract.

So, as much as it might disappoint some in the independent contractor world who would like no limit or at least $1 million, I will be moving an amendment that increases the threshold limit from $100,000 to $500,000, and I ask the government to please, for once, consider and listen to those who have actually been doing these sorts of things for many, many years and to listen to those who have to live with these contracts in the independent contractor world.

Senator CORMANN (Western Australia—Minister for Finance) (12:10): I will be brief. I thank Senator Day for his comments and the spirit in which those comments have been made. In the end, we can obviously keep an argument going for a very long time about whether it should be $100,000, $200,000, $300,000 or $500,000. We have obviously gone through a very extensive consultation process. We have made a judgement on what would be an appropriate starting position.

What we would say is that what we are proposing is much better than what is there now. At the moment, the threshold is zero because, at the moment, no contract gets the additional protection. I understand the arguments that are made. But in the end we have made a judgement. That is the judgement that we are putting forward for the Senate's consideration.

Let us get these provisions under way. Let us get them working. Let us get them protecting small business from unfair contract terms within a particular framework.

I am also pleased to confirm that the Minister for Small Business, Bruce Billson, has agreed to conduct the review of this legislation in two years rather than five years. The legislation as currently drafted facilitates this, because, as I have indicated in answer to a question from Senator Whish-Wilson, the five-year review timetable is a timetable of up to five years. So I am putting on the record now, on behalf of the government and on behalf of Minister Billson, the government's commitment to conduct the review in two years, which is also something that Senator Xenophon has raised with the government. So I hope that that satisfies the Senate.

The issue at hand is the same issue that Senator Whish-Wilson and Senator Day have raised. Even though they cannot agree between themselves on what the appropriate threshold is in terms of contract value, they are pursuing the same principle. But what I would suggest is: why don't we get this legislation underway? Why don't we get it in place, on the basis of the judgements the government has formed, based on consultation with small businesses? Let us have the review thrash out how it is working, whether it needs improving and whether there is any need for further changes, and then let us cross that bridge when we get there.

Senator XENOPHON (South Australia) (12:13): I do have a question to ask the minister, in relation to his indication that the government will support a review of this legislation and the impact of it and its effects, within two years after the legislation has been passed. I understand that the coalition will support a broad ranging review with the Senate Economics
References Committee in relation to this, and if there is going to be another review, an independent review, of the legislation, I would be pleased to hear from the minister on that. But, at the very least, we ought to have the Senate looking at this through the Economics References Committee position. I am not sure if the minister wants to respond now?

Senator CORMANN (Western Australia—Minister for Finance) (12:13): Just to confirm that what Senator Xenophon said there is absolutely right: the government has agreed to support a review through the Senate Economics References Committee within two years of this legislation coming into effect.

Senator XENOPHON (South Australia) (12:14): That is a commitment, essentially, that, as a coalition, you will support that. Can I now go to the amendments that are before the chamber and also the foreshadowed amendments of Senator Day. It is very rare—

The TEMPORARY CHAIRMAN (Senator Gallacher): Senator Xenophon, no amendments have been moved as yet.

Senator XENOPHON: Thank you, Mr Temporary Chairman, for picking me up on that. I refer to the foreshadowed amendments of the Australian Greens and Family First. It is a rare and beautiful thing to see Family First and the Australian Greens on a unity ticket! I agree with both of them. Senator Whish-Wilson has experience in business and Senator Day has built up a very successful business. I do not think it is a small business now, but it started off as a small business and he has dealt with small businesses. I commend him for what he has done and the way he has built up a business that has employed so many Australians—South Australians, in particular.

The current thresholds are too low. Senator Day's foreshadowed amendment and that of the Australian Greens indicate that there are many, many transactions that will not be caught by this bill. It is too narrow. The case of those who will sign a one-year contract that is worth more than $100,000 is an example. The Newsagents Federation have given examples. When entering into leases and the like there are issues that need to be ventilated.

This is the question I have for the minister. I support the increases foreshadowed by both the Australian Greens and Family First, but I understand from Senator Canavan's contribution in this debate that if the amendments are passed in this chamber the government's position is that this will be a stumbling block because it will need to go back to COAG. If that is the case, does the government have a view about reflecting the will of at least this chamber and making a commitment to go back to COAG, even if this bill is passed in its current form, to at the very least reopen the discussion about increased thresholds, as suggested by Senator Whish-Wilson and Senator Day? That, to me, would be one way out of this so at least we would be moving forward on that.

Senator CORMANN (Western Australia—Minister for Finance) (12:16): The point I would make is that this is obviously a new proposition. Up until now there were certain protections from unfair contract terms in place for consumers. We are now extending those to small business. We have made a judgement on the appropriate thresholds for contract value based on consultation with small business stakeholders and with the states and territories.

In the end—and I said this in response to the contribution by Senator Day as well—we can go round and round in circles. Out of 76 senators, everybody might have a different view as to where the right line in the sand is. The government have made a judgement based on
consultation with stakeholders and with the states and territories. We are posing the legislation on that basis. If the legislation is passed by the Senate and by the House of Representatives, small businesses across Australia will start to enjoy the benefits of this protection. I would envisage that the review that the government has committed to two years after the legislation has come into effect will consider this issue of appropriate thresholds for contract value and, no doubt, will make recommendations at that point on how these thresholds and other matters should be or could be improved.

If we amend this legislation now to give effect to the spirit of what the Greens and Senator Day, in unison, have put forward then it will be a stumbling block. Senator Whish-Wilson regretfully described that as me threatening the Senate. No, I am just informing the Senate about the circumstance that we are in. If the Senate were to insist on that amendment now rather than to make it the subject of a review in two years time then it would mean that no small businesses across Australia would be able to benefit from the additional protection from unfair contract terms that is proposed in this legislation. In practice, that would mean that the thresholds would continue to be zero, where they are now. The question is: do we leave them at zero or do we lift them to $100,000 and $250,000 respectively, with an undertaking that this will be something that will be looked at in two years time by the Senate Economics References Committee inquiry? Obviously that judgement and choice is not entirely for the Senate, but it is very important for the Senate to be aware of the implications of any decision we may make.

**Senator DAY** (South Australia) (12:19): I will not say that they are wrong, but I am sure the minister and the government would concede that their judgement might be a little bit out on this threshold number. This is important legislation. Do not get me wrong, Minister. I commend the government on this, and I particularly commend the business minister for his diligence, for the way he has consulted and for the way he has gone about it. But the same logic applies that you are using, Minister. You are saying, 'Let's see how a $100,000 limit goes and we will review it.' We are saying, 'Our opinion, based on more informed research, is that it should be at least a $500,000 limit. Let's see how that goes.' You say that your $100,000 limit captures 80 per cent of business. What is wrong with trying to capture 90 per cent or 95, 96, 97, 98 or 99 per cent? I think the same logic applies.

The principle of this legislation is to introduce a threshold so that a contract entered into up to a certain amount could be rejected because of a difference of opinion between the government and its advisers and a number of contractors. I would implore the minister to talk to his counterpart in the other place. If it came down that this place suggested that our view is that $500,000 needs to be the threshold to encompass as many independent contractors and other contractors as possible, I would implore the minister to support that.

**Senator CORMANN** (Western Australia—Minister for Finance) (12:21): This will be my final contribution on this point because, in the end, I think we might have to agree to disagree. With all due respect to the very honourable senator, who I hold in very high regard, it is not the same proposition. This is a new regulatory intervention in the marketplace. Right now, as I have indicated, there is no protection for small business from unfair contract terms, so called. This is something that is exclusively available as a consumer protection to consumers. What the honourable senator is suggesting is that we should start with a high threshold rather than cautiously test the impact on the economy will be by essentially putting an initial step
forward of a carefully calibrated threshold of $100,000 and $250,000 respectively. These are not based on an arbitrary decision by the government and its advisers; they are based on extensive consultation. You have commended the small business minister on the extent and the quality of the consultations that he has conducted and, indeed, Minister Billson is an outstanding advocate for small business; Minister Billson works tirelessly to ensure that he gets these sorts of judgement calls right, based on balancing the various legitimate perspectives.

I would go back to where I started: it is very important to ensure that we have the right balance between giving small business that additional protection and giving them confidence to engage in contracts and protecting them from unfair contract terms, but this is not an open-ended proposition. We do not want to create a circumstance where small business does not think that for larger contracts they still have to conduct appropriate levels of due diligence—that they somehow think that the government's regulatory framework will be a blanket protection for them, no matter what. Obviously, when you have more significant contracts, it is important that small business, as any other business, engages in the appropriate levels of due diligence and makes relevant judgements in the context of that. I think I have contributed as much to this argument as I can; I have gone out of my way to put on the public record the government's reason for the judgements we have made.

In the end, I think it would probably be most useful if either Senator Whish-Wilson or Senator Day—one after the other, in whatever order—were to move their amendments and then the Senate could pass judgement. I would say again: the government has made a decision about the thresholds not on an arbitrary basis, but after careful consideration of the outcomes of relevant consultations. If the Senate were to increase the thresholds, the Senate would be preventing small business from getting access to this additional protection for contracts of a value of up to $100,000 for contracts with less than 12 months to run and of a value of up to $250,000 for contracts with more than 12 months to run. I would say that this is a cautious initial step pending a review in two years' time to look at how this new extension of the regulatory powers of the Commonwealth in this space has worked in the economy before we make further judgements down the track. I do not think we should start high and then be forced to bring it back. I think we should start at the appropriate level identified by consultation and then make judgements down the track on how best to proceed.

Senator XENOPHON (South Australia) (12:25): I will be very quick. I appreciate what the minister has said, but I also think that the points made by Senators Day and Whish-Wilson are very valid. If we are going to do this, let's do it properly. If the stumbling block is that it has to go back to COAG, then at the very least we ought to get a commitment from the government in respect of these amendments, if either of them is passed. I think it is important that the Commonwealth shows great leadership on this; it should pick up the points made by Senator Whish-Wilson and Day to improve the legislation, to have greater coverage and to give greater certainty to small businesses, which after all are a significant driver of economic growth and jobs growth in this country.

My position is this: I will support the amendments of both Senator Day and Senator Whish-Wilson, if they are so moved. It depends on what the opposition will do in respect of that. I understand that, if the opposition supports them, then it is inevitable that they will get through. I hope that can be used as a responsible lever to try to get at the very least a
concession from the government that it will use its leadership role in COAG to put this on the agenda to expand the thresholds sooner rather than later to reflect the concerns of Senators Day and Whish-Wilson. That is my position. I hope that these amendments are passed. If we do not pass these amendments we will lose the opportunity in respect of that. Whilst I welcome the coalition's commitment to agree to a Senate inquiry, all that will achieve is to look at those changes and it will not oblige the government to go down that path. It is important that we use this opportunity to reflect the concerns on the thresholds from across the spectrum. I will support the increased thresholds if these amendments are put by either or both Senators Day and Whish-Wilson and then the government needs to make a decision whether to make an unambiguous, unequivocal statement that at the end of the day if these amendments are not accepted it will do what it can to put this on the agenda for COAG.

Senator LEYONHJELM (New South Wales) (12:28): I have three questions for the minister. No. 1 is: is it correct that this bill will only apply to standard form contracts? My second question is: when the minister says that the House will not accept any amendments to the thresholds if these amendments are passed by the Senate, is the minister aware that Independent Contractors of Australia wants a limit of a million dollars or unlimited; and is he aware that it will be the government, and not the Senate, that will bear the criticism on this? My third question is: when he says that the government has agreed to a review in two years, is he simply referring to a referral to the Senate Economics Committee, in which case government approval is not necessarily required in any event?

Senator CORMANN (Western Australia—Minister for Finance) (12:29): Firstly, it is correct that this relates only to standard form contracts. Secondly, I am aware of the view of Independent Contractors. Obviously there is a diversity of views here and the thing to bear in mind is that this legislation is proposed to apply in the economy as a whole. It is not something that just applies to independent contractors. It something that small business across the whole of the Australian economy will be able to access. As such, we obviously have to make a balanced judgement in that context. In relation to the final question, the government was asked whether we would support an inquiry by the Senate Economics References Committee and we were happy to offer that support in the two-year time period, which was the question that was put to us. While Senator Leyonhjelm may well be right that government support is not necessary on all occasions, depending on how the numbers lie, but I would have thought that government support for such an inquiry is at least helpful. I was not trying in any way to overstate what we had agreed to; I was just responding to a straight question as put to me by Senator Xenophon with a straight answer.

Senator WHISH-WILSON (Tasmania) (12:30): by leave—I move the Australian Greens amendments (1) to (4) on sheet 7751 together:

1. Schedule 1, item 8, page 4 (line 7), omit "$100,000", substitute "$300,000".
2. Schedule 1, item 8, page 4 (line 10), omit "$250,000", substitute "$1,000,000".
3. Schedule 1, item 31, page 9 (line 21), omit "$100,000", substitute "$300,000".
4. Schedule 1, item 31, page 9 (line 24), omit "$250,000", substitute "$1,000,000".

Senator KIM CARR (Victoria) (12:32): I indicate to the Senate that Labor will be supporting Senator Whish-Wilson's amendments. Lifting the threshold means that the application of unfair contract term provisions to small business will be far wider than if the threshold remained at $100,000. Indications are that the majority of small business groups
support unfair contract term provisions applying to their business to business contracts. This is evidenced by the recent media announcement that major representative groups, including the Independent Contractors of Australia and the Council of Small Business Australia, will campaign against the government for what they consider to be a broken promise in that the coalition went to the last election promising small business it would bring this measure in, but the $100,000 threshold narrows who will be affected or will benefit from the changes. Labor notes the original preferred position of Independent Contractors of Australia was no threshold, and the stakeholder consultation from the start has also indicated to the government that they want new laws to apply to the vast majority of small businesses. Having said that, I think we have to acknowledge the point that has been made that a line has to be drawn somewhere, and as a consequence we will not be supporting Senator Day's foreshadowed amendment.

While I am on my feet, I might deal with Senator Leyonhjelm's foreshadowed amendments on sheet 7759. Labor will be supporting those amendments to the implementation time of the legislation. Labor notes that serious concerns have been raised about the six-month time frame for the implementation of this legislation, and these concerns are exacerbated by the increase in the threshold given this will increase the scope of the legislation. Feedback in this regard has been received from groups such as the Australian Bankers' Association. Given amending the thresholds in isolation will have consequences for these groups who need more time to implement, Labor will be supporting the amendment.

I have said that in one block because I think we will probably spend a considerable of amount time on these matters given the positions are quite clear in terms of what the government has said and what the crossbenches have said. I have made it very clear what Labor's position is. I trust the matter can be resolved.

Senator WHISH-WILSON (Tasmania) (12:34): We understand the line in the sand argument. The Senate's job as the house of review is to improve legislation and the government does not always get to have it its own way. As I mentioned in my speech on the second reading, we support having unfair contract terms extended from small business to business. This is something we have campaigned about for years. The government has an opportunity to listen to our concerns and what we have outlined about the amendments. There is absolutely no reason we cannot incorporate 95 per cent of small business transactions, as the government's own survey shows, and have that reviewed in two years' time. I totally agree with Senator Day on this issue. There are still a number of other issues with the bill that we can finetune over the next two years.

The Greens will also support Senator Leyonhjelm's amendment on sheet 7759—the extended time for the implementation of this bill—but we believe that the $300,000 stakeholder limit that we have put on this is clear from the evidence received by the committee. We do not believe that it should extend any further at this stage. We are happy with $300,000, so we will not be supporting Senator Day's amendment.

The TEMPORARY CHAIRMAN (Senator Sterle): The question is that the amendments on sheet 7751 moved by Senator Whish-Wilson be agreed to.
The committee divided. [12:40]
(The Temporary Chairman—Senator Sterle)

Ayes .................. 34
Noes .................. 25
Majority ............. 9

**AYES**

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**NOES**

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Senator Sinodinos did not vote, to compensate for the vacancy caused by the resignation of Senator Wright
Question agreed to.

Senator DAY (South Australia) (12:43): by leave—I move Family First amendments (1) to (4) on sheet 7757 together:

1) Schedule 1, item 8, page 4 (line 7), omit "$100,000", substitute "$500,000".
(2) Schedule 1, item 8, page 4 (line 10), omit "$250,000", substitute "$1,500,000".
(3) Schedule 1, item 31, page 9 (line 21), omit "$100,000", substitute "$500,000".
(4) Schedule 1, item 31, page 9 (line 24), omit "$250,000", substitute "$1,500,000".

We have had a discussion about whether the threshold should be $100,000, whether it should be $300,000. I am moving that the threshold be $500,000 to get a more comprehensive sample of contractors who may be affected by this legislation. I ask honourable senators to support my amendments.
Question negatived.

Senator LEYONHJELM (New South Wales) (12:45): I move amendment (1) on sheet 7759:

1) Clause 2, page 2 (table item 2), omit "6 months", substitute "12 months".

This is a very minor amendment and it simply reflects feedback that I have had, and I am sure others have had the same feedback, to the effect that six months is an insufficient period for a number of major organisations to adjust their contracts to take account of the legislation. Indeed, the Bankers' Association sought 12 months and Westpac sought two years and has been earbashing everyone who wants to pay attention. The fact is that adjusting standard form contracts in a period of six months is quite a challenge. I think this is a minor amendment which will allow them practical time in which to accommodate the provisions of this act.

Senator CORMANN (Western Australia—Minister for Finance) (12:46): I will just indicate quickly the position of the government. We do not support this amendment. We have proposed in the legislation a six-month transition period. There will be guidance and assistance from the ACCC and from ASIC and there will be a 12-month 'light touch' implementation of the regulatory change.

Furthermore, in terms of providing some more detail on how the ACCC will work with industry once the protections are in effect, the ACCC will work with business and industry groups to identify problematic contract terms and encourage compliance. This approach was taken for the consumer protections when they were first introduced and led to most businesses choosing to delete or amend problematic terms.

Where a business does not fully cooperate with the ACCC or comply with the law, further action such as through informal and administrative means or court action may be pursued privately or by the ACCC. For instance, since the introduction of the consumer protections the ACCC has conducted in-depth investigations into 15 matters and instituted court proceedings against four businesses.

Senator LEYONHJELM (New South Wales) (12:47): Could I just indicate I am aware of the involvement of the ACCC on this issue and also the announced policy of a 'light touch' in relation to ACCC participation in the implementation. Frankly, I find that concerning. The
ACCC should enforce the law. Its discretion as to whether it applies a heavy touch or a light touch worries me greatly. I would much prefer that we simply allow 12 months for the people affected by these contracts to adjust their operations and keep the ACCC’s ‘touch’ out of the whole affair.

Senator CORMANN (Western Australia—Minister for Finance) (12:48): I would just say this is an approach that has been used by governments of both persuasions. Indeed, when I was sitting on the other side of the chamber, that is exactly the way the previous government pursued the implementation of changes to our financial advice laws. So this is a well-established principle. When you have a regulatory change of this nature, regulatory agencies like ASIC and the ACCC obviously implement these changes sensibly in the early period of implementation.

The TEMPORARY CHAIRMAN (Senator Sterle): The question is that the amendment moved by Senator Leyonhjelm on page 7759 be agreed to.

The committee divided. [12:53]

(The Temporary Chairman—Senator Sterle)

Ayes .................... 34
Noes .................... 26
Majority ............... 8

AYES

Bullock, JW          Cameron, DN
Carr, KJ            Conroy, SM
Dastyari, S          Day, RJ
Di Natale, R        Gallacher, AM
Gallagher, KR        Hanson-Young, SC
Ketter, CR          Lambie, J
Lazarus, GP         Leyonhjelm, DE
Lines, S            Ludlam, S
Ludwig, JW          Madigan, JJ
McAllister, J       McEwen, A (teller)
McKim, NJ           McLucas, J
Moore, CM           Muir, R
O’Neill, DM         Peris, N
Rhiannon, L        Rice, J
Siewert, R         Sterle, G
Urquhart, AE       Wang, Z
Waters, LJ         Whish-Wilson, PS

NOES

Back, CJ          Bernardi, C
Birmingham, SJ     Brandis, GH
Bushby, DC (teller)    Canavan, MJ
Colbeck, R    Cormann, M
Fawcett, DJ  Fierravanti-Wells, C
Fifield, MP      Johnston, D
Lindgren, JM    Macdonald, ID
McGrath, J       McKenzie, B
Nash, F          Parry, S
Payne, MA        Reynolds, L
Senator Ronaldson did not vote, to compensate for the vacancy caused by the resignation of Senator Wright.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with an amendment; report adopted.

Third Reading

Senator CORMANN (Western Australia—Minister for Finance) (12:57): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Civil Law and Justice (Omnibus Amendments) Bill 2015

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (12:58): I rise to speak in favour of the Civil Law and Justice (Omnibus Amendments) Bill 2015. As the title would indicate, this is an omnibus bill containing a large number of largely minor, technical changes to a range of Commonwealth acts within the Attorney-General's portfolio. It deals primarily with the federal courts, the newly amalgamated Administrative Appeals Tribunal, bankruptcy and international arbitration legislation.

The measures in this bill are uncontroversial. The bill clarifies provisions which are presently capable of ambiguity. It updates or repeals obsolete provisions in a range of Commonwealth statutes. The bill makes various drafting and stylistic changes, including renumbering of provisions to enhance the readability of the Commonwealth statute book. The bill also makes small changes to the procedures which apply in the rare instances in which criminal proceedings are brought in the Federal Court and to the way in which juries are managed by that court. It also makes small amendments to the procedures which apply in bankruptcies and in international arbitrations. Labor is happy to support this bill. I commend the bill to the Senate.
Senator McKIM (Tasmania) (12:59): As Senator McLucas has just stated, the Civil Law and Justice (Omnibus Amendments) Bill is an omnibus bill. It primarily amends the Administrative Appeals Tribunal Act 1975, the Bankruptcy Act 1966, the Evidence Act 1995, the Federal Circuit Court of Australia Act 1999, the Federal Court of Australia Act 1976 and the International Arbitration Act 1974. It makes consequential amendments to a number of other acts. As the Senate was informed during the second reading speech by Senator Fifield, this bill makes minor and technical amendments to provide more clarity in the legislation, correct legislative oversights and amend obsolete provisions.

While most of the provisions are uncontroversial and stakeholders do not have concerns about most of the bill, the amendments to the Federal Circuit Court of Australia Act 1999 relating to the use of force did attract some attention. These amendments provide an arrester, who is authorised by the act, or a warrant issued under the act or the rules of court, with the power to use such force as is necessary and reasonable in the circumstances to enter premises to execute a warrant. The explanatory memorandum states that the new power is reasonable and proportionate to the objective of ensuring that an arrestee is able to be arrested and brought promptly before the court where they may otherwise attempt to evade arrest by staying inside premises.

We must be mindful, of course, that the use of force must always involve the least amount of force that is necessary to achieve the objective. In this context it is worth noting that the new section 113A(4) of the Federal Court of Australia Act provides safeguards which prevent arresters from using more force than is necessary in the course of arresting an arrestee. For example, it includes a provision that the arrester must not in those circumstances use more force or subject the arrestee to greater indignity than is necessary and reasonable to make the arrest, and also must not do anything that is likely to cause the death of or grievous bodily harm to the arrestee unless the arrester reasonably believes that doing that thing is necessary to protect life or prevent serious injury to another person. We acknowledge the safeguards which are contained in the bill, particularly in relation to force and indignity.

The bill also makes amendments to the Federal Court of Australia Act 1976 to streamline and enhance processes relating to jury empanelment and the pretrial process for indictable offences. We welcome these amendments, which we believe will assist the Federal Court. It is, however, worth pointing out that whilst the last federal budget did increase funding to the Federal Court, the Family Court and the Federal Circuit Court, assistance to people appearing before these courts has been described by bar associations and law societies as being in crisis due to chronic underfunding of legal aid commissions in Australia. It is clear that, when a person is unrepresented in a civil or criminal trial, substantial resources of the court are expended assisting these people. While we support courts providing this support to unrepresented people, the Law Society of Australia has stated that this 'extends the length and cost of trials and significantly increases the prospect of a mistrial or miscarriage of justice'. Where legal assistance is denied to people, of course it disproportionately impacts on people with disability, unemployed people, single parents, Indigenous people and those living in regional Australia.

In the context of this discussion, it is worth making the point that the government is yet to respond to a Productivity Commission report recommending that it add about $120 million a year to the legal aid frameworks in this country. That report from 2014, *Access to justice*
arrangements, recommended that each year $200 million should be added to legal assistance services by federal, state and territory governments, and that the federal government should contribute some 60 per cent of this amount, to maintain front-line legal assistance services and allow about 10 per cent of households to be eligible for legal aid, which of course is in line with the proportion of disadvantaged Australians.

While the government should get credit for provisions of the bill that we are currently discussing, which will ameliorate some of the pressures on Australia's court system, it also, equally, needs to accept criticism for its very tardy response to the Productivity Commission report. The Greens certainly express our disappointment that that new funding recommended by the Productivity Commission has not been made available. If it were available it would not only improve access to justice for many disadvantaged Australians; it would also take significant pressure off our courts and speed up legal processes in this country. In this context, it is absolutely reasonable to observe that justice delayed can be justice denied. There are other issues around delays in our legal system. It is worth pointing out that people can be remanded in prison for longer periods of time without having access to final determinations on their matters due to legal aid cuts.

Whilst we make those points, we do not want to distract unnecessarily from the fundamental purpose of the Civil Law and Justice (Omnibus Amendments) Bill, which is to make minor and non-controversial reforms to a number of pieces of Commonwealth legislation that currently exist. The Greens will not be opposing these matters.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:08): The purpose of the Civil Law and Justice (Omnibus Amendments) Bill 2015 is to make minor technical amendments to civil justice legislation in order to improve its operation and clarity. The bill is essentially uncontroversial. I thank Senator McLucas for her contribution. I thank and acknowledge Senator McKim for his contribution as well. Senator McKim, what you have to say about access to justice is something that resonates very strongly with me and with the government. If only the resources were available in the budget; I wish they were.

The bill further supports the amalgamation of four key Commonwealth merits review tribunals by amending the Administrative Appeals Tribunal Act to assist the operation of the Administrative Appeals Tribunal. The amendments to the Bankruptcy Act will reduce red tape, streamline certain review applications and clarify confidentiality requirements. Amendments to the Evidence Act will provide conformity with national uniform legislation. Amendments to the Federal Circuit Court of Australia Act, on which Senator McKim touched, will clarify the powers that an authorised arrestor may use to execute an arrest warrant.

Amendments to the Federal Court of Australia Act will streamline the jury empanelment process, enhance the pre-trial process for indictable offences and improve the accuracy of the act. Amendments to the International Arbitration Act will simplify provisions for the enforcement of foreign arbitral awards, improve compliance with the New Convention on the Recognition and Enforcement of Foreign Arbitral Awards and apply confidentiality provisions to arbitral proceedings on an opt-out rather than an opt-in basis.
In conclusion, the bill will—as I said—make minor and technical amendments which will improve the efficiency and operation of the civil justice system and provide individuals with greater access to justice. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Lines) (13:10): 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 BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:10): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (13:11): I move:

That government business order of the day no. 4 (Fair Work Amendment Bill 2014) be postponed until a later hour.

Question agreed to.

BILLS

Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator McKENZIE (Victoria) (13:11): It gives me great pleasure to continue my remarks on this particular piece of legislation, which I began remarking on just over a year ago. I make it very, very clear that we are not sacrificing environmental standards; I want to be very, very clear on this. We are not altering our government's solemn promise—our solemn commitment—and the long history of coalition governments' commitment to high environmental standards and environmental integrity. We are improving it. We are creating an easy system—one system instead of two complex ones. We are asking this: if there are nearly 250,000 applications lodged each year and just 400 are seen by the federal government, then why should there not be a streamlining of processes to create a more effective and efficient system?

Our states and territories will have to step up. They will need to ensure that their environmental protection laws are of a high standard and that there is a synergy across our nation, where some state governments—and I am thinking in particular of certain Labor
governments' environmental approval standards around particular mining practices over the past decade—could have done with little leg-up. I hope that is why the opposition will be supporting our moves to ensure that state governments' environmental protections are going to be significantly increased as a result of stepping up to this legislation's hopes.

Some states have already begun working on how to improve their environmental legislation, but it must be noted that our government is not sacrificing environmental standards for a simpler system. The federal environment minister will still retain the right to have the final call in the assessment or approval of a project and may even be able to suspend or cancel the agreement if it is an extreme example. We are not fully relinquishing power; we are simplifying it. That has to be the key message here.

We are implementing a comprehensive assurance framework that will ensure that we have a transparent system. We want the environmental information to be public so that the broader community—including the Greens; it is great to have three of them in the chamber today—can be part of the monitoring processes involved. We are proposing audits during transition stages and then every five years, as well as consistent reviews of agreements and new reporting mechanisms.

Furthermore, we want an escalated dispute resolution process, where only the necessary questions will be asked so that we can be called to address extreme issues. The states and territories themselves have fully supported this. Every state and territory has signed up to the one-stop shop because they understand what Australian businesses and projects—and the significant amount of local jobs associated with that investment into Australia and particularly into regional Australia—stand to gain from a much simpler process.

A project that stands to gain is one in my home state of Victoria. With the Port Phillip channel we can see a classic example of how overly complex our system is. The Port Phillip Channel Deepening Project was specifically examined by the Productivity Commission. There are over 70 pieces of environmental legislation and policy relevant to the Port Phillip Channel Deepening Project. Do not worry, Madam Acting Deputy President—I know you have a strong interest in environmental legislation, but I will not go through all 70. I will name just a few. The key regulatory frameworks governing this project are the Victorian 1995 Fisheries Act, the Victorian 1975 National Parks Act, the Victorian 1978 Crown Land (Reserves) Act, the Victorian 1988 Flora and Fauna Guarantee Act, the Victorian 1975 Wildlife Act, the Victorian 1989 Water Act, the Victorian 1994 Water Industry Act, the Victorian 1994 Catchment and Land Protection Act, the Victorian 1958 Land Act, the 1997 Victorian biodiversity strategy and the 2002 Victoria’s native vegetation management: a framework for action. It can cost a major but necessary project like the Port Phillip Channel Deepening Project $25 million—that is a lot of jobs—to meet these regulatory requirements. It can mean as many as 4,000 meetings, a 1,200-page report, and being subject to 1,200 state conditions, 300 Commonwealth conditions and as many as 800 subconditions.

The Productivity Commission heard that one company needed to employ—wait for it—50 new staff over two years just to meet the environmental standards. Jobs should be created in the process of building the projects rather than in the administration of them. In the same report, the Productivity Commission recognised that this is ridiculous, stating:
Australia’s federal system of government, where responsibilities for matters (such as environmental protection) span all levels of government, gives rise to overlap and duplication, which the Commission considers can be greatly reduced without lowering the quality of environmental outcomes. That is the key phrase here. What the Productivity Commission recommended, and what the government has studiously sought to implement with this legislation, is that we get rid of the overlap and duplication but do not compromise our environmental outcomes. First and foremost we will not compromise them. I believe that this legislation goes to the very heart of ensuring that that can occur. Some of the states and territories are going to have to work very hard to make sure that their environmental protections are up to standard. Do not forget that the federal environment minister does have the power to intervene if deemed necessary. What we are getting rid of is that overlap and duplication.

If you are parties that represent bureaucrats or the majority of white-collar workers, then you would want to see paper-pushing jobs protected rather than the jobs of working-class Australians who will be building projects like the channel deepening project in my home state of Victoria and who will be building dams around Australia—the projects that are subject to these overlaps and duplications between the state and Commonwealth environmental legislation frameworks when it comes to protecting our national environment. The significant problem with overlaps is that they cause delays in the process. Getting approval by state and federal governments on the 70 pieces of legislation would not have been a timely process for the Port Phillip Channel Deepening Project. An assessment of the federal government's Office of Best Practice Regulation found that the savings from implementing a one-stop shop could be more than $420 million. That is a cost incurred purely because of delays.

The Productivity Commission also looked into the implications of delays, examining two different scenarios of delays—one and two years respectively. It found that by 2025 Australia's real GDP would be 1.5 per cent higher, or $32 billion higher in today's dollars, if the average delay in project approvals were reduced by one year. This GDP gap would increase to 2.4 per cent, or $51 billion in today's dollars, if the average delay were reduced by two years. That has got to be good for us. It has to be good for either side of this Senate to have billions more dollars to dedicate to education, to health and to ensuring that the taxpayer's dollar is targeted to those in the very greatest need, whilst at the same time ensuring projects worth billions of dollars are employing many more Australians. Over the 12 years from 2014 to 2025, the cumulative real GDP gains would be $160 billion and $280 billion respectively.

Although I do not expect the Labor Party to know this, a major infrastructure project should run on time. I have so many examples from my home state, including the desalination plant, but I will not go through them because I will run out of time—and I have so much more to say on this legislation. Infrastructure projects should run on time. As a federal government, we are often asking the same environmental questions that state governments have already asked. Why not streamline the process? Infrastructure is so crucial, especially in areas like Port Phillip. It provides employment, stimulates investment and offers benefits to the wider community. All these processes, forms and applications are restricting Australia's future growth. It is not just major projects that have been impacted by these unnecessary processes. Farmers and people in regional areas have to adhere to these complex systems. They cannot afford to hire 50 new staff to help them out. The National Farmers' Federation has fully supported our decision to move to a simpler process, claiming:
Navigating regulatory requirements in relation to environmental approvals is difficult and cumbersome. The NFF identified that there are too many duplicated processes, especially for irrigators. They identified that, because of requirements for rural water authorities to provide information and data to state and national irrigators, irrigation farmers bore—pardon the pun!—an enormous cost that was passed on directly to them. Just at the Commonwealth level, rural water authorities are required to report information to the Murray-Darling Basin Authority, to the Bureau of Meteorology, to the Australian Bureau of Statistics and to the National Water Commission. Each regulator requires similar information to be provided in different formats for different timescales. These are just the Commonwealth requirements. These irrigators still need to report to the state government.

Why are we imposing such costs on those who cannot afford it when we are asking for information similar to that which state governments already request? How can a local farmer provide employment in community or supply the community with goods when they must pay additional costs to meet environmental standards? We would like to see a much simpler process. The NFF have provided us with advice saying:

... the one-stop shop model must address not only those areas where there is direct overlap of Commonwealth/State regulation. Full harmonisation is required so that the current ambiguity created by different Commonwealth and State regulations can be clarified.

It is interesting that the Australian farming and business community today has come out reiterating its support for the one-stop-shop approach to environmental approvals. The important reforms are strongly supported by the farming and business community, including the Australian Petroleum Production & Exploration Association, the Business Council of Australia, the Minerals Council of Australia, the National Farmers' Federation, the Property Council of Australia and the Urban Development Institute of Australia. They state that:

... one of the biggest drags on Australia's international competitiveness is lengthy and costly delays in securing project approvals. These delays stem from the duplication of Commonwealth and State processes and impact a wide range of industry sectors, including agriculture, minerals, oil and gas, property and construction.

The Commonwealth Department of the Environment has reported that Australia's average time for project approvals is 37 months.

The Productivity Commission reports that even a one-year delay in a project costs $51 billion. Wouldn't we like to have an additional $51 billion in our economy, flowing through to business and workers? They further state:

The Department has also shown that implementing the One-Stop Shop for environmental approvals would provide economic benefits to Australian business in the order of $426 million every year.

That is a lot of jobs and that is a lot of people employed as businesses can stop paying for paper pushers, when they can streamline that process of getting environmental approval through for their projects.

_Senator Cameron interjecting—_

_Senator McKENZIE:_ Instead of paying for paper pushers to get the same environmental outcome, you know what they can do? They can employ more Australians. That is what I want to see. You would think, as a former union organiser, that that is exactly what you would
like to see too—more Australians employed, building those massive infrastructure projects, wealth-generating projects, so that our nation can go from strength to strength without any decrease in our very strong track record as a nation of protecting our very, very unique and very, very precious environment. Nobody wants to see the level of environmental integrity decreased in this country, but what we want to do is ensure that our businesses and our farmers are as internationally competitive as they can be, because that means that they are going to be employing more Australians. You would think that that would be a good thing, but no—those opposite are not interested in assisting businesses to employ more Australians.

Reducing the duplicative processes will bring a substantial economic benefit over a wide period of time. I commend to the Senate: what we want to see is one application, one assessment, one approval process and one decision; not the multidimensional confusing and expensive model that currently exists.

_Senator Cameron interjecting—_

_Senator McKENZIE:_ We want to create an economic efficiency that Julia Gillard could never achieve. It was her idea; we are just trying to bring it to conclusion, Senator Cameron. We believe that governments have a responsibility to the wider community as well as to the environment, which we protect. This bill is here to ensure that the integrity of our environmental standards is maintained whilst looking out for our economy and community.

_Senator Cameron interjecting—_

_Senator McKENZIE:_ You once supported it. We believe that by streamlining the process, projects like the Port Phillip deepening project will have to face fewer hurdles, ensuring they can reduce costs. We want to stimulate investment. (Time expired)

_Senator McKIM (Tasmania) (13:27):_ I rise proudly to oppose the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 and to rebut some of the rubbish that we have heard spouted in this chamber by the previous speaker, who is trying to claim that this will not have any deleterious environmental impacts whatsoever. In fact, this is all about doing over environmental protection in this country and thereby ensuring that the rights of big mining, big property, big developers, big forestry, the big dam builders and the big frackers are prioritised over the rights of our ecology, which ultimately underpins the rights of future generations in this country.

Make no mistake: this is all about ripping off future generations and denying them the opportunities for prosperity that we are so lucky to have in our lifetimes. This is undoubtedly a massive step backwards in environmental regulation and environmental protection in this country. What we are talking about here is the government proposing to hand the power to protect the precious places of Australia—the ecologies and all of the creatures and plants that rely on those ecologies—over to state and territory governments, who, quite frankly, have an absolutely appalling record of environmental protection.

To illustrate what I am talking about, I want to go to a story about something that happened in Tasmania during my time in the Tasmanian parliament. This is in relation to the pulp mill proposed for the Tamar Valley by the company formerly known as Gunns Limited. Gunns are in administration at the moment, and I am very pleased about that. When they were a publicly listed company they submitted their proposal for a toxic pulp mill in the beautiful Tamar Valley in northern Tasmania. They submitted it to the peak planning authority in Tasmania,
then known as the Resource Planning and Development Commission—now known, I should state for completeness of the record, as the Tasmanian Planning Commission. The then Resource Planning and Development Commission undertook a reasonably comprehensive, it has to be said, assessment of Gunns Limited's pulp mill. However, it became clear towards the end of that process—this information became public because I put in freedom of information requests to the RPDC—that they were moving towards a finding that Gunns Limited's pulp mill proposal was 'critically non-compliant', as stated by the RPDC.

What happened then? The head of the Department of Premier and Cabinet made a phone call to Gunns Limited. They tipped Gunns Limited off that the RPDC was in the process of concluding that Gunns Limited's pulp mill proposal was critically non-compliant. We then had some toing and froing between senior levels of government—by that, I mean then Premier Paul Lennon and the then CEO of Gunns Limited, John Gay. As a result, the project was ripped out of the hands of the RPDC and instead subjected to an extremely dodgy, extremely unacceptable parliamentary approvals process. I will not go into the many, many deficiencies of that process, but suffice to say that moved it from a supposedly independent planning authority into a highly politicised environment within the Tasmanian parliament. We saw bullying, we saw intimidation and we saw lies told to the Tasmanian parliament by the proponents. We saw consultants to that process who abjectly failed to conduct themselves in anything like an impartial way. As a result, disappointingly for Tasmania, parliamentary approval was granted, with only the Greens and a few brave members of the upper house willing to stand up for proper process and to stand up for the Tasmanian environment.

I place that on record because this is the kind of attitude to environmental protection and the kind of attitude at the political level in Tasmania that you are proposing to reward by handing over certain powers and authorities through the processes of this legislation. Let me be clear about this: Tasmanian governments have starved for resources environment departments and other assessing authorities in Tasmania. The honourable exception to that was in the four years between 2010 and 2014, when the Greens did ensure that extra resources went into some of these areas. But, apart from that period, state governments of both Labor and Liberal persuasion have starved bureaucracies in those areas of resources. There is simply no way, in Tasmania at the very least, where my expertise lies, that assessments can be done comprehensively and adequately, particularly of major projects where there is political interest, because I simply do not trust the Labor or Liberal parties in Tasmania to not politically interfere in the assessments of those projects as they so corruptly did in the assessment of the Gunns Limited pulp mill.

We know that there are a number of deficiencies in the legislation currently before us. One of the most frightening aspects of this legislation is in the area of the approval powers. These changes do not actually reduce duplication, which is the furphy that has been peddled in relation to this legislation. What they basically do is give authority to state and local governments to tick off on many projects which simply should not proceed because of their impact on the ecology and therefore on the welfare of future generations. It has to be clearly stated here that the current system is a separation of powers and responsibilities; it is not a duplicate system. As I said, this is the big furphy here. It is entirely reasonable to separate out powers and responsibilities—it is what happens in a federation. What is not reasonable is to
describe a separation of powers and responsibilities as duplication, because that is not factually accurate.

This bill, very disappointingly so, will allow state and territory governments—and, extraordinarily, local councils—to make decisions about matters of national and, in some cases, international environmental significance without any expert advice from federal government departments. Again, this is another step in the ongoing emasculation of Commonwealth government departments that are there to protect the environment and to deliver intergenerational equity in this country.

I want to make the point about local governments that there are local governments in Tasmania that have less than 5,000 ratepayers in their municipality. They have trouble assessing carports, let alone the difficulty they are going to have assessing larger, more potentially environmentally destructive projects. So when you struggle, because of your very low rate base, to deal with applications for house extensions, for the building of decks, for garage extensions and carports, you are certainly going to struggle on major, more environmentally impactful projects.

So, unfortunately, what we are dealing with today in this Senate is a bill that will basically allow Commonwealth standards not to be reflected in state laws, and that alone makes a mockery of the claims that standards will be upheld. This is all about reducing protection for the environment. How do we know that, and how do we know that we have had an effective admission from the government that that is the case? It is because they talk about 'jobs, jobs, jobs' as their highest priority, they talk about efficiencies, and, in the context of this legislation, they talk about savings from what they describe as 'pen-pushers'. Well, one person's pen-pusher is another person's environmental protector.

Alone of the parties represented in this place, the Greens understand very deeply that we need to protect our ecological processes. We need to protect our climate. We need to protect our environment, for the benefit not only of all the humans and all the creatures on the planet now, but in fact for future generations. Apart from anything else, this bill clearly fails the intergenerational equity test. So, clearly, this bill should not proceed through this chamber of the Australian parliament.

Now I want to address something that the government, as I understand it, has claimed here, when they say, 'We've got some draft agreements coming down the line with the states, and don't worry—we've got call-in powers in those draft agreements.' We need to understand, as my colleague Senator Waters said in her contribution, that this is in fact a highly prescribed test for when the Commonwealth minister can have a state of mind where he or she 'knows' that something problematic is going on at the state level and call it back in. But it has to be before the state has already issued the approval. So the question quite correctly posed in this context by Senator Waters is: how on earth is the Commonwealth minister going to know that something problematic is going on at state level before the approvals are issued? Of course, the only answer to that question is that it will be somewhere between extremely difficult and impossible for the Commonwealth minister to know. So we are not satisfied at all with those call-in provisions, particularly as state governments right now—and I will speak again from my experience in Tasmania—are quite frankly prepared to do or say anything to get developments up in their state. And it does not matter to them that those developments compromise the environment or future generations, because that is outside the electoral cycle.
that is the only thing that the current state government in Tasmania is focused on. They are focused every day—as are the Labor and Liberal parties in the Australian parliament—primarily on one goal, and that is: winning the next election. And this legislation is abundant proof of that and fits very squarely within those strategic imperatives.

Senator Cameron: I suppose you'll never have that problem.

Senator McKIM: Senator Cameron suggests that the Greens will never have that problem, and I can respond by saying that it is my experience in the Greens that we genuinely ask ourselves the question: 'What are people in 50 or 100 years going to think about the decisions that we make today?' and I am proud that we ask ourselves that question on a regular basis—very proud indeed.

In the short time that is left to me in this debate, I also want to talk about prosperity in the context of environmental protection and environmental remediation. You can see Tasmania as a classic example where, as to our protected areas—those areas where, as a state parliament, and, at times, as a Commonwealth parliament and, in fact, at times, as far up as the United Nations—we have said, 'No; there are certain things that you cannot do in some of our higher-status protected areas, like our World Heritage area and like our national parks.' We have said: 'No, you cannot develop in those areas, if you are a private developer; you cannot log in some of those areas or mine in some of those areas.' And look at our tourism industry now. Do you know what the primary driver of that is? This is from Tourism Tasmania research. Do you know what the primary reason is that people make a decision to visit Tasmania? It is our wilderness. It is nearly double the next most relevant reason why people choose to visit Tasmania. It is our protected areas that are underpinning our tourism boom at the moment. We have gone from a time when the then Liberal Premier Robin Gray described the Franklin River as 'a brown, leach-ridden ditch' to a time now when our wilderness areas and our protected areas are underpinning the fastest-growing industry sector in Tasmania. I remind members that, when the Greens were predicting over previous decades that tourism was going to be one of our foundation economic sectors, we were laughed at loudly by the Labor and Liberal parties of the day.

This choice between jobs and environmental protection that is put to the Australian people so often by particularly the conservative side of politics is a false one. We do not have to make that choice because there are many circumstances in which environmental protection, extended out to environmental remediation, can generate many, many thousands of jobs in this country—and it has. This is not about jobs; this is about developers. This is about the big mining companies that this current government is so beholden to. It is about the big forestry that certainly the Tasmanian government is so beholden to. It is about the big frackers and a range of other people whose primary objective is to profit from environmental destruction.

One day—and it will be a great day when this occurs—there will be a majority of members in this chamber who actually understand that it is a false choice we are presented with between jobs and environmental protection. They will understand that environmental protection and environmental remediation go hand in hand with prosperity and meaningful work. They will understand that, rather than allowing developers to run rampant over our environment, destroy our ecology and compromise opportunities and prosperity for future generations, it is the job of this parliament to stand up for environmental protection in
Australia and make sure that our children and grandchildren get a fair crack at the prosperity that so many of us are lucky to have today.

Senator IAN MACDONALD (Queensland) (13:47): It is a pleasure for me to enter into this debate on the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 following a speaker from the Greens political party and from Tasmania, no less. You only have to think of what the Greens political party, with their Labor allies, did to the economy of Tasmania over the last 10 or more years to realise that the ideas and visions of the Greens political party in the things that they convinced the Labor Party in Tasmania to be part of have just decimated the economy of that state and made it a completely mendicant economy, relying on—

The ACTING DEPUTY PRESIDENT (Senator Lines): Senator Macdonald, I am sorry. I have just been informed that you have already spoken on this bill. This is a very old bill and my information is that you have spoken on it before.

Senator IAN MACDONALD: What a pity. The Senate will have to be the poorer for not having my arguments—

The ACTING DEPUTY PRESIDENT: You can sit down, Senator Macdonald, thank you.

(Quorum formed)

Senator BERNARDI (South Australia) (13:51): It gives me great pleasure to speak on the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 because this bill finalises the implementation of the Australian government's one-stop shop policy. You will know, Madam Acting Deputy President Lines, that for a very long time I have been committed to reducing bureaucracy. The Australian people deserve a fairer, more effective means of dealing with the issues that they face. By removing the bureaucracy—the multiple steps that people have to go through to achieve decent outcomes—we are enhancing not only the productivity but also the effectiveness of our government and the private sector. Make no mistake—

Senator Canavan: On a point of order, Madam Acting Deputy President. I believe the clock has been reset during that process.

The ACTING DEPUTY PRESIDENT (Senator Lines): I think you are correct, Senator Canavan. Senator Bernardi, please sit down while I seek the guidance of the Clerk. Order! Senator Bernardi, we would like to hear your full 20 minutes.

Senator BERNARDI: It is just as well that I had a 22-minute speech prepared. I was going to cut some out. I am absolutely delighted to be speaking on this bill. As I was saying, reducing bureaucracy and regulation of course enhances the operation of government while reducing the cost of government, but it also enhances the private sector by getting meaningful outcomes—positive environmental outcomes, as well as business outcomes. By consolidating the various bodies that have previously dealt with these questions into what is colloquially known as the 'one-stop shop' policy we are going to be on a winner.

The bill amends the Environment Protection and Biodiversity Conservation Act to ensure that existing bilateral agreements with each of the states operates efficiently and effectively. Madam Acting Deputy President, I would hate you to be under any illusion that I do not believe that in our federation states should be free to pursue the issues that are of importance
to their constituents. I do firmly believe that government that is closer to the people often better reflects their determinations—whether that comes down to, say, local government where communities can have their issues resolved or state governments. I do believe firmly that they have an important role to play. But the federal government also has a very important role to play and in this case it is about streamlining environmental assessments and approvals. It removes unnecessary duplication; it means effectively that you do not have to fill in the same forms again and again and speak to multiple bureaucrats to resolve the same sort of issue. It removes unnecessary duplication between the Australian government and the states and territories.

I make this point to the Senate: the Office of Best Practice Regulation has estimated that the full implementation of the one-stop shop policy in regard to the Environment Protection and Biodiversity Conservation Act 2014 would save businesses over $426 million per year. That is money they can put towards employing more people and investing and developing their businesses. As they make more money, they will pay more tax. It is a win-win-win—a $426 million triple bottom line win there. We will all be familiar with the BAEconomics report, which was commissioned by the Minerals Council of Australia. They estimate the reform will add $160 billion to national output by 2025 and create 69,000 jobs across the whole economy. Let me remind the Senate that the Abbott government is all about jobs. Jobs, jobs, jobs and increasing productivity—

Senator Cameron: Whose job? Tony's job—Malcolm is coming!

Senator BERNARDI: so Australia is better off and better prepared for the future. That is why this bill is so important. It is another step along the way towards greater efficiencies, more jobs, more productivity and making Australians much better off. But do not take my word for it; the BAE report said exactly that. The Office of Best Practice Regulation, whom we all respect, said it exactly that. This important reform will not only have a direct economic benefit, it will also maintain high environmental standards.

I challenge anyone in this Senate to have more regard for the environment than I. I am absolutely committed to a sustainable environment, because I am interested in the next generations, as so many of us are. There will be no compromise on high environmental standards. We are simply looking for opportunities to increase the productivity whilst maintaining high environmental standards. That is why the high standards of the EPBC Act will be incorporated into state approvals processes. What more could you ask for? You will get increased productivity and the high standards of the EPBC Act into the state approvals processes.

Thanks to the fierce lobbying of those committed environmentalists like myself, the absolute and fundamental principle of this reform is that our high environmental standards will be maintained. One of my colleagues may have said this previously: no state or territory will be accredited under the one-stop shop unless they meet the standards set out in the Australian governments' Standards for Accreditation of Environmental Approvals under the Environment Protection and Biodiversity Conservation Act 1999. As a result of that absolute pledge that no state or territory will be accredited under the one-stop shop program, we have already seen some states and territories lifting environmental standards. That is what this federal government does—it lifts the states and territories to perform at a higher level; it lifts productivity; it creates jobs; it creates hundreds of millions of dollars in increased
productivity; and it delivers billions and billions of dollars of extra output for Australia. It does all that by simply removing the bureaucracy that was created by the other side of the chamber.

This is a one-stop shop that has the triple bottom line: it has $426 million in savings for businesses; it will add $160 billion in national output by 2025; and it will create 69,000 jobs across the whole economy. That is the triple bottom line for the economy—and it will have a massive win for the environment, because we are already lifting the standards.

Opposition senators interjecting—

Senator BERNARDI: I hear the interjections on the other side, and it galls me to think that somehow they are opposed to higher environmental standards and increased economic output. It galls me, and I regret that I only have four seconds in which to conclude my response—

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): I advise the Senate that Senator Ronaldson will be absent from question time today as he is in Papua New Guinea to attend commemorations regarding the 70th anniversary of Victory in the Pacific. In his absence, I will answer questions in the Special Minister of State portfolio, Senator Brandis will take questions on veterans' affairs and Senator Birmingham will represent the industry and science portfolio.

QUESTIONS WITHOUT NOTICE

Prime Minister

Senator STERLE (Western Australia) (14:00): My question is to the minister representing the Prime Minister, Senator Abetz. Does the Prime Minister retain the full confidence of his cabinet?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): Yes, the Prime Minister does enjoy the confidence of his cabinet. The reason that he enjoys the confidence of his cabinet is his policy delivery for this nation—policy delivery be it on MH17 or MH370, be it on border protection, be it on stopping the carbon and mining taxes to ensure that we can have jobs for the future or be it on the free trade agreements that are promising wealth generation and job creation like we have not seen in this country for a long time. That is why the Prime Minister enjoys the confidence of his cabinet and of the party room. What I do know is that Mr Shorten does not enjoy the confidence of 21 years worth of former ACTU presidents in Mr Hawke, in Mr Ferguson and in Mr Crean in relation to his unprincipled stand on the China free trade agreement—an agreement that will see huge potential for our home state of Tasmania and indeed the state of Western Australia, 47 per cent of whose exports go to China. Yet the Labor Party has the audacity to campaign in Western Australia against the free trade agreement.

The PRESIDENT: Pause the clock. Senator Cameron on a point of order.
Senator Cameron: I raise a point of order on relevance. The question was about the chaos and dysfunction in this government and the lack of support for the Prime Minister.

The PRESIDENT: There is no point of order.

Senator ABETZ: When it comes to relevance, Senator Cameron never figures in the debate at all and that is why it is not surprising that he would raise a point of order of that nature. Can I say to those opposite that the Prime Minister enjoys the confidence of his cabinet because of the direction that we are taking this country after the six years of Labor-Green neglect. *(Time expired)*

Senator STERLE (Western Australia) (14:03): Mr President, I ask a supplementary question. Has the Prime Minister’s department asked the Governor-General to be in Canberra and available to call on this week? Will the minister rule out a preemptive double-dissolution election?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:03): I am astounded at the new-found fascination for the powers of the Governor-General by those opposite. One day they are calling on the Governor-General to sack a royal commissioner, for only one reason—they know that they would never win the case in court—and what humiliation in the media today—

The PRESIDENT: Pause the clock. Senator Moore on a point of order.

Senator Moore: I raise a point of order in relation to direct relevance. There were two questions: has the Prime Minister’s department asked the Governor-General to stay in town this week, and will the minister rule out a preemptive double-dissolution election. The minister has gone nowhere near either of those questions.

The PRESIDENT: The minister has more than half the time left to answer the question. He has already mentioned the Governor-General in his answer.

Senator ABETZ: Whilst those opposite continue to wallow around in Canberra gossip, we on this side are getting on with the task of ensuring that we deliver good government for this country. That is why I can tell those opposite that an early election is not on our agenda. Delivering the China free trade agreement is on our agenda. Ensuring that Labor cannot reintroduce a carbon tax is on our agenda. Ensuring that Labor cannot bring in a mining tax again is on our agenda. *(Time expired)*

Senator STERLE (Western Australia) (14:05): Mr President, I ask a further supplementary question. Is the Liberal minister who says that a challenge to the Prime Minister’s leadership is ‘coming like a freight train’ correct? Is a leadership challenge the only way to stop this government focusing on itself?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:06): The only person focusing seems to be Senator Sterle, and that is a rare occasion. I will note that it is a very rare occasion that we actually have Senator Sterle focusing, but yet again when he does focus it is on the wrong thing. What Senator Sterle as a Western Australian senator ought to be focusing on are the benefits of the Chinese free trade agreement for his constituents. He knows it is good for the people of Western Australia. We know it is good for the people of Western Australia. We will continue to seek to deliver for the people of Western Australia.
and, indeed, all of Australia. In relation to, once again, an unsourced gossip column comment, can I say to the Labor Party that we do not engage in that sort of talk; what we engage in is policy delivery. That is what we did last week in relation to the Syrian refugee crisis and we will continue to do so. *(Time expired)*

**Trade with China**

**Senator BACK** (Western Australia) (14:07): My question is directed to economic development and job creation, and it is to the Minister for Employment, Senator Abetz. Can the minister update the Senate on the activities of certain registered organisations which oppose the China-Australia Free Trade Agreement, and what threats these activities pose to the future of the agreement?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:07): I thank Senator Back for a policy question. A report headlined 'CFMEU rolls dice on Bill Shorten in China' shows exactly how worryingly deep the relationship is between the Leader of the Opposition and this corrupt union, the CFMEU. The CFMEU—a former official of which is the leader of the Labor Party in here—has bankrolled the ALP to the tune of $6.4 million since 2007. The report tells us further:

The cashed-up Construction, Forestry, Mining and Energy Union has rolled the dice on a multimillion-dollar survival strategy: getting Bill Shorten elected prime minister. At the recent ALP conference, Mr Shorten did a deal with the CFMEU to preserve his position as leader, and now the corrupt CFMEU is demanding the favour be returned. The Leader of the Opposition will be judged by the company he keeps. The CFMEU is Australia's most corrupt union. The interim report of the Heydon royal commission recommended that two of its state secretaries be charged with serious criminal offences and that a third was not a fit and proper person to hold the office he held. Three of its officials have recently been arrested in relation to serious allegations of blackmail and intimidation.

The Leader of the Opposition has not only outsourced his workplace relations policy to this the most corrupt of unions, the CFMEU; he has also outsourced his trade policy, his political strategy and his political backbone to Australia's most corrupt union. We as the coalition will stand firm against union corruption. *(Time expired)*

**Senator BACK** (Western Australia) (14:09): Mr President, I ask a supplementary question. Has the minister seen claims by the CFMEU that provisions in the China-Australia Free Trade Agreement will allow Chinese investors to bring in their own workforces on infrastructure projects over $150 million, with no obligation for labour market testing? I ask the minister: is this the case?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:10): As Senator Back knows, and as those opposite also know but refuse to say so, that is false. The claim that the government has included a special arrangement for projects worth more than $150 million, where labour market testing is not mandatory, is completely and utterly false. The investment facilitation arrangement is modelled on the enterprise migration agreement that Labor actually designed and introduced. But there is a big difference. Our IFA has far more stringent safeguards to ensure Australian workers get the first crack at any jobs.
IFA involves a three-stage process: firstly, entering into the IFA; secondly, the project agreement phase, where labour market analysis is a requirement; and, thirdly, the labour agreement stage, where labour market testing is a mandatory requirement. 

**Senator BACK** (Western Australia) (14:11): Mr President, I ask a further supplementary question. Has the minister seen criticism that the CFMEU’s campaign against the China-Australia Free Trade Agreement is xenophobic; and, if so, what is the government’s response?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:11): The claim that the Labor Party’s approach to this is xenophobic has been made by none other than a former ALP president, Mr Warren Mundine, who said:

It's a nonsense argument built on misinformation and lies. And Federal Labor is indulging it. 

... ... ...

The clear message—ChAFTA will flood Australia with Chinese workers destroying Australian jobs and the Chinese are not to be trusted. It's an antagonistic, 'them against us' message, pandering to xenophobia.

That is what the Labor Party former president says about the Labor Party. There is no need for any hyperbole from the coalition. That is Labor identifying what it has done to its own once-proud record. The Labor Party is dancing to a tune that is being played by the CFMEU, the most corrupt union— (Time expired)

**Fair Work Commission**

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (14:13): My question is to the Minister for Employment, Senator Abetz. I refer to a formal complaint against Fair Work Commission vice-president Michael Lawler, received by the minister. Can the minister confirm the complaint was made by an industrial relations advocate who was on the receiving end of inappropriate and improper comments from Vice-President Lawler about the support Mr Lawler has provided to his partner, Ms Kathy Jackson, before the commission, and an unwelcome offer to represent the advocate’s client while on sick leave?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:13): As the honourable senator would be aware from media reports, I have received a complaint. I am working through that complaint in a methodical, purposeful manner, and I am not going to engage in the sort of language that Senator Conroy invites me to engage in, because what we have to do is deal with this matter in a proper and fair manner to all concerned. That is what I have dedicated myself to doing and that is why I will not say anything further on the matter, other than that it is being investigated and proper regard is being given to the complaint to ensure that all matters are appropriately canvassed prior to any announcement being made.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (14:14): Mr President, I ask a supplementary question. Can the minister confirm that his office contacted the complainant to confirm the complaint against the vice-president was being acted on? How is it being acted on; what role are the minister and his office playing; and when will it be resolved?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:14): When
somebody makes a complaint to our office about a matter, unlike the former Labor government, do you know what, we actually do respond to them and say, 'Yes, message received. We are looking into it and we will deal with it in due course.' As to any further matters, I will not canvass those, as I indicated in my previous answer. It is appropriate that due regard be had to process and that is the course that I have set myself in this matter and that is the course that I will continue on.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:15): Mr President, I ask a final supplementary question. Is the minister aware of any other complaints and concerns about Vice-President Lawler's conduct, how many and, if so, what action is being taken to address those concerns?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:15): As the honourable senator ought to know, there is a difference between a formal complaint and concerns. There are, from time to time, letters provided to ministerial officers expressing concern and one notes them and leaves them. In relation to actual complaints that might excite my interest under special provisions of the Fair Work Act, they fall into a different category and, as I have indicated, I will deal with the particular matter to which the senator referred in his primary question in a proper manner.

Trade with China

Senator SINODINOS (New South Wales) (14:16): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Trade and Investment. Will the minister outline to the Senate how the government's free trade agreements will stimulate jobs and growth for all Australians? Why is it essential that the China-Australia Free Trade Agreement is implemented as soon as possible?

Senator PAYNE (New South Wales—Minister for Human Services) (14:16): I particularly thank Senator Sinodinos for his ongoing interest in this very important aspect of Australia’s international trade engagement. This trifecta of trade agreements is about placing this nation in the best possible position to take advantage of the opportunities that are emerging in the region around us. In fact, the results of independent modelling show, in terms of jobs and growth, that these three FTAs are worth $24 billion in total additional income to Australia by 2035—$24 billion additional total income. In 2016, next year, if all three of the FTAs have taken effect—so, if that China-Australia Free Trade Agreement is passed—GDP is forecast to be a billion dollars higher. Those increased exports, logically, will then allow Australian businesses to hire more workers, with an annual net jobs increase of almost 8,000 people in 2016 and 15,000 people in 2020. So, in terms of jobs and growth, $24 billion in total additional income to Australia by 2035 and 15,000 extra jobs by 2020.

If the China-Australia Free Trade Agreement is implemented this year, it will result in a double bonus of tariff cuts for our exporters: one round of tariff cuts this year and a second round of tariff cuts in January 2016. So it is essential that the opposition supports this trade agreement to allow the benefits to flow immediately. It also explains why the agreement is being backed by luminary figures like Bob Hawke, like Bob Carr, like Martin Ferguson, like Simon Crean, like every Labor Premier in Australia, because they realise the benefits, they realise the advantages and they are actually prepared to engage on the international stage for Australia to bring those to fruition. (Time expired)
Senator SINODINOS (New South Wales) (14:19): Mr President, I ask a supplementary question. Will the minister inform the Senate of the benefits of the China-Australia Free Trade Agreement for Australia's great tourism industry?

Senator PAYNE (New South Wales—Minister for Human Services) (14:19): That is a very important question from Senator Sinodinos. The tourism industry in Australia currently employs over a million Australians, but, even more importantly, it is a critical developer of regional Australia, because 45c in every tourism dollar is spent in regional Australia. The Chinese tourism market alone is worth some $5 billion to Australia and this is the market that effectively kept Australian tourism strong, particularly throughout the global financial crisis. What the China-Australia Free Trade Agreement will do is enable continued jobs and growth in Australian tourism. There will be greater investment into much needed tourism infrastructure and it will also put, for the first time, Australian travel agencies in the unique position to independently establish local operations in China. So it is no wonder that the Australian Tourism Export Council has said:

Our industry is very concerned about the shortsighted focus of the union's campaign ...
(Time expired)

Senator SINODINOS (New South Wales) (14:20): Mr President, I ask a final supplementary question. Will the minister inform the Senate of the significance of the business events sector and how it will benefit from the China-Australia Free Trade Agreement?

Senator PAYNE (New South Wales—Minister for Human Services) (14:20): Both tourism and the business events sector are very important in this regard. The ATEC is very concerned about the short-sighted focus of the union's campaign in the tourism space because it fails to recognise the importance of the agreement to a broad range of export industries and the flow-on benefits it will bring to the broader economy. Business events themselves are an economic powerhouse for this nation in trade, in export, in investment, in diplomacy, in education and in knowledge transfer. In fact, in 2013-14, over 37 million people attended more than 412,000 business events across Australia, and China is already a significant contributor to that sector, earning $260 million alone last year. So, if we are able to expand trade with China under the China-Australia Free Trade Agreement, that will have a flow-on effect to meetings, events, conferences, exhibitions and the incentive industry. As the chairman of the Business Events Council of Australia has stated:
What is often forgotten in these disputes ...
(Time expired)

Climate Change

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:21): My question is to the Minister representing the Foreign Minister, Senator Brandis. I refer to the comments caught on microphone last Friday between Minister Dutton and the Prime Minister, laughing about sea level rise in small island states. Although Mr Abbott thought it was hilarious, the Foreign Minister of the Marshall Islands disagrees. He said:

Next time waves are battering my home [and] my grandkids are scared, I'll ask Peter Dutton to come over, and we'll see if he is still laughing.
Is the government still laughing, or are Minister Dutton's comments an acknowledgement from this government that global warming would devastate those island communities and that cabinet is willing to let that happen?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:22): Mr Dutton made an unfortunate joke in the course of a private conversation, for which he has apologised. As far as I am concerned, that is the end of the matter.

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:22): Mr President, I ask a supplementary question. When our neighbours called out for help to tackle climate change, the government refused and then laughed about it. The President of Kiribati said:

It shows a sense of moral irresponsibility quite unbecoming of leadership in any capacity.

To say that our diplomatic relationships are being tested is an understatement. What is the minister or DFAT now doing to try to clean up the government's offensive diplomatic blunder?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:23): That is a question that, even from you, Senator Waters, is so ridiculous that I am embarrassed to hear it asked. But I will tell you what we are doing for Pacific nations and for our neighbours in the south-west Pacific in relation to the problem of climate change. We are spending over $50 million on climate resilience related projects throughout the Pacific: in Kiribati, in Fiji and in other Pacific nations. We are supporting national weather and climate services in 14 of the Pacific nations, and that is only a small proportion of the foreign aid budget of this country, which—as you should know, Senator Waters—is concentrated primarily in our region. Placing the focus of our foreign aid budget on our region is one of the reforms that this government has undertaken, and that is a lot more important than an unfortunate joke.

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (14:24): Mr President, I ask a further supplementary question. It is an unfortunate government indeed. I note that Minister Dutton has now belatedly given an apology, although a qualified one. But Minister Dutton's sick joke about our neighbours' losing their homes—

Senator Ian Macdonald: Do you have a question?

The PRESIDENT: Senator Macdonald!

Senator WATERS: is just the latest in a long line of unacceptable behaviour and decisions. The immigration minister has presided over the detention and sexual assault of asylum seekers, spying on members of parliament and now laughing at climate change. When will Minister Dutton be dumped?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:24): It is disgraceful to say of any minister that he 'has presided over … sexual assault'. What a disgraceful thing to say, Senator Waters! You should withdraw that.

Senator Abetz: And she should.
The PRESIDENT: Yes. I think, Senator Waters, you should withdraw that comment. That was an unparliamentary comment directed towards a member of the other house.

Senator Waters: Mr President, I rise to make a point of order on relevance.

Government senators interjecting—

The PRESIDENT: Order on my right! Can we deal with this other matter first.

Senator Waters: Minister Dutton was the relevant minister at the time.

The PRESIDENT: Yes, but there was an innuendo there, and it would be easier if you would just withdraw that.

Senator Waters: Mr President, I stand by my remarks. He was the relevant minister at the relevant time. That is what the definition of ‘presiding over’ is.

The PRESIDENT: Senator Waters, it is not so much what you say; it is the context in which you say things which affects whether it is ruled unparliamentary or not. There was an innuendo in what you said, and I do believe that you should withdraw that comment. I respectfully ask you to withdraw it. Senator Di Natale, I do not need any assistance in this matter. I have asked the senator to withdraw.

Senator Di Natale: Mr President, I rise on a point of order. Your ruling implied incorrectly that there was an innuendo in what was said. There is no innuendo here. He did preside over systematic sexual abuse going on in offshore detention centres. There is no innuendo, just fact.

The PRESIDENT: Senator Di Natale, I will not entertain any other points of order until I have dealt with the one from Senator Waters. Senator Waters, you are going to put me into a position where I will have to invoke standing order 203 if you do not comply with what I think is my reasonable request to withdraw that comment.

Senator Waters: Thank you, Mr President. I will rephrase my question. Minister Dutton was the immigration minister at the time of the revelations of the detention and sexual assault of asylum seekers, at the time of revelations about spying on member of parliament and at the time of laughing at climate change. When will he be dumped?

The PRESIDENT: Thank you, Senator Waters. Attorney-General, had you concluded your answer or do you have more to contribute to your answer?

Senator BRANDIS: I will resume my answer. Senator Waters, you attack Mr Dutton. Mr Dutton is the second consecutive coalition immigration minister on whose watch no boats arrived and no-one drowned at sea. Senator Waters, if you and your party had had your way, those policies that saved more than a thousand lives would never have been implemented. Furthermore, although your leader had the good grace to congratulate the government last week, if it were not for the fact that Mr Dutton was one of the two ministers who secured
On Monday, 14 September 2015, the Senate Chamber was convened.

**Australia's borders, we would not have been able to give new lives and new hope to 12,000 genuinely needy people from Syria.**

**Asylum Seekers**

**Senator REYNOLDS** (Western Australia) (14:28): My question is to the Assistant Minister for Immigration and Border Protection, Senator Cash. Can the minister further inform the Senate of the importance of protecting Australia and our region from the evils of people smuggling and the importance of having strong border protection measures?

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:28): I thank Senator Reynolds for the question. Yes, I can. Unlike other parties represented in this place, and, in particular—given what we have just seen—the Australia Greens, those of us on this side of the chamber understand the importance of having strong border protection policies. We understand that a government that cannot control its border, quite frankly, is not fit to be in government. What did we see under those opposite for six long years?

**Senator Hanson-Young interjecting**—

**Senator CASH:** You can hear Senator Hanson-Young there in the background, because she was a key protagonist in relation to these policies. For six long years the Australian people witnessed the devastating effects of what occurs when you lose control of border protection policy. By way of example, what did we see? There was $11.6 billion in budget blowouts, because when you lose control of the borders it costs the Australian taxpayer money. Fifty thousand people arrived here illegally by boat. In excess of 800 boats arrived. Of course, as Senator Brandis has said, we had the unfortunate tragedy of at least 1,200 people dying at sea, and not once, when 1,200 people died at sea, did we have Senator Hanson-Young or the Australian Greens come in here and show any form of responsibility for the deaths that occurred. We had the undermining of our humanitarian program. We had to say ‘no’ to people who had spent not five years, not 10 years, not 15 years but 20 years languishing in camps because of the policies that were implemented by those opposite. Let us not get started on the number of children that were held in detention because of policies implemented by those opposite. That is the reason we have tough border protection policies. (Time expired)

**Senator REYNOLDS** (Western Australia) (14:30): Mr President, I ask a supplementary question. Will the minister inform the Senate of the humanitarian benefits which have only been possible because of the coalition government's strong border protection policies?

**Senator CASH** (Western Australia—Assistant Minister for Immigration and Border Protection and Minister Assisting the Prime Minister for Women) (14:30): As we on this side know, the benefits of Operation Sovereign Borders and strong border protection policies include an important dividend which was on display last week. That is, of course, the ability of the Australian government and the Australian people to offer to have a one-off increase in our humanitarian intake of 12,000 people for those displaced by the humanitarian crisis in Syria. The only reason that was able to be done was that we had stopped the boats. Through stopping the boats we have been able to offer the one-off increase. If you look at what would have happened under those on the other side, in the last two years of the Rudd-Gillard Labor government we had almost 30,000 people arrive by boat and if they had continued in office...
we would have already had another 30,000. That would have made it virtually impossible to
do what we on this side have done, and that is to open up our arms and say ‘welcome’ to those
from Syria. (Time expired)

Senator REYNOLDS (Western Australia) (14:31): Mr President, I ask a further
supplementary question. Can the minister inform the Senate of any budgetary dividends
which have been delivered by the coalition government’s strong border protection policies?

Senator CASH (Western Australia—Assistant Minister for Immigration and Border
Protection and Minister Assisting the Prime Minister for Women) (14:32): Yes, I can. When
you lose control of your borders, there are a number of things that happen. One of them is that
you have cost blow-outs: almost $12 billion directly because of the failed border protection
policies of those on the other side. In stopping the boats, what have we achieved? In the 2015-
16 budget alone, we have been able to deliver savings measures of in excess of half a billion
dollars. Because we have stopped the flood of illegal arrivals, we have also been able to close
many of the 17 additional detention centres that were opened by Labor because they could not
stop the flow of boats arriving. These savings alone will contribute $326 million back to the
Australian people over the coming years. And when you stop the boats, you stop the charter
flights flying to Christmas Island—another dividend, in terms of providing savings, of
approximately $66 million dollars. (Time expired)

Mantach, Mr Damien

Senator McKIM (Tasmania) (14:33): My question is to the Leader of the Government in
the Senate, Senator Abetz. Senator, can you confirm that, under the constitution of the
Tasmanian division of the Liberal Party of Australia, you were a member of the division’s
executive committee at the time that the then state director, Mr Damien Mantach, fraudulently
misused his Liberal Party credit card, for which he was effectively sacked? When this issue
became public a few weeks ago, why did you mislead the Australian people by claiming that
the issue was one for the Tasmanian Liberal Party organisation, when in fact you were a part
of that organisation by virtue of your membership of the executive committee? Exactly what
were you trying to hide? Finally, you have admitted that you were briefed at the time—I note
that he is a bit uncomfortable over there, Mr President—

Honourable senators interjecting—

The PRESIDENT: Order on my right and my left! Before I call the minister to respond,
Senator McKim, most of that question is not in order because it does not necessarily relate to
policy portfolio positions or the minister’s representative responsibilities. However, I will
invite the minister to answer any portion of that question that he wishes to answer.

Senator McKim: Mr President, I rise on a point of order. The standing orders make it
clear that questions may be put to ministers relating to public affairs. In fact, Odgers says
this—

Government senators interjecting—

Senator McKim: They are a bit uncomfortable over there. I think I might have hit a raw
nerve. I have noticed in my political career that the louder they get, the more uncomfortable
they are. Odgers says:
Questions may be put to a minister relating to the public affairs with which the minister is officially connected, to proceedings pending in Parliament, or to any matter of administration for which the minister is responsible in a personal or representative capacity.

The PRESIDENT: Senator McKim, that 'personal or representative capacity' means personally as a minister or representing another minister. I stand by my original ruling that that question is not in order. However, I will invite the Leader of the Government in the Senate, Senator Abetz, to answer any portion of that question if he chooses to do so.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:36): I think the Senate today has been provided with a window into the roaring success that Mr McKim was as leader of the Greens in Tasmania, when his party representation was decimated by 40 per cent. I issued a statement in relation to this matter, I think it was on either 27 or 28 August, and I have nothing further to add.

The PRESIDENT: Senator McKim, if you have a supplementary question it must relate to the primary question but, again, I will give the same extension to the minister if he wishes to answer any portion of that supplementary question.

Senator McKIM (Tasmania) (14:36): Mr President, I appreciate that. I ask a supplementary question. Senator Abetz, you have admitted that you were briefed in relation to those matters at the time, but you have astoundingly claimed that:

No sum of money was mentioned.

And that:

No advice was sought or offered.

They are direct quotes from you. Are those statements admissions of your complete incompetence and your wilful ignorance or are you lying to the Tasmanian and Australian people about your level of knowledge at the time?

Government senators interjecting—

The PRESIDENT: Order! Senator McKim, as to the final part of your question, I will rule it out completely, in relation to the honesty or otherwise of the minister. I invite the minister to answer any portion of that question which he wishes to answer.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): As is the wont, unfortunately, of a number of people on that side of the chamber, Senator McKim has only quoted part of that which was in the public statement that I issued. If Senator McKim had read the full extent of it into the Hansard record, he would not have made those unfortunate personal reflections, which he is a master of doing. I know that the Greens like to hand it out to everybody else and then squeal when anybody ever says anything about their motives. I simply say that I made a full statement in relation to this matter and I have nothing further to add.

Senator McKIM (Tasmania) (14:38): Mr President, I ask a further supplementary question. I would preface my question by observing that it is not over just because the senator says that it is. Senator Abetz, do you accept responsibility for exposing the Victorian division of the Liberal Party to the loss of $1.5 million at Mr Mantach's hands? How could you possibly think that it was a good idea not to tell your colleagues in Victoria about Mr
Mantach? Will you now apologise to them and their members for treating them like mushrooms?

The PRESIDENT: Minister, again, any portion of the question you wish to answer or any statement you wish to make, you may. If you do not wish to answer any portion of that question, you do not need to.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:39): Through all of Senator McKim's ramble, I think the answer to the first question is no. In relation to the second matter, I have nothing further to add. The circumstances have now been well and truly laid out. The circumstances have been put there for all to see. It seems to have satisfied everybody other than Inspector Clouseau! Senator McKim, if you want the Greens leadership, you have to do a lot better than that.

Trade with China

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (14:39): My question is to the Assistant Minister for Health, Senator Nash. Will the minister inform the Senate of the benefits of the China-Australia Free Trade Agreement for Australia's health sector?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:40): I thank the senator for his question. As noted by many members on this side of the chamber, at its core this agreement will mean more jobs from more Australians. It will mean better access to the world's second largest economy, an improved competitive position for export markets, more prospects for increased two-way investment, and reduced cost for imports for Australian businesses and consumers alike.

The China-Australia FTA will open significant opportunities for Australia in the world's second largest economy and one of the world's fastest growing economies. China is Australia's largest export destination for both goods and services, accounting for nearly a third of total exports. It is our largest export market for agriculture, resources and services and is a growing source of investment, creating jobs and economic prosperity for Australia. The benefits of this agreement are far-reaching and one of the great beneficiaries in our economy is services—in particular, our world-class health sector. Those of us from rural electorates often think of the free trade agreement in terms of agriculture, beef and primary produce. We often forget that China is already Australia's largest services market, worth nearly $7½ billion dollars in 2013-14

This agreement will knock down barriers to trade in services. For the Chinese economy, which is transitioning its population into the modern world health care, the hospital system is there but the primary care system is well and truly ripe for development. The opportunities we have to help provide 1.3 billion citizens with primary care are very positive. The opening up of Chinese health industry to foreign investment represents an unprecedented opportunity for Australian businesses, given China's growing middle class and its increased demand for quality health care.

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (14:42): Mr President, I ask a supplementary question. Can the minister inform the Senate how, as a result of the China-Australia Free Trade Agreement, Australian healthcare providers will be able to establish themselves in the Chinese market?
Under the China-Australia Free Trade Agreement, China will permit Australian medical service suppliers to establish wholly Australian-owned hospital institutions in China. This will greatly expand the opportunity for the private health sector to offer medical services in China. In practical terms, Australian healthcare providers will now be able to take their world-class expertise into this emerging market. They will be able to build Australian-owned hospitals and nursing homes in China and, most importantly, train the staff to run them.

This FTA will also provide major benefits to Australia and to the biotech and pharmaceutical sectors, because tariffs on these products will be progressively phased out within four years. China already imports more than half a billion dollars’ worth of pharmaceuticals a year. The China-Australia FTA gives Australian healthcare businesses are fantastic opportunity when they enter or do business with one of the world's fastest growing economies.

Mr President, I ask a further supplementary question. Can the minister inform the Senate of the views of the health sector on the benefits of this historic free trade agreement?

I am pleased to advise the chamber that the chief executive of peak body AusBiotech, Dr Anna Lavelle, has noted the benefits of the agreement to the health sector. She was recently quoted as saying:

AusBiotech welcomes the free trade agreement with China as a positive move for an industry that is 'born global' and relies on trade in international markets to prosper.

Also, Chris Rex of Ramsay Health Care has said:

China has favourable demographics for healthcare, with a population of 1.3 billion—

As my good friend the Attorney said in response to a Greens question, the circumstances surrounding
an unfortunate comment have been dealt with by the minister. He apologised and, as far as we are concerned, that is the beginning and the end of the matter.

Senator PERIS (Northern Territory) (14:44): Mr President, I ask a supplementary question. Was a traditional owner of Cape York, Mr Pearson, correct when he said that the immigration minister's joke about Cape York shows 'soft bigotry and low expectations'?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:45): The two people that the honourable senator has now quoted would agree with Mr Dutton when he apologised for the matter. I think that they will accept the apology and move on, unlike the senator opposite.

Senator PERIS (Northern Territory) (14:46): Mr President, I ask a further supplementary question. Is Mr Dutton's conduct consistent with the standards expressed in the Statement of ministerial standards? Has the Prime Minister sanctioned the immigration minister, or is he still laughing at his minister's disgraceful joke?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:46): An apology has been given. The apology stands. There is nothing further to be said in relation to the matter. The day that Senator Peris, or indeed anybody else in this place, has nothing to apologise for will be an interesting day. We extend courtesy to others, and it should be extended to Mr Dutton.

An opposition senator: Withdraw!

Senator ABETZ: Why?

Opposition senators interjecting—

Senator ABETZ: There was no innuendo.

The PRESIDENT: Order! The minister is in order.

Trade with China

Senator JOHNSTON (Western Australia) (14:47): My question is to the Assistant Minister for Education and Training, Senator Birmingham, representing the Minister for Education and Training. Will the minister inform the Senate of the benefits to the international education sector of the China-Australia Free Trade Agreement, and are there any risks to the realisation of these benefits?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:47): I thank Senator Johnston for his question. It is a very important question because the international education sector is Australia's largest services export. ABS projections suggest that export income from international education could be worth more than $18 billion in 2014-15. As Senator Cormann rightly acknowledged, it is the third largest export earner for Australia overall and our largest services export industry. It is forecast to increase to as much as $30 billion by 2020.

China is already Australia's largest market for education exports, which are worth an estimated $4.1 billion in 2013-14—that is $4.1 billion invested in the Australian economy by Chinese students and our partnership in education. Under the China-Australia Free Trade Agreement this relationship will only get stronger, and that value will only grow the
Australian economy. Australian private higher education providers will benefit from improved profile, with prospective Chinese students and employers giving them greater access to the China education market. This will include the opportunity for more students to come to Australia and grow this large market, which is home to 22 per cent of the world’s people.

Are there any threats to this, as Senator Johnston asked? Yes, of course there are. Those threats include those opposite us today. Those threats include Mr Shorten in the other place. Those threats include a scare campaign led by the CFMEU and the trade union movement, who are out to mislead and scare Australians in relation to this crucial agreement that can generate enhanced wealth and opportunity for Australians and more jobs for Australians in the education sector and elsewhere. They are turning their backs on Labor history and on people like Bob Hawke and Bob Carr, who recognise the value of this agreement.

Senator JOHNSTON (Western Australia) (14:49): Mr President, I ask a supplementary question. Will the minister inform the Senate about the benefits of the China-Australia Free Trade Agreement for job creation, particularly in the education sector?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:49): Within one year of entry into force, China will list on a key Ministry of Education website 77 Australian higher education institutions, adding to the existing 105 education institutions that are enjoying huge numbers of Chinese students who are studying and investing in Australia. Listing these institutions provides Chinese students and employers with quality and fraud assurance, it enables them to assess educational qualifications and, importantly, it gives Chinese students access to those Australian providers. Education ministers have signed an MOU to provide improved higher education qualification recognition and enhanced mobility of students, researchers and academics at school, tertiary and research levels to facilitate student and teacher exchanges. All of this will strengthen the relationship between what is already our largest services export and what is already our largest market, ensuring more dollars, more jobs and more opportunities for Australian education providers well into the future.

Senator JOHNSTON (Western Australia) (14:50): Mr President, I ask a further supplementary question. Can the minister outline to the Senate how news of these benefits has been received by business and the union movement?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:51): Thankfully most of the business community and sensible commentators around Australia have welcomed the enormous benefits of the China-Australia Free Trade Agreement. Of course, there was a time when those opposite did as well. When it was signed, I recall Mr Shorten welcoming the China-Australia Free Trade Agreement. They were all for it. Indeed, when they were in power, apparently they were so close to sealing the deal that they were allegedly responsible for it; yet now they are running a disgraceful scare campaign on the China-Australia Free Trade Agreement. But what does former Prime Minister Bob Hawke say? He says:

I am all in favour of it. The party must not go backwards on this issue—the party and the trade union movement. Talk of opposing it is just absolutely against Australia's best interests.
In the words of Bob Hawke, those opposite are absolutely against Australia's best interests today. By standing against the China-Australia Free Trade Agreement they are against investment in Australia, growth for Australia and jobs for Australians. *(Time expired)*

**Telecommunications**

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) *(14:52)*: My question is to the Minister representing the Minister for Communications, Senator Fifield. I refer to reports that the person overseeing the rollout of Mr Turnbull's NBN, Bill Morrow, was chief executive at Vodafone Australia when the phone of Fairfax investigative reporter Natalie O'Brien was hacked. When did the minister first become aware of these allegations? Was it before or after appointing Mr Morrow?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) *(14:52)*: I am advised that the minister was aware of claims that a Vodafone employee accessed the phone records of a Fairfax reporter. The Telecommunications Act 1997 and the Privacy Act 1988 provide strong protections prohibiting unauthorised access of a person's telecommunications information. It is also an offence under the Telecommunications (Interception and Access) Act 1979 for anyone to access a stored communication without a warrant. This includes text messages. I understand that Vodafone has issued a statement about the matter, advising that it commissioned an independent investigation. I understand that Vodafone has taken action as a result of this incident to strengthen its internal privacy arrangements and has appointed a dedicated privacy officer.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) *(14:53)*: Mr President, I ask a supplementary question. Is the minister aware that the Telecommunications Act provides criminal sanctions for the hacking of customer accounts by a telephone company or its employees? Can the minister confirm that Mr Morrow and his company knew about the wrongdoing but failed to immediately report it to the police?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) *(14:54)*: I have given Senator Conroy the information that I have.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) *(14:54)*: Mr President, I ask a further supplementary question. As the minister responsible for the Telecommunications Act, what action has Mr Turnbull undertaken to ensure and uphold the protection of telephone users' data and to ensure his hand-picked CEO has no questions to answer, like why Mr Morrow did not refer a criminal act discovered under his watch to the Federal Police for prosecution?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) *(14:54)*: I will take the senator's question on notice. If I can add further to what I have said, I will.

**Trade with China**

**Senator EDWARDS** (South Australia) *(14:55)*: My question is to the Minister for Employment, Senator Abetz, representing the Minister for Agriculture. Can the minister inform the Senate how the Australian wine industry—particularly in my home state of South Australia, ably represented by good people from the south-east in the gallery here today—will
benefit from the China-Australia Free Trade Agreement? Can he also provide some industry views on the need for this agreement to be ratified as soon as possible?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:55): I thank Senator Edwards for his question and acknowledge his longstanding interest in this particular sector of the South Australian economy. It is astonishing that Senator Wong continues to demonise the China-Australia Free Trade Agreement knowing full well how it will positively benefit her winemaker constituents in South Australia. The South Australian wine industry, like the nation's more broadly, has had some difficult years. In August, the South Australian Wine Industry Association convened a meeting of 40 industry leaders to discuss how the industry can return to profitability, one of the key issues being demand for their product.

Before turning to South Australia, I note that the West Australian wine industry has also been experiencing difficult times. A report in The Australian on Saturday featured a small winemaker in the electorate of Canning, Mr Bernie Worthington, who says:

As far as I'm concerned, anything that's going to help exports into China should be welcomed. We are trying to build relationships with the Chinese, the market up there is just massive.

Indeed, China is now our third largest wine export market. ChAFTA's elimination of the 14 to 20 per cent China tariff will be a major stimulus to wine exports. The China-Australia Free Trade Agreement should be expedited.

Roger Sharp from Treasury Wine Estates, whose famous brand Penfolds originated in South Australia, says: 'The ChAFTA provides immense opportunities for Australian winemakers regardless of their size. It is imperative that it is ratified and ratified quickly.' Paul Evans of the Winemakers Federation said:

We estimate delays in implementation could cost the Australian wine industry over $50 million.

This is a good deal for the Australian wine industry. (Time expired)

Senator EDWARDS (South Australia) (14:58): Mr President, I ask a supplementary question. Can the minister inform the Senate of any additional support for the China-Australia Free Trade Agreement from the South Australian wine industry?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:58): Yes, there are a number of others, including Mitchell Taylor of Taylors Wines in the Clare Valley. He says: 'The opportunities to the wine industry that ChAFTA brings are vital to compete with New Zealand and Chile, who both have existing agreements. Taylors Wines seeks the urgent ratification and implementation of ChAFTA to capitalise on this growing market. China represents the No. 1 destination for quality premium Australian wine and represents huge potential to grow in the future if we can take advantage of the good work of the government in signing up a free-trade agreement with China in this important market.' Warren Randall of Seppeltsfield wines in the Barossa says: 'The ratification of the China free trade agreement is vital to the growth of the Australian wine industry. We need to jump on this opportunity.' It is a regret Labor cannot see that opportunity.

Senator EDWARDS (South Australia) (14:59): Mr President, I ask a further supplementary question. Can the minister advise the Senate of still further support for the
China-Australia Free Trade Agreement from the South Australian wine industry? I urge you to listen, South Australian senators.

Honourable senators interjecting—

The PRESIDENT: Order on my left and on my right. Before I call the minister, I say to you, Senator Edwards, that it was unnecessary to add those final remarks to your question. Minister.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:00): Mr President, possibly unnecessary but a very good suggestion, especially for Senator Wong. There are even more South Australian winemakers in support of this agreement. Frank Nardone of Nardone Baker wines says: 'The free trade agreement will have some benefit for us and a benefit for all Australian wineries as it will enable us to compete. We will be employing in the next six months at least two more full-time people to work with the China office.' Stuart Mosman of Chalk Hill winery in McLaren Vale describes the agreement as 'a huge boost' given the 14 per cent tariff will fall to zero over four years. Dr Roger Sexton of Beston Global Foods, based in South Australia, says, 'The free trade agreement is critical to ensure that the Australian wine industry is able to compete on a level playing field.'

South Australian senators, especially Senator Wong, should listen to their constituents rather than the corrupt CFMEU. (Time expired)

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

The PRESIDENT: I remind senators, in relation to questions asked and answers given, to please direct their remarks through the chair and not across the chamber. It has been creeping in a little bit that senators have been addressing each other. Thank you.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Prime Minister

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:01): I have some further information for Senator Sterle in relation to the question he asked. I can indicate that I am advised that, as far as can be ascertained, no contact has been made by an officer of the Department of Prime Minister and Cabinet with Government House about the Governor-General's diary this week.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator STERLE (Western Australia) (15:02): I move:

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

I just cannot help but make comment about Minister Abetz's answer to me when I asked him about the leadership qualms and what support the Prime Minister has. He said something about me being the only one who seems to be talking about it. I do not know what planet Senator Abetz has been on lately, but, crikey, that is all we have heard about for nearly the last 18 months—it has been absolutely unbelievable. It is incredible. This side of the chamber
even had a leadership spill, and they said it was just gossip columnists. I never saw Dennis Shanahan from The Australian as a mad left-wing gossip columnist. But the leadership is all we have heard about since February this year. They can hang their heads really low, but they actually had a leadership spill. In all the history of leaderships spills in this nation, who would have thought that the Prime Minister would have beaten a vacant chair 61 votes to 39! They are an absolute embarrassment. I keep looking at those opposite, but they will not look me in the eye. This is all we hear about. This government is an absolute shambles.

As this mob found out, it is very easy when you are in opposition, but once you get into government you actually have to govern; you have to do things. It was all right being in opposition, when they could just make the stupid announcements and the stupid statements that they did for the six-year tenure of the last government. To go to even more questions that we need to ask, I want to relate a couple of quotes to the Senate. The first is from August 2009, from the Prime Minister, who at the time was the Leader of the Opposition. He said, 'We can be grown-up government in a way that our opponents just can't.' Okay, they can be grown-ups. In June 2010, Mr Scott Morrison—sorry, I do not know what seat he is from—tweeted that 'Labor leadership chatter is all about a government sacking itself for its own poor performance.' All we get in chatter now, through Twitter and through the newspapers, is about that lot over there. No-one is talking about the Labor Party; it is all about this lot in government. How quickly they forget. In August 2010, Mr Abbott said:

I think leadership is knowing what you want to achieve and then purposefully and sensibly taking steps to achieve it, remembering always that you have got to bring people with you—sorry, I am trying not to laugh—

if you are seeking to be a successful political leader.

Anyone who goes through a ballot with an empty chair and still leaks 39 votes—it is just incredible.

The worst part is that this lot over here say it is just Twitter chatter and gossip columnists. The reason they are being written about, the reason they are talking about themselves, is that we know that there are a significant number of that lot on that side of the chamber, and in the other house on the government benches, that are talking to reporters. They are actually feeding the reporters. Reporters do not make this up. Reporters do not sit there and think, 'How can I be mischievous and make up allegations of a leadership challenge?'

I will tell you what is even better about this, Mr Deputy President—it is not better; it is an absolute embarrassment of our nation—they imploded after about three months of winning government. They have been an absolute disaster and embarrassment for this nation. They cannot look me in the eye. Have a look at them. None of them can. They are looking down pretending to be reading. The best part, which I am absolutely loving about this, is that, in the chatter coming through the papers, they are actually naming who they are going to kill off. They are actually naming who the rising stars are.

Senator Ian Macdonald: We are embarrassed about you. Look me in the eye and I will say we're embarrassed about you.

The DEPUTY PRESIDENT: Senator Macdonald, remain in your seat.

Senator STERLE: Let me tell you lot over there: if you are ever called a rising star, put your head between your legs and kiss your backside goodbye, because that is the kiss of
death, I am telling you. There are one or two of them over there whose names are appearing. I will tell you what else they will be doing. They will be sitting there thinking: 'You absolute beauty. I can see myself going up this greasy pole on the way up because I am being mentioned in the paper, so my bike is up for sale.' The fourth estate do not make this up.

I want to quote one more thing to that lot over there who are getting all excited about their names being in the paper for promotion.

Senator Williams: Where's my name!

Senator Sterle: You are like me, Senator Williams—you are all right, mate, because you are not trying to climb the greasy pole. I say to that lot over there that, on the way up, you should take note of every set of toes you tread on going up the greasy ladder for promotion, because I will tell you what, you lot who are mentioned in the paper: on the way back down, I can guarantee you that those toes that you trod on all the way up the ladder will be connected to the legs that hold up backsides that you are going to need to kiss on the way back down. And we are making this up! You lot are an absolute embarrassment. (Time expired)

Senator WILLIAMS (New South Wales) (15:07): I just find it quite humorous that many of those on the other side who were key film stars in The Killing Season—do you remember The Killing Season?

Senator Sterle interjecting—

Senator WILLIAMS: No, Senator Sterle, you did not get a run.

Senator Sterle interjecting—

The DEPUTY PRESIDENT: Order! Senator Sterle, you are not in your seat.

Senior WILLIAMS: I did not get a gig, and I am sure Senator Sterle did not get a gig, in The Killing Season, but many did. But it is quite amazing how we spend so much time and so much of taxpayers' money in this chamber—on what? On politics. What about looking at the real issues?

We had several questions from our side, today, on the China-Australia Free Trade Agreement. What does it mean to rural Australia? Quite amazingly, a few weeks ago I hosted two fellers, one from China and one from Hong Kong, who stayed at my farm for two days. We went to the Inverell abattoirs. That is a great business, exporting beef, employing 850 people. When you live in a town with a total population of 12,000 people, and 850 are employed at the local abattoir, that is a big employer—it is the biggest in the district. Of course it is not only about employing people; they are actually going to the cattle sales and bidding on the stock, and now we have record prices for our cattle. Those people from China and Hong Kong said to me, 'We just want to buy what is grown in Australia.' We have a reputation: a clean, green image of good, safe food. They want to buy our wine. They want to buy our dairy products: we are flying fresh milk into China, and it is retailing for up to $8 a litre, which is just tremendous for the dairy industry. And of course this free trade agreement is removing 95 per cent of the tariffs on imports into China within four years. The wine industry has had a terrible oversupply of wine for many years, and I know people who have been pulling their grapevines out—what a tragedy. Now the market is there.

But there are some people in here who cannot see the forest for the trees. They are simply blinded. I will tell you what blinds them: it is a mob called the CFMEU. They blind them with
money. The figure mentioned today was $6 million. And this is to the Greens, I might add; it is not just to the Australian Labor Party. The CFMEU is throwing money at the Greens, and they will take it from anywhere—from Mr Graeme Wood of Wotif; he gave $1.58 million; that was the biggest donation in the political history of Australia.

**Senator Abetz:** Which they withheld from the public.

**Senator WILLIAMS:** Yes, exactly. I had to laugh at Mr McKim's speech when he said that there are all these wealthy people who do not own stores and do their business on the internet. How many hotels and how many motels did Mr Graeme Wood own? I would guess: zero. But he was smart—he got on the internet and set up a business, and, when he had made all the money, what did he do? He palmed off the biggest donation in political history in Australia since Federation—and to who? To the Australian Greens, for the 2010 election. That is why Mr McKim's maiden speech was so ironic when he looked at how the Greens were treated.

But I will come back to the subject of answers to questions. We are an exporting nation: 70 per cent of our beef is exported. I have mentioned Bindaree Beef in Inverell. They were telling me that, in December 2012, they sent six containers of beef to China. In December 2013, they sent 60 containers of beef to China—a 10-fold growth in 12 months. And it just keeps coming, as people want to buy our products.

I was critical about Australia when we removed our barriers and tariffs. I was a pig farmer. My brother and I worked pretty hard to build our piggery. We mixed 120 tonnes of cement—and in cement mixers, mind you, instead of bringing a truck in; we could not afford it. We set up our piggery. And then the Labor Party in government allowed the importing of pig meat. It did not do us a lot of good. I was critical, because we had removed all our barriers to trade—there were no quotas and virtually no tariffs—and now we are going around the world and picking them off one by one.

*Opposition senators interjecting—*

**Senator WILLIAMS:** I will just disregard the interjections from the other side, Mr Deputy President; I can hear where they are coming from, so they are worth disregarding totally.

So the situation is: we are getting them to remove their barriers, their tariffs and their quotas, and that is getting us back to a more level playing field. And I do welcome the low Australian dollar, which is also making us more competitive and bringing in more money, especially into the wealth-creating sector of our nation: rural and regional Australia, where the wealth—the primary product—actually originates from. I cannot understand why those opposite are against this. Bob Hawke is not. Bob Carr, the former senator and former trades minister, is not. All the Labor premiers are not. So who has got it wrong? Just the mouthpiece of the CFMEU—that is what Mr Bill Shorten is. You are just the mouthpieces of the trade union movement.

**Senator LINES** (Western Australia) (15:12): I also rise to speak to the motion to take note of the answers given by ministers to questions without notice asked today, in particular to take note of answers to questions to Senator Abetz around the Prime Minister's leadership. I have to say that Mr Abbott's leadership is well on display out in Canning in the by-election. Just a few weeks ago, just to show how chaotic and dysfunctional the government is, at the start of
this campaign, they were throwing any money at that campaign—$1 million the Liberals started to spend out in Canning, to shore up the job of the Prime Minister. Well, it just shows how bad they are at economics, because that $1 million somehow is already being spent, but they now want to get rid of the Prime Minister. So initially the Canning by-election was all about the Prime Minister's job, and now they have spent $1 million in Canning to shore up the Prime Minister's job—the same Prime Minister, the bloke, who they want to get rid of.

Mr Hastie is the Prime Minister's hand-picked candidate, parachuted into the seat of Canning. He cannot even name the main street in Armadale. He does not know it is called Jull Street. He cannot even name the main street.

Mr Abbott continues to behave more like the bullyboy behind the school shed than the Prime Minister of this country, and a swing in Canning on Saturday will be as a direct result of the Prime Minister's leadership. That is why they are so nervous about what is going on in Canning. A million dollars—imagine that! It is probably a record in terms of the spend at a by-election.

But what is wrong with the Prime Minister of the country? He seems to be able to manage to insult everyone. There was the appalling laughter we heard last week at the disgraceful joke told by Mr Dutton, and the comments about people's habits about keeping time, laughed at by the Prime Minister.

Mr Dutton got up and made an apology because somehow he was caught by a microphone. Any leader would say, 'When you make a mistake, own it.' But neither the Prime Minister nor Mr Dutton have stood up and apologised for those appalling comments they made. That, to me, demonstrates the arrogance of the Abbott government. It shows how out of touch they are that they think they can stand there at such an important occasion and make those appalling jokes. Who, really, do they think they are? Then it took another two days before Mr Dutton made that ridiculous apology—an apology because the microphone was on.

But Mr Abbott has a record of insulting people as well. What about the famous comment when he insulted Aboriginal people, particularly in Western Australia, for living in remote communities? He said that that was somehow a 'lifestyle choice'. What about when he showed his hopeless understanding of foreign investment when he said in answering a question at an economic conference in Melbourne that Australia owed its existence to former foreign investment by the British government in the then unsettled or scarcely settled great south land? That was another ignorant statement that refused to recognise Aboriginal and Torres Strait Islander people but also showed his lack of understanding of foreign investment. And there have been numerous insults to women over the last couple of years. There was the famous one when he said,

What the housewives of Australia need to understand as they do the ironing is that if they get it done commercially it's going to go up in price, and their own power bills when they switch the iron on, are going to go up.

Is that what we expect of the Prime Minister of this country? Is it any wonder there are hardly any women in the cabinet? This is a man who is clearly out of touch.

Today, his leadership is under challenge not this time by the backbench but by his own hand-picked ministers. They are all starting to turn on him. At the end of the day, like the Prime Minister, there is only one job they are interested in protecting and that is their own. Firstly, they were shoring up Canning with $1 million to protect the Prime Minister. But now
the ministers are all thinking, 'There is only one way to protect our jobs and that is to get rid of this Prime Minister.' *(Time expired)*

**Senator REYNOLDS** (Western Australia) (15:17): I too rise on the motion to take note of answers, including the one on leadership. I want to talk about leadership. I was just listening to Senator Lines make the most absurd statements about Andrew Hastie, the Liberal candidate for Canning. I have rarely met a more honourable man or woman who has served this country with such great distinction. I would love those opposite to go and stand in that man's shoes or in the shoes of any of the other members of the SASR and see what they do to serve our nation with distinction. If you want to see leadership, go and see what those men and women do to serve our country.

If those opposite want to talk about money in Canning, let's talk about the hundreds of unionists they have pulled in from all around the country and the millions of dollars that have come in to pay those unionists to intimidate local Canning residents. Let me tell you about Canning. I have been doorknocking in Canning. In fact, I was there with Ken Wyatt last weekend. We were in Kelmscott. Let me tell you: Andrew Hastie understands the local area. People are absolutely thrilled to have somebody to replace Don Randall—who they loved—who will stand up and fight for them. They are thrilled to have somebody like him, because ultimately it is not about the CFMEU and it is not about those opposite; it is about the people of Canning and who they have to represent them.

Let's talk about the leadership of the Prime Minister of this country. Senator Sterle talked about leadership and good government. Let me talk about one of the other responses from Minister Cash on border protection. Let's have a look at what good government looks like and what she was talking about. The protection of our national borders is one of the primary responsibilities of every government.

**Senator Sterle:** Linda, what about Abbott?

**Senator REYNOLDS:** Instead of just talking about it and passing rude comments over the chamber and making highly personal comments across the chamber, as I have been subjected to again today by Senator Sterle, who seems to have something to say—

**Senator Sterle:** Do you support Abbott?

**Senator REYNOLDS:** let's have a look at it. In six long years under the government of those opposite, Australians witnessed the devastating effect of their weak border protection policies. They lost control of the borders. I will tell you what good leadership does not look like. It does not look like an $11.6 billion budget blow-out on unauthorised arrivals. Fifty thousand people were dehumanised and commoditised by people smugglers in trying to come to this country. That is not good government. Eight hundred boats flooded our shores and, most tragically of all—

**Senator Sterle:** Do you support Abbott?

**Senator REYNOLDS:** Senator Sterle, you might laugh at this, but 1,200 people drowned and experienced most horrific deaths in our waters. Where were you then?

**Senator Sterle:** Mr Deputy President, I rise on a point of order. There was no way known I was smiling about the tragic drowning of people. Senator Reynolds is misleading those listening. That is an absolute insult. I was not.
The DEPUTY PRESIDENT: Senator Sterle has indicated that he has taken offence at something you have said, Senator Reynolds. If you wish to clarify that, I will give you the call.

Senator REYNOLDS: I will happily clarify that. When I was talking about these issues, Senator Sterle was sitting there very clearly smiling at me. He may not have smiled when 1,200 people drowned as a result of their border protection policies—

Senator Sterle: Mr Deputy President, I rise on a point of order. I was smiling because we were talking amongst ourselves and then Senator Reynolds went into the tragic drownings and accused me of smiling about that, which could not be further from the truth. She is misleading the Senate. I did not smile about the tragic drownings of asylum seekers.

The DEPUTY PRESIDENT: I think Senator Reynolds has indicated that she did not accuse you of smiling because of that, Senator Sterle. That is correct, isn't it, Senator Reynolds?

Senator REYNOLDS: Yes, it is.

The DEPUTY PRESIDENT: Thank you, Senator Reynolds, for clarifying that. You have the call.

Senator REYNOLDS: Let's talk about good government and losing control of the borders. Not only did it directly result in 1200 people drowning—the most horrific and horrendous deaths—but it also completely undermined our humanitarian program, which we also lost control of. What else did bad government from those opposite look like? It started the building the detention centre revolution with over 17 detention centres built to accommodate the loss of control and the people who flooded into this country. Most shamefully, not only were there 1200 deaths and no candlelight vigils for those 1200 people who died in our waters, but there were 8000 children who went into detention under those opposite—nearly 2000 at one time. That is not good governance.

What does good government look like? We attained it; we taken the tough actions; we have regained control of our borders; we have had not a single death at sea; and not a solitary boat arrival for well over 12 months. Not a single person has been commoditised and dehumanised by people smugglers in that time in trying to get here. We are releasing the majority of children from detention; the majority have already been released. All children from Christmas Island have now been released—the children whom those opposite put in detention. That is not good government! This is good government. Almost all the detention centres that Labor opened have been made redundant. If those opposite do not think that closing detention centres, stopping people dying at sea and regaining control of our borders do not constitute good government, then I, quite frankly, do not know what is. It is no wonder that the country is in such a mess when you were in government—

Senator Gallacher: You can't even mention Abbott's name.

Senator REYNOLDS: Tony Abbott, absolutely—it is his leadership of this government—(Time expired)

Senator DASTYARI (New South Wales) (15:23): I am just recovering from what was a shemozzle of a performance from those opposite. I have to say that this idea, this notion, this suggestion from question time that somehow there is a small, targeted media campaign designed to undermine this government and that this is a fantastic government that is doing
this great work and that is loved by the Australian people could not be further from the truth.
This is a government that is falling apart before our very eyes. This is a government that is
sinking like a canoe—

Senator Gallacher: Up the creek!

Senator DASTYARI: It’s falling apart at every instance. What do we see? We saw last
week a leaking to News Ltd journalists—The Daily Telegraph, a fantastic publication, I may
point out—of a hit list from senior government sources of who is in and who is out. I was
pretty shocked to see the Leader of the Government in the Senate on that hit list. I was pretty
shocked and horrified and pretty disappointed, I have to say, that his colleagues would put
him on that list. There were people on that list who surprised all of us. This is no conspiracy
on the fringes. This is no ABC/Fairfax campaign running against the government—I believe
the term used was ‘jihad’, but inappropriately. Six out of eight ministers who were contacted
by Fairfax journalists talked about the idea of the inevitability of a leadership coup. What did
we get on the weekend? The gold quote of the year from a government MP: ‘Say it to my face
and I will smash his in.’ ‘Say it to my face and I will smash his in.’

Dysfunction and disorder—a government that has completely fallen apart before our very
eyes. They turn around and say, 'It's all gossip. It's the glitterati.' These are their own members
of parliament, their own ministers, their own cabinet talking about their cabinet. I say to those
opposite: if that is what you think of your own government, imagine what the people out there
are thinking of your government right now. They go on about gossip columnists and attack
them. They say that it is only at the fringes. Well, I have to say that I do not believe that
Laurie Oakes is some kind of fringe-dweller. I do not think Laurie Oakes is that kind of
journalist. If you saw what Laurie Oakes said on the weekend or the news reports last night,
they have such little faith in their own government and such little faith in their Prime Minister
that there is actual talk of a leadership spill this week. They just cannot trust the bloke to go
out there and destroy their electoral prospects simply to retain his own job. The question has
to be: whose job is he actually trying to protect?

Senator Lines: His own.

Senator DASTYARI: It's not the jobs in the car industry—they have gone. Not the jobs
of any South Australian when it comes to shipbuilding; they have gone. Not the jobs in
manufacturing; not the jobs in new technologies; not the jobs when it comes to climate and
other new possibilities. No, there is one job this Prime Minister is focused on—that is his own
and, frankly, he is not doing a very good job of protecting that job, either.

Senator Gallacher: He is a wrecker.

Senator DASTYARI: We have a by-election on the weekend. We heard a fantastic
speech from Senator Reynolds who went on about what an incredibly strong and brilliant
candidate the Liberal Party has. I do not know Mr Hastie; I have not met Mr Hastie. Senator
Reynolds’ comments were quite inspirational, but you would have to ask yourself: if they
have such a fantastic candidate in the seat of Canning, why are they copping 10 per cent
swings? Who are the people voting against him? It is not the local candidate; the candidate is
superb—that is their word, not mine. For such a superb local candidate, there is one person
they are voting against, and that is the Prime Minister of Australia. The question is this: what
is going to happen this week? Is Mr Turnbull going to put up or shut up? Is the Prime
Minister so confident in his own position that he is prepared to spill? We kept hearing those others talking about Mr Simon Crean when it came to the free trade agreement. Maybe they need a Simon Crean themselves to step up and make it all happen. (Time expired)

Senator McKIM (Tasmania) (15:29): I rise on the motion to take note of responses given by Senator Abetz to questions that I asked him today. The simple facts of this matter, as far as we know them, are abundantly clear. We know that under the handbook, which is the amended constitution of the Liberal Party of Australia, Tasmania division, at the time the then state director, Mr Damien Mantach, fraudulently misused his Liberal Party credit card in Tasmania—an offence for which he was effectively sacked. We know that, under part 71H of the constitution, there was a Tasmanian member of the House of Representatives and of the Senate elected by and from the Tasmanian members of the federal parliamentary party and we know that that person was Senator Abetz. We also know that, when Senator Abetz was first questioned about this matter a few short weeks ago, he ran for cover by suggesting that it was a matter for the organisational wing of his party in Tasmania when, in fact, he was part of the organisational wing of the party in Tasmania by virtue of his position on the state executive committee, which is responsible for the affairs—these are the words of the constitution—of the division.

After being called out on that matter, Senator Abetz then had to attempt to answer some other questions from the media. At that time he basically stated, or claimed, that no sum of money was mentioned at the briefing that he received at the time in relation to Mr Mantach's offence. If someone came to anyone in public office and said, 'We've got to tell you there are some dodgy dealings around a company credit card,' what is the first question that any responsible person would ask? You would ask, 'How much are we missing off the credit card?' But Senator Abetz is asking the Australian people to believe that he did not ask the obvious question: how much was missing off the credit card that belonged to the Tasmanian division of the Liberal Party of Australia? Quite frankly, I do not believe that he did not ask that—either he is misleading or he is grossly incompetent. He cannot have it any other way—

Senator Dastyari: He could be both.

Senator McKIM: Or he could be both. As Senator Dastyari quite correctly points out, he could be both misleading and grossly incompetent.

But the matter gets worse for Senator Abetz because we now know that what transpired is that Mr Mantach went across and was employed by the Liberal Party in Victoria. He is alleged to have defrauded the Liberal Party of Victoria of $1.5 million. They apparently did not know about Mr Mantach's issues in Tasmania. Senator Abetz knew, on his own admission, that there were irregularities in relation to Mr Mantach and his use of the credit card in Tasmania, but somehow that information was not properly communicated to the Liberal Party in Victoria. At the very least, Senator Abetz owes an apology to his Victorian Liberal colleagues and to the party members in both Tasmania and Victoria for treating them like mushrooms.

The other matter that Senator Abetz has to come clean about in the Senate—and I will be raising these issues further as we move through the rest of this sitting year—is that, on his own admission, he knew the real reason that Mr Mantach left his position in Tasmania but he allowed the lie, that Mr Mantach left the Tasmanian division of the Liberal Party for personal and family reasons, to stand for seven years. He made no attempt at all to correct the
erroneous record for seven long years, and that says an awful lot about his capacity as an office holder in the Liberal Party.

Question agreed to.

PETITIONS

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

Same-Sex Relationships

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

Uluru Bark Petition

To the President of the Senate and members of the Senate from the Aboriginal People of Australia and being undersigned by members of the Argan, Arrernte, Biripi, Bundjalung, Bunuba, Dainggatti, Erub, Gidja, Githabal, Gooniyandi, Gumbainggir, Juggera, Jaru, Juru, Kabi-Kabi-Waka-Waka, Kambilaroi, Karajarri, Kaylagal, Koara, Kooma, Luritja, Mamu, Mangala, Mantjintjarru, Mara, Meriam Mir, Mununjari, Ngaanyatjarra, Noongar, Nyawaygi, Nyikina, Pitjan tjara, Wadi-Wadi, Wagilak, Walawurrri, Walmatjarri, Wangkumara, Wiradjuri, Wongoora, Wuthathi, Yankuntjatjara, Yidi ngi-Mbabaram, Yidi ngi-Mullen-Barra, Balurdung people groups and tribes, representing the Aboriginal People of Australia, hereby declare:

1. Manta nyanga Australia anangu mulapa nyinangiiritjingu manta waly tjingka, piranpa tjuta pitjanyingga wukaripangka.

The Aboriginal People of Australia are the original inhabitants and the first Nation people of this great southern land Australia.


Our continuing cultures and traditions are 1,000's of years old and are recognised as the oldest on Earth.

3. Ngana nga kutjupitja kutjupitja tjuta nyinanyi ngura kutjupangka kutjupangka, ara kutjupangka kutjupangka, palu ngan ana uwankarangku kulilpa ngunyuptjungu mamanguru tjukaruru nyinanyitjukitja nganampa nyangu tyungu mula pula kurirara alatiitu nyinara ti tjitji tariraringaniyungu nganampa pula atuny mpara kanyiningi.

Although Aboriginal People come together as one nation through many different self-governing language and kinship groups with unique cultures and traditions, the sanctity of marriage between man and woman continues to be held in honour among all.

4. Nganana walkulpai tjitji tjukarurungku mamangurutja muna ngunytjungurutja palu pulara kirura mulapa nyinanyangka, ka waly tjapiti tjutangku ngurkantara kunpu kanyini, mamanguru muna ngunytjungurgu, panya mamangku ngunytjungku nganampa ara tjuta tjiti tjutangku tjukaljtjunkupai malatja malatja munti nyinanyti nyungu yntjaku.

Our Fathers and Mothers are also honoured and form the foundation of our families, clans and systems, and pass down our teachings, our culture, our traditions, from generation to generation.


It is therefore an affront to the Aboriginal People of Australia to suggest another definition of marriage.

ngaranyi iritinguru munu kuwarikutu, kala mukuringanyi nyura nganampa kamantangku ara nyanga palunya rawangku kanyintjaku wantinytja wiyangku.

The Aboriginal people of Australia recognise the Senate as a governing body and strongly calls upon the Senate to reject any attempt to redefine the institution of marriage, and in doing so, honour the sanctity of both the tradition of marriage and the spiritual implication of this sacred union.

by Senator Abetz (from 31 citizens).

Petition received.

NOTICES

Presentation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:34): I give notice that on the next day of sitting I shall move:

That the provisions of paragraphs five to eight of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Asian Infrastructure Investment Bank Bill 2015, and

Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2014.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2015 SPRING SITTINGS

ASIAN INFRASTRUCTURE INVESTMENT BANK BILL

Purpose of the Bill

This Bill will approve Australia becoming a member of the Asian Infrastructure Investment Bank (AIIB), ratify the Articles of Agreement (the Articles), provide an appropriation for the payment of Australia's capital contribution and make any necessary consequential amendments.

Reasons for Urgency

Australia signed the AIIB Articles of Agreement at the earliest possible opportunity on 29 June 2015. It must now pass legislation to ratify the Articles in order to become a formal member of the AIIB.

Introduction and passage of the Bill in the 2015 Spring sittings is essential to ensure that Australia is able to formally participate in the management of the AIIB when it commences operations, expected to occur by the end of 2015.

If the Bill is not finalised in one sitting period, there is a risk that the AIIB will begin operations before Australia formally becomes a member. This could result in Australia being excluded from key decisions taken by the AIIB's management.
STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE SPRING SITTINGS

TAX AND SUPERANNUATION LAWS AMENDMENT (2015 MEASURES NO. 4) BILL 2015

Purpose of the Bill

The purpose of the Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015 is to:

- amend the exemption applying to income earned overseas;
- strengthen the Capital Gains Tax scrip for scrip rollover integrity provisions;
- increase the account balance threshold at which superannuation funds transfer lost member accounts to the Australian Taxation Office from $2,000 to $6,000 in two incremental stages; and

Reasons for Urgency

Introduction and passage of the Bill during the Spring sittings is required to give taxpayers and the Australian Taxation Office sufficient time to put in place systems and processes to allow for the efficient administration of the tax system and a smooth roll out of new tax measures applying to the 2015-16 tax year and Tax Time 2016.

Presentation

Senator Di Natale to move:

That the Senate—

(a) notes the extraordinary achievements of the Australian Matildas while playing and training under inappropriate work conditions for a world-class sports team;

(b) applauds the Matildas efforts as leaders and role models for young women and all footballers across Australia;

(c) raises concern that, despite this best ever performance by an Australian football team in reaching the quarter finals at a World Cup, they are paid 1/15th of the men’s team, as part-time employees with a full-time commitment, and at a rate below the minimum wage; and

(d) supports strong and fair working conditions for all female Australian athletes.

Senator Conroy to move:

That there be laid on the table by the Minister representing the Minister for Infrastructure and Regional Development (Senator Cash), by no later than noon on Thursday, 17 September 2015, the following documents:

(a) all briefing or background material; and

(b) all correspondence (including emails),

between the Department of Infrastructure and Regional Development to the Deputy Prime Minister and/or his office relating to claims made to a Senate inquiry by Mr Bill Milby of North Star Cruises relating to meetings with officials from the Department of Infrastructure and Regional Development on 20 May and 16 June 2015.

Senator Canavan to move:

That the Senate notes that:

(a) the Australian mining industry generates $138 billion per annum in exports to Australia’s economy;

(b) Australia’s mining industry exports include: copper, gold, silver, indium tin oxide, alumina, silica, cobalt, carbon, aluminium, nickel and magnesium;

(c) every smartphone depends on the mining of these resources; and
(d) opposition to Australia’s mining industry would restrict the supply of these mineral resources, and opponents of Australia’s mining industry should therefore refrain from using these smartphones and tablets.

**Senator Whish-Wilson** to move:

That the Senate—

(a) notes that:

(i) the Harper Review into competition policy called for the introduction of an effects test in relation to the misuse of market power,

(ii) supporters for the introduction of an effects test include the National Farmers’ Federation, and the newly-formed Independent Business Alliance for Competition made up of the Council of Small Business Australia, the Australian Retailers Association, Fresh Markets Australia, the Australian Newsagents’ Federation, the Australasian Convenience and Petroleum Marketers Association and the Master Grocers Association, and

(iii) the National Party unanimously passed a motion at its National Conference calling for the introduction of an effects test; and

(b) calls on the Government to bring forward legislation that amends section 46 of the *Competition and Consumer Act 2010* to introduce an effects test so as to better protect farmers and small business owners from anti-competitive conduct.

**Senator Rhiannon** to move:

That the Senate—

(a) notes that:

(i) a New South Wales parliamentary inquiry has recommended that rail services and infrastructure that have been removed from the Newcastle heavy rail line be immediately reinstated, and

(ii) the rail line closure would be a public transport disaster for the Hunter region and for New South Wales, with patronage significantly lower since services were stopped at Hamilton in 2014; and

(b) calls on:

(i) the Federal Government to commit to funding public transport infrastructure in New South Wales, and

(ii) the New South Wales Government to reverse its decision to truncate the heavy rail line into Newcastle.

**Senator Lazarus** to move:

That the Senate—

(a) notes that:

(i) the continuing number of domestic violence attacks against women remains unacceptably high, and expresses great sadness at the spate of fatal domestic violence attacks on women in Queensland over the past week, and

(ii) on average, one woman loses her life as a result of intimate partner violence each week in Australia;

(b) re-affirms that domestic violence against women has no place in Australia;

(c) welcomes the Queensland State Government’s announcement that it will establish an ‘Implementation Council for domestic violence reforms’, to be chaired by Dame Quentin Bryce AD CVO, to enhance the ability of Queensland police officers to offer support and respond to complaints of domestic violence to ensure that women affected by domestic violence receive priority assistance;
(d) acknowledges that the Council of Australian Governments agreed to take urgent collective action in April 2015 to reduce the amount of violence perpetrated against women, after having endorsed the 2011 National Plan to Reduce Violence against Women and their Children 2010-2022;
(e) urges the Government and state and territory governments to prioritise the issue of domestic violence and act urgently to investigate and implement strategies to support and protect women from the scourge of domestic violence; and
(f) calls on the Government and state and territory governments to urgently work together to:
   (i) investigate the establishment of a national domestic violence register to enable the national management and monitoring of domestic violence offenders across all state and territory borders,
   (ii) increase criminal penalties for offences committed by perpetrators of domestic violence, including the breach of domestic violence orders by perpetrators of domestic violence, and
   (iii) support the concept of a national domestic violence against women summit to bring all governments, stakeholders and support organisations together to develop and implement effective strategies and programs to increase support for women, raise awareness of domestic violence, and eliminate the occurrence of domestic violence against women.

Senator Fiffield to move:
   That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
   Asian Infrastructure Investment Bank Bill 2015
   Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015.

**BUSINESS**

**Leave of Absence**

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:35): by leave—I move:
   That leave of absence be granted to the following senators:
   (a) Senator Heffernan for today, for personal reasons;
   (b) Senator O'Sullivan from 14 September to the end of the 2015 spring sittings, on account of parliamentary business overseas;
   (c) Senator Ronaldson for today, on account of ministerial business; and
   (d) Senator Smith for 14 and 15 September 2015, for personal reasons.

Question agreed to.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (15:36): by leave—I move:
   That leave of absence for personal reasons be granted to Senators Polley and Singh, from 14 to 17 of September 2015, for personal reasons.

Question agreed to.

**MOTIONS**

**Community Affairs References Committee**

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:36): I, and on behalf of Senator Moore and Senator Brown, move:
That the Senate—

(a) notes that:

(i) 2 September 2015 marks a year since the Community Affairs References Committee tabled its report, Prevalence of different types of speech, language and communication disorders and speech pathology services in Australia, and

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

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

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Prime Minister

The DEPUTY PRESIDENT (15:37): The President has 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 Prime Minister's failed leadership.'

Is the proposal supported?

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

The DEPUTY 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 LUDWIG (Queensland) (15:38): I rise to speak on the matter of public importance. You only have to look at the title to know what is happening this week and put it in context: this Prime Minister, his leadership, has been an abject failure. The Prime Minister has consistently failed the Australian people over the last two years, during which this shambolic excuse for a government has been in office. It goes back to the disaster that was the 2014-15 budget, which is still with us today as the government continuously tries to reintroduce and pass some of those savage and unfair measures that have been rejected by this parliament numerous times. The coalition, the Prime Minister, just does not get it.

One of the first acts of this government was to bring down a budget that was inherently unfair, full of cuts and wrong priorities. The last two years of Mr Abbott's leadership have been littered with failure, broken promises and bad calls. There was the introduction of the $100,000 university degree, through which Mr Abbott planned to deregulate fees. There was not a word before the election about that one. There were cuts to the ABC and SBS, which he made a point of saying he would not cut funding to. But, lo and behold, we find out after the election that that is exactly what he went about doing. There were cuts to the pension, leaving pensioners who are struggling with less in their pockets.

The government has also tried to force young people to live on nothing for six months which, thankfully, was rejected by this parliament. Just a week ago Mr Abbott tried to pass the same unfair bill but tried to drop it to a month, to see if they could get by with a month. Thank goodness that was also rejected. Their persistence and commitment to unfair policies that hurt those students who can least afford it is impressive if not shameful. Not only were
these measures rejected by the parliament, they were also broken promises. Mr Abbott specifically promised not to do the very things that he has tried to do in his first unfair budget.

We saw a $30 billion cut to education and a $50 billion cut to health and hospital services. In doing this, the cruellest part was aimed at forcing the states to ask for an increase in the GST due to the shortfall they would face. Mr Abbott is playing a political game with the states on this. He is playing with the health and education of our families, because he is too weak to tell Australians that his true intention is to raise the GST. Notwithstanding, Mr Morrison is out of the blocks, today, talking about how the states should raise their GST; perhaps Mr Morrison should have a short word in the ear of Mr Abbott. I suspect it is a tin ear, because he certainly has not listened to any of his frontbenchers or his backbenchers.

He tried to bring in a GP tax every time you visit a doctor, undermining our universal healthcare system, and is trying to bring about the Americanisation of health care, which is being done without a mandate. He talked so much about a mandate during the last government. He is silent about the mandate of late. It is not in the best interests of Australians, which is the truth of it. During the public debate on the GP tax we saw numerous examples of people having stopped going to their local GP, as they thought the tax was in place. This leads to directly impacting on the health of Australians not to mention the importance of early intervention for certain medical conditions. All this is being put in jeopardy with mere propositions of the GP tax—the awful effects of this we would have had if Mr Abbott had got his own way and passed this draconian policy.

One of the highlights of Mr Abbott's leadership was the knighthood of Prince Philip. He introduced knighthoods after they were abolished decades ago. Yes, it is a little unfair of me to bring it up again but it is staggering how anyone could have thought that would work in the public domain. So who is the first person to be acknowledged with this anachronistic honour? Prince Philip. Not only does he bring back knights and dames but he gives it to Prince Philip—who is living in the UK—and does not give it, firstly, to an Australian. That is Mr Abbott acting alone. His call; his leadership. That is who he chose. It was a bad call not to consult with your cabinet colleagues. I have no doubt that his cabinet colleagues would have said, 'No mate, that doesn't cut it in the Australian community.' Equally, there are many deserving Australians who do need recognition, but not through a knight or a dame.

Another one of his captain's picks was Bronwyn Bishop. It finally came undone. The fact that he could not see that selecting someone so partisan and resistant to embracing the independent stance required of the Speaker's office does demonstrate a lack of judgement. Once again, the truth of it is that he did not trust his colleagues to allow them to make the selection for such an important position; he thought he would do it himself. He chose, again, another bad call that blew up in his face and further eroded the coalition's standing.

Mr Abbott failed again on the question of same-sex marriage. Whatever your view on the subject, he had so little confidence in his own backbench that he refused to give them an opportunity to even discuss the topic in their party room. For months, with mounting pressure, he had to be dragged kicking and screaming to allow an opinion to be expressed by his colleagues. A true leader is not afraid of his team's opinions. You ought to consult and listen. A real leader faces it and deals with it—but not Mr Abbott.

The cost of Mr Abbott's second-rate version of the National Broadband Network has blown out by $15 billion, and we are now paying more for an inferior service. It is extraordinary. In
particular, the plight of Australians living in regional and rural parts of our country is highlighted by this government's failure to give adequate access to the NBN.

And let's look at Mr Abbott's economic credentials. The deficit has doubled since the coalition has been in power. After campaigning relentlessly to bring an end to the apparent budget emergency, Mr Abbott has made it worse. The MYEFO forecast a budget deficit twice as large as it was in the PEFO, when Labor was in office. It put paid to Mr Abbott's rhetoric before the election and since. Unemployment is up from 5.8 per cent when Labor was in office. It is now 6.2 per cent. That is 800,000 people unemployed, the highest number in more than 20 years.

What we have seen over the last two years under Mr Abbott is a lack of leadership: this government is not being led by a leader; this government is floundering around. It is a government making bad, stupid mistakes and embracing decisions which with common sense you would shy away from. Mr Abbott is a leader who has lost the trust and confidence of the Australian people as a result of his broken promises, bad 'captain's picks' and the gaffes that he continually makes. He has lost the confidence of his cabinet colleagues. Leadership speculation has been unfolding over the weekend and today—and it will be unfolding for the rest of this week. But it ought to be about trying to find a leader for the coalition—someone who actually can lead a government of any persuasion—because, at the moment, they are leaderless. They have a failed leader running this country at the moment, and some on the backbench and in the cabinet room see that and want to change. It is not up to this side to give you advice about change, but let me tell you that it is up to us to hold you to account. A government should be delivering good policy outcomes for the Australian people, and we have not seen any of that.

Senator BERNARDI (South Australia) (15:48): It is remarkable and shows a lack of any prescient foresight to ask Senator Ludlam to lead a debate about the failure of leadership. Senator Ludlam, when he was the Minister for Agriculture, was responsible for virtually shutting down Australia's cattle export industry, which decimated the livelihoods of farmers and absolutely decimated our relationship with Indonesia. One of the hallmarks of this government is that it has rebuilt international relations that were a disaster under the previous government. Whether it be Indonesia or our relationships right around the world, this government, led by Prime Minister Tony Abbott, has a record of achievement, a record of mopping up the spills of the previous chaotic governments.

When we were elected, the Prime Minister very clearly said he was going to get rid of the carbon tax, get rid of the mining tax, stop the boats, stop the drownings at sea and work hard to rebuild our budget and our economy. And he has delivered on this. He stopped the boats. He stopped the 1000-plus deaths at sea that occurred under Labor and the Greens, who washed their hands and said, 'It's not our fault, it's not our responsibility, it can't be done.' But Prime Minister Tony Abbott and his team stopped the boats. It is a credit to him. One of the most humanitarian things that any government can do is to stop the senseless sacrifice of men, women and children on the perilous seas through poor policy making.

We also said we would stop the carbon tax to save the families of Australia $500 a year because it was not going to have any impact on the environment, it was merely a new tax impost for the government of the day. So how can it be a failure of leadership to deliver on what you promise? We said we would stop it, and we got rid of it.
And what about the mining tax? The mining tax was supposed to pay for a whole range of other schemes that Labor had implemented. But, of course, it collected next to no money. Only Labor and the Greens could implement a tax that actually cost more than it raised. It was one of the most inept pieces of public policy legislation, and it describes very accurately and succinctly just how hopeless things were under the chaos and dysfunction of the previous government.

True leadership is about having a vision for the country, and Prime Minister Abbott has demonstrated that in spades. He wanted to reduce the other side's budget deficit—and that is exactly what we have committed to doing—from $48 billion to around $7 billion in five years. And it was, of course, all about jobs because it is not much use having any other benefits unless you have a job or the opportunity to have one. There have been 335,000 additional jobs created under the policies led by Prime Minister Abbott. And 163,000 of those new jobs have been created so far in 2015.

**Senator Carol Brown:** There's the Prime Minister's job!

**Senator BERNARDI:** That is an average of 23,000 per month, for those who are struggling with the mathematics on the other side—23,000 new jobs every month and they are still complaining.

Importantly in that, it is worth noting that female workforce participation is at record levels.

**Senator Carol Brown:** In the cabinet!

**Senator BERNARDI:** There are over 171,000 more women in jobs than at any time since the 2013 election. These are good figures, and they are figures that are absolutely important to the welfare and benefit of this country.

**Senator Ludwig:** How are you voting in the spill?

**Senator BERNARDI:** Mr Deputy President, I will not be distracted by the jeers and the jibes from those on the other side. They have nothing to add to this discussion. They have nothing to add because they are all fluff and wind—that is how I would describe them.

They are the anti-jobs mob. They are the anti-leadership mob. They are already the mob that have no idea what they are going to take into the next election. Mr Abbott, of course, wanted to be known—and is known—as the infrastructure Prime Minister. He has a $50 billion infrastructure program to improve road and rail links. They are going to reduce travel times and support economic growth. Mr Abbott was in my own state of South Australia—a state, might I say, that is struggling under the yoke of 16 years' worth of Labor rule—this morning, pledging to support infrastructure and road and rail links, to reduce travel times and to support economic growth.

And, of course, Mr Abbott pledged to be the lower-taxing Prime Minister. What has he done? He has implemented tax cuts for small business, under the stewardship of the small business minister, Mr Bruce Billson, a man who has taken a passion for small business into cabinet—a place where the other side never had it. Small business is the engine room and the driver of employment and growth in our economy.

And whilst we are focusing on ridding regulation and bureaucratic bungling from small business, interfering with them creating jobs and making a business for themselves, those on
the other side are all full of enquiry into the political intrigues of the day. This is where their focus is completely wrong—absolutely and completely wrong! Whilst they are focused on the minutiae, we are looking at the big picture and implementing a program that will see Australia prosper for decades to come under the stewardship of the Prime Minister, Mr Abbott.

I must also bell the cat here, because despite all the achievements that we have already enacted in getting the budget back into the black and making government smaller, funding for local hospitals is up by over 25 per cent over the next four years and funding for schools is up by 28 per cent over the next four years. That is because Prime Minister Abbott and his team are committed to local hospitals and to local health, and they are committed to the highest standards of education. Of course, with new childcare subsidies, working families with incomes of just over $65,000 and under $170,000 will be around $30 per week better off. These are important advancements for the families of Australia—better-educated children, better health care and assistance with child care affordability.

But there are broader concepts that the Abbott government has been leading the way in. And I have to suggest that one of the most important things that we can do is to stamp out and to root out corruption in the governance of the militant trade union movement, which is impacting on our progress in this country. There has been a royal commission established into trade union governance on the back of the cover-ups for Mr Craig Thomson. Do you remember him, Mr Deputy President? Mr Craig Thomson was the disgraced former member of the previous government, who embezzled a whole bunch of money from his union. They protected him and refused to drag him before the courts. But now he has been convicted.

There is also evidence of corruption in the trade union movement—of coercion and all sorts of shenanigans going on. None of this would have been uncovered without the insistence of Mr Abbott to get a good deal for the workers of this country. Because if you are not fighting for the workers you are fighting against them. And we are fighting for them. We are saying, 'If your union dues go into a union then they should be used appropriately.'

We have also dumped Labor's bank deposit tax. Do you remember that one, Mr Deputy President? That was when you put money in the bank and they were going to tax you on it. And when you took money out of the bank they were going to tax you on it—on the interest that you earned—because Labor are the big taxers. We have dumped that under the leadership of Mr Abbott. And we have also looked much further abroad. We have looked at the white paper on Northern Australia—we have released that. That is a comprehensive plan to unleash the economic potential of the region.

These are only a few—a few—of the many achievements of Mr Abbott in leading the government. It is not to say that leading any organisation—but particularly the nation—is not without challenge. And where those challenges have been thrown down we have handled them with aplomb. We have dealt with the vicissitudes of public life—the highs and the lows—and we have managed to keep ploughing on for the benefit of the people of Australia. It is absolutely imperative that we continue on the program, and we cannot afford to allow a Labor government to sneak back into power under the guise of falsehoods and misleading impressions. That is why we should be proud of this economic record—(Time expired)

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:58): Well, 10 minutes is a long time in politics, isn't it, Senator Bernardi? We are debating the point here that in a little while may be academic—because we will know that at four o'clock, won't we,
when Mr Turnbull has a media conference, as I understand it. It just shows the old adage still stands.

Of course, the Prime Minister—if in fact he is the Prime Minister in the not-too-distant future—has failed to show leadership in this country. I do not have time to go into all those matters; I will stick mainly to my specific portfolio areas.

The Prime Minister came into being the Prime Minister, saying that he was going to be the Prime Minister for Indigenous affairs. But one of the key constituencies that he has failed are, in fact, Aboriginal and Torres Strait Islander peoples. One of his first moves in his first budget was to cut over half a billion dollars' worth of funding for Aboriginal and Torres Strait Islander peoples—cutting the heart out of key programs and cutting the heart out of some very important Aboriginal health funding.

Then, of course, he has presided over bringing a whole lot of programs from the Aboriginal and Torres Strait Islander portfolio into Prime Minister and Cabinet, and he has put in place the Indigenous Advancement Strategy. The strategy is so bad that we have had to refer it to a Senate committee inquiry—and the committee is still undertaking that work. We know that many essential services have been cut. Because of the mistakes that were made, the gaps have been identified, and some of those have been filled, but you cannot cut half a billion dollars worth of Aboriginal funding without having very significant impacts on the delivery of services and supports.

Then we had the broken promise to introduce a justice target into Closing the Gap targets. The Prime Minister has presided over a situation in Australia where there are ever-increasing rates of incarceration of Aboriginal and Torres Strait Islander peoples. He has failed to address that, failed to put in place justice reinvestment and, as I said, failed to put in place a justice target, which could then lead the rest of the country in addressing justice for Aboriginal and Torres Strait Islander peoples. We have not seen any movement on implementing the over 21-year-old recommendations around deaths in custody of Aboriginal and Torres Strait Islander peoples.

Here we have a government that has been intent on having a go at the most vulnerable in our community. Who can fail to draw the link when there are headlines on the front pages of the tabloids that, yet again, demonise people with disability and those on disability support pensions and then, all of a sudden, on the same day, an announcement by the government on a crackdown on people with disability trying to survive on disability support pensions? I do not think anybody in this country would deny a distinct link between those outrageous headlines and more attacks on people with disabilities.

One of the most egregious attacks was on the young people of this country. The Prime Minister started off his term, in fact, attacking young unemployed people, saying that they were couch-surfing and content to live at home. He followed that up with another outrageous budget cut in which he tried to force young people under the age of 30 to exist on nothing for six months. He redefined the age of young people and tried to make them survive on thin air. He said, 'By the way, while you're surviving on thin air, try to find 40 jobs at the same time.' When that was destined for certain defeat in this very place, the government changed tack and decided that they were only going to deny people income support for four weeks—actually, make that five weeks, because that was on top of the ordinary waiting period. That, fortunately, was also rejected just last week—thank goodness. But, not content, the
government say that they are going to bring it back again. Where is the Prime Minister's leadership to say, 'Actually, we got that wrong. We apologise to the youth of Australia. We are going to now support you and not try to demonise you.'

Climate change has to be one of the vast areas of his failed leadership. In fact, his leadership was with climate deniers. He proudly put on a tinfoil hat to tilt at windmills and to have a go at wind turbines, and he supported the comments about how beautiful coalmining is. (Time expired)

Senator CAROL BROWN (Tasmania) (16:03): It looks like we might be on a unity ticket here because, just as we start this debate, Mr Turnbull is outside calling for a leadership spill. As I understand it, Ms Bishop might be as well. So we may be on a unity ticket. It might be the only unity ticket that this failed Prime Minister would actually keep. It is great to be on a unity ticket with most of the Senate today.

Let us go through the reasons we are at this point and the reasons for this matter of public importance, because they are very important to remember as we talk about the Prime Minister's failed leadership. This has come about not just because he runs around eating raw onions; it is not just because he reintroduced knights and dames and that a knighthood went to Prince Philip; it is not just because he appointed Bronwyn Bishop as Speaker; it is not just because he hung on to a 'rolled gold' paid parental leave scheme, which he was forced to abandon before now launching attacks on the current scheme; and it is not just because the 'Prime Minister for women' has largely left women out of his cabinet. It is not just because of all that. It is because this Prime Minister has failed the community. He failed them when he made those promises during the election campaign in 2013. He promised not to cut health, not to cut education and not to make any changes whatsoever to the GST. It is because of these and many more promises that the Prime Minister, Mr Abbott, made to the people of Australia that we have come to this position now. We have come here to talk about Mr Abbott's failed prime ministership and his failed leadership.

But Mr Abbott cannot be held solely responsible for all of these broken promises and the faith that he has broken in the community. Each and every one of those ministers in this government must be held accountable. That includes Mr Turnbull, who has failed to deliver on the NBN. The NBN has blown out, he has underdelivered, it has cost more and it has taken longer. We have a second-rate NBN, and Mr Turnbull has delivered it. The community want their government to work for them. They do not want a government that is only about itself. For so long, it appeared that the only thing Mr Abbott was concerned about was trying to ensure that blue ties were the order of the day.

This government and Mr Abbott have failed in relation to the Australian economy. They are failing to provide jobs. Confidence is down. The national accounts show economic growth of 0.2 per cent for the quarter and seasonally adjusted GDP growth of two per cent. The June quarter results were disappointing, and they came on the back of other poor figures. This is the biggest quarterly decline in living standards since the global financial crisis, and that is because we have had a Prime Minister who is now under attack by some of his own ministers when they have had a hand in what has been occurring in this country. They have had a hand in what has been occurring, but he is now under attack because of his failed leadership. Too often, it has been about the Prime Minister's own position; it has not been about Australian
workers, it has not been about Australian families and it has not been about keeping faith with the Australian community. *(Time expired)*

**Senator FAWCETT** (South Australia—Deputy Government Whip in the Senate) *(16:08)*: It is an interesting time to be talking about leadership. If you want to look at successful leadership then look at the leadership shown by this government around issues such as border protection. Let us look at the key things around border protection, from a humanitarian perspective, under the previous government: deaths at sea and children in detention. When the Howard government left office there were no children in detention. When the Rudd and Gillard governments came to office and implemented their policies we saw an almost open-door approach that has resulted in over 1,000 people dying. The poor quality of leadership—the lack of leadership—led to people dying and to 1,900 children in detention in July 2013.

Do not forget that figure: over 1,900 children in detention, because of a lack of leadership from those on the opposite side.

Under this government we have seen—using the same Defence Force, the same departments and the same coast watch—determined and consistent leadership that has provided the kind of policy direction, consistency and support to those men and women who are serving on Operation Sovereign Borders to regain control of our borders. It has not been easy, but it has been done, and it has been done safely. And, most importantly, it has been done effectively. Because the same people were in the departments and the same equipment was available, the difference has been leadership. Commitment as well as a consistency and a certainty of purpose has driven that outcome. And that outcome means not only that there have been cost savings as a result of shutting down detention centres and not having to fly people on charter flights. We also heard the Assistant Minister for Immigration today talk about the fact that, unlike the $12 billion cost blow-out under the Labor Party, there have been savings in the hundreds of millions of dollars as we have been closing centres and not having to send flights.

But, importantly, the fact that we have been able to close down those detention centres and regain control of our borders has meant that we have had the capacity to show leadership on a world stage as the crisis in Syria has unfolded. People in this Senate will know that I spoke a couple of weeks ago about the Intelligence and Security Committee delegation I was part of, to the US, the UK and France, where we heard brief after brief about the dangers of the situation developing there with the millions of displaced people, both internally and externally, in refugee camps—about the very real humanitarian threat to those people as well as the issue of people increasingly starting to move in an uncontrolled manner into Europe. As that has accelerated in the past couple of weeks, on the world stage what we have seen from this government is true leadership. Not only is it about replacing our existing refugee intake but an additional 12,000 places have been made available by this government. That is leadership. If you compare that figure with that of other nations, it is more than the US's. The UK is taking a slightly numerically greater number, but that is over a number of years. If you look at the funding that is being applied, Australia is not only one of the most generous nations in actual dollar terms but, most importantly, unlike some countries that have pledged large amounts but have then not actually paid the money, Australia has made sensible and targeted commitments and followed through. That leadership is making a difference for the
people in those camps—in Jordan, in Turkey—and for the people who are living in Lebanon, including those who are not necessarily in camps.

We are also seeing leadership in that it is not just a knee-jerk reaction, saying 'Come one, come all.' It is about looking at the fact that there are people involved in a conflict that is based on sectarian issues. There is a large Sunni population and a Shia population who have been in conflict with each other for many years, and sometimes it flares to the surface. But look at the people who have been consistently oppressed. If you look at the numbers of the Jewish population, the Christian population and the Druze population in that part of the world, they have decreased dramatically over the last decade. Even if one day there is a peace of some sort that is resolved in that part of the world, with whatever happens with Daesh or whatever happens with the Assad regime, even if they can somehow with their supporters in Russia and Iran or in Saudi Arabia or other countries reach some kind of long-term peace, the issue for these persecuted minorities is that they will still not have a place.

It is a documented fact that Christians are now the most persecuted religious group in the world. There are a number of studies that demonstrate this fact. It is leadership from this government that says we recognise that everyone, regardless of their creed, is suffering right now, in the short term. But in the medium to long term, who has no options in that part of the world? Who has no medium- or long-term future in that part of the world? It is leadership from this government that has secured our borders, given us the capacity to take additional people, made the Australian public trusting of a government who can secure their borders and enabled us to reach out to bring in the most persecuted, the most needy, and not only give them a safe haven in the short term but also provide the leadership to give them a meaningful settlement program that will give them a future. It is a leadership that brings communities in Australia, the diaspora of the Orthodox churches and others, together to provide the support for these people so that when they come here they can settle in this nation and build a new life for themselves and their children.

Long-term leadership is about statesmanship. It is not just about the next election. It is about having an eye on the next generation. There are a number of steps that this government has taken which show true long-term leadership. (Time expired)

Senator MADIGAN (Victoria) (16:16): Today I rise to speak on this matter of public importance, the Prime Minister's failed leadership. Quite frankly, Australians are sick of this self-indulgent BS. The average unemployment rate is 6.2 per cent. In Victoria it is 6.1 per cent and in South Australia it is 7.9 per cent. These figures concern me. They concern me more than today's MPI stunt. I do not make any excuses for the current Prime Minister or former prime ministers but I would like to point out that I do not hold the other two prospective candidates in any higher regard, namely Mr Turnbull and Mr Shorten. Instead, I think we as a parliament should stop bickering about the Prime Minister's leadership and instead focus on our country and our people.

When I think about failures in government, I think of Manus Island, I think of the loss of the car industry and I think of the fact that governments of all persuasions have not established a sensible Australian procurement policy. When it comes to determining whether a Prime Minister has failed, I would prefer to let the ultimate judge be
the Australia people at election time, not faceless men who have moved up the party-political ranks through deals and delusion.

Today, let me speak about how the office of Prime Minister has failed over successive governments, both Labor and Liberal. In my working life alone, I have seen the car manufacturing and heavy industry shrink. We had Nissan and we had Mitsubishi; we still currently have Ford, Toyota and Holden. I have seen the demise of Massey Ferguson, Vickers Ruwolt, and Jacques, the industrial engineering group. I have seen the breakup of BHP and its divisions. BHP was a conglomerate of engineering and manufacturing, oil and gas—from Rheem hot water services to Waratah farm fencing, and structural steel for our bridges and our buildings. The steel industry is currently in crisis because of materials dumped on our shores. Emerging economies across the world are trying to build and maintain a manufacturing base, while we are letting ours go to rack and ruin. Many nations look upon Australia with contempt in the knowledge that we have a car industry yet we are bidding it good-riddance.

Our governments, of all persuasions, seem to be all talk. One would think, with the amount of white and green papers coming out of this place, that government might be able to advance Australia's interests—but I guess that would just be naive. When I have CEOs and presidents of large multinational companies coming into my office and telling me that their company is reluctant to further invest in Australia because of the consistent chatter about leadership—whether it be Kevin Rudd, Julia Gillard, Tony Abbott or Malcom Turnbull—I wonder what the hell is going on. Sometimes I think Australian industry might be better off if parliament did not sit and politicians just kept their mouths shut. As I said in my maiden speech:

If we are not making decisions that make the lives of Australians better, then we should at least make sure we do not make them any worse.

Currently we have a tsunami of job losses approaching us from the demise of the automotive and component manufacturing sectors. We are on the verge of delivering hopelessness, despair and a lack of self-esteem, self-worth and self-respect to tens of thousands of Australians. People are asking us to stop bickering and get on with the job of managing the country for the benefit of all Australians. Our economy is currently hostage to commodity prices, peaks and troughs, and we seem to be a country that is unwilling to add value and to strive to provide meaningful employment for all Australians.

Only this afternoon I was speaking to a chap who, during his 40-year working life, started a company in the 1990s. The company exported to the world and they currently still do. He said:

We, as a nation, no longer have the ability to do non-ferrous metal extrusion in this country.

For those of you who do not know, non-ferrous materials include metals like copper and alloys like brass. We cannot do that very basic thing on our own shores.

Senator PERIS (Northern Territory) (16:21): I too rise to speak on this matter of public importance, the Prime Minister's failed leadership. No prime minister has ever let down the people of Australia and the people of the Northern Territory as badly as Mr Abbott has, and he is being challenged, right now, because of it. Mr Abbott's leadership has been two years of unfairness, broken promises, negativity, fear and loathing.
On some levels, the Prime Minister seems to have offended most of the country. In Mr Abbott's world, women seem to do nothing but iron clothes. Australia was empty before the First Fleet arrived and Aboriginal people living on their traditional lands is just a lifestyle choice. Mr Abbott's world is full of misunderstanding of the people he was elected to govern. He thought Australians would put up with a Medicare co-payment, $100,000 university degrees and a knighthood for Prince Philip. The reactions of Australians have shown the Prime Minister just how out of touch he is. They have shown him that they will not put up with unfairness, fearmongering or ministers who mislead.

I want to tell the Prime Minister—if it is still Mr Abbott!—how he has hurt Territorians and why the Northern Territory will not put up with him any longer. By the sound of it, neither will his own cabinet. The people of the Northern Territory and the whole of northern Australia are smarter than the coalition give them credit for. Contrary to what Mr Dutton thinks, we do not operate on 'Cape York time' or 'Territory time'. The people of the Northern Territory have suffered under the double whammy of the woeful—I repeat: woeful—Country Liberal government in the Northern Territory and the Abbott government here in Canberra. The woeful Country Liberal government in the Northern Territory have become a laughing stock in Australia, and I will tell you why, Mr Acting Deputy President Williams—because we have had 14 cabinet reshuffles, 2½ chief ministers, four treasurers, and four members who have defected, all in the space of three years. You could not make that up if you tried.

Territorians have been slugged by the Abbott government's cuts, delays and incompetence. Much of the funding under the Indigenous Advancement Strategy is needed in the Northern Territory, but it was cut in half; half a billion dollars for Aboriginal services across this country have been ripped out of the IAS. People in the Northern Territory bush and outstations have been let down by this government. Health, education and nutritional organisations have all been hurt. Legal aid services have suffered and face continued uncertainty. Hundreds of people are wondering whether they will have a job in the coming months, the next six months or next year. Hundreds face the possibility of having to represent themselves in court because of the funding cuts. Childcare centres have closed, school attendance is not getting any better and homelands face closure under the CLP and the coalition government. The people of the Northern Territory have been let down by this government. Since coming into office in 2012, the Northern Territory Country Liberal government has been characterised by division, chaos and lies.

Since coming into government in 2013, the Abbott government has made it worse for the people of the Northern Territory. The cost of living has gone up. Power and water prices have gone up. Unemployment is up. There are big delays to all kinds of government programs and infrastructure projects.

Under these two governments, there have been two major delays. One is to the Palmerston hospital, which is now years behind. The member for Solomon in the other place promised her electorate that the construction of the hospital would start in 2014. It is almost the end of 2015, and nothing has started. The other is the children's wing at Royal Darwin Hospital, which is also now not going ahead, again thanks to the total lack of commitment to the health of Territorians from both the CLP and the federal coalition government.

The Abbott government failed on school funding. Labor committed to proper schools funding in the Northern Territory. The Abbott government backed down on Gonski funding,
and the CLP has slashed teachers like you would not believe, including support staff across Territory schools. Class sizes are up and workloads for teachers are up. It is no wonder that the people of the Territory are turning their backs on Mr Adam Giles and Mr Abbott. They have failed to take notice of the very real struggles faced by everyday Territorians. They are completely out of touch with Territory communities.

This is all occurring against the backdrop of constant talk about the development of northern Australia. Labor support the meaningful development of northern Australia. We support sustainable economic development in the Top End. We support increased employment opportunities for Aboriginal people and all Territorians. But how can the Abbott government honestly say that they are taking Northern Territory development seriously when they are slashing and burning their way through the north? They talk about great big, new projects, but guess what, Mr Acting Deputy President Williams? Not a single new project in the Top End has been delivered by the Abbott government, not even projects started by the previous Territory and federal Labor governments, like the Palmerston hospital and the children's wing at the Royal Darwin Hospital, as I said before, which have both been delayed. The member for Solomon has failed to lobby the Prime Minister to move any of this forward; and, if she did lobby him, she too has failed miserably. The people of Lingiari are fortunate to have my colleague Warren Snowdon to stand up for them here in Canberra. Unfortunately, I cannot say the same about Mrs Griggs.

It is not just the Prime Minister who has failed the people of the Territory; most of his cabinet have too. The Treasurer, Mr Hockey, told Australia that poor people do not drive cars, at a time when Territorians were paying more for fuel than people anywhere else in Australia. Mr Pyne has slashed education funding while the Northern Territory struggles to catch up with the rest of Australia in our education standards. And, on Friday, Mr Dutton referred to 'Cape York time' as if he thinks northern Australia is behind the times. He seems to think that the north cannot keep up. This represents a major problem in the Abbott government, and we are seeing things unravel today. They simply do not have the respect of northern Australia. They do not trust that the north of Australia can look after itself. It makes a complete mockery of their so-called commitment to northern Australia, as I have previously said.

Mr Tony Abbott's leadership lacks compassion and creativity—and love from his own party, by the sound of what is happening right now. Every time he is asked about his government's record to date, he starts telling us about the things he has stopped, banned or pulled down. He has not created anything good that Australia can feel proud of. He is a wrecker, not a builder.

This government has failed the people in the north. Territorians are sick and tired of the broken promises, chaos and dysfunction that have just gotten worse since Adam Giles and Mr Abbott took over. The member for Solomon has failed to protect Darwin and Palmerston from her boss in Canberra. The CLP have failed to deliver for Territorians since they were elected in 2012.

The Prime Minister's failed leadership has cost the Territory jobs and perhaps cost him his own job. It has cost money. It has cost us health and education outcomes. The end cannot come soon enough.

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (16:29): Clearly there are momentous events occurring outside of this chamber right now. With all due respect to
Senator Peris, I think the Australian people would expect a more considered contribution in that event than simply the stale talking points and sound bites from a staffer's or opposition leader's written speech. One of the problems we have had in Australian politics over the past few years is the rise of Blackberry politics, if you like—that we all tend to simply read points off our mobile phones that are emailed to us in the morning—and I think the Australian people can see through it. I think the Australian people realise it and we are all suffering because of it.

Today I want to start with a bit of history. I was reminded on the weekend by Minister Barnaby Joyce. He is a student of history himself. He gave a speech to the National Party convention and quoted Ecclesiastes: There is Nothing New Under the Sun. I certainly think that what we are experiencing today is nothing new under the sun as well. Barnaby wanted to quote Roman history and I want to do so too, but it is a very different part of Roman history. I am not sure if Senator Ryan is a student of Roman history, but, Senator Ryan, you might remember that there was a particularly handsome emperor called Commodus, otherwise known as Joaquin Phoenix in Gladiator. Commodus was a disaster as an emperor. He was a tyrant and an evil one at that, and the empire was in a mess when he was subjected to his fate by the Praetorian Guards. They installed a guy called Pertinax. Pertinax promised the Praetorian Guards a large sum of money, but he never came through with that, so the Praetorian Guards dealt with him and he was gone. The problem was that they did not have a replacement. Instead of simply choosing the best person for the job, the Praetorian Guards established an auction at the time.

Senator Wong: Why don't you mention Tony Abbott? This is about Tony Abbott.

Senator CANAVAN: You might learn something, Senator Wong. You had best listen up.

The ACTING DEPUTY PRESIDENT (Senator Williams): Order on my left, Senator Wong! Things were going very well until you interrupted.

Senator CANAVAN: The Praetorian Guards set up an auction. They decided to say to the Roman people, 'You decide. Whoever can pay us the most amount of money can become emperor,' and that is what happened. There was an auction between a guy called Sulpicianus, who was the father-in-law of Pertinax, and Didius Julianus. Sulpicianus started the bidding at 5,000 drachmas, but eventually Didius Julianus won at 6,200. It was an unbecoming act for the empire. It was effectively a standing auction on who could be emperor. Unfortunately, I think something is happening with the Australian body politic as well at the moment, because we are being subject to a bidding process through polls and popularity, not through the policy consequences of what we are doing. It is an unbecoming process and it is not one that I think the Australian people hold us in high regard for doing. If we continue to enter into this cycle and continue to be slaves to an announcement of polling results every fortnight, the Australian people will continue to think less of us every time.

In my view, we should seek to re-establish trust in this chamber and in the other chamber and in this parliament—a trust that has deteriorated and been downgraded in the past eight years. We have become fat and lazy and complacent on a couple of decades of very good government. Now we—and I think all political parties have been subject to this in the past few years—have failed to show that leadership, that constancy, that consistency and that stability that the Australian people expect of us. We will not restore our trust until we can rekindle and refine what we had not that long ago.
I am standing at the Whip's chair. I am a National Party senator and I am very proud. I want to make comment on other political parties, but I am very proud that the National Party has had 12 leaders in 95 years. While those leaders have gone through great tumult and change through decades, there has been a very reliable element of constancy, stability and certainty from the National Party and, before that, the Country Party. When you read National Party history, there is a great story. After Earle Page lost the leadership, Archie took over briefly, but there was a bit of tumult at the time and there was a leadership spill between John McEwen and another gentleman whose name escapes me—he never became leader. John McEwen tied the leadership with this guy in 1939, I think. They could not break the tie, so they installed Arthur Fadden as a temporary leader, but then, of course, World War II broke out—

Senator Wong: Mr President, I rise on a point of order on relevance. I appreciate that these are wide-ranging discussions, but the MPI is on the Prime Minister, Mr Abbott—the current Prime Minister's failed leadership. He has not touched on that for some time.

The ACTING DEPUTY PRESIDENT: Senator Wong, there is no point of order. This is about leadership and Senator Canavan is drawing an analogy. Continue, Senator Canavan.

Senator CANAVAN: Thank you, Mr Acting Deputy President Williams. As I was saying, John McEwen lost that leadership battle and Arthur Fadden took over as a temporary leader. He was eventually made permanent during World War II because of the war. Arthur Fadden remained leader until 1957. So McEwen was one vote away in 1939 and did not take over as leader until 1957. As somewhat of a conservative, I do perhaps miss the patience that might have been shown by a different generation. I think the Australian people also share some frustration with the level of self-centredness and selfishness that sometimes leaders display in this place. I can only speak for my own contribution in this place, but I will always try to live up to the example that we should be putting the Australian people first with every decision we make.

Senator Wong interjecting—

Senator CANAVAN: We should not just be putting the Australian people first; we should be putting the future of our country first, the future of our nation first, and protect our future generations with an example that demonstrates our ability to run this country in a way that is respectful and consistent over many decades.

Senator Wong: Forgot to mention the Prime Minister!

The DEPUTY PRESIDENT: Senator Wong, I bring to your attention standing order 197 and foreshadow to you that I am a little less tolerant of interjections than some others who sit in this chair.

Senator Wong interjecting—

The DEPUTY PRESIDENT: Senator Wong, I am speaking. I bring to your attention that interjections are disorderly. We will now move along.

Senator Wong interjecting—

The DEPUTY PRESIDENT: No, we will now move along. I bring to your attention that interjections are disorderly, and please do not answer me back. Is that clear? We will move along.
Senator Wong interjecting—

Senator Canavan: Give it a rest, Penny.

The DEPUTY PRESIDENT: Order! We will move along.

Senator Wong interjecting—

The DEPUTY PRESIDENT: Senator Wong, order!

Senator Canavan interjecting—

The DEPUTY PRESIDENT: Order on my right! Senator Canavan! Do you have a point of order, Senator Wong?

Senator Wong: I was only making the point that you were chiding me but allowing Senator Canavan to interject across the chamber.

The DEPUTY PRESIDENT: If we had a little time we would have a session on that. We are going to move along now, and I ask that senators respect the chamber. Interjections are disorderly. We will continue. I shall now proceed to the consideration of documents. The documents are listed on page 4 of today's Order of Business. Are there any ministerial statements?

DOCUMENTS

Consideration

The government documents tabled today and general business orders of the day Nos 1 to 7 relating to government documents were called on but no motion was moved.

DOCUMENTS

Centrepay

Order for the Production of Documents

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:38): I table a document relating to the order for the production of documents concerning the Centrepay policy and terms.

BILLS

Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015

First Reading

Bill received from the House of Representatives.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:39): I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:39): I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION AMENDMENT (STANDING) BILL 2015

The Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) is Australia's national environment law and is amongst the most stringent in the world. It provides a legal framework to facilitate sustainable development, while protecting nationally and internationally important flora, fauna, ecological communities, migratory birds, heritage places and water resources.

Over fifteen years, the Act has provided certainty for projects and ensured protection of the environment.

Since coming to government we have undertaken a careful reform process through:

1. Establishing a One-Stop Shop for environmental assessments with all states and territories.
2. Approval of projects with a construction or resource value of over $1 trillion. Many of these projects and much of this value was the result of clearing the backlog of projects in some way deferred or delayed by the previous government.
3. Reduced approval timeframes by up to 50%.

This has meant that not only do we have world class environmental standards, we have world class administration. Our reforms are about protecting the integrity of the EPBC Act.

However, a major threat to the administration of the EPBC Act has emerged recently. This is the direct Americanisation through the use of litigation to "disrupt and delay key projects and infrastructure" within Australia and to directly "increase investor risk".

This is an unprecedented new development in Australia, drawing the worst features of the American litigation industry into Australia.

Currently we see actions in state courts against three major Galilee basin projects, which the Queensland Government is now defending. The intention and reality is that major resource projects and infrastructure are similarly subject to challenge in federal law.

I refer to the following quote from a former Labor Treasurer in today's Brisbane Courier Mail:
"
....green activism had increased the costs of developing a mine by up to 10 times."
"
....a development that took just over a year in 2008 would now take up to five years as companies get weighed down by litigation."
"I agree with everything the Federal Government is doing."

Contrary to the intentions of the EPBC Act, the federal law is now being used to "disrupt and delay" infrastructure. The strategy is almost completely disconnected from concerns which were the intended purpose of the EPBC Act.

In 2011 a number of organisations produced a document expressly setting out a plan to "disrupt and delay key projects and infrastructure". It expressly set the goal of "increasing investor risk" in Australia.

The groups who helped develop the document included Greenpeace, the New South Wales and Queensland Environment Defenders Office, Lock the Gate, Beyond Zero Emissions, Get Up, the Mackay Conservation Group and the Australia Institute among others.

Interestingly, the trade union United Voice was also involved in the document's production.

The document's strategy was simple – as outlined on page three –
"to 'disrupt and delay' key projects and infrastructure while gradually eroding public and political support for the industry".

After outlining the six elements of the strategy which focused on increasing investor risk and costs, section 4.1 discussed litigation.

"Legal challenges can stop projects outright, or it can delay them in order to buy time to build a much stronger movement and powerful public campaigns. They can also expose the impacts, increase costs, raise investor uncertainty, and create a powerful platform for public campaigning."

The express objectives include:
1. "Mount legal challenges to the approval of several key ports, mines and rail lines.
2. Run legal challenges that delay, limit or stop all of the major infrastructure projects (mines, rail and ports) that have been identified as a high priority in the strategy."

This is undoubtedly contrary to the intent of the EPBC Act which was to create certainty based on stringent environmental assessments. Indeed the EPBC Act was created to provide certainty for the environment and for project proponents.

It is very clear that the EPBC Act was not intended to be used to "disrupt and delay key projects and infrastructure".

The document then outlines in detail how tactics can be imported from the United States. Page 11 clearly states:

"Traditionally, environmental organizations have tended to employ "projects officers" with a research, policy and advocacy focus or campaigners who design and lead campaigns themselves.

This is in stark contrast to the organizing model widely (and successfully) in the US where "community Organizers" support grassroots leaderships and Organize communities to build and express their own power."

The objective is clear – it is to design a community organising model that adapts the "US organizing techniques to an Australian context." Let us be clear about what this represents.

This is not some community based grassroots campaign.

This is a US-style top-down litigation approach which expressly seeks to use third party involvement in US style litigation to "disrupt and delay key projects and infrastructure."

What we have seen to date is a well funded and coordinated strategy to frustrate the careful consideration of the EPBC Act approval process which is by any measure one of the most stringent in the world.

This is the explicit Americanisation of environmental campaigning with its focus on tying up projects in legal challenges where the goal is not to win, but to disrupt and delay.

Therefore we are seeking to bring the EPBC Act standing provision in-line with the broad Commonwealth standing provisions so as to ensure that it is those with a genuine and direct interest in a matter who have the right to standing and to protect their interests under section 5 of the Administrative Decisions (Judicial Review) Act 1977 (ADJR Act).

The need to normalise the EPBC Act

Section 487 of the EPBC Act sets out an extended standing far beyond the Commonwealth ADJR Act provisions.

In particular, the section enables individuals, organisations or associations who have, at any time in the two years immediately prior to the decision in question, engaged in a series of activities in Australia or an external territory for protection or conservation of, or research into, the environment, to commence proceedings for judicial review under the ADJR Act.
This provision of the EPBC Act was well intentioned; however it has now become the basis for the Americanisation of the Australian justice system. It allows virtually any person or group to bring a lawsuit, regardless of whether they are adversely affected or even near a project. This is out of step with Commonwealth law and has provided a legal loophole for activists to exploit.

Lawsuits that are designed purely to delay a project, increase costs and increase uncertainty for investors, and create a platform for campaigning, undermine the intention of the EPBC Act to provide a process with both high standards and certainty for assessing proposals.

It is informative to note that Dr Moss Cass, Minister for the Environment in the Whitlam Government, oversaw the introduction of the legislation which preceded the EPBC Act. In this legislation, there was no special treatment for environmental groups.

When passing that legislation, Dr Cass stated in his second reading speech that the government had decided not to have wide standing provisions. He noted difficulties in the United States arising from its environmental impact assessment due to "too frequent a resort to the courts".

Twenty years later, the then Government in good faith gave environmental groups greater rights to intervene. This provision has now been distorted by bringing and threatening lawsuits designed only to delay and frustrate proponents. We now need to reinforce the purpose and intention of the EPBC Act, while preserving legitimate rights.

Section 5 of the ADJR Act sets the standard definition for Commonwealth law regarding who can make an application for judicial review as any aggrieved person. An aggrieved person includes a person whose interests are adversely affected by the decision.

The Environment Protection and Biodiversity Conservation Amendment (Standing) Bill 2015 (the Bill) will repeal section 487 to normalise the EPBC Act in line with the standing provisions of the ADJR Act.

This is exactly the same standing as the National Crime Authority Act 1984.

Exactly the same standing as the Australian Crime Commission Act 2002.

Exactly the same standing as the Biosecurity Act 2015.

Exactly the same standing as the Australian Energy Market Act 2004.

Exactly the same standing as the Financial Transactions Reports Act 1988.

The EPBC Act standing provisions were always intended to allow the genuine interests of an aggrieved person whose interests are adversely affected to be preserved. This will continue to be the case.

The EPBC Act standing provisions were never intended to be extended and distorted for political purposes as is now occurring with the US style litigation campaign to "disrupt and delay key projects and infrastructure" and "increase investor risk".

Changing the EPBC Act will not prevent those who may be affected by a project from seeking judicial review. It will maintain and protect their rights. However, it will prevent those, with no connection to the project, other than a political ambition to stop development, from using the courts to disrupt and delay key infrastructure where it has been appropriately considered under the EPBC Act.

Conclusion

Since coming into government we have applied the highest environmental standards. We have halved the time for environmental approvals and cleared the backlog of projects left by Labor.

We have approved over $1 trillion in projects and established a One-Stop Shop for environmental assessments. All while maintaining environmental standards.

Indeed, the World Heritage Committee not only reversed the direction we inherited of the Great Barrier Reef being on the 'watch list' with a direct path to being placed on the 'in-danger list', it lifted the
Great Barrier Reef back to the highest rank of World Heritage listing and praised Australia as a global role model only seven weeks ago.

With this Bill we are seeking to restore certainty to the EPBC Act, prevent the Americanisation of Australian trial litigation, while reaffirming the sanctity of EPBC Act processes and the ongoing rights of genuinely concerned landowners and other similar parties.

I commend the Bill to the House.

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

**Tax and Superannuation Laws Amendment (2015 Measures No. 4) Bill 2015**

First Reading

Bill received from the House of Representatives.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:40): I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education and Training) (16:40): I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

**TAX AND SUPERANNUATION LAWS AMENDMENT (2015 MEASURES NO. 4) BILL 2015**

Today I introduce a Bill that amends various laws to implement a range of improvements to Australia's tax and superannuation laws.

This Government is committed to fairness and sustainability in Australia's tax and superannuation systems. The Bill I am now introducing demonstrates that commitment by making some important changes to remove unintended consequences in the tax system and protect lost superannuation accounts with low balances until they can be reunited with individuals.

It is imperative that everyone pays the right amount of tax. A large part of this is ensuring that our tax laws are robust and cannot be circumvented for an unfair personal or corporate gain.

As the times change, so too should our tax system. This Bill will make two tax changes that make our tax system fairer and more robust. These changes are important integrity measures that will eliminate unintended consequences to make sure that the right amount of tax is paid.

The Government is also committed to ensuring that Australians have adequate retirement savings. This Bill will make an important amendment to the superannuation law to protect lost superannuation accounts with low balances from being eroded by fees and charges.

The first change in this Bill will strengthen the integrity of the scrip for scrip tax roll-over, which applies to companies and trusts involved in mergers and acquisitions activity.

The scrip for scrip roll-over rules provide tax relief when a company takes over, or merges, with another company. Where shares or interests in one company are exchanged for similar shares or
interests in a new company, the tax payable is deferred. This reduces the costs of takeovers, and ensures that tax impediments don't prevent restructures taking place.

Special integrity rules apply to ensure that this tax relief will not apply where the same person or group controls both the acquiring company and the company being acquired. In those circumstances, companies could structure their affairs to obtain an inappropriate tax benefit.

A court decision has found that these special rules were not operating as intended. A company was able to issue new interests as part of a takeover which prevented the integrity rules from operating. They were also able to use debt as part of their restructure to avoid paying tax.

This is outside the policy intent of denying the tax roll-over in these circumstances — and creates a situation where tax could be indefinitely deferred.

This schedule resolves this issue, and amends the special rules to ensure they cannot be circumvented, by changing certain definitions, and introducing new, stronger, integrity rules.

Similar issues arise with acquisitions or mergers of trusts. The schedule will further amend the scrip for scrip rules to ensure they apply correctly to trusts.

This change is an important integrity measure for companies and trusts. Integrity in the tax system is also of high importance for individuals.

That is why Schedule 2 will amend the Income Tax Assessment Act 1936 to remove an income tax exemption for government employees who work overseas for more than 90 days delivering Official Development Assistance.

As a general rule, Australian residents are taxed in the Australian personal income tax system on their worldwide income. This income tax exemption was introduced to ensure that Australians who earned income while working overseas were not subject to double taxation — once in the overseas country and then again in Australia.

However, over time, this tax exemption has become more of a tax break for certain Australians who travel overseas to work. This has meant that government employees who claim this exemption have not been liable for income tax in either Australia or the overseas jurisdiction.

The practical effect is that some government employees are eligible for an income tax exemption on foreign earnings while others are liable to pay income tax.

This Bill ensures that all government employees who deliver Official Development Assistance overseas are subject to Australian income tax on their pay and allowances. This amendment will take effect from 1 July 2016.

This will standardise the tax treatment of government employees who deliver Official Development Assistance overseas.

Australian Defence Force and Australian Federal Police personnel, as well as individuals delivering Official Development Assistance for a charity or private sector contracting firm, will maintain eligibility for the exemption.

This amendment will result in a gain to revenue of $6.7 million over the forward estimates.

The final amendment in this Bill I bring forward today, in Schedule 3, will increase the account balance threshold below which small lost superannuation accounts must be transferred to the ATO.

Firstly, let me explain what lost super is.

In general, lost super is a super account where the fund has either lost contact with the member or the account has been idle for more than five years.

When we look at how people get into super, we know that around 70 per cent of employees are members of the default fund offered by their employer. Individuals are generally far less engaged with their superannuation than they are with their bank accounts.
When many people switch jobs, they often end up with a new super account and fail to consolidate existing accounts. As a result, many people end up with more superannuation accounts than they want or need.

According to the ATO, 45 per cent of working Australians have more than one super account.

In many cases, members are not aware that they have lost super accounts.

For super accounts with smaller balances, the cost of fees and charges and insurance premiums can exceed investment returns. This can be particularly problematic for lost super accounts because, in most cases, the members aren’t aware that they have these accounts and can end up losing money that was meant for their retirement.

I have said before that competition in the superannuation system is important. Research by the Grattan Institute in 2014 has found that there isn’t strong competition based on fees in the super sector.

The problem of high fees is exacerbated because many Australians have unnecessary superannuation accounts, which means they could be paying significant amounts in needless fees every year.

The Australian Prudential and Regulation Authority estimates that the median total fee paid by Australians for a low cost super account is around $532 per year.

Transferring lost super accounts with low balances to the ATO will help protect these accounts from fee erosion and preserves their value until they can be reunited with the member.

The ATO does not charge any fees for maintaining these accounts. In fact, individuals are able to reclaim their super money from the ATO at any time and are paid interest calculated in accordance with the Consumer Price Index on this money. The process for reclaiming these monies is quick and simple.

Currently, lost member super accounts with less than $2,000 must be transferred from funds to the ATO as unclaimed superannuation money. This Bill will increase the $2000 threshold in two phases – first to $4,000 from 31 December 2015 and then to $6,000 from 31 December 2016. This is different to unclaimed banking where no maximum monetary threshold applies.

In the 2015-16 Budget the Government announced six measures that will reduce red tape for superannuation funds by removing redundant reporting obligations and by streamlining some of the lost and unclaimed superannuation administrative arrangements.

These include: updating the definition of ‘uncontactable’ to account for contemporary forms of member communication (for example on-line communication); supporting Eligible Rollover Funds proactively consolidating lost accounts; and allowing direct payments of lost super held by the ATO to persons with a terminal illness.

These changes will make it easier for individuals to be reunited with their lost and unclaimed superannuation.

The ATO also plays an important role in assisting individuals to keep track of their super.

The ATO has a range of strategies in place to reunite members with lost and unclaimed superannuation accounts and reduce the number of unnecessary and inactive accounts in the superannuation system.

The ATO uses its own data as well as data from other sources to maximise the number of super accounts matched to an individual.

Individuals can access their super account information online through the Government’s ‘myGov’ web service or through SuperSeeker. These services allow individuals to consolidate lost superannuation to their chosen superannuation fund. They also allow individuals to transfer any ATO held superannuation to their superannuation account.

In the 2014-2015 financial year, over 450,000 accounts worth nearly $2 billion have been consolidated using ATO services.
The ATO also proactively works with super funds to ensure that they have updated addresses and contact details for their lost members. I note that this lost super measure was first announced by Labor but was not enacted.

In November 2013, the Government announced that it would deal with a backlog of tax and superannuation measures that had not been legislated. Consistent with that commitment, the Government is introducing this Bill to enact the measure. The Government recognises that for many Australians their superannuation savings will form a significant part of their retirement income. With this Bill, the Government will help ensure that Australian's retirement savings are protected from fee erosion.

The three measures presented in this Bill represent important updates to our tax and superannuation law.

The Government is committed to seeing all Australians paying their fair share of tax. The two tax changes presented in this Bill make our tax system more robust so that companies, trusts and individuals cannot unfairly avoid tax in a way that was never intended.

The Government is also committed to ensuring that money Australians have saved for their retirement through superannuation is preserved rather than depleted by account fees and charges.

These changes represent important updates that are consistent with the Government's values of fairness and sustainability, with full details contained in the explanatory memorandum.

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

Australian Defence Force Cover Bill 2015
Australian Defence Force Superannuation Bill 2015
Defence Legislation Amendment (Superannuation and ADF Cover) Bill 2015
Gene Technology Amendment Bill 2015
Passports Legislation Amendment (Integrity) Bill 2015
Australian Small Business and Family Enterprise Ombudsman Bill 2015
Australian Radiation Protection and Nuclear Safety Amendment Bill 2015
Acts and Instruments (Framework Reform) (Consequential Provisions) Bill 2015

Assent

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

Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014

Second Reading

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

(Quorum formed)

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (16:44): I thank all senators for their contribution to the debate on the Environment

CHAMBER
Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill. This bill demonstrates the government's election commitment to implement a one-stop shop for environmental approvals. This will deliver a more effective and efficient regulatory system for Australian businesses, while maintaining the highest environmental standards. This bill will ensure that the one-stop shop can operate effectively and efficiently, providing certainty for business and the environment.

Let us be clear: this reform is central to delivering more than $400 million of annual savings to Australian business. It is essential to ensure we remove unnecessary red tape and regulation and create an environment in which Australian business can operate as efficiently and effectively and at as low a cost as possible. But at the same time it is about improving environmental standards and ensuring they operate as efficiently and effectively as possible. Put together, this legislation is fundamentally about better regulation—regulation that comes at the lowest cost yet delivers the optimal outcomes.

As a government, we have already made enormous progress since our election on delivering our commitment to the one-stop shop reform around environmental approvals and assessments, a reform that will ensure that Australian businesses seeking and requiring environmental approvals need not work in a cumbersome way through multiple layers of government but are well placed and well positioned to work through one level of government in a process that ensures they are assessed against and ultimately approved against all of the standards of all levels of government in a singular arrangement.

We have assessment bilaterals in place and operating now with all Australian states and territories, thanks to the hard work of environment minister Greg Hunt. These agreements were already delivering savings for businesses. We have also published draft approval bilateral agreements with New South Wales, Western Australia, South Australia, Tasmania and the Australian Capital Territory. The passage of this bill will allow us to sign and implement these agreements. It will ensure, in those jurisdictions where governments are willing to take on the responsibility of not only assessing but also approving environmental applications under the EPBC Act, that that can occur. Let us have a look for a second at those jurisdictions. They include South Australia and the Australian Capital Territory—two Labor states who are willing to work with us and are eager to ensure that the one-stop shop reform is delivered to help with the efficiency and effectiveness of environmental laws in their states, working hand in hand with environmental laws federally. I also note that we saw support for that change elsewhere across the political divide, from the Tasmanian government. We have that bipartisan support in a number of jurisdictions for this legislation and for having a one-stop shop process in place. Unfortunately, those opposite in the Labor Party are determined to stand in the way of having an effective arrangement for Australian business. They are determined to have a situation where Australian businesses continue to face unnecessarily high costs when there is a more efficient way of doing it, when there is a possibility of setting in place an arrangement where we have one process that provides assessments and approvals against the standards of both the states and the Commonwealth.

Let me reiterate to all senators before they come in and vote on this matter that this reform in no way undermines or changes the high standards of assessment that projects that are deemed to be controlled actions under the Environment Protection and Biodiversity Conservation Act will face. It in no way changes the matters of national environmental
significance that these projects will have to be assessed against. It simply makes sure that when they are being assessed we are in the best possible position to have them assessed and approved through one process and to save businesses the millions of dollars in unnecessary costs, duplication and unnecessary red tape that having multiple layers of approvals involves.

We will be bringing to the chamber some amendments to this legislation. I will touch on those—firstly, the water trigger amendments. With regard to our precious water resources, the government appreciates that there is significant community concern around coal seam gas and large coalmining development. We have heard these concerns so, whilst we remain committed to a one-stop shop, we have determined that the Commonwealth will retain responsibility for approving coal seam gas and large coal projects in relation to impacts on water resources. The so-called water trigger is of course the most recent addition to the matters of environmental significance in the EPBC Act, having been added during the life of the last parliament. On balance, having heard the concerns and arguments that have been put, we think it is appropriate to maintain Commonwealth oversight of that particular trigger, which has not been operating for as long as some of the other triggers. We have also strengthened the role of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development to provide advice to state and territory governments on water issues. This will provide the community with greater assurance that decisions are informed by the best available science.

On behalf of Mr Hunt, I want to particularly thank our coalition colleagues in the National Party for helping to reach this agreement to ensure that we have a sensible balance that protects the water resources of Australia and ensures that appropriate assessments occur in relation to coal seam gas and large coalmining developments but also allows us to progress this important reform and achieve the overwhelming majority of the savings to business and greater efficiency across the economy that we seek to secure. On behalf of Mr Hunt I would also very much like to thank Senators Madigan, Muir and Dio Wang, in particular, for their constructive engagement on this issue and the sensible way that they have approached it, as they so frequently do in discussions in relation to environmental legislation. I welcome the fact that they are ensuring and helping us to achieve an outcome for the good of the environment and for the good of the Australian economy.

The government will also be proposing amendments to the Environment Protection and Biodiversity Conservation Act which will allow farmers in Tasmania to trial the use of bumblebees to pollinate crops. There is substantial evidence that suggests the use of bumblebees could provide substantial benefits to the Tasmanian horticultural industry. The amendments will create a mechanism for the Australian Minister for the Environment to issue a permit to trial the use of bumblebees for up to two years. This permit would only be issued after a robust and scientific assessment of the potential risks to the environment. Any applicant would be required to demonstrate that the use of bumblebees for this crop pollination purpose will not, firstly, threatened species or biodiversity in Australia and, secondly, will not spread bumblebees further. The Tasmanian government will also be required to consent to the permit. The amendments also allow for the minister to approve permanent use of bumblebees should the trial be successful and should strict environmental criteria be met.
Again, on behalf of Mr Hunt, I want to particularly thank Senator Lambie for her central in constructive role in supporting this amendment; similarly, for the roles played by my colleagues, Senators Abetz and Colbeck, in particular; and members from the other place, notably Mr Hutchinson, Mr Whiteley and Mr Nikolic. They have all been critical to ensuring passage of this important amendment, which once again demonstrates a practical approach to environmental management. It is a practical, common-sense approach, whereby we seek to facilitate potential for economic development and the potential to create more jobs, to grow more opportunities in Australia and, in doing so, to maintain strong protections for the environment and strong protections for our threatened species and biodiversity. These are strong protections that ensure that Australia enjoys and continues to enjoy world-class environmental standards well into the future.

We will also present a number of other technical amendments to provide certainty about the operation of bilateral agreements under the EPBC Act. These amendments will ensure that bilateral approval agreements are robust, durable and provide long-term certainty for business and for the Australian community. None of the amendments change or reduce the standards that state and territory processes must meet in order to be accredited under bilateral agreements.

I do want to step back a little and discuss the environment in which we present this bill. The Environment Protection and Biodiversity Conservation Act was first enacted 1999. That act did provide the capacity not just for bilateral agreements around assessments to be made with the states and territories but also for bilateral agreements in relation to environmental approvals. What we are simply seeking to do today is to clarify and confirm the Commonwealth's potential to have those types of bilateral agreements in place and to ensure that, by having them in place, they will work efficiently and effectively for the good of the economy and the good of the environment.

I again stress to the chamber that none of the amendments have the effect of changing or reducing the standards that state and territory processes must meet in order to be accredited under bilateral agreements. The bill simply brings together our desire for the best of environmental standards—as are outlined already in the EPBC Act—to work in the most efficient way via them being assessed, upheld and approved in tandem with assessments against state-based projects and state-based environmental conditions and approvals.

It was a key part of our election agenda and it is a policy. We have stood fighting for it for a long period of time now. We have argued this policy because we, as a government, are committed to driving down red tape, to driving down regulation and to ensuring that Australian business can be as competitive on the world stage as possible. Let us be under no illusions that the cost of complying with environmental assessment and approval processes—not only the cost in financial terms of doing so but also the cost of delays due to having to do so through multiple layers of government—has a real effect on Australia's competitiveness when you compare it with the rest of the world.

So what we want to do out of this is to ensure that Australian businesses pay as little as is required in terms of compliance costs to meet both Commonwealth and state environmental standards and simultaneously to ensure that the time required for those approvals is as speedy as it can be without taking any shortcuts in terms of the calibre and quality of those approvals. This is critical in a world were global capital moves from country to country quite rapidly and
in a world where we actually have companies, especially large resources companies and energy companies, making decisions about whether a project should go ahead in Australia or a project should go ahead in Brazil. They make those assessments based on how quickly they think they will be able to move through all of the processes and what will deliver them the best return on investment.

That in no way suggests that we should undercut or undermine the calibre of the environmental standards and approvals that we already have. We are certainly not doing that, but it does mean we have a responsibility to Australian industry and to the maintenance and growth of jobs in Australia to make those processes as efficient and as effective as possible. It is a responsibility that we, as a government, take very seriously right across the spectrum in terms of what we seek to achieve and do as a government. We have already delivered reforms that have reduced the red tape and regulatory burden to Australian businesses in the order of some $2 billion thanks to the repeal days we have had and the work that has been done to remove unnecessary legislation, to remove unnecessary regulations and to ensure that the practices of government are as efficient as possible.

All of this work has stripped $2 billion out of red tape and regulatory compliance costs for Australian businesses. That is $2 billion that Australian businesses can invest in innovation. It is $2 billion that they can invest in expanding their business operations. It is $2 billion that can be returned to their shareholders. It is $2 billion that can go towards conditions for their employees. All of that is funding that can help Australia's economy. It can help us to create and generate more investment in Australia so that we are as attractive as possible for that global capital to flow into Australia. By doing that, we will continue our strong record as a government of creating jobs and growing opportunities for more Australians.

This bill can make a very substantial contribution in addition to those $2 billion of savings. Alongside the $2 billion of savings, this bill will deliver around $400 million in annual savings to Australian business. That is $400 million that businesses will not face in terms of regulatory hurdles, red-tape costs and business delays. That is $400 million that Australian business will be able to better use to develop their businesses and pursue new opportunities into the future.

The one-stop shop will achieve major economic benefits in making Australia more competitive. It will provide a simpler, faster assessment and approval process for businesses where they do not have to go through multiple layers of government bureaucracy at a state and federal level but can work through a single one-stop-shopper process that is accredited by the federal government and meets our very high standards. It will also ensure certainty for investors by reducing costs, eliminating or reducing delays, boosting productivity and creating new jobs.

The majority of the savings that will come from the one-stop-shop legislation relate to the reduced approval delays, because reducing those delays of approval will allow for early investment certainty for business and earlier realisation of a project's full value. The Minerals Council of Australia has released modelling that shows that reducing approval delays by one...
year would result in a higher rate of economic growth and that the present value of these cumulative gains between 2015 and 2025 could be in the order of $120 billion.

I emphasise again to the chamber that this legislation, which will allow us to strike the one-stop-shop deals with both Labor and coalition states, who are all on board to do so, will maintain the highest of environmental standards but will allow the Australian economy to realise savings as a result of more efficient bureaucratic practices and ensure that, through those more efficient practices, we have a situation where Australia is as competitive as it possibly can be. I close my remarks by advocating and arguing for all senators to support this bill on its second reading.

Debate adjourned.

**Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator JACINTA COLLINS (Victoria) (17:04): I rise to speak on the Tax and Superannuation Laws Amendment (2015 Measures No.3) Bill 2015. This bill contains two measures that Labor opposed when they were included in a previous tax laws amendment bill. The measures, which cut the rate of the research and development, or R&D, tax incentive and repeal the seafarer tax offset, were removed from that bill by the Senate in March this year. Now the government has reintroduced them in a separate bill, but nothing has happened in the interim to diminish Labor's opposition to the measures. We oppose this new bill in its entirety.

If passed, the bill would further degrade the R&D tax incentive, which, as Senator Carr reminded the Senate during the debate on the previous bill, is the most important mechanism in the taxation system for fostering innovation. The incentive has already been undermined by the Tax Laws Amendment (Research and Development) Bill, which was passed in February 2015 and sees the removal of the R&D tax incentive from all firms on expenditure of over $100 million. The bill would also remove a refundable tax offset that assists Australian shippers to compete with their international rivals, a measure which Labor also opposes and which my colleague Senator Conroy will speak on in more detail.

The government has failed to present coherent arguments in justification of these changes, especially with regard to the R&D tax incentive. This bill, like its predecessor, seeks to cut the incentive by 1.5 per cent. The measure reduces the rate of the refundable tax offset from 45 per cent to 43.5 per cent and the rate of the non-refundable offset from 40 per cent to 38.5 per cent. When the 1.5 per cent cut was first proposed, it was purportedly to preserve the value of the incentive relative to the company tax rate. That justification has already unravelled, because the government has dropped its plan to cut the company tax rate.

The truth is that the arguments the government has marshalled in defence of these changes obfuscate the real motive, which is to scrounge savings. Linking the incentive to the corporate tax rate was never more than a desperate distraction on the government's part. When Labor was in government, the national innovation agenda set out in *Powering Ideas* explained the relationship of the R&D tax incentive to the wider tax system. *Powering Ideas* stated that the replacement of the former R&D tax concession, which had been introduced in the 1980s, by
the R&D tax incentive was to increase certainty by uncoupling the level of R&D support from the corporate tax rate.

The rationale for the change proposed in this bill and its predecessor undermines that uncoupling, even though the promised uniform cut in the corporate tax rate has been abandoned. The change risks creating an expectation that when there is a change in the corporate tax rate the incentive will be adjusted accordingly, but no-one would bother trying to understand how cutting the R&D tax incentive can be rational innovation policy, because the reality is that this bill has nothing to do with innovation policy. When speaking on this bill in the House of Representatives, the Assistant Treasurer finally began to come clean. He said that cutting the incentive by 1.5 per cent would deliver savings of $810 million over the forward estimates, which would:

… contribute significantly to the government's task of repairing the budget …

In other words, short-term cash grabs at the expense of longer term growth continue to be the defining characteristic of this economically myopic government.

The government likes to preach about the need to reduce the deficit. Yet not only has the deficit doubled on the Abbott government's watch; but, with the measures contained in this bill, the government is pursuing a course that will impede growth and, along with it, the revenue streams Australia requires. The fact is that neither of the measures proposed in this bill will deliver savings that outweigh the cost to the economy of implementing them—the cost of impeding growth.

The government may think it has hoodwinked Australian businesses with its contorted arguments for cutting the incentive, but no-one has been fooled. I refer to a report by Joanna Mather, published in the Australian Financial Review on 10 June this year, in which she quotes Mr Damian Smyth of Swanson Reed, a firm that provides tax advice on research and development. He says:

The legislation from last year's budget was introduced on the basis that there would be a uniform reduction in the corporate rate to 28.5 per cent.

The corporate tax rate reduction is now only proposed to apply to very small companies with turnover less than $2 million. This means companies with turnover greater than $2 million will be subject to a drop in the value of their R&D claims.

This is a sneaky cut and any sort of tinkering is going to reduce the willingness of companies to invest in Australia.

In the same report, a statement on the R&D cut issued by the pharmaceuticals manufacturer CSL declares:

The rate reductions and cap are themselves unfortunate, but so too are the continual changes in R&D support arrangements, which increase the risk of long-term investment in R&D.

In CSL's view, these are retrograde measures. They make Australia a less attractive location for R&D and, because R&D is an essential complement to advanced manufacturing, detract from rather than enhance the prospects for advanced manufacturing in Australia.

The reactions of Swanson Reed and CSL are entirely consistent with those of other companies and experts involved in R&D in Australia. In July, at a public hearing in Brisbane of the Senate Economics References Committee inquiry into Australia's innovation system,
Dr Ian Nisbet, the deputy director at the Australian Institute for Bioengineering and Nanotechnology at the University of Queensland, described the R&D tax incentive as:

… the single best thing that has happened in innovation in Australia in the last 20, 30 or 40 years … It is exceptionally well known around the world …

At the innovation inquiry's public hearing in Melbourne, Dr Anna Lavelle from AusBiotech said that:

The R&D tax incentive is now seen by our members … as the No. 1 public policy issue for our sector that requires protection. The desire of government to reduce the benefit from 45 to 43.5 per cent is not welcome. It is a disadvantage more keenly felt by small companies …

These experts all understand what Tony Abbott and his cabinet ministers either fail to understand or recklessly choose to ignore: in advanced industrial economies, innovation is the chief driver of increases in productivity and enhancements in growth. Without a strong innovation system, Australia cannot build a more diverse economy. Without a more diverse economic base, future growth will be unreliable, fluctuating with booms and declines in commodity exports.

That prospect has been brought starkly home to Australians by the June quarter national accounts. The accounts figures show that the post mining boom economy is not faring well. Annual growth is below trend, at two per cent. For the first time in 20 years, more than 800,000 Australians are out of work. The unemployment rate has risen from 5.7 per cent to 6.3 per cent. Consumer sentiment is 10 per cent below where it was at the last election. The budget deficit has doubled in 12 months. To break out of this cycle, we must broaden the economic. We cannot do this without a robust national innovation system that increases our capacity for value-adding, rather than this government's plan of sticking with a plan that is not working.

Senators will recall that, during the debate on the government's previous attempt to cut the incentive, Senator Carr urged the government to heed the advice of the Australian Industry Group in its 2015 budget submission. That advice remains pertinent today. The Australian Industry Group argued:

… the Budget will only see a sustainable improvement when revenues improve, and for this to occur, we must see strengthening in industries across the economy from the anaemic pace of growth in recent years. Only when businesses lift their sales and profits and grow their workforces will there be a sustained pickup in revenues.

Consequently, Ai Group believes the Federal Government should continue with sensible programs of investment in infrastructure and skills and training as well as targeted programs to lift the rate of innovation among Australian businesses and encourage businesses to develop export opportunities. Nonetheless, the government continues to do the exact opposite, in spite of the abundant evidence for the case that Ai Group has made.

As a report produced by the Department of Industry and Science called the Australian innovation system report has noted:

… innovation almost doubles the likelihood of productivity growth in Australian businesses … innovative Australian businesses are 78% more likely to report increases in productivity over the previous year.

The report also notes that firms that collaborate with research organisations and universities are almost 2½ times more likely to report increases in productivity.
In relation to the need for certainty, multinational companies, in particular, often need to make large, periodic investments in R&D capability if they are to undertake R&D in Australia. To attract those investment decisions, Australia must provide an investment environment that offers certainty, transparency and international comparability. But Australia is going backwards, and reducing the incentive runs counter to the international trend. The UK, Hong Kong, Singapore, Italy and France have all increased their R&D incentives in recent years.

The cut proposed in this bill can only erode certainty. The consequences of that perverse stance are clear to everyone except the government. If the bill passes, the effect will be that which CSL predicted in the statement I cited earlier: the cut will discourage R&D investment in Australia. This will also be the case for small and medium sized enterprises. Small firms rely on the existence of a permanent and stable tax incentive to invest in R&D. Small companies are frequently starved of development funds. Many survive on seed funding, which all too often is difficult to obtain in Australia. For companies in this position, the R&D tax incentive is commonly the difference between whether or not a project proceeds. Because of the incentive, many projects have gone on to achieve commercial success, generating jobs, profits and export income. This government is evidently willing to see such projects fail, and jobs and future economic growth along with them.

As Mr Neville Mitchell, Chief Financial Officer of Cochlear Ltd, stated in regard to the previous attempt to cut the incentive:

Ultimately a reduction in the level of R&D undertaken in Australia will result in reduced employment and reduced corporate and individual income taxes.

Cochlear, as senators will know, is an Australian company at the forefront of manufacturing advanced medical technology. More than 250,000 people around the world benefit from Cochlear's implantable hearing devices. The vast majority of Cochlear's R&D activities are conducted in Australia, where more than 300 scientists and engineers are engaged in this work. This company understands very well what tampering with the incentive means: declining investment, declining employment and in consequence declining revenue from corporate and personal taxation. That would clearly be a tragedy for Australia—and a perverse irony for the government. It is somewhat ironic that this debate is occurring at this moment, with what else is occurring in the parliament. Perhaps a change of leader will shift a change in government approach.

I turn now to the seafarer tax offset, which began in July 2012 as part of the then Labor government's maritime reform agenda, Stronger Shipping for a Stronger Economy. The measure provided a rebate to employers of Australian seafarers for part of the income tax withheld while they were on international voyages. The aim was to help Australian based shippers to become more competitive. We wanted to encourage the employment of Australian seafarers on ships and to increase the involvement of Australians in the global shipping industry. This goal was implemented through two tax changes: a zero rate of taxation for Australian ships on the Australian International Shipping Register and an effective zero rate for Australian seafarers working on those ships. The measure in this bill repeals the latter change. In other words, the government is intent on scrapping the incentive to employ Australian workers. The government sees their employment merely as an addition to the cost...
of bringing goods into the country. Yet again, the economic myopia of the Abbott government prevails.

In conclusion, the measures in this bill are testament to the continued damage the Abbott government is intent on doing to Australia's capacity for growth. The government likes to boast about its economic credentials, but degrading the R&D tax incentive and trashing the innovation system reveal that those credentials are worthless. The Abbott government is persisting with a campaign of economic vandalism that began with the cuts to industry programs announced in last year's budget and still includes the attack on Australian workers in shipping. This is an agenda that will leave all Australians worse off and will ultimately fail to achieve the government's stated goal of restoring the budget to surplus.

**Senator RICE** (Victoria) (17:21): I rise to speak on the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015. The Greens are committed to maintaining strong protections for Australian workers and the industries that support them, and this bill is an attack on both of those. And it is *Groundhog Day* that we see these measures coming back. The Senate gave an absolutely resounding 'No' to the government's previous attack on these important measures, just a few months ago. Is it because the government has no other legislative agenda that they are recycling their legislation? Or are they just trying to set up yet another trigger for a double dissolution so that we can have an early election under, perhaps, new leadership, but with basically the same old team with new clothes? You have to wonder why, if we have got such a strong agenda of government legislation being brought forward, we are being asked to consider and reconsider again the same legislation. So, as we did last time, just those few short months ago, the Greens will be opposing the changes to the seafarer tax offset and the research and development tax offset, because they are both essential measures for the future of a vibrant Australian economy.

I want to start with the seafarer tax offset, which this bill proposes to abolish. In its current form, the seafarer tax offset applies to a seafarer in a ship for which a company has the appropriate certificate and where the company employs the crew member for at least 91 days a year for these journeys. This tax incentive goes a long way to ensuring that Australian workers on overseas journeys can get paid a decent amount; it keeps their jobs viable. And it costs us the measly sum of $2 million a year. So, for the sake of just $2 million a year, the government is going to make it harder to employ Australian workers on our seas, and harder to have Australian-flagged ships plying our coast. And that is the last thing that we need to be happening now to our shipping industry.

This government is overseeing the decimation of the Australian shipping industry, at the cost of Australian jobs and the working conditions of the workers who are left. But it is completely consistent with its attacks through trying to repeal the coastal shipping act—completely consistent with what that bit of legislation was going to do. There was economic assessment of repealing the coastal shipping act. It showed that the repeal of the coastal shipping act and of the regulations associated with it were going to reduce Australian employment in coastal shipping from 1,100 workers to 88 workers. The repeal of the coastal shipping act would mean, it is estimated, that the only Australian workers employed on ships in domestic shipping would be those employed on the *Spirit of Tasmania*.

The government, not satisfied with those attacks on domestic shipping, is making attacks on international shipping. That basically means that there would hardly be a job left, whether
in coastal domestic waters or on international journeys, for Australian workers. These proposed changes would have a disastrous impact on working conditions on and safe environmental conditions for ships that are in our waters. The saving the government is trying to achieve is tiny, and, for that, it is going to ditch security for workers and our shipping industry, at the very time they need our support. If we end up with virtually no Australian workers and no Australian-flagged ships, and with virtually every ship that is journeying along our coast or internationally being a foreign-flagged, foreign-owned ship with a foreign workforce, then we know that, inevitably, we are going to have a drop in the working conditions and we are going to have a drop in the environmental conditions. The evidence we have for that is: where we have ships that are only visiting Australian shores infrequently, they do not know the conditions and are much more likely to end up with incidents, and with environmental accidents with impacts on, for example, ships going through the Great Barrier Reef.

At the shipping summit that was held a couple of weeks ago that was convened by the ACTU, we heard from people across the industry how these changes to the government legislation are the very opposite to the direction that we need to be heading in. We also heard that what the shipping industry wants above all at this stage is certainty. They do not want to have to go to another piece of legislation and another set of regulations; the industry will not have the certainty to know where it is headed.

So we must not let it happen. It is the last thing that the shipping industry needs. The industry is already in a storm with the changes to the coastal shipping act that are being proposed. The last thing it needs is to be forced to navigate the storm that would be created if this tax incentive is abolished. The law as it currently stands promotes the professional development and training of workers by including this in the period deemed to be on a voyage, and this is an essential measure to train up Australian shipping workers and to give them the know-how to maintain our status as a major shipping nation. It is a status that we cannot afford and that we do not need to let go. We need to be maintaining every incentive we can, to be maintaining training and to be keeping the skill levels of Australian workers.

Again, at the ACTU shipping summit a few weeks ago, we heard how, by not having the opportunities for Australian sailors to be on our ships, all of the onshore jobs are also threatened, because it takes at least 10 years to build up the skills of a sailor or seafarer before they have the skills to be in a position to, for example, be a pilot—to navigate ships through our waters. If we do not have the opportunities for Australian workers to be at sea, we do not have the opportunity for them to be doing that training, and that means we will have even greater job losses—even more than the 1,100 jobs that are destined to go with the repeal of the coastal shipping act, and even more than are destined to go if we abolish the seafarer tax offset. It will mean complete decimation of the Australian workers being employed in shipping around the Australian coast and internationally. And this is when Australia, in fact, is the fourth largest seafaring nation. The amount of goods that are transported by sea around Australia and from Australia mean we have the fourth highest level of goods transported by sea of any country in the world. We need government to be supporting that industry and building it up. We do not need to be losing that industry. It should be a competitive strength of Australia's. Instead, we have government that has been hell-bent on letting it go.
We have options. We do not need these changes. There are constructive ways forward for us to maintain a strong, healthy, viable Australian shipping industry with good working conditions for seafarers and good environmental protections. Perhaps most importantly, the Australian shipping industry can be competitive with the rest of the world. It needs to be that. It truly is an international business. The industry operates in a market that is largely tax free in international terms. Seafarers on other countries' ships are given similar tax incentives. So this is just a matter of keeping our conditions here in Australia on a similar playing field as those in other countries. Taking this benefit away from our workers will be putting them at a disadvantage to the rest of the world just when we need to be doing everything we can in order to maintain their jobs.

The government argues that the seafarers tax offset has had a low uptake. But, while uptake numbers may appear low at first glance, the reality is that they reflect the number of Australian ships that are operating internationally. This is a vital industry. Rather than getting rid of it altogether, we need to be increasing the number of Australian ships operating and ensuring the safety of the people employed in industry. To achieve this, the seafarers tax offset is a measure that we must keep.

This bill also continues the Abbott government's attacks on science and research and development. The bill cuts 1½ per cent from the research and development offsets available to business and rips $620 million out of research and development over the forward estimates. We have a choice to make here. We can have either a prosperous Australia or an Australia devoid of the knowledge that we need to tackle the problems of the 21st century. In this parliament and in the Australian community it is accepted that increasing investment in research and science is the way forward. We know that our wellbeing, security and economic viability as a nation depend on maximising the innovation that Australians are renowned for. It is in areas that are underpinned by research in science and development that we are going to be able to compete on the world stage.

These cuts to research and development also come on top of the cuts to the research and development tax offset that targeted large company investment. This is not the direction that we should be going in. The insanity of these cuts is reinforced and underlined by the government's own figures on science expenditure. Even though we know that science increasingly needs to underpin our future as a nation, last year we spent less on science and research than we did in 1979. In 1979 I was a first-year science student. I would have thought, as a first-year science student, that as a country we would acknowledge the value of science and research and recognise the importance of science and research to our future and that we would be increasing our level of research. But, no. We are very much going back to a last-century outlook on the direction our country needs to be heading in.

We know that over the last three decades science and research have become increasingly important to our society and economy. The rot began under Labor in 2012, but Prime Minister Tony Abbott—however long he remains Prime Minister for—has taken spending on science and research to the equal lowest level since records began. Sadly, I do not think if we did have a change of leadership and a new Prime Minister that we would see any difference in the direction that this government as a group and as a party are taking our country in. It is not the direction we need to be heading in.
We have seen supported by all of the government, not just the Prime Minister, unprecedented cuts to clean energy programs. We have seen cuts to the CSIRO, forcing some of our world-leading scientists into early retirement. Again, we have skilled scientists who have decades of experience and are committed, capable and able to be continuing their careers and who want to be continuing their careers being forced to take redundancies or accepting voluntary redundancy packages so as to save the jobs of their younger colleagues. Now we are seeing these attacks on the research and development tax concessions.

We know that we cannot compete with China and India on wages, but we have the potential to be much stronger on research and innovation. To achieve this, we need secure and significant public investment. This is something that other countries have certainly twigged to. You would think that it would be something that in Australia we would acknowledge we need underpinning our public policy, given we cannot compete on low wages. But, no. We are trailing behind countries that are our competitors in the world—such as Germany, the UK and the US—and we are being outspent by key trading partners such as Korea and Japan.

We cannot afford to continue these cuts to spending on science, research and innovation. We know that the 'dig it up and ship it out' economy has had its day. We know that fossil fuel reliant industries such as mining have had their day. We have to look to the jobs of the future. We have to look to the jobs that are going to give us a clean, green, innovative, clever, prosperous future. We cannot allow the country's brain drain to continue, and that is what these cuts to science funding mean. They mean that bright Australian scientists are not able to find work in Australia.

I know a young scientist who has just finished a PhD in marine biology; his desperate hope is that he will find a job in his field—there is plenty of marine biology research that needs to be done and our economy depends on a good understanding of our marine biology—but he looks at the prospects for employment and he cannot see anything. He said to me: 'Janet, I want to stay in Australia.' But if you look at his prospects, you would have to think, 'What hope is there?' Another scientist whom I know has spent 15 years working as a climate scientist, but all those 15 years have been in short-term, insecure employment. So many scientists in her position have actually left working in science because they cannot rely upon it. They have mortgages to pay and families to support and they decide that, no, they cannot go from one post-doc to another post-doc to another post-doc—12 months here, 12 months there, perhaps another 18-month appointment there. Very reluctantly, they give up their passion, their commitment and their expertise in science and go off to find a job in some other industry that will give them more certainty. We should not be forcing our scientists to do that. We have so much useful, valuable, economically essential work that our scientists should be doing, but they are not being supported by this government and this government's approach.

We cannot allow the country's brain drain to continue. We must be looking to increase funding for research and development, so we can have the knowledge that the rest of the world is after. The Greens will always be committed to Australian workers—whether they are seafarers plying our shores or whether they are workers—and we are committed to their contribution to a prosperous thriving economy. The Greens are committed to maintaining innovation in our key industries. That is why we will be opposing this bill.

Senator LUDWIG (Queensland) (17:39): I rise too to speak on the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015. There is a good reason
that it is No. 3. This government has been trying—not that they are really trying—to put this bill through this chamber for some time. Quite frankly, they have not got the message at this point in time, but they ought to get the message that the Senate does not accept this bill. It does not accept the two provisions contained in this bill. These two provisions have been sliced and diced into a bill that this side of politics does not agree with and does not think they do the work they are supposed to do. There are much better ways of doing it—such as, firstly, leaving the current policies in place.

The two measures are: Schedule 1 repeals the Seafarer Tax Offset with effect from 1 July 2015—and I will come to that shortly—and Schedule 2 reduces the rate of R&D tax incentives with effect from 1 July 2014. Certainly, we have gone past that date. The government has put a lot of effort into trying to explain their policy intent, but it is a failed policy intent. The government says that both measures are being taken to achieve savings. These savings over the forward estimates in respect of the Seafarer Tax Offset are about $12 million and a reduction in R&D tax incentive rates of about $620 million from 2014-15. I am never one to say that these are small amounts. They are significant amounts, but the policy intent behind them—which is to create a saving out of what is effectively a reduction in R&D expenditure and in Australian seafarers around our coastline—are failed policy directions by this government.

In fact if you look at the Seafarer Tax Offset, you would have to wonder whether it is another slice of WorkChoices being served up in another way to attack the Maritime Union of Australia, to attack seafarers who ply Australia's coastal waters. When you look at the work that the government has done, you would be surprised to discover that it has not only provided briefing notes on the MUA for politicians to try to understand how the policy intent of Seafarer Tax Offset would work, but it has done a lot of groundwork to try to convince politicians, the MUA and many others that this is a good outcome. It is a poorer outcome. The approach that this government has taken to regulating coastal shipping in Australia is a disaster. It is not the end of it, if it remains in government too much longer.

The government has a range of attacks on coastal shipping which it is intent on producing, but this bill does not do it. I do not wish to correct Senator Rice that it will create a double-D trigger for the government. That is not the case, but it does not lessen the impact of this bill. Why would this government continue to push this bill forward? The only logical reason is, as Senator Rice did say, that the government does not have much legislation. It has no policy formulation measures and no legislative agenda. In fact, the government's plan is very hollow; it is paper thin; a plan with a title and not much else. The abolition of the seafarers tax offset—which effectively reduces the rate of tax offset available for the seafarers—will ultimately have a disastrous impact on the opportunity which the Labor government put in place. What the Labor government put in place was the opportunity for coastal shipping companies to improve the lot of seafarers, to create a level playing field—or as near as practicable as you can—and to encourage the industry to grow and to employ Australian seafarers on coastal shipping.

The government, as part of the truer reason and as part of their attack on workers—their salami slice of Work Choices that they are not game to serve up again—is found out here. The refundable tax offset originally started from 1 July 2012 for employers of certain Australian seafarers. A company employing Australian seafarers on prescribed overseas voyages made
by certified vessels may be entitled to claim the seafarers tax offset. The government makes much ado about there not being many claimants. With any policy it should be allowed to run its course and to develop the opportunity for companies to see the benefit of employing Australian seafarers.

When the Howard government was in power they wanted to destroy Australian coastal shipping and this government is following that same rulebook. They wanted to ensure that they could have foreign-flag vessels, that they could have foreign crews on ships plying our coastal waters, with no opportunity for developing the Australian coastal shipping industry. The Maritime Union noted that there were six international voyaging ships and each ship would employ approximately 34 seafarers—approximately 204 seafarers in total. The industry saw the benefit and supported the policy of ensuring that the tax offset would remain. In its submission to the Senate Economic Legislation Committee’s inquiry into the previous bill, the ASA, which is the major employer body in the industry, stated:

The Seafarers Tax Offset provides a rebate to the employer of Australian staff for part of the income tax withheld while working in international trades, thereby making the employment costs more comparable with international seafarers.

The industry saw a significant benefit from this outcome. The industry saw that this was a government policy that would benefit and create certainty for their industry. I suspect what this government has done is a reflection on Mr Abbott's tin ear. He did not listen to industry and he did not understand that industry wanted to maintain a policy that would encourage this outcome. But it is not surprising at the end of the day that this industry was not listened to by Mr Abbott. In fact, the list of industries that Mr Abbott has not listened to is more telling of the position. The major area, when you examine it in more detail, is the benefit that will flow. We are talking about $12 million over the forward estimates—it is a significant amount but not a crucial amount for Australian jobs and the Australian coastal shipping industry.

This bill also includes the R&D tax offset. This is again one of those staggering issues where ultimately you have to think the government has lost its way. Rather than promote research and development, rather than look at how you can ensure companies can have good outcomes in R&D, this government has relinked it back. Implementing this provision—which Labor opposes—will reduce overall the outcomes that companies will utilise in research and development. The current R&D system came in on 1 July 2011. The R&D tax incentives assist businesses to offset some of the costs of doing R&D and fundamentally aim to promote innovation. Labor believes that ultimately we need to promote innovation in business if they are to continue to grow and to prosper in the Australian economy. This government does not agree with that statement. The program is to be administered jointly by AusIndustry on behalf all Innovation Australia and the ATO. The R&D tax incentives replace the previous R&D tax concessions. Fundamentally that is where this government is at. You can have an alternative policy position on this issue, and I think Mr Bowen summarised it very well when was speaking in the House about this $620 million cut to the research and development tax concession. He said:

I will say a number of things about this. Firstly, the support given to research and development through the incentive in the tax system has been very important in Australia's research and development efforts. What the government is doing here is relinking the concession to the corporate tax rate. The previous Labor government explicitly delinked the corporate tax rate and the research and development incentive. We did that to provide certainty so that Australian companies investing in risky research and
development ventures knew the sort of support they would receive from the government when they were undertaking the difficult decision about how much to invest.

I think that is by far the better way to go. This government does not agree with that and wants to effectively go back to the old system. I think business also wants certainty about R&D development. This bill does not provide that certainty.

This government has taken the approach of relinking the corporate tax rate for research and development incentives, and that is an alternative argument. I just do not think it is the right argument, Labor do not think it is the right argument, for corporate businesses who want to invest in innovation and in research and development. The area which is of most concern underlines, I think, the government's position: on research and development, this government has been shown to be missing in action. Their treatment of research and development corporations in the agriculture field, their attacks on the CSIRO—these underscore the government's approach to research and development. Fundamentally, they think it is a matter for business and that the government should not play much of a role. In this area I think government does play an integral role in supporting innovation so we can meet the challenges of the 21st century in research and development.

The rates of the refundable and non-refundable tax offsets will effectively be reduced by 1.5 per cent from 1 July 2014, from 45 per cent to 43.5 per cent for companies with an annual turnover of less than $20 million and from 40 per cent to 38.5 per cent for all other companies. This will preserve the value of the R&D tax incentive relative to the company tax rate, which will be cut by 1.5 per cent from 1 July 2015. All of this tells us that this government is about reducing the outcomes in this field.

More can be said about this tax position that the government has taken, but I want to touch again on the abolition of the seafarer tax offset. Opposing this offset shows the government's view of employees. The original seafarer tax offset was about revitalising Australian shipping to ensure that we would have a shipping industry in Australia in the next 10, 15, 20 years. The object was to stimulate opportunities for Australian seafarers to be employed or engaged for overseas voyages and to acquire maritime skills. These skills do not come overnight. You cannot train someone to be a seafarer overnight. There needs to be a policy to encourage employers to invest in skills acquisition by allowing employees to acquire those skills over time so that they become worthwhile contributors to the maritime industry. This government decided to take a short cut and simply say, 'We'll import the skills for coastal shipping.' So, before the seafarer tax offset is even two years old, the government has moved to abolish it. The offset should be given the opportunity to develop and to run its course, because Australia needs to maintain and expand its maritime skills base.

This tax initiative is one of several that arose from the lengthy industry consultation that led to Labor's shipping package. I applaud the then minister for the foresight he showed and for the work that he did in bringing forward a good shipping package that was the subject of wide consultation and met the approval of the industry. That is because what this industry wants is certainty, not reform after reform after reform. What this industry needs is the ability to revitalise the Australian shipping industry, an industry in its own right. It is not, as the coalition would say, 'just the cost of doing business'.

The coalition should stand up for Australian shipping rather than continue to do what it has done over the past year—that is, walk away from the practical aspects of supporting
Australian jobs and defending Australian skills. We know the coalition will soon try to walk away from supporting Australian coastal shipping because it wants to open the coast to increased numbers of foreign vessels, with crews on Third World wages, which is bad both for the environment and for safety, but it is unsurprising coming from this government.

The Australian Shipowners Association oppose this policy. So, not only do shipowners oppose this policy; the companies that are affected by the R&D change oppose it as well. You wonder who the government were listening to when they wrought these changes. The Australian Shipowners Association believe the seafarer tax offset was a key element of the 2012 reforms and that it helped to reduce the operating costs of Australian vessels, increase the competitiveness of Australian shipping and provide a significant opportunity for employment of Australians in the international trade, and that its abolition will have a severe impact with regard to future opportunities. That is the industry itself saying directly to this government that these changes are bad, are unsustainable and should not be implemented.

But this government, hell bent on ripping money out of everywhere, has not looked at the policy objective and has not considered how the policy will impact negatively on Australian workers. It just decided to do this. You wonder who is in charge of the show—and, until later tonight, no-one probably knows the answer to that.

Senator KETTER (Queensland) (17:59): I rise this evening to speak against the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015. I make the observation in commencing my contribution that today is a historic occasion in that Mr Turnbull, in the other place, has decided to announce a challenge to the Prime Minister. I noted in watching Mr Turnbull's statements that one of the grounds which he is relying on to support his candidacy for that position is the fact that this is a government which is not displaying economic leadership and it is not able to demonstrate that it has anything in the way of economic credentials. That is quite relevant to the bill before us because there is no other example of a government which has a very short-term approach, a myopic approach, to economic management. This is a classic example of putting short-term savings against the prospect of longer term growth. We know how important long-term growth is for the jobs of the future and our economy. We know that the real purpose behind this particular bill, as Senator Collins indicated in her contribution: to scrounge savings in the area of the R&D tax offset of something like $810 million over the forward estimates. We know from various stakeholders in this area that this move is going to impede growth, and that is one thing that we cannot afford to do with the economy of this nation.

Tonight I begin my contribution with respect to the research and development tax incentive. I feel very strongly about this and I call on the government, whoever is in charge as of tomorrow, to review its position in relation to this important matter. As other contributors have indicated, these are identical measures before us today which have already been defeated in the Senate once before, on 2 March this year. In our view nothing has changed to warrant a different conclusion coming out of consideration of this bill. I urge the government to listen to the business community and other stakeholders in this area. The government seems to operate on the mythology that it has superior economic credentials. It really does have a tin ear when it comes to this particular matter. If it does not review its position in relation to the R&D tax incentive in particular, I believe that this government will be condemned by history for these acts of economic vandalism.
I will make general observations about the R&D tax incentive and the importance of it. It goes to the fact that, in advanced industrial economies, innovation is the principal driver of increases in productivity. Firms that innovate are more competitive and can sustain more highly skilled and highly paid jobs. Tax incentives are one of the most effective tools available to government for stimulating an attractive investment in innovation. This is something that we heard from witnesses to the Senate Economics References Committee inquiry over and over again: the significance of the R&D tax incentive. This investment in turn is critical to developing dynamic and highly productive industries able to compete at the top of the global value chain. Of course, the R&D tax concession is something that Labor introduced in the 1980s, making Australia one of the first countries in the world to foster innovation through the taxation system. We updated the scheme in 2011 and the positive effect of the new measure was almost immediate. The R&D tax incentive was a landmark reform building on Labor's record of investment in innovation and R&D.

The most pressing concern for stakeholders is the increasing uncertainty that the measure before us today will create for the business community by actively discouraging investment in R&D. This is precisely the situation that the Labor government was trying to avoid when it introduced the R&D tax incentive, making it independent of the company tax rate. The uncertainty and policy inconsistency created by the proposed change cannot be overstated and concerns about the impact of this change on R&D investment in Australia are repeated in almost all of the submissions to the Senate Economics References Committee. Ernst and Young, for one, noted:

This type of inconsistency can discourage R&D investment by both small and large companies within Australia.

KPMG noted:
The rate reduction limits companies’ ability to plan their long term R&D investments.

KPMG went on to say:
Through its conduct, the Government is actively dissuading companies from doing R&D in Australia.

It is absolutely mind-boggling that we have a government which wants to go down this path.

Labor understands the importance of innovation to our economy. In Mr Shorten's budget reply speech, the following points were made:

Innovation offers opportunities everywhere: smarter farming and safer food, more livable cities and better transport.

New ways of learning from each other, working and communicating with each other and caring for each other.

It is the key to the jobs of the future, the jobs that a Labor Government will deliver.

Mr Shorten said that Labor sees the future as 'one defined by science, technology, education and innovation'.

There are a number of reasons in particular why I oppose the changes to the R&D incentive. Firstly, there is the point that I made briefly about the ongoing uncertainty and inconsistency which discourages firms from investing in R&D. This is in addition to the recent tinkering that has happened to the incentive under this Prime Minister, the changes which included the $100 million cap, which was passed, the reduction in the rate, which has not been passed, and reviews through the tax white paper and flagged in the government's
response to the *Boosting the commercial returns from research* discussion paper. All of these announcements add to the uncertainty in this area.

Secondly, we are talking about a government which is proposing to punish business, particularly small to medium enterprises, that rely on a permanent and stable R&D tax incentive in order to invest in R&D. Recently AusIndustry data shows that over 70 per cent of firms accessing the incentive are SMEs and over 30 per cent of companies accessing the incentive are manufacturing firms. Thirdly, another reason for opposing goes to the fact that the changes discourage investment in innovation at a time when we need it most by reducing the benefit for R&D and the development of new technologies.

Fourthly, the measure ignores the importance of government leadership in investment and in innovation and R&D, and I place on record here Labor's latest commitment to devote three per cent of GDP to R&D by the end of the next decade. Fifthly, a further reason is that supporting the measure would significantly undermined Australian R&D and investment in innovation, science and research, damaging our reputation, especially in the business community. Finally, I would also argue that the measure is highly retrospective and would apply in the income year commencing 1 July 2014.

It is not just Labor talking about the damage which these measures will cause. A number of witnesses in the Senate Economics Committee inquiry provided significant submissions, and I know that Cochlear has already been referred to. Cochlear Ltd is a significant company, a top 100 ASX listed company focusing on research, development, manufacturing and distribution of implantable hearing devices. This is a company which says that it is very concerned about the reduction in the rate of the R&D tax incentive for companies that actively seek to improve Australia's economic competitiveness. They say the proposed reduction is the equivalent of a 10 per cent cut for small companies and a 15 per cent cut for large companies, and Cochlear has skin in the game here. They typically spend in excess of $100 million on R&D annually, but they do ominously make the point that this will need to be reviewed in light of recent measures to cap eligible expenditure at $100 million. The proposed changes to the R&D tax offset rate will be a contributing factor and an important consideration in Cochlear's decision to continue to grow its R&D investment in Australia, and they make the point that a reduction in the level of R&D undertaken in Australia will result in reduced employment and reduced corporate and individual income taxes.

The business uncertainty here is very bad news for Australia. I also note the contribution made by KPMG who have stated: 'We are concerned that the proposed reduction counters the global trend to increase R&D investment as a way to boost economic growth and jobs. For example, Hong Kong, Singapore, Italy and France have all increased R&D incentives in recent years.' They went on to state: 'Faced with a reduction in support by Australia and increased support in other countries, many companies will rethink doing R&D in Australia. Ultimately, a reduction in the level of R&D undertaken in Australia will result in reduced employment and reduced corporate and individual income taxes.'

Another company which made a submission was AusBiotech. They expressed bitter disappointment at the government's move to reintroduce legislation to cut the R&D tax incentive. They have urged the Senate to reject the legislation. I believe that perhaps Dr Anna Lavelle has already been referred to in previous contributions by senators this evening. She has stated:
While this cut and its flow-on impact may appear small or inconsequential, it will specifically disadvantage small pre-revenue and start-up companies, which runs completely counter to Government rhetoric and indeed the policy intention of the R&D Tax Incentive.

She goes on to make the point that:

… the constant threats and tweaks to the R&D Tax Incentive are unsettling for biotechnology developers and undermine business confidence at a time Australia can least afford to falter.

These very important companies in this area of research and development are all coming out and opposing what the committee is proposing to do. CSIRO, unsurprisingly, has also made some comments in relation to this matter. It has made the point that only 30 per cent of Australia's R&D workforce is employed in industry, which is very low by OECD standards and compares particularly poorly with innovation powerhouses the US and Japan who have almost 80 per cent of their R&D workforce in industry. It made the point that this low percentage not only limits the ability of Australian industry to undertake its own R&D activities but also limits business-to-business collaboration and business-to-research-organisation collaboration. These changes can only further exacerbate the problems that the CSIRO has already identified.

I want to leave consideration of the R&D tax incentive at that point and focus the remainder of my remarks on the other aspect of this bill, which is the proposed abolition of the seafarer tax offset. It is important to note—and Senator Ludwig has made these points—that, when in office, Labor understood that the Australian shipping industry had been in a state of decline. We noted that under the Howard government the number of Australian-flagged vessels working domestic trade routes had plunged from 55 in 1996 to 21 in 2007. So we introduced these changes to revitalise the Australian shipping industry. This followed the unanimous recommendation of a 2008 parliamentary inquiry and an extensive consultation program with all stakeholders between 2010 and 2012. Our aim was simply to support the ability of the Australian shipping industry to compete within its own borders.

This measure has been operating for a relatively short period of time, but it is very important for our national and security interests to revitalise the Australian shipping industry. We are an island nation. We have one of the longest coastlines in the world. One tenth of the world's trade goes to or from Australia, and we have the fifth largest shipping task in the world. The object of the seafarer tax offset was to stimulate opportunities for Australian seafarers to be employed or engaged on overseas voyages and acquire maritime skills benefitting employers of Australian seafarers. The measure was a direct benefit to employers, providing an offset for tax paid by the employer when employing Australian seafarers engaged in international trade. It assisted in equalising the relative costs of Australian seafarers with the costs of foreign seafarers, providing an incentive to employ more Australians than otherwise would occur.

It is significant to note that the Senate inquiry into the abolition of the seafarer tax offset received no submissions supporting its abolition. There were a number of stakeholders involved, including Maritime Industry Australia Ltd, formerly known as the Australian Shipowners Association, Shipping Australia and the Maritime Union of Australia. The Australian Shipowners Association made the point that:

The Seafarers Tax Offset was a key element of the 2012 reforms which helped to reduce the operating costs of Australian vessels, increased the competitiveness of Australian shipping and provided
significant opportunity for employment of Australians in international trades … the impact [of abolition] is severe with regard to future opportunity.

This government is attempting to abolish the seafarer tax offset barely two years after it was introduced, without giving it the opportunity to effectively develop and expand Australia's maritime skills base. We note that the MUA has also made submissions in relation to support for the seafarer tax offset. They have drawn on research which demonstrates that other countries around the world have for some decades adopted fiscal and other measures to address the adverse effects of foreign competition on their national shipping fleets.

This bill deserves to be defeated yet again. It is a terrible waste of the Senate's time to be considering a measure which is so short-sighted in its approach, one approaching the category of economic vandalism. I urge the Senate to reject it.

**Senator STERLE** (Western Australia) (18:19): I look forward to making a contribution today on the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill. It is a pretty dull, boring, colourless day in Canberra, but I thought that I would come down and liven it up a bit. The worst part of going further down the pecking order is that most of your colleagues have said the things that you wanted to say. But it would not be remiss of me if I just threw a few more suggestions around. It is not very hard for those opposite to realise that, unfortunately, I do not have a great deal of confidence in our current minister when it comes to shipping. It has been proved that he is anti Australian shipping, anti Australian jobs. They love to wrap it all up as an attack on the MUA.

Two Fridays ago I had the pleasure of attending the shipping summit down in Melbourne. The shipping summit was put together—before they all start jumping up and down—by a very impressive array of people who actually have skin in the game in shipping. It was convened by the ACTU and Senator Madigan. They came together and said, 'Let's get together the people who are going to be affected by this ridiculous decision by this crazy government over there to kill off Australian shipping jobs.' It was well attended because there were—it is not very often that I read speeches, but I am just reading a couple of notes—the MUA, of course; shipowners were there; Shipping Australia were there; ANL were there; the cement industry was there and there was an array of senators. Apart from Senator Madigan there were Senator Lambie, Senator Rice and me. I am sure Senator Rice will concur with me that it was a worthwhile event. I stayed for the whole day. The sad part, as Senator Rice would know, is that no-one from the government bothered. Not one single government representative could be bothered to go to a shipping summit and actually listen to the effects that this and other crazy legislation would have on Australia's seafarers and Australia's shipping industry.

They did not give a damn about doing away with Australian jobs. They did not stop to think for one minute about the implications that would be created or the knock-on bad effects, like the possibility of 1,100 seafarers being put out of work and being undermined by foreign labour. Don't you dare call me xenophobic, you lot over there. I will always stand up for Australians jobs. If we do have foreign seafarers, they need to be paid the same conditions and wages as Australian seafarers. But to come blindly charging out and make yourself feel so proud that you are going to get rid of Australian jobs, it makes me want to vomit. Not only are the seafarers the ones who are going to lose but so will Australian businesses.
The hypocrisy of that lot over on that side has no limits, because they just do not want to listen. The classic example of what it meant to Australian business was none other than a Mr Bill Milby. We have read about Mr Bill Milby. If you have not heard about Mr Bill Milby, you have been on another planet for the last week and a half. Mr Bill Milby represents North Star Cruises. North Star Cruises has that wonderful yacht, *True North*. I have actually been on it. It is magnificent. Mr Milby employs about 40 Australians. They predominantly live in Western Australia, down south, and they predominantly are a lot of young people, plus the experienced skippers and the masters. He also has employees who live in Broome. They are all Australian. That is one business up there in the Kimberley in Broome, in God's country, right up the top there. Don't worry about what the eastern staters say; that is God's country.

But there are also another 16 Australian companies who are based up there. They do the tours and those wonderful cruises from Broome all the way through to Darwin. They pick up some of the most spectacular scenery in the world. But they also work very, very closely in conjunction with the traditional owners, because there are certain parts of that coastline that are off limits, because the traditional owners have certain places that are men only and women only. Those companies not only contribute to Australian jobs but they contribute to the economy; their taxes are being paid in Australia. Everyone wins.

This government, under this incompetent minister, is doing everything it can to kill off not only Australian jobs, as I said, but also Australian businesses. To make matters even worse, Mr Bill Milby heard from the minister. I will paraphrase. Mr Milby said, 'What am I going to do about my jobs?' I am led to believe that the minister pushed him off to officials from the department of transport or whatever they are called now. You know the acronym—regional development and all that sort of stuff. There were bureaucrats from Surface Transport Policy. I do not have to mention their names, because they were exposed at the hearing that we had here last Monday night. Senator Bill Heffernan called them out. To give them credit, they did not lie.

They actually agreed—you know how they can get a little bit weaselly on their words—about what they said to Mr Milby. He asked, 'How am I going to be competitive if I have got to get rid of Australian jobs and there'll be foreigners coming in? How do I do that? Foreign crews, foreign ships.' They told him explicitly, 'You're living in a different world now. You'll just have to go offshore and deflag your Australian vessel. You'll have to go offshore to get a flag of convenience or do something, and then you have to get rid of your Australian crew and you have to employ foreigners.' And these clowns over here think they are doing a fantastic job! It makes me absolutely livid because it is beyond the realm of just wanting to attack the unions, which is all they ever want to do. They have gone that far: they are not just happy attacking the unions. This is just ground zero; they will blast everything out.

Mr Deputy President, I do not have a lot of time. I am not going to seek to continue my remarks. But I will go back to this bill: here is another classic example where a bill was put in under the previous Labor government that gave Australian shipping companies the opportunity to compete in tax offsets. But what does this government want to do? They want to kill it off. Here is another arrow in their artillery to shoot through the heart of Australian employers and Australian workers. I do not know what possesses them to think that this is intelligent policy.
It is getting to the stage where they even had a follow-on. Not only did they shoo Ford and Holden off our shores and not only have they done some grubby deal to have submarines built offshore—let's face it, they have not come back and said these submarines will be built in Australia—but thousands of jobs are going. Yet they are still not content. They want to kill off another 1,100 jobs. Those 1,100 seafaring jobs were figures that were supplied to us at the summit and they were also backed up at the Senate inquiry last Monday night.

I do not hear anyone rushing into the chamber here to take me on. I can tell you another thing about this: in the last round of Senate estimates, the mob from Surface Transport Policy—the same ones, these people are unbelievable; there must be a certain criteria when you join certain parts the public service that you take your brain out and leave it at the door—they came in and espoused this wonderful new initiative by this same Minister Truss called 'setting the course'. I said, 'What the hell is setting the course?' They are telling us—which, der, I have been saying it years, because I knew it back in the nineties—that Australia's road freight transport task is going to double by 2020. Their solution is: 'Good, we will put it all on ships.' Absolutely fantastic! Everyone out there better know that they will not be Australian ships and they will not be Australian crews.

In fact, it led me to the point where I got that frustrated with the bureaucracy that I even suggested that they should set the course for the door, because it is just disgraceful that Australian bureaucrats think that this is a good idea. It leads me to the question: who is leading who by the nose? Is the minister that incompetent that he cannot put his hand on his heart and say to his bureaucracy, 'Whoa, stop, I am not going to trade off Australian jobs.' Or are the bureaucrats that dumb that they are following this terrible piece of legislation and coming up with worse pieces of legislation? They then put their hands on their hearts and say, 'Haven't I done a great job? I've still got my job. I'm all right. I'm protected.'

As my colleagues Senator Ludwig and Senator Ketter said, we are an island nation. For crying out loud, we have got the fifth largest shipping task in the world. We should be proud of what we have done over the years. But to just outsource it offshore to foreign workers on shocking wages, with shocking conditions and with shocking safety? Let's not forget the flags of convenience show that was on Four Corners about when two seamen and an engineer were killed. There is the sort of nonsense, let alone when we start talking about the environment.

As the previous minister, Anthony Albanese said, this is WorkChoices on water. This is a classic example of an incompetent government who does not give a damn about Australian jobs and is running up the white flag. It is not the Australia flag on the back of our ships; they are running up the white flag. Let's hope they all run up the white flag at the next election, because Australia deserves far more than what this lot are delivering. Yet they dare to attack us because we want to stand up for Australian jobs through this ChAFTA—or whatever it is called now: the Chinese export agreement. How great they are!

You know what? A true leader of this nation would unite its citizens. A true leader would do everything he or she possibly could to create opportunity for all Australians—as many Australians as possible. They would not stand up here in this place—here in Canberra—and divide our nation, setting workers against workers and companies against companies. Australia deserves a lot better and hopefully tomorrow—no, I will take that back. It will be all the same stuff, like a pair of old, dirty shoes. You can change the socks, but it is still the same old dirty shoe. I am not supporting the bill.
Senator CANAVAN (Queensland—Nationals Whip in the Senate) (19:30): I am happy to support the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015, which is part of a broader package of policies and legislation aimed at repairing the Commonwealth budget after years of neglect and failure to control our nation's budget. One of the primary tasks the Australian people entrust to us in this place is to manage their money properly. It is not the primary task, which is making sure we keep Australia safe and secure from external and internal threats—and that is something that both sides of politics do a reasonable job of at all times—but it is a very important that we, as elected representatives, make sure that we spend Australian people's money carefully. We should be careful to ensure that we do not spend more than we can afford and burden future generations with the undue sacrifice of having to pay for the lack of frugality of those in present positions. The government has made a big attempt to do that. It has been frustrated at some levels, but, at the same time, the government has delivered more than $50 billion in savings since coming to government. This bill provides two additional policy areas of savings to that overall $50 billion package. In the overall scheme of things, they are relatively small savings, but they are still, nonetheless, contributions to that broader effort.

There are two schedules in this bill—one dealing with the seafarer tax offset and the other dealing with R&D tax offsets. The first schedule amends the Income Tax Assessment Act 1997 to abolish the seafarer tax offset, which currently provides a refundable tax offset to companies for 30 per cent of salary, wages and allowances paid to Australian resident seafarers. In order for the offset to apply, the Australian resident seafarer must be employed by a company to undertake overseas voyages on a qualifying vessel for at least 91 days in the income year. The seafarer tax offset was introduced by the former government and it was admirably intentioned at the time. It was implemented as part of a range of packages to try and grow Australia's shipping industry. Other countries apply some tax benefits to their local industries, and the then Labor government sought to do something similar. The offset became available for use after 1 July 2012. However, this government, on coming to power, decided to abolish the tax offset because it has not been used and has been proven to be ineffective in achieving its original objective of growing Australia's shipping industry.

When the package was announced by the former government in the 2011-12 Mid-Year Economic and Fiscal Outlook, the seafarer tax offset was estimated to cost around $39 million over the then four-year forward estimates period. That cost has been revised down progressively because the offset has failed to be used as much as was originally expected. Indeed, the forward estimates were revised down at the time of the 2013-14 MYEFO, which was the first budget outlook that was provided by the new government. Abolishing this offset reverses the cost, or revenue lost, which is a more accurate way of describing it, across the four-year forward estimates in the 2013-14 MYEFO.

Why is the government abolishing this offset? The former package, as I said, did seek to stimulate investment in and revitalise the Australian shipping industry and to foster the industry's global competitiveness. We are abolishing this tax offset because it is not achieving its policy intent, which was ultimately to stimulate opportunities for Australian seafarers to be employed on overseas voyages and to gain maritime skills. The savings from this measure will be redirected by the government to repair the budget and fund other policy priorities. The
measure will reduce administrative expenses by around $16 million in fiscal balance terms over the forward estimates and in underlying cash terms it will improve the budget bottom line by around $12 million over the forward estimates. As I discussed earlier, those estimates are lower than the original $39 million cost of the scheme because it has not been taken up as much as originally anticipated.

The measure's abolition will not affect a substantial number of companies. The 2013 Australian Maritime Industry Census report published by the Department of Infrastructure and Transport includes statistics on the total number of Australian resident seafarers working in the maritime industry. The report indicates that there are just over 1,000 seafarers directly employed by organisations in that sector. The department also publishes statistics on the number of certificates issued to companies deeming them eligible for a range of shipping tax incentives, including the seafarer tax offset. Certificates apply per company, per vessel and per income year. According to these statistics and Australian Taxation Office information, less than five companies would be affected by the abolition of this tax offset, representing just under 10 per cent of the employment in this sector.

The purpose of this tax offset was to stimulate investment. Clearly it has not done that, given that only five companies have availed themselves of the opportunity to take this offset up. It is not possible to precisely determine why the tax offset has not been taken up to a greater degree, but a number of factors may be at play. Firstly, the competitiveness of the Australian seafaring industry is affected by a range of economic factors, including the Australian exchange rate, which has been relatively elevated in the past few years. Secondly, there are significant differences between Australian wages and conditions in the shipping industry and those of some other countries. The seafarer tax offset is unlikely itself to be sufficient to bridge the gap between those differences. Finally, the seafarer tax offset is a refundable tax offset to the value of 30 per cent of salary, wages and allowances paid to Australian resident seafarers. The benefit offered by the seafarer tax offset may be small relative to the scale of shipping companies, and, of course, it is only refundable—not a direct grant.

The measure is actually separate from the government's other reforms to the Australian shipping industry, notably those affecting the coastal shipping industry. They have been subject to separate reviews and a separate response to the issues there. I will draw some links between the issues around the lack of use of this seafaring tax offset and the broader Australian shipping industry. Of course, there is no argument that the Australian shipping industry faces challenges, particularly challenges around profitability and economics. The very fact that it has been a difficult economic time perhaps indicates why this offset has not been taken up and also why we should seek to correct the underlying profitability issues with the sector before introducing tax offsets themselves. Ultimately, if shipping companies are not making money, a refundable tax offset is not going to change that. By definition, they would need to be making money before they could benefit from a refundable tax offset.

The coastal shipping industry is a part of the broader Australian shipping industry. Unfortunately, in the past decade or so, it has been declining as a share of our nation's freight task and declining in absolute terms as well. That is notwithstanding similar attempts by the former Labor government to stimulate investment and uptake in coastal shipping—notably, the changes that the Labor government introduced in 2012, called the Coastal Trading
(Revitalising Australian Shipping) Act. It did not quite meet the lofty goal set for it in the title of the bill. That is not unusual. Often people who are trying to hide something else include various words in bills that do not actually achieve things. That is not just true of bills. The German Democratic Republic was hardly democratic, and Labor's Coastal Trading (Revitalising Australian Shipping) Act is hardly a revitalising piece of legislation. In the first two years since that bill was introduced, there was a 63 per cent decline in the carrying capacity of Australia's coastal trading fleet. It was a piece of legislation that was intended, in fact, to grow our coastal trading effort, but the coastal trading fleet fell by 63 per cent in tonnage terms over just two years.

Taking a longer term view, the fleet of major Australian ships over 2,000 deadweight tonnes with coastal licences is in sharp decline, plummeting from 30 vessels in 2006-07 to just fifteen in 2013-14, halving the number of vessels in just seven years. Over a 12-year period between 2000 and 2012, shipping's share of Australian freight fell from 27 per cent of our freight tasks to just under 17 per cent, while the volume of freight across Australia grew by 57 per cent. Even looking forward, the picture is not much rosier. Between 2010 and 2030—over broadly the next 20 years—Australia's freight task is expected to grow by 80 per cent but coastal shipping itself is only expected to grow by 15 per cent, meaning that its relative share of our freight task will continue to decline.

That decline is being driven by basic economics and basic costs. I am often told by manufacturers in particular that the cost of bringing or moving Australian freight along coastlines is so excessive that it is much cheaper to import from overseas products that compete against our domestic manufacturers or farmers, because of the differential in freight costs. One example that I will mention is that a soft drink manufacturer in Melbourne reported to me that it is cheaper to import sugar from Brazil than to import sugar from North Queensland. That sugar is priced on a world market, so there is no difference in the price of the raw sugar FOB, but the difference is completely to do with the difference in the freight costs and other transaction costs of shipping between overseas shipping and coastal shipping in Australia. So something has to be done.

The government has a plan to liberalise the stagnant and stultifying regulations that were introduced by the Labor Party. The government has a plan to increase the amount of freight that goes by coastal shipping and, ultimately, to also increase the number of Australian employees on those ships. We will set minimum numbers of Australian employees on coastal ships as part of those reforms. Unfortunately, those reforms are being blocked at the moment. There will be no sunlight for the Australian coastal shipping industry if we simply maintain the existing set of regulations, which are clearly not doing anyone any favours.

I support schedule 1 of this bill because it will deliver those multimillion dollar savings, albeit small savings in the context of the entire budget. But you count your pennies and eventually you end up saving pounds, and that is what this government is doing with this bill here. This bill also looks at the research and development tax incentives and offsets that exist in our legislation, and it seeks to slightly modify those. I am a big supporter of R&D tax system. Indeed, we were a trailblazer among the world in introducing R&D tax credits of the kind that we have in Australia. Other countries—particularly developed countries—ultimately, have largely followed us in introducing things like this. But the good thing about our R&D tax system is that it is largely generic and it does not seek to pick winners or
identify particular sectors where we here think we know better than private businesses and private financiers in the real world. What we seek to do is provide a generic support for all types of R&D across our economy, and, ultimately, let those who are putting their own money at risk make the decisions about which businesses deserve their particular support and funding.

In saying that, it is a costly element of the budget. Indeed, I do not have the figures in front of me, but when I was an economist at the Productivity Commission we used to estimate government assistance at around $17 billion a year, and a good $8 billion or so of that was made up just of this particular measure. As I say, it is something that should be supported and is supported by both sides of politics; nonetheless, it is a very costly form of industry assistance on the whole. So the government has announced a slight reduction in the offset rates for the R&D tax incentive. The current offset rates of 45 per cent and 40 per cent, depending on the size of the business, will reduce by 1.5 percentage points to 43.5 per cent and 38.5 per cent respectively.

The change from a tax concession to a tax incentive was made in 2011 by the former government. In the 2014-15 budget it was announced that these offset rates would be reduced by this margin of 1.5 per cent. We know from the stats that around 9,500 consolidated groups claimed the R&D tax incentive in the 2012-13 year. The government's original decision to reduce these offset rates was to commence on 1 July 2014, keeping in mind the need to repair our budget, as I said in my opening remarks. The changes were estimated to provide the budget savings of $810 million in fiscal balance terms over the forward estimates and $740 million in underlying cash terms over the forward estimates. That estimate has since changed, given the change in timing of this bill, particularly in getting it through the Senate. The current estimates are for savings of $620 million in fiscal balance terms and $550 million in underlying cash terms.

It is important to note that this measure will not affect the eligibility of companies or the broad workings of the R&D tax incentive, which has general bipartisan support in this chamber, and that will not change. All that will change are the offset rates themselves. Combined with the government's change to the company tax rate for small businesses, the benefits of the R&D tax incentive will not change in net terms, because while the tax offset will reduce by 1.5 percentage points, the government has also changed the corporate tax rate for small businesses with a turnover of less than $2 million by 1.5 percentage points. So, in net terms, there will not be an impact for smaller businesses. Data from the 2011-12 income year indicates that approximately 4,400 companies with aggregated turnover of less than $2 million claimed the R&D tax incentive. Those firms will not be affected. The only firms that will have a slight reduction in their ability to claim offsets will be larger companies that have not been able to benefit from that corporate tax change.

I have spoken to some in the industry about this particular measure. While there is some concern that we have not been able to achieve a 1.5 percentage point reduction in the corporate tax rate overall, again, that is a function of the tight budget we have and the difficulty where we cannot perhaps do all we would like to do in this area. In saying that, there is a Senate committee is currently conducting an inquiry into innovation. It has looked closely at this issue as well as a broad range of issues affecting innovation. While that inquiry has been going on, the government has announced plans, particularly in relation to STEM
industries—science, technology, engineering and maths—and particularly to implement a range of industry growth centres focusing on delivering innovation in key sectors across our economy. This change should be seen in the context of those other support measures that the government has bolstered over time, which will continue to ensure that Australia has a strong innovation sector, a strong research and development sector and an industry which largely relies on encouraging private actors to take initiative, to take a risk, to have a go and to see if they can make a new product that is better and more cost efficient and that ultimately delivers better outcomes for the Australian people.

I return to the core reason for this bill, which is to ensure that we do not leave the next generation with a greater burden than that which we face. Clearly, on the current trajectory that we are on, even notwithstanding these kinds of measures, we are set to do that. Whatever you think of the assumptions in the Intergenerational report, they clearly show that we would leave our grandchildren with a burden somewhere in the order of $60,000 to $120,000 in debt per person, and that is not something I want to deliver. I will do everything I can in this chamber to ensure that that does not happen. This bill will help moderate that increase, and I hope it achieves the support of this chamber.

Senator CAROL BROWN (Tasmania) (19:50): I rise to speak on the Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill. The measures in this bill are characteristic of the Abbott government, a government that has failed to protect and promote Australian jobs, a government that has no proposal for the jobs of the future, a government that has rejected science and innovation at every turn, a government with no vision for this nation. The only plan that this government has is the plan to tear down everything that Labor has built.

There are two substantive measures in this bill: the reduction in the research and development tax incentive offset and the abolition of the seafarer tax offset. Labor opposed these measures when they came before this place in the Tax and Superannuation Laws Amendment (2014 Measures No. 5) Bill and we will oppose them again in this bill. The proposal in this bill is that the research and development tax incentive offset be reduced from 45 per cent to 43.5 per cent for companies with an annual turnover of less than $20 million, and from 40 per cent to 38.5 per cent for all other companies.

Short-sighted attacks on science and research have been a hallmark of this government. The 1.5 per cent reduction in the offset was originally linked to Mr Abbott's signature policy, his paid parental leave scheme, and the 1.5 per cent tax on large business that was to be introduced to fund the scheme. Mr Abbott's PPL scheme has disappeared, but unfortunately the cuts to the research and development tax incentive remain. So now the only purpose of this reduction to the offset is to provide the government with a saving of $620 million over the forward estimates.

However, this is no surprise. This is exactly what we have come to expect of this government's antiscience agenda. In the two years since coming to power, the Abbott government has repeatedly attacked, undermined, rebuked and ignored science and research in Australia. Over two budgets, this government has sought to cut $3 billion overall from science, research and innovation. These two budgets have seen Commonwealth investment in science as a proportion of the budget fall to a 30-year low. This is in spite of the Prime Minister's promises to Australia's science sector.
After being elected, Mr Abbott promised to support science and asked Australia's scientists to judge his government by its performance. In his speech at the 2013 Prime Minister's Prizes for Science, Mr Abbott told the gathered audience of Australia's science and research sector:

I'm pleased to pledge the incoming Government to continue to support science to the fullest extent possible.

... I'd say to all of you, please, judge us by our performance ...

I would concur—Mr Abbott should be judged by his performance. And there is no doubt he will not be judged well.

Mr Abbott's war on science has seen cuts to almost all of Australia's science agencies and many major research programs: a $300 million cut to the Sustainable Research Excellence in Universities scheme, a $115 million cut to CSIRO, a $75 million cut to the Australian Research Council, a $107 million cut to the cooperative research centres, an $8 million cut to the Australian Institute of Marine Science and a $28 million cut to the Australian Nuclear Science and Technology Organisation. But unfortunately the cuts do not stop there. There was also a $16 million cut to Geoscience Australia and a $120 million cut to Defence Science and Technology.

The Abbott government simply has no credibility when it comes to science and research—and this bill is just another example of this fact. Cuts to incentives for research and development, especially in the form they take in the bill, are particularly short-sighted and ill-advised.

In November of last year, the Minister for Industry and Science, Minister Macfarlane, told Manufacturers' Monthly:

The Government is putting in place the policies and programmes that will provide incentives for manufacturing firms to invest in technology, and research and development, in order to foster a viable, competitive and successful manufacturing industry.

Yet what we see here in this bill is exactly the opposite. These cuts will stifle innovation; they will cost investment, suppress development and stop companies from being as competitive as possible.

Mr Abbott and Mr Macfarlane have sold out Australian science and research, gutting them with short-sighted and crippling cuts. Labor is the only party that is proudly committed to investing in science, research and innovation to build and sustain the jobs of the future. This is a government with no plan for the jobs of the future—no plan for innovation and development in industries that are vital for our economy.

The other substantive change in this bill is similarly baffling and short-sighted. It also threatens Australian jobs. The other substantive measure in the bill is yet another attack by the Abbott government on Australian shipping. This bill is short-sighted and is little more than another attempt by this government to undo the hard work Labor did to revitalise shipping in this country. It is a continuation of this government's war on Australian workers. It is aimed at killing future jobs for Australians in the maritime industry.

The seafarer tax offset was introduced by Labor in 2012 to level the playing field between the Australian shipping industry and the foreign shipping industry. It was part of a carefully designed package to help Australian shipping companies compete against their international
rivals. The seafarer tax offset provides a rebate to employers of Australian staff for part of the income tax withheld while those staff work on international voyages. Put simply, it offers a tax break for companies who hire Australian seafarers to work on international voyages. It is payable for each employee a shipper hires, for at least 91 days in a year, on voyages to and from places outside of Australia. The amount of the offset is equivalent to 30 per cent of the seafarer's pay.

The aim of the rebate is to help strengthen the shipping industry in Australia. And who could argue with that? Surely it makes good sense when you consider that Australia is an island continent. We also take into account that 99 per cent of our exports and imports are moved by sea. We hear a lot from the Prime Minister about security and protecting our borders. Well, it is in Australia's national and security interest to have a vibrant shipping industry. This government should be standing up for the shipping industry and doing all it can to save jobs in the industry and ensure that skills are not lost.

I am sure that all Australians want to see a competitive shipping industry in Australia. The seafarer tax offset is strongly supported by the employer body, the Australian Shipowners Association. The Shipowners Association wants the seafarer tax offset retained and also expanded to the offshore sector. I am at a loss as to why the government wants to abolish this tax offset. The payment is not made to individual workers or trade unions. The tax offset is paid to a company. So it is unclear why the government is attacking the stand of the Australian Shipowners Association, which is an employer group—and an employer group which sat down over the course of a year with the Labor government and worked out this policy. This is a policy that is, first and foremost, about supporting Australian industry and supporting Australian jobs.

The agenda of this government for shipping is very clear. This bill is just one small part of their agenda against the Australian shipping industry. In other legislation we have seen the government's intention to introduce Work Choices on water. This government does not care about workers, and especially those working in the maritime industry. We saw that when the crew of the Alexander Spirit were sacked in favour of cheap overseas crew, some of whom will be paid less than $2 an hour. The crew of the Alexander Spirit wrote to many parliamentarians, including me. I would like to quote some of their letter. They wrote about their future and said:

Once unemployed, our prospects are limited given there are more than 500 seafarers out of work.

Some of us are too old to retrain and the younger members of the crew have families to support and mortgages to pay.

They went on to say:

Australia is an island nation and seafaring used to be an integral part to this. Once, going to sea was considered an honourable, long-term career option for Australia's youth. Now we look at an Australia with a rising unemployment rate, a shameful youth unemployment rate and the future is looking bleaker.

They are right. The future for seafarers under this government is bleak—and it will be bleaker still if the seafarers tax offset is abolished.

As I said earlier, the tax offset was introduced from 1 July in 2012 and was part of the Labor government's shipping policy reform Stronger Shipping for a Stronger Economy. From the outset and before the offset had been in place for two years, the Abbott government had it
in its sights. It wanted to abolish it. The offset tax did not get the chance to work. We know it must be given time to work because we know that Australia must maintain and expand its maritime skills base. Instead of wanting to abolish it, the government should be working to ensure it stays in place and is a success. But we know that this coalition government has little concern for workers and that it also wants to wreck coastal shipping in Australia. It wants to open Australia's coastal shipping to more overseas vessels who pay their workers low wages. This will be a disaster for Australian workers and it will be bad for safety and our maritime industry.

As my Tasmanian colleague Senator Urquhart has previously highlighted in this place, if the coalition's coastal shipping legislation is passed, two-thirds of Australian shipping workers on the Bass Strait will lose their jobs. They will be forced to join the unemployment queue, just like the workers on the Alexander Spirit. Thousands of Australian jobs are at risk in both coastal shipping and on international voyages. We cannot stand by and watch the shipping industry be destroyed by a government hell-bent on pursuing ideology over sound policy. We cannot stand by and watch workers lose their jobs. Nor can we stand by and watch innovation and development in Australia wither and die. It does not matter who the Prime Minister of this government is; they support this job-wrecking, innovation-and-development-wrecking bill. For this reason I oppose this bill.

Senator XENOPHON (South Australia) (20:02): I, too, have real difficulties supporting the measures contained in this bill. In fact, if the bill is brought to a vote tonight, I will be voting against it. This bill has a number of retrograde measures. Senator Brown has raised a number of very legitimate concerns in relation to this bill.

The first of these measures is the abolition of the seafarer tax offset. This is another kick in the guts to an industry that is already on its knees. What is worse, the predicted savings achieved by the scrapping of this tax offset are miniscule—just $12 million over the forward estimates. I question whether there is no other place the government can find such modest savings, particularly in light of the challenges facing the shipping industry in Australia.

The seafarer tax offset is a refundable offset provided to companies for 30 per cent of salary, wages and allowances paid to Australian resident seafarers on international voyages. Importantly, it provides an incentive for Australian seafarers to be employed on vessels that travel through international waters. These experiences improve Australian seafarers' skills base, making them desirable employees. What is more, this tax offset provides an incentive for employers to hire Australian resident seafarers. Based on allegations made by Mr Bill Milby of North Star Cruises that he was advised by government officials to replace local staff with international crew in order to compete with foreign ships, it is clear Australian seafarers need all the help they can get.

I am concerned that this measure does not appear to be part of a plan to boost Australian shipping in this country. One of the points that has been put to me—and I do not dismiss this lightly—by Senator Abetz, the Leader of the Government in the Senate, and others, including shipping operators and the Deputy Prime Minister, the Hon. Mr Truss, is that there is a concern that it is more expensive to ship sugar from Bundaberg in Queensland to Melbourne by sea than it is from Thailand. If that is the case, we need to look at why that is so and whether there are efficiencies that can be made and work practices that need to be altered. My understanding is that maritime workers are not against having greater efficiencies in the
sector. Maritime workers are not against being part of the solution, if that is the case. So I think we need to do a bit of fact checking so that that assertion that it is cheaper to bring in sugar by ship from Thailand to Melbourne than it is from Bundaberg can be verified and substantiated. If there are productivity impediments in the seafaring industry, we need to look at those and find reasonable, practicable ways to deal with them.

But one way we should not deal with them is by effectively saying that we will gut our local seafaring industry and replace it with workers who are being paid on wages way below Australian award rates. We have rules on cabotage here in Australia. That is something I have been quite active on in the past in relation to the airline industry in respect of Jetstar, for instance, when there were foreign crews, generally Thai based crews—and I have spoken to some of those crew members—being paid an absolute fraction of what Australian based crews are paid by Jetstar. This is something that arose several years ago. I understand there has been some improvement in relation to this where they would be involved in crewing domestic flights. From Darwin to Sydney, for instance, it might be the extension of an international flight, even though 90 per cent of the passengers on that flight—if not all the passenger—were domestic passengers. That to me is not what it should be about; that to me is an abuse of the cabotage principle.

We also need to look at what they do in the United States. The Jones Act, the Merchant Marine Act 1920, in the United States is in clear contrast to what is going on in this country. It is a federal statute that provides for the promotion and maintenance of the American merchant marine industry. I should say that is a line direct from a very quick Wikipedia reference that I dug up now, but it makes the point that under section 27 of the Jones Act, or the Merchant Marine Act 1920, they are much stricter and much tougher in ensuring that there is a domestic seafaring industry. In fact, I understand that even the ships that go coast to coast or port to port in the United States have to be made in the United States of America. They have a much more active approach to local industry participation than we do.

I think we should look at the impact of the legislation and what we can learn from it here. If there are, however, productivity issues in relation to our seafaring industry, let's deal with those in a sensible, rational, consultative manner rather than going down the path of throwing the baby out with the bathwater—of getting rid of this measure, which, while modest in scope is still very important to the local seafaring industry.

The second measure contained in this bill proposes a reduction in the rates of tax offsets under the research and development tax incentive. In a country with a long and proud history of inventors, of inventions and innovations, it seems the importance of encouraging research and development is critical. From the humble rotary clothes line, the Hills Hoist, to the black box flight recorder to the photocopier to the bar code, the depth of talent in Australian inventors cannot be underestimated. The potential for our economy of this innovation must not be lost on any government. In my home town of Adelaide, SupaShock is gaining attention around the world for its development of a shock absorber that is credited with the Ford racing team winning V8 supercar races because of what it does to a car's handling. Defence industries around the world are looking at it. I know one German defence contractor is looking at the way these shock absorbers work and the ride they give. The mining industry is talking to SupaShock because these shock absorbers will make a massive difference to heavy mining and earthmoving equipment. They will significantly reduce the levels of injuries in the
workplace, particularly back injuries, because they will absorb the shocks of that heavy equipment.

I am concerned about the impact of these changes. It is worth reading a letter from the Cell Therapy Manufacturing Cooperative Research Centre of 11 October 2014. It was a submission to similar measures to the Senate Standing Committee on Economics. They said: The CRC program provides funding to build critical mass in research ventures between end users and researchers to deliver significant economic, environmental and social benefits across Australia. There are approximately 40 CRCs across Australia and all have been established to address major challenges that require medium to long-term collaborative efforts.

The CRC also said:
Under the R&D Tax Incentive, our industry participants receive either a 40 percent non-refundable or a 45 percent refundable tax offset, depending on their turnover. This equates to a 10 or 15 percent permanent tax benefit. Under the proposed reduction, this would reduce the benefit by 10-15 percent. Such a large reduction will directly reduce R&D funding.

That is what the submission said, and it is directly relevant.

I want to put on the record that after much negotiation with Minister Cormann I supported changes to the R&D for large companies—those big companies that some would say are big enough and ugly enough, and I do not mean that in a pejorative way, to look after themselves—companies with massive turnovers, massive levels of revenue and income. But these changes will affect those innovative companies—those small and medium businesses that are the future of our advanced manufacturing and are at the cutting edge of research and development and are bringing forward innovations in this country to provide the jobs of the future.

And so I cannot support these changes. It is a change that will have a retrograde effect on small and medium businesses involved in research. With those remarks, regretfully, I cannot support these changes. I think that our shipping industry—our merchant marine industry—does have many challenges, but these proposed changes for our seafarers will not solve the problem; they will only make it worse. When it comes to R&D, we need to keep those current incentives in place so that those 200,000 jobs, which could well be lost in Victoria and South Australia by the end of 2017, once Ford, Holden and Toyota depart as car manufacturers from this country, can be replaced. For those reasons, I cannot in good conscience support this bill.

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (20:14): The Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill abolishes the seafarers tax offset and reduces the research and development tax offsets. Labor opposes both of these measures but in my contribution tonight I intend to speak mainly about the seafarers tax offset. The seafarers tax offset was introduced by the former Labor government in 2012 as part of a package of reforms aimed at revitalising Australian shipping. The reforms were the result of extensive consultation with the shipping industry. These reforms included changes to taxation to allow Australian-based companies engaged in international shipping to compete on a level playing field with their international rivals. Under Labor's reforms, two tax changes were introduced. One was to have a zero rate of company tax for Australian ships that were registered on the Australian International Shipping Register. The other was to have effectively a zero rate on Australian seafarers who worked on those ships. The seafarers tax offset, the measure this bill would abolish, is the latter of the two.
The purpose of this measure was to provide an incentive for the employment of Australian seafarers. More Australian jobs in shipping is not only good for Australian seafarers and their families but also it is good for the Australian economy, particularly the local economies in port communities that rely on the industry. This represents one of the government's many ill-thought-out cost-cutting exercises. In putting these kinds of blunt instruments forward as budget savings measures, the government once again fails to account for the costs of making the cut. After all, overseas-based workers in the shipping industry will pay zero tax and we will lose the economic benefit of Australian workers spending their wages in Australia. Sadly, the Abbott government has failed to stand up for Australian workers in our shipping industry. What we are starting to see under this government is the slow death of Australian shipping.

I mentioned in a previous speech to the Senate that I had spoken with Australian workers from the shipping industry as part of Labor's Fair Work Taskforce hearings about their concerns for the future of their jobs and job security, and the financial security of their families. Other than providing employment for Australians, and the associated revenue that flows through to the Australian economy, there are plenty of other reasons to maintain a strong Australian shipping industry with Australian-flagged and Australian-crewed vessels. While job security was obviously at the forefront of the concerns of the seafarers I spoke to back in June, they were also worried about safety at sea and Australia's marine environment. They simply could not understand why the Abbott government has not only stood by while jobs in Australian shipping continue to decline but also is seeking to actively encourage it. Just last week we had the spectacle of SeaRoad Holdings telling a Senate inquiry that it had no choice but to sack its Australian staff and replace them with a foreign crew under the government's new shipping laws. The Abbott government is attempting to introduce 'WorkChoices on Water'. The evidence from SeaRoad Holdings should be of no surprise to them. If other shipping companies are adopting foreign flags and employing foreign labour on foreign wages and conditions then it puts enormous pressure on those companies who employ Australians to do the same. How else are they going to compete with crews that are being paid as low as $2 an hour or less?

I believe I recounted this story in my previous speech, but in the Fair Work Taskforce I remember one of the seafarers telling us that he used to conduct inspections for the ILO and he came across a foreign-crewed vessel whose crew were being paid nothing, and they were fishing off the side of the ship to feed themselves. What do you think would happen in any other freight or transport sector if we allowed foreign workers with foreign wages and conditions to enter the industry? It is inconceivable that we would allow in workers from overseas on foreign wages and conditions to drive trucks or load rail cargo, yet this is exactly what this government is proposing to do in Australian shipping.

I think many Australians would be surprised to learn—shocked even—that under the Abbott government's proposed legislation foreign-flagged vessels with foreign crews working for companies paying Third World wages could actually operate entirely within Australian waters, sailing from one Australian port to another. No industrialised country in the world allows the kind of unfettered access to its domestic shipping industry that this government is proposing. This government claims to be about creating jobs, yet it is doing nothing to stop Australian crews being replaced with foreign labour and they are doing plenty to encourage it. The abolition of the seafarer tax offset would be another nail in the coffin of Australian
maritime jobs. It makes us wonder whether this is just a cynical attempt to destroy the Maritime Union of Australia, with the Australian economy and jobs being used as collateral damage. I know that is a pretty cynical view to take but with this government absolutely nothing would surprise me.

The seafarers tax offset is overwhelmingly supported by Australia's shipping industry. Here is what the Australian Shipowners Association has had to say about the offset:
The Seafarers Tax Offset ... helped to reduce the operating costs of Australian vessels, increased the competitiveness of Australian shipping and provided significant opportunity for employment of Australians in international trades ... the impact [of abolition] is severe with regard to future opportunity.

Another peak body in Australia's maritime industry, Shipping Australia, is also strongly supportive of this offset. It would be easy to dismiss this proposal as nothing more than a cynical cost-cutting exercise but it is much more than that. This proposal is one in a long line of attacks on Australian workers—on their jobs, on their wages and on their conditions. I sometimes wonder how often will I and my colleagues on this side of the chamber have to come into this place and defend Australian workers against another attack from the government that promised WorkChoices was 'dead, buried and cremated'. I will not go through the examples that I have gone over before about attacks on penalty rates, attempts to introduce AWAs via the back door and so on, except to say that, whether it is in the shipping industry or any other part of the Australian economy, this government not only fails to stand up for Australian workers but also consistently undermines their rights, their hard-won conditions and their job security.

The government says it expects to make a saving of $12 million over the forward estimates from this measure. This is a very small amount of money in the context of the overall budget, and it begs the question whether it is really worth the cost. The fact that for such a small saving the Abbott government is willing to scrap a measure that has been in place for only a few years and that has the support of the industry speaks volumes about where its priorities lie. They are certainly not with maintaining an Australian shipping industry or supporting Australian maritime jobs. Nor is it the government's priority to support the communities across Australia that derive economic benefit from the salaries of Australian seafarers. This is just another short-sighted cut from a mean and out-of-touch government.

We know that the Liberal government does not care about maritime jobs. We have seen media reports about Western Australia's North Star Cruises—in fact, we have probably all seen the TV replays of the Senate committee hearing—saying they were told by the bureaucrats to hire foreign workers, not once but twice. Twice they were told to do that. Recently, Bill Milby, a spokesman for the luxury cruise line, stood by the accusations he made in his evidence to the Senate committee and recalled a conversation with a senior transport department official in May. He said:

She said to me, there and then, well we are in an international environment, so we have to learn to compete on the international market.

Maybe you should look at de-registering as an Australian ship—in other words taking it off the shipping register—and perhaps put on a foreign flag, which will allow you to put on foreign crew, which will reduce your wages costs.

That is what Mr Milby told ABC Perth radio. He said:
I was staggered, I was really surprised that it was somebody from Canberra representing this department, telling me that.

This is shameful behaviour by this Liberal government. The government does not care about jobs in our maritime industry and it does not care about jobs in the R&D sector. In fact, tonight there is quite a lot of speculation that the only jobs they care about are their own. But it is not just tonight that there has been that speculation, let me tell you. I call upon the Senate to oppose this terrible bill as we on this side will be opposing it.

Senator LAZARUS (Queensland) (20:23): On behalf of the people of Queensland and, more broadly, Australia, I am voting against this bill. The Tax and Superannuation Laws Amendment (2015 measures No. 3) Bill 2015 comprises two components, both of which I am opposed to.

The first involves reducing tax incentives to businesses investing in research and development in Australia. Specifically, the bill reduces the rates of tax offset available under the research and development tax for the first $100 million of R&D expenditure. In effect, this bill will reduce the higher, refundable rate of the tax offset from 45 per cent to 43.5 per cent; and reduce the lower, non-refundable rate of the tax offset from 40 per cent to 38.5 per cent. This bill penalises businesses for investing in research and development in Australia, by removing some of the tax incentives.

As a nation we cannot compete with the rest of the world on the basis of labour costs. We have tried and, as a result, we have lost much of our manufacturing industry to South America, Asia and other countries that offer lower labour costs. Our future as a nation rests on our ability to innovate, create, develop and invent. We are known for quality and hard work. The world will pay good money for technological and medical breakthroughs which extend life, improve quality of life and minimise and eliminate illness. As a nation we need to invest in research and development to create the breakthroughs and inventions that the world will pay top dollar for. The last thing we should be doing is reducing incentives for businesses to invest in R&D.

It is for this reason that I am opposed to this component of the bill. I see this component of the bill as nothing more than a cash grab by a government devoid of ideas to grow this country. Judging by the latest news coming out of the coalition tonight, my view is shared by Malcolm Turnbull and many others who feel the government needs a change of direction.

The second component of this bill, which involves abolishing the seafarer tax offset, is nothing more than another cash grab, a grab which will only further cripple an already fragile shipping industry. The seafarer tax offset was introduced in 2012 to provide an incentive for companies to employ Australian seafarers. The seafarer tax offset is essential to allowing Australian businesses to compete in international waters. Australia being an island nation, our professional seafarers are critical to its prosperity. They work as our pilots, our harbourmasters and our marine surveyors to ensure safe passage for ships in and out of our ports. Without them, our nation's trade would grind to a halt. We would be left having to rely on the rest of the world to move goods in and out of our country by sea and around our country by sea. There are approximately 15,000 seafarers in Australia, and this number is down by 35 per cent from five years ago.

Our jobs are being taken away by foreign ships which are registered in other countries where they pay little to no tax. Many ships servicing our waters are registered in Singapore,
where they pay zero tax. The Australian seafarer tax offset helps Australian businesses employing Australian seafarers to compete with international ships that have international workers who are paid much, much less than our workers. This tax relief measure helps to level the playing field for the Australian shipping industry. It has only been in place for a couple of years and needs to be given a chance to work, to build our international shipping capability.

This bill is an attack on Australian jobs and on the Australian shipping industry. It is also an attack on our national security. It would only take a few altercations with a trading partner or a shipping company servicing our waters to bring our nation to a complete standstill. By decimating our shipping industry, we are putting our nation at risk of not being able to trade, not being able to manage the terms of our own import and export businesses and not being able to access goods critical to our nation's survival. We already have very few fuel refineries in Australia. We have, at best, only a few weeks of fuel supplies in our country. We rely heavily on the rest of the world in order to survive as a nation. We need Australia's shipping industry to survive, grow and prosper for the sake of jobs and our future.

I cannot and I will not support any measures which put our country at risk and which do not support Australian jobs for Australian workers. I hope that the Senate votes this legislation down.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (20:29): I would like to thank those senators who have contributed to this debate. The Tax and Superannuation Laws Amendment (2015 Measures No. 3) Bill 2015 represents another chapter in the government's commitment to implement our Economic Action Strategy and to repair the budget.

Our Economic Action Strategy is about setting Australia up for the future. It is about making some tough decisions now so that we can build long-term prosperity, so that we can make sure Australia has a social safety net which is strong and sustainable and so that future governments have the resources available to allow them to make decisions that are decent to and compassionate towards the Australian people. We have outlined a way forward to achieve this goal. This includes reprioritising government spending, to spend less on consumption now and more on investing in our future. It includes ensuring that taxpayers' funds are spent wisely. Taxpayers deserve value for money from the government. It also includes an expectation that everyone will contribute to budget repair. Both measures contained in this bill take us a step further on our path to achieving that goal.

Collectively, the measures in this bill will return around $826 million to the budget in fiscal balance terms over the forward estimates. Separately, both measures in this bill tell their own story about different groups of people. Schedule 1 abolishes the seafarer tax offset. This was a failed policy of the former government. It provided a refundable tax offset to eligible shipping companies for 30 per cent of salary, wages and allowances paid to Australian resident seafarers who were employed to undertake overseas voyages on qualifying vessels if the company employs the seafarer on such voyages for at least 91 days in the income year. The rationale for the introduction of the seafarer tax offset was to stimulate opportunities for Australian seafarers to be employed on overseas voyages and to gain maritime skills. The government is abolishing the seafarer tax offset because it is not achieving this policy intent. There are significant differences between Australian wages and conditions and those of some
other countries. Accordingly, shipping companies that employ Australians for overseas voyages typically have other reasons for doing so, such as English language skills or knowledge of Australian ports. The seafarer tax offset has not led to any appreciable increase in the employment of Australian seafarers. Its repeal will return $16 million to the budget over the forward estimates.

Schedule 2 reduces the rate of the tax offsets available under the research and development tax incentive by 1½ percentage points for income years commencing on or after 1 July 2014. This was a difficult decision. However, repairing the budget must be done as fairly and equitably as possible. It is only fair that everyone makes a contribution. The changes to the R&D tax incentive are simple and straightforward. The changes will not affect the eligibility of companies for the incentive, the way that companies claim the incentive or the administration of the incentive more generally. The R&D tax incentive will continue to provide generous, easy-to-access support for thousands of eligible companies in all sectors of the Australian economy. This measure will provide a gain to revenue and savings of around $810 million over the forward estimates period. The measures contained in this bill represent a careful and reasonable approach to reprioritising government revenue. They bring us a step closer to reducing our debt and a step closer to a stronger, better and more compassionate Australia. I commend this bill to the Senate.

Debate adjourned.

**ADJOURNMENT**

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (20:33): I move:

That the Senate do now adjourn.

**Member for Wentworth**

Senator LINES (Western Australia) (20:33): Just a few months ago, Mr Turnbull, who this afternoon mounted a challenge to the PM, was backing in the PM. On the 7.30 Report in March he described the PM as having 'many strengths' and of being an 'intelligent' and a 'brave man. Mr Turnbull went on to say:

The Liberal Party is at its strongest when the leading figures in the party ... are seen to be as close as possible.

How could you trust someone who on the one hand says the Prime Minister has many strengths and on the other hand makes the comments about the Prime Minister that Mr Turnbull made today, just a few months later, saying the Prime Minister 'has not been capable of providing the economic leadership our nation needs'? How do Australian voters, particularly the voters in Canning, work out what the truth is—the first comments by Mr Turnbull or the second comments? What is the truth? That is what Canning voters want to know.

What does Mr Turnbull believe in? Well, here are some hints. In his first speech he said, 'When things do not succeed, it's about getting up and having another go.' There is nothing here about changing your policies; just grinding on and on with the same old, tired message.

On business, Mr Turnbull said:

We need to ensure that no regulation and no compliance burden is imposed on business unless it is absolutely necessary and the policy objective cannot be achieved in any other way.
But of course, when it comes to trade unions and indeed employer associations, it seems that Mr Turnbull was prepared to overlook this strong sentiment and vote for regulatory burden. Just a few weeks ago, on ChAFTA Mr Turnbull said:

All reform necessarily involves winners and losers—but in the ChAFTA context the winners overwhelmingly outnumber the losers.

The losers in ChAFTA are Australian workers. Those are whom Mr Turnbull is talking about here. Such contempt from potentially the next Prime Minister for Australian workers and Australian jobs! We have seen it all before. There is nothing new here.

Today in his 'I'm going to challenge' announcement, Mr Turnbull extolled the virtues of John Howard and his good cabinet. Remember, this was the cabinet of Work Choices, the cabinet whose policies were so harsh that the Prime Minister lost his seat. Mr Turnbull wants to go back to that style of cabinet. 'That's what we need to go back to,' he said—the cabinet of Work Choices. The parallels are there between the communication and mistruths on Howard's Work Choices and the mistruths and outright lies on ChAFTA in Mr Abbott's cabinet.

Quite frankly, I cannot see the difference between the Prime Minister, Mr Abbott, and the challenger, Mr Turnbull, and I doubt very much that the voters in Canning can see that difference either. There has been nothing about policies from Mr Turnbull, the man who backed in all of the budget cuts of the Abbott government. Apparently—according to Mr Turnbull—we just need another leader. There is nothing about new policies.

On the Canning by-election, after spending a million dollars shoring up the Prime Minister's job, the Liberal party has now decided—or at least Malcolm Turnbull has decided—that the million dollars is not money well-spent and that what is needed here is a change of leader. How out of touch are both Mr Abbott and Mr Turnbull to just disregard the spending of a million dollars so far on Canning? I wonder if hordes of staff are standing at shredders right now shredding the campaign material for Canning which featured the Prime Minister. Indeed, will they have time between now and Saturday to design and print new material with a potential new leader? Why would voters of Canning vote for a party that topples its leader, that topples the Prime Minister of Australia?

Apparently, Mr Turnbull believes that it will improve their chances in Canning and that they do need to ditch the leader. He has said:

I wonder what the Liberal candidate is saying out there in the seat of Canning. I know firsthand that when I speak to voters in Canning what they do not like are the policies of the Liberal government. No matter who the leader is, it is the policies out there.

How would Mr Turnbull manage the economy, when under his ministerial leadership the NBN has blown out by $15 billion? This explosion in cost will ultimately deliver a slower NBN. Seriously, do we really need another failed minister as the next Prime Minister?

On the harsh, cruel budget cuts of the past, Mr Turnbull's message was clear. It is all in the selling of the message, he has said in a simple six-point plan that he spelt out at the Brisbane Club a couple of months ago, and he has said similar in his challenge today:

A style of leadership that respects the people's intelligence, that explains these complex issues and then sets out the course of action we believe we should take and makes a case for it.

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There it is once again: no policy change, just a change in how the message is delivered. Mr Turnbull's six-point plan starts like this: government must take action, including highlighting problems clearly and repetitively. It must explain the need for reform. He sets that out very clearly. The Abbott government has done this over and over, and guess what? It is not the explanation of the message that is the problem; it is the message itself.

In step six, the last step, Mr Turnbull says you 'identify the losers'. That is what he said at the Brisbane Club. You identify the losers—those that will lose from change—and, to the extent possible, assist them to adjust. He said in ChAFTA that there are winners and losers. Do you remember that? How out of touch and arrogant of Mr Turnbull to simply assert that all you need to do once you have put forward the other five steps of your six-step plan is to assist them—presumably the public and the voters of Canning—to adjust: adjust to health cuts, adjust to cuts in education, adjust to $100,000 degrees, adjust to cuts in income, adjust to higher costs at the doctor, adjust to a freeze on superannuation contributions, adjust to cuts to the pension, adjust to longer waiting periods for benefits, adjust to a failed climate change policy, adjust to no science minister and savage cuts to the CSIRO, adjust to no housing minister and savage cuts to the capital component of homelessness funding, adjust to cuts in penalty rates, adjust to cuts to working conditions in their Fair Work Amendment Bill currently before the Senate.

At every turn, the attack on working Australians, young people, university students, trade unions, pensioners and families from the Abbott government is fully endorsed by Mr Turnbull, who thinks that all you need to do is have a six-point plan to sell your message. All this is from a failed opposition leader who showed Australians then that he was out of touch and arrogant. All of this is from the challenger to the Prime Minister. There is nothing about a change in policy. Australian voters, particularly those in the seat of Canning, have seen through this and they just want the Liberal Party out of office as soon as possible.

Economy

Senator CANAVAN (Queensland—Nationals Whip in the Senate) (20:42): I am not from Western Australia, but I think those Western Australians that may be listening to or reading about the events of tonight will have just witnessed a completely policy-free zone from Senator Lines there. It was 10 minutes completely absent of any policies or any alternative plan from the Labor Party. It had nothing at all to offer the Australian people and nothing at all to offer the people of Canning who this weekend are deciding who will represent them.

I am not from the west and I am not trying to presume what they would think, but I reckon most people around this country like to hear from politicians who have a plan and a vision and something to say about where they see Australia's future going. We do not resile for one second from the choices that this government has made in government to make Australia a stronger place, to repair the damage that has been done to our budget and to remove some taxes that were particularly hurting Australian businesses and increasing the bills and costs of living for Australian consumers. Those are decisions we are proud of. Those are decisions that we have made to make Australia a stronger place, a better place, a recovering place after the six years of mismanagement and, in particular, loss of control of our nation's budget that we suffered through under the Labor government.

Now we are starting to rebuild, and we are proud of that, but what I am proud of, more importantly, are the plans and vision we have for the future, which we heard nothing about in
the contribution from Senator Lines earlier. What I am proud of is that this government has a plan to back the wealth-producing industries of our nation. We have a plan to grow agriculture in our nation—a multibillion dollar white paper to help grow agriculture in our nation, to build new dams, to go to the frontiers of our nation and build something that the Australian people will be proud of generations from today. We have a great opportunity here in Australia to supply the growing demands and needs, particularly of our Asian neighbours to our north, for products that we specialise in and can supply.

We need to have a government that is going to back Australians who want to do things. We have a government right now who are willing to do that by investing $100 million in beef roads in our north, an investment that would not have been done since the 1960s when the Menzies government first built many of those roads that I am sure Senator Scullion has driven many long hours on in his time. There is another $400 million for roads across the north to help connect our beef industry, particularly, but other industries that are emerging across the north as well. We have $500 million to build dams—to finally get over the 30 years of dam phobia in this country and build things that can store water, because if you can store water you store wealth by creating the ability to grow food or other products. We need to build new dams if we want to grow our nation and prosper into the future. We have vision to do that as a coalition government.

We have a vision for the north more generally, for the areas of our country which are not as developed as they could be. Again, there are enormous opportunities—for example, deepwater ports in Weipa and Darwin that can be expanded in close proximity to Asia. Our problem as a country has always been our distance. We have been far from markets, far from Europe, far from the United States, and it has been tough and difficult for our economy to integrate into the world given the vast distances of the Pacific and Indian oceans. But now we have an opportunity where we are proximate to the main epicentre of economic growth in our future. I am proud that we have a policy to help capture that opportunity by investing in our north, by unlocking the huge potential that exists.

That applies particularly to our first Australians, who are land rich but cash poor and opportunities have been denied them, given the way native title locks up economic opportunity. I want to pay tribute to the man sitting in front of me here, Senator Scullion, the Minister for Indigenous Affairs, who gets down and sits in the dirt with our first Australians and understands what they want to achieve. Primarily what they want to achieve is economic opportunity, opportunity just like all of us here in this place have been lucky enough to benefit from. Our first Australians have many assets, particularly thanks to the Native Title Act and the property rights they have, but they are denied the opportunity to exploit those assets at the moment, given the legalese and disputes that any development initiative gets bogged down in. We have provided more than $100 million to unlock the opportunity that exists in native title, in land held by traditional owners, by helping to complete the native title claims that exist in the north, hopefully within a decade. This is a great initiative by Senator Scullion. We are also investing in a tropical medical research centre at James Cook University at Townsville, again to build on the benefits we have in Northern Australia and to help build Northern Australia.

We are not only building infrastructure in the north, though; we have a plan for building more than $50 billion of infrastructure all around Australia, including the Second Range
Crossing where I used to live in Toowoomba—a great opportunity to connect Western Queensland to the growing markets of Asia—and the M4 East in Sydney. We did have plans for a highway in Melbourne, the East West Link. Unfortunately the new state government ripped up contracts with private suppliers who were going to provide that road, but we are working with the Victorian government to get new infrastructure in place to build our nation, create jobs and take the great economic opportunity that we have in this nation.

They are our plans for the Australian people. We have been talking about them for some time. Senator Lines had 10 minutes here in this place to outline an alternative vision for our nation. She failed miserably. She spent none of that time doing that for the people of Canning. Instead, she resorted to the politics of personal attack and division. That is not what the Australian people want. They want to see a vision for our future, and we are delivering that.

I should be fair to the Labor Party. I should be fairer than I have been in my first 6½ minutes, because they do have some policies. But Senator Lines did not mention them tonight. I think she did not mention them because she is a little bit embarrassed about them. They have announced some policies this year. This year was going to be the year of ideas for the Leader of the Opposition, and he has had a few ideas. He has had ideas for three new taxes already—a superannuation tax, a carbon tax and a renewable energy tax to boot, to push up power prices for Australian households and to hit Australian taxpayers and savers with a new tax on their superannuation. That is not our approach. That is not my approach as a member of the National Party and a proud member of the coalition. We do not believe higher taxes are the way to grow our country, to unlock the opportunities we all have so that we all reach as individuals the potential that we have. We believe in rewarding hard work and effort and not punishing people through higher taxes on the economy.

There is another policy that I think Senator Lines might have been a bit embarrassed about. I read in the paper today that they do have a policy for the people of Canning. There is one policy they are putting forward to the people of Canning. It is a car park! Maybe the people of Canning need that car park—I do not live there. But that is their alternative vision for our nation: a car park. Not a dam, not a road, not a highway, not a new port—

**Senator Rhiannon:** Not a coal mine!

**Senator CANAVAN:** Not a coal mine! Thank you, Senator Rhiannon. We believe in them, too—they produce plenty of jobs, and certainly people in Western Australia realise how important mining is for their economy. Not a coal mine and certainly not a car park. While car parks are very important, I am sure Senator Rhiannon is not a supporter of car parks. I think this one is at a train station, but I still do not think she would support that. Maybe a bike rack might be more Senator Rhiannon's go. Nonetheless, that is their vision. That is their nation-building vision for our country: a car park, and maybe some bike racks at the same time.

I do not think that is enough for the Australian people. I think they crave something a little deeper, stronger and more visionary than that. The coalition government has those policies in place, with its various white papers including the white paper on agriculture, its support for our mining industry, its support for the industries that create so much for our nation, that create the jobs that all of us rely on and the jobs that will be created for our young Australians to help solve one of the biggest problems in our nation—youth unemployment.
Those are the things that the people of Canning will be keeping in their minds this Saturday. They are the alternative visions of a government that wants to grow our country, support people who are willing to have a go, back hard-working Australians and keep a strong and secure Australia.

**Sugar Industry**

**Senator LAZARUS (Queensland) (20:52):** This evening, I would like to respond to the comments made by Senator Williams last week in relation to me and the Australian cane growing industry in Australia. Australia is the third largest producer of sugar in the world. Ninety-five per cent of Australian cane growers are located in Queensland because our climate is ideal for sugar cane growth. You would think, given the importance of the sugar industry to Australia and the fact that many of the cane growers are located in rural and regional areas of Queensland, that the government would do everything possible to support the industry and growers and show Queensland some love. But you would be wrong.

Sugar cane growers are facing the fight of their lives. International companies and overseas countries are buying up our farms and our mills. Australian sugar cane growers are now having to negotiate with foreign organisations to determine the supply and price of Australian sugar. In fact, in the near future, the marketing of Australian sugar may be taken over by foreign governments and international companies. To be clear: the coalition government is allowing the marketing and price setting of Australian sugar to be determined and managed by overseas countries and international companies—not our own country.

Australia's sugar industry needs help and Australian sugar cane growers need help as well. They have been begging the coalition for help for two years now, with little success. In fact, when cane growers call coalition MPs and senators, their phone calls are often not returned. The National Party, which traditionally has represented rural and regional Australia, has sold its soul to the Liberals in return for ministerial roles.

**Senator Scullion:** Did you write this, mate?

**Senator LAZARUS:** I did. The very politicians voted in to help rural and regional Australia, including sugar cane growers, have abandoned their voters. The Nationals have left rural and regional Australia to die.

Senator Williams talked about a Senate committee inquiry which was established to consider the issues facing the sugar industry. The inquiry, which was held last year and supposed to table a report to the Senate with its findings and recommendations in November 2014, finally tabled its report in June 2015—seven months later. The report, despite all the issues facing the sugar cane industry, included only one recommendation. The recommendation involved the development and implementation of a mandatory sugar industry code of conduct.

This idea was not the idea of the Senate inquiry; it was the idea of sugar cane growers themselves. Sugar cane growers desperately need a code of conduct to protect themselves from the ruthless and predatory behaviour of international companies and foreign governments. They need the code of conduct because the coalition government is prepared to stand by and watch as our poor sugar cane farmers are bullied and mistreated by foreign interests. As the only independent senator for Queensland, I am not prepared to stand by and allow this to happen without a fight.
Senator Canavan interjecting—

Senator Scullion interjecting—

Senator LAZARUS: I would like to be a champion for our sugar cane growers, because they need our help—whether you believe that or not, gentlemen. Together, we all need to stand up for the interests of Australia's sugar industry and sugar cane growers. The Senate inquiry, which Senator Williams talked so much about, was a farce. All the inquiry could come up with was one recommendation and the government has yet to action it.

In fact, I heard the coalition held a round table recently to give sugar cane growers false hope that the government was interested in helping them. Sugar cane growers need more than a code of conduct; they also need commercial arbitration for contract negotiations to ensure there is fairness in the negotiation and sales process. They also need dispute resolution to ensure they are not hung out to dry during the negotiation process. They also want the marketing of Australian sugar to be managed by Australia, not foreign countries or international companies.

Sugar cane growers contacted me to reach out for help because they have tried to get help from the coalition without success or response. Sugar cane growers are decent, hardworking, wonderful Australians, who have worked their land and contributed to their industry and our economy for generations. These people need our help and they deserve our respect. If Senator Williams and his Nationals mates put as much energy into helping sugar cane growers as they did in attacking me and the sugar cane industry for speaking out about the lack of support the government is showing the sector, I probably would not need to be fighting for the future of Australia's sugar industry today. In summary, I will not be deterred in my quest to help people in need.

Climate Change

Senator RHIANNON (New South Wales) (20:57): Climate change is the greatest obstacle to reducing poverty and inequality and to promoting prosperity and stability in our world today. Developing countries and poor communities are already bearing the brunt of climate change, with rising sea levels, more intense tropical cyclones, lower crop yields and water shortages. If left unaddressed, climate change will rapidly worsen this already dire situation. The inequality, the hardship and the poverty will be exacerbated. Decades of development gains will unravel. Millions more will be forced into poverty.

Action on climate change is also squarely in Australia's interests and, indeed, is our responsibility. Climate change poses threats to our own quality of life, as well as to the prosperity and stability of our region. These issues have been addressed by the peak development organisation in Australia, ACFID—the Australian Council for International Development. They have set out a number of recommendations for Australia to play a fair and effective role in tackling climate change, reducing poverty and inequality and promoting sustainable development. The Greens support ACFID's plan. The peak development organisation recommends that the Australian government sets targets to reduce Australia's national greenhouse gas emissions by at least 40 per cent below 2000 levels by 2025 and at least 60 per cent by 2030, while also making a clear commitment to achieving zero emissions well before the middle of the century. They recommend that this be backed up by a national strategy to take this forward.
Another important recommendation is to increase Australia's contribution to climate finance to at least $400 million per year from 2016-17. This must be on top of Australia's official development assistance to ensure funding is not diverted from other poverty alleviation programs. Other recommendations include developing and implementing a climate change strategy for Australia's aid program, supporting community-based initiatives to build resilience against the impacts of climate change in the Pacific, supporting an ambitious and legally binding universal climate change agreement, promoting efforts to ensure that climate change is maintained as a distinct sustainable development goal and integrating environmental sustainability into all other goals.

ACFID stresses that this year is a critical year full of opportunities for action, as global leaders will come together in September 2015 to agree on a set of sustainable development goals and also, in December this year, to finalise a new international climate change agreement to reduce global emissions and ensure developing countries have the means to adapt to the impacts of climate change. The situation in low-income countries, particularly in the Pacific, highlights why the ACFID plan should be adopted. The Pacific island nations are already extremely vulnerable to disasters, and, as a direct result, their economic losses as a percentage of GDP are already higher than almost anywhere else in the world. These nations will also be the hardest hit by the effects of climate change, resulting in land loss, more intense tropical cyclones and economic downturn in fishing and tourism. Countries from South and Southeast Asia right across to east and southern Africa will be affected by soil salinisation in food producing areas, water shortages, food security and increased flood risk. Climate change is also projected to pose risks to drinking water, which could lead to increased rates of water- and vector-borne diseases such as cholera, dengue fever and malaria.

The most marginalised and disadvantaged groups within society, including women, children, people with disabilities, indigenous peoples and ethnic minorities, are the communities most vulnerable to the impacts of climate change. As a result, climate change will not only exacerbate poverty where it already exists but create new pockets of poverty and increase inequality within and across communities and generations. This then has the potential to impact upon social cohesion, contributing to the outbreak of civil war or intergroup violence. These factors will all lead to a massive increase in displacement and migration. The number of potential climate refugees worldwide is estimated to range from 70 million to 600 million by 2050. It is understandable that there is that range in the figures because, clearly, if we take action to reduce global emissions the growth in climate refugees can be stemmed. A large proportion of these climate refugees will come to Australia from neighbouring Pacific islands. It is expected that sea level rises in the west Pacific could be up to four times higher than the global average.

The international community has committed to limiting global warming to below two degrees Celsius above pre-industrial levels. We know this is achievable, but it requires immediate action to rapidly reduce carbon emissions and reach zero emissions by around 2050. While we need to increase funding and address the programs needed to manage climate change impacts in low-income countries, we also need to play our part by reducing global emissions that emanate from Australia. The cooperation of wealthier countries such as Australia is vital if we are to achieve our goal, not only because such countries have much greater capacity to act but also because they contribute more to climate change through their
cumulative emissions. We have a responsibility to act, as Australia is currently the world's 13th biggest greenhouse gas emitter and one of the world's largest per capita emitters. Australia's emissions are equal to those of 11 developing countries put together. The responsibility that we have is enormous. We need to act on it, and the ACFID plan gives us a way forward.

It is abundantly clear, if we are serious about alleviating poverty and inequality around the world and improving and maintaining prosperity and stability in our region, that an effective climate change plan along with increased participation in international efforts to tackle climate change and mitigate its impact are essential. But we need to act fast. That is the clear message from the ACFID plan.

Senate adjourned at 21:05

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:


Currency Act 1995—Currency (Royal Australian Mint) Determination 2015 (No. 8) [F2015L01423].

Fair Work Act 2009—Fair Work (State Declarations — employer not to be national system employer) Endorsement 2015 (No. 1) [F2015L01420].


Southern Bluefin Tuna Fishery Fishing Season and Australia's National Catch Allocation Determination 2016 [F2015L01419].

Southern Bluefin Tuna Fishery Overcatch and Undercatch Determination 2016 [F2015L01418].


Jervis Bay Territory Acceptance Act 1915—Jervis Bay Territory Rural Fires Amendment (Offences and Other Measures) Ordinance 2015 [F2015L01414].

Jervis Bay Territory Rural Fires Ordinance 2014—Jervis Bay Territory Rural Fires Amendment (Scope of Rules) Rule 2015 [F2015L01413].

Therapeutic Goods Act 1989—Therapeutic Goods (Listing) Notice 2015 (No. 4) [F2015L01421].

Tabling

The following documents were tabled pursuant to standing order 61(1) (b):

Department of the Senate—

Inter-Parliamentary Union—Travel expenditure, 1 July 2014 to 30 June 2015, dated September 2015.

Travel expenditure, 1 July 2014 to 30 June 2015, dated September 2015.

Institutional Responses to Child Sexual Abuse—Royal Commission—

Redress and civil litigation—Report.


Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers

1000761, 1001978, 1002002, 1002055, 1002075, 1002082, 1002111, 1002135, 1002195, 1002215, 1002341, 1002367, 1002387, 1002403, 1002405, 1002407, 1002408, 1002418, 1002423, 1002431, 1002444, 1002447, 1002481, 1002514, 1002515, 1002527, 1002531, 1002552, 1002572, 1002573, 1002580, 1002583, 1002585, 1002588, 1002596, 1002597, 1002598, 1002599, 1002608, 1002609, 1002611, 1002617, 1002663, 1002664, 1002665, 1002666, 1002667, 1002668, 1002669, 1002670, 1002743, 1002765 and 1002821—

Commonwealth Ombudsman's reports, dated 16 September 2015.

Government response to Ombudsman's reports, dated 8 September 2015.

Tabling

The following documents were tabled by the Clerk pursuant to order:

Estimates hearings—Unanswered questions on notice—Budget estimates 2015-16—Statements pursuant to the order of the Senate of 25 June 2014—

Communications portfolio.

Finance portfolio.

Industry and Science portfolio.

Indexed lists of departmental and agency files for the period 1 January to 30 June 2015—Statements of compliance pursuant to the order of the Senate of 30 May 1996, as amended—

Agriculture portfolio.

Attorney-General's portfolio.

Department of Education and Training.

Department of Veterans' Affairs.

Environment portfolio.

Health portfolio.