COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

Senate

Official Hansard

No. 6, 2016
Tuesday, 29 November 2016

FORTY-FIFTH PARLIAMENT
FIRST SESSION—FIRST PERIOD

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SITTING DAYS—2016

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FORTY-FIFTH PARLIAMENT
FIRST SESSION—FIRST 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 Susan Lines
Temporary Chairs of Committees—Senators Back, Bernardi, Gallacher, Ketter, Marshall, O’ Sullivan, Reynolds, Sterle and Whish-Wilson
Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Deputy Leader of the Government in the Senate—Senator Hon. Mathias Cormann
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Don Farrell
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Katy Gallagher

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

Printed by authority of the Senate
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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.

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

Vacancy created by the resignation of Senator Bob Day on 01 November 2016.

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—R Stefanic
Parliamentary Budget Officer—P Bowen
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<td><strong>Prime Minister</strong></td>
<td>Hon Malcolm Turnbull MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
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<tr>
<td><strong>Minister for Women</strong></td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>Senator the Hon Arthur Sinodinos AO</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for the Public Service</strong></td>
<td>Senator the Hon Michaelia Cash</td>
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<tr>
<td><strong>Minister Assisting the Cabinet Secretary</strong></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Counter-Terrorism</strong></td>
<td>Senator the Hon Scott Ryan</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister for Cyber Security</strong></td>
<td>Hon Dan Tehan MP</td>
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<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Senator the Hon James McGrath</td>
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<tr>
<td><strong>Assistant Minister for Cities and Digital Transformation</strong></td>
<td>Hon Angus Taylor MP</td>
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<tr>
<td><strong>Deputy Prime Minister and Minister for Agriculture and Water Resources</strong></td>
<td>Hon Barnaby Joyce MP</td>
</tr>
<tr>
<td><strong>Assistant Minister for Agriculture and Water Resources</strong></td>
<td>Senator the Hon Anne Ruston</td>
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<tr>
<td><strong>Assistant Minister to the Deputy Prime Minister</strong></td>
<td>Hon Luke Hartsuyker MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>Hon Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade, Tourism and Investment</strong></td>
<td>Hon Steve Ciobo MP</td>
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<tr>
<td><strong>Minister for International Development and the Pacific</strong></td>
<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<tr>
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<td>Hon Keith Pitt MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<td><strong>Minister for Justice</strong></td>
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<td><strong>Treasurer</strong></td>
<td>Senator the Hon Scott Ryan</td>
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<td><strong>Minister for Revenue and Financial Services</strong></td>
<td>Hon Scott Morrison MP</td>
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<td><strong>Minister for Small Business</strong></td>
<td>Hon Kelly O'Dwyer MP</td>
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<td>Hon Darren Chester MP</td>
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<td><strong>Minister for Defence Industry</strong></td>
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<td>Hon Dan Tehan MP</td>
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<td><strong>Minister for Immigration and Border Protection</strong></td>
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<td><strong>Minister for Industry, Innovation and Science</strong></td>
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<td>Senator the Hon Mitch Fifield</td>
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<td>(Manager of Government Business in the Senate)</td>
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<td>Senator the Hon Fiona Nash</td>
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<td>Minister for Employment</td>
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Tuesday, 29 November 2016

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 12:30, read prayers and made an acknowledgement of country.

DOCUMENTS
Tabling

The Clerk: I table documents pursuant to statute. The list is available from the Table Office or the chamber attendants.

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

COMMITTEES
Community Affairs References Committee
Environment and Communications References Committee

Meeting

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

Community Affairs References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.30 pm, for the committee's inquiries into Lyme-like illness in Australia and the medical complaints process.

Environment and Communications References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 5.10 pm.

The PRESIDENT (12:31): Does any senator wish to have those motions put? There being none, we shall proceed.

STATEMENT BY THE PRESIDENT
Clerk of the Senate

The PRESIDENT (12:31): Senators, as you are aware on 15 September this year the Clerk of the Senate, Dr Rosemary Laing, gave notice to me that she intends to retire as Clerk on 8 March next year. The Parliamentary Service Act provides for the Clerk to be appointed by the President following consultation with senators. A person may not be appointed as Clerk unless they have extensive knowledge of, and experience in, relevant parliamentary law, procedure and practice.

I consulted with senators on the selection process I proposed to adopt and received support for that process. I was assisted in this process by the Deputy President, Senator Lines; Senator Brandis, as Leader of the Government in the Senate; Senator Gallagher, as the representative of the Leader of the Opposition in the Senate; Senator Siewert, as a representative of the Australian Greens and the Australian Greens' longest-serving senator; and Senator Xenophon, as the longest-serving senator on the crossbench.

Following an open, competitive and merit-based selection process, the selection panel unanimously agreed that the current Deputy Clerk, Mr Richard Pye, demonstrated greater merit and should be appointed Clerk of the Senate. Following consultation yesterday—

Honourable senators: Hear, hear!
The PRESIDENT: I am sure the Deputy Clerk is monitoring the chamber very closely, as a diligent Deputy Clerk would! Following consultation yesterday with the Standing Committee on Appropriations, Staffing and Security, I am pleased to now inform the Senate that I have appointed Mr Richard Pye as Clerk of the Senate to take effect on 9 March next year. I congratulate Richard on his appointment as the next Clerk of the Senate and look forward to working with him in his new role. As a matter of interest, he will be the 14th Clerk of the Senate in 115 years.

So as not to conflate the two issues, and to give due credit to Richard Pye's selection as Clerk, I will be making a further announcement regarding the retirement of our current Clerk, Dr Rosemary Laing, later in the week.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (12:33): by leave—Mr President, it is a very big day for the announcement of important constitutional officers. Some three hours ago, the government announced the appointment of the 13th Chief Justice of Australia, and you have just announced the appointment of the 14th Clerk of the Senate. On behalf of government senators, I wish to offer my warmest congratulations to Richard Pye on his selection. Without any disrespect to the other candidates, I think I can say that Richard Pye was the outstanding—and, indeed, in many ways, the obvious—choice for promotion to the role of Clerk of the Senate.

Richard graduated with degrees in economics and law from the University of Sydney, and he has spent almost all of his career in public service. He first became a member of the Senate staff in 1992, almost 25 years ago. Because this is a 10-year, non-renewable appointment, and as Richard has indicated that it would be his intention to serve the full 10 years, by the time his service to the Australian Senate expires he will have served the Senate for almost 35 years. That is not unique, but it is exceptional. In the modern age it is very, very rare indeed.

Those of us on the government side of the chamber who have come to know and deal with Richard Pye over the years have found him exemplary. He is gracious; he is gentlemanly; he is helpful; he is an authority on Senate practice; he is engaging—he is everything that one would wish an office holder of such an important and, in many ways, sensitive office to be.

On behalf of government senators, I congratulate Richard very warmly. He is a popular figure in this chamber. He is one of the characters of the place, and, although not a public figure in the way that politicians are, he is every bit as much a part of the Senate as those of us who serve as senators. We wish him well in what I am sure will be a distinguished term.

There will be another occasion, as you mentioned, to express our deep, deep appreciation for the service of Dr Rosemary Laing, the retiring Clerk of the Senate. But that can be a matter for another day.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (12:36): by leave—I rise on behalf of opposition senators to add our congratulations to Richard Pye on this appointment. We have obviously had the opportunity over many years to work with him, and we echo the comments of Senator Brandis as to his capacity and competence. I asked the Clerk when Mr Pye started, and I was told 1992. I was trying to recall what some of us might have been doing in 1992. He began as a journals officer, I am told. As you have said, Mr President, he is the 14th Clerk.

CHAMBER
I would just like to make a brief point, if I may, about the tradition of which Richard Pye is a part. I think we have a strong tradition, an important tradition, in this chamber of parliamentary officers who are both principled and competent. The country is well served by the outstanding officers who make up the parliamentary officers associated with the Senate. They are in many ways the guardians of the role of this chamber and the tradition of this chamber. Many of them outlast many senators. They perform an extraordinarily important role. We look forward to working with Richard Pye. We have no doubt that he will continue the outstanding tradition to which I have alluded.

In relation to Dr Laing, there will be much more to say—I am sure she is very happy to hear that—before we rise on this occasion.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (12:38): by leave—I rise to echo the sentiments of both the Leader of the Government in the Senate and the Leader of the Opposition in the Senate. I have always found, as all of us in the Greens have found, Richard Pye to be thoroughly professional, approachable and extremely diligent. We really look forward to his appointment. I will just finish by saying that anyone called Richard who wears an earring has to be okay.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (12:38): by leave—The Nationals would also like to add our congratulations to Richard Pye and acknowledge that he has been here for a huge amount of time. We can all recall him at different times. If you have been working here for a period of time you would have seen Richard in different places. When we were in opposition, the assistance he gave us in the drafting office, for example, was absolutely essential. Somebody who has worked in almost every element of assistance to this chamber is, I am sure, going to bring a great deal of experience to the job. I take this opportunity, on behalf of the Nationals, to congratulate him.

BILLS

Building and Construction Industry (Improving Productivity) Bill 2013
In Committee

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

Senator CAMERON (New South Wales) (12:40): I stand to oppose this bill on behalf of the Australian Labor Party. Working people have got a lot to fear from this bill and a lot to fear from this coalition government. We have a government with a weak Prime Minister. It is a government which is controlled by the extremists in the coalition. We have a Prime Minister with no values and absolutely no principles. He will do whatever he needs to do, whatever he has to do, to placate the worst elements in the coalition, and this bill epitomises some of the worst elements of the coalition in its antiworker approach to Australian workers around this country. This is a Prime Minister who has no coherent economic plan—no plan on how to take this economy forward. So what do you do? You simply attack the trade union movement and give in to the worst elements in your party.
We had this GST plan from the Prime Minister. A GST was going to be put in place. When that fell apart—it did not last very long—the plan was that the states could tax themselves. That did not last very long either. And then we got down to the nitty-gritty of the coalition: their economic plan to attack the trade union movement and provide a $50 billion tax cut to some of the biggest corporations, some of the multinational corporations, in this country, which give money to the coalition to allow them to run their election campaigns. So the money would go back again through the public purse in a $50 billion tax cut to the big end of town. In addition to that, the government want to give the big end of town even more rights over working people. They want to take their rights away in order to limit bargaining in this country like no other country in the world. No other advanced country in the world has laws like those being proposed by this government right now.

We certainly know why the government are running this agenda. This is a former Prime Minister Tony Abbott special: attack the union movement. When you are in trouble, break glass, attack the trade union movement—and this government is in trouble. They are an absolute rabble. They are fighting with each other. They have no agenda for this place other than to attack workers rights. This is a government that has not got a lot of legs; it has certainly got no backbone in terms of looking after ordinary working people. It will give in to former Prime Minister Abbott, because former Prime Minister Abbott is gunning for the current Prime Minister. We know that there is chaos and division within this government. We saw it the other day when Mr Abbott was publicly telling Mr Turnbull that we should revisit the 2014 budget. Remember that budget? It was the budget that was going to cut pensions; the budget that was going to take rights away from some of the poorest and weakest welfare recipients in the country. People who cannot look after themselves were going to be thrown to the wolves. Young Australians who may live in an area where there are no jobs, where too many people are looking to get into too few jobs, would have to live on fresh air for six months. This is the type of government that it is. And we see the pressure to revisit that—cutting pensions and coming after the poorest and weakest in our society.

And part of this is their industrial relations agenda—because the one thing that stands between unscrupulous employers and bad governments like this government is the trade union movement of Australia, which has won every significant right for workers in this country. This is not a government that has ever stood up and supported increases for workers in the old Fair Work Commission. They have never done that. They have never stood up for workers. In fact, their DNA is laid out for all to see. You do not need a microscope to see their DNA because it is written all over them—and it is Work Choices. It is about forcing workers to negotiate individually with their employer. It is about subjugating workers to the will of the employer. It is about complete managerial prerogative for the company and the boss over individual workers.

If that had been the state of industrial relations in this country over the last so many years, what would the living standards of workers be now? Those living standards would be down the tube. Those living standards would be decimated. If workers think it is hard enough to make ends meet under this government, it would have been impossible to make ends meet if there had not been strong trade unions out there bargaining for the trade union movement and then those increases flowing through to the rest of the non-unionised economy. These are the issues that underpin this bill. It is about giving more power and more rights to the people who
sit in the back of their Bentleys handing out brown paper bags with $10,000 in them to Liberal candidates in Newcastle—the property developers who want to build their properties cheaper and cheaper and do not want to pay a construction worker a decent rate of pay but are prepared to send a brown paper bag with 10 grand in it over to a Liberal politician, in breach of the law.

We hear much from this mob about the rule of law. But look at the Liberal Party in New South Wales. When they are faced with 10 Liberal Party politicians having to resign or get kicked out because of breaches of the law, what do they do? They sack the ICAC commissioner and they get rid of ICAC's teeth. That is what they do—because they do not want to be embarrassed with their faulty memories in front of ICAC. They do not want to have to front up to show where the money is coming from to fund their election campaigns. We know where it is from. It is from the property developers. It is from the big tier 1 companies that are going to benefit from this bill. This is all about payback to the big companies in return for diminishing workers' rights.

If this bill goes ahead, we have heard arguments that it will reduce costs in the building industry by 30 per cent. I have not seen any economic modelling or arguments to say that that is the case and would then lead to improved productivity because you reduce costs. Those two things actually do not go together. But let us think that that is right. If there is going to be a reduction in costs of 30 per cent, who do you think will be shouldering that reduction in costs? It will not be the executives on multimillion-dollar salaries. It will not be the human resources officers earning half a million dollars a year. It will not be the management group. It will be the carpenters, the riggers, the boilermakers, the fitters and the tilers who go out there every day and give a fair day's work for a fair day's pay. They are the ones who will lose from this bill. They are the ones who are being attacked. You will get all this argument about 'this unlawful industry'. Well, I put it to you that building workers go out there every day in this industry and they never experience anything like what we hear from those opposite. They do not experience it. They have a decent enterprise agreement through their unions—mainly the CFMEU in the building industry, a union that is out there looking after working people. But what do this mob do? They pick the worst elements. And there are bad elements in every area.

But they will take on the union movement because the union movement is what actually keeps wages and conditions up in this country. As we see wages stagnating in this country, never has there been a greater need for strong trade unions in this country, not weakened trade unions. And if there are people misbehaving, if there are people breaking the law, they should be dealt with under the law. There are more than enough laws without bringing in a bill like this, which provides power to probably the worst statutory office holder in the country, Nigel Hadgkiss. Mr Hadgkiss, who will head up this body, has an absolute contempt for accountability. He has a contempt for the Senate. He has a contempt for the estimates process, which is about public officers coming here and being open with the parliament about what they are spending money on and what they are doing. He has an absolute contempt for that. He has a contempt for senators in this place. In fact, this is a statutory office holder who has
lied to my face on at least three occasions. I have asked for him to provide his diary—as many, many public servants and statutory officers have to do—for accountability issues. And this statutory office holder, Nigel Hadgkiss, says: 'I don't have a diary. I don't keep a diary.' Can you imagine any senior public servant, any statutory office holder, who does not have a diary? We said, 'There must be some way that people keep tabs on what you're doing.' When I asked the chief financial officer of the Fair Work Building Commission why Mr Hadgkiss did not keep a diary and did they keep a diary and did they know what he was doing, they said no.

So we have a public officer who wants to operate in complete secrecy. What we have found out is that he does have a diary, because under a freedom of information request we got a copy of one part of his diary. So this person lies to the Senate. This person is a bully, this person is unaccountable, this person is into cronyism and gets rid of whoever he does not like within that organisation and puts his own cronies in. He is surrounded by cronies. He is vindictive against anyone who would stand up to him. He is absolutely secretive and, as I have indicated, he has lied to the Senate. This is the man who is in charge of the Fair Work Building Commission now and who they obviously want to put in charge of the ABCC, if ever it comes in.

There are a number of amendments before the Senate today. Senator Xenophon has put up a range of amendments. I must say, I have not had a chance to see the detail of those amendments, and here we are because the government wants a victory. In my view, this is going to be a Pyrrhic victory if it goes through. I need time and the Labor Party needs time to sit down with Senator Xenophon to ask some questions about the implications and the intent of some of the amendments that will be coming through. There is a need to do that. This is a bill that is complex. This bill, in terms of its impact on ordinary Australians, is absolutely terrible. This is a government which, as I said, have Work Choices in their DNA. They will attack the trade union movement. If there are people doing the wrong thing they should be dealt with under the laws as they exist. We have a regulator—a very strong and powerful regulator in the Fair Work Building Commission—but what this does is impose even more on workers' rights to collective bargaining. So we will have a number of issues that we want to raise. In closing, Senator Cash, do you intend to appoint Mr Hadgkiss as head of ABCC? If so, why—(Time expired)

Senator RHIANNON (New South Wales) (12:55): The Building and Construction Industry (Improving Productivity) Bill 2013 is ruthless, not just to building workers but to all working people in Australia and all Australians. While in the first instance it is directed at building workers, the intent is to weaken industrial relations across the board, and if that occurs the flow-on impact for all Australians is huge. Organised working people established so many of the conditions that we all enjoy in this country, not just conditions of work but so much to do with our health conditions and our education conditions. Right now we have to deal with the ABCC legislation. We are in committee and we are about to get our teeth into the amendments. But we also need to acknowledge the context. There is now a real desperation around the Turnbull government. The clock is ticking down on the last few days of parliament. They have left it to the last hour and this legislation has to be passed. It is not legislation that will bring benefits to the country but legislation that delivers for the constituency of the Turnbull government.
The Turnbull government have some big friends in corporate Australia. They donate millions of dollars to the government and they expect something in return. While they are friends, the Turnbull government are probably looking forward to a few Christmas parties and sharing a few cocktails and a few drinks with their corporate colleagues, their corporate mates, who have helped deliver them into power. But they would know that those apparent corporate friends can turn on them if they do not deliver, and right now at the top of the agenda they have to deliver. The registered organisations bill went through, but the ABCC legislation is what they want in their pocket and they want it before Christmas. Corporate Australia is sweating on it and, as I said, they can change overnight for the Turnbull government.

This is shocking legislation because what it would do to a section of the workforce is treat them as second-class citizens. They would have reduced legal rights and reduced rights at work—something that we have not seen in Australia for a while. You would probably have to go back to how we treated Indigenous people before the 1960s, before the 1967 amendment, when you had second-class laws for a group of people who were working for greater productivity in Australia and working to assist all of us with the benefits that come when you have new hospitals, new schools and homes are built—all those sorts of things.

It is important, as we go into the committee stage and start considering the amendments, to remember why the government is doing this. This is where the big lie comes in. It is very relevant to our debate now. The government has a constituency, corporate Australia, that wants the industrial relations laws of this country weakened. That is in fact what all conservative governments have done. You can go back to the Menzies government. Penal powers were part of the arbitration act then. Ordinary Australians opposed that very strongly. Going through the Fraser government and the Howard government, they have all had their signature legislation to do something similar, but you would probably have to come to this legislation to see something as atrocious as what the Turnbull and Abbott governments have come up with.

Why do they want it? Why do they want the industrial relations laws that affect working conditions and affect how union officials operate in the workplace? Why is this legislation being brought forward? If you weaken working conditions, if you weaken how unions can operate and if you weaken how working people can come together and collectively organise, you are actually assisting the corporations to increase their profits, because the fewer conditions and the fewer regulations they have to cope with the more they can get away with doing a whole lot of things. That is why you have heard so many of the speakers in the second reading debate detail the tragic deaths that are occurring on our building sites. That is a result of poor occupational health and safety standards, and we will see that occur more.

But also, if unions are weakened, working people cannot come together so readily and collectively organise, and it is harder to get pay rises. This is the reason the government is doing it: corporate Australia wants it. Corporate Australia is on the earth—its job, its legal requirement, is—to do the best for its shareholders. What do its shareholders want? Its shareholders want more profits. They want more money in their pockets. That is its job.

And that is where the job of governments should be to get that balance right, to ensure that we have fair industrial relations so unions can organise and workers can come together collectively and so the young apprentice who turns up on the job, has only been there for a
few days, is ordered to go on to the roof and do some repairs and ends up falling off might have a bit of back-up to say: 'Hey, don't do that, mate. That's actually unsafe. We need to ensure that you've got a harness on.' They are the sorts of practical things that we are dealing with here.

We know the speeches from the government benches were really disgraceful. You really would not have thought people mattered from the way they delivered their speeches. That is why the coalition are desperate to get this legislation through. They want to be able to go to their Christmas parties and enjoy it there with the developers, with the property investors, who are hanging out and who have been lobbying hard for these changes.

The other part of this story is that the government, Senator Cash as the responsible minister and Prime Minister Turnbull, the leader of the government, cannot go out and say: 'We really have to get this legislation through. Our corporate backers, who give us all these donations, really want us to do it.' They cannot say that. Obviously, that is not going to wash with the public. It would really give you an insight into how government works. So they come up with their reasons, and the reasons they have come out with are quite unbelievable. I will just give you a couple of them.

Prime Minister Turnbull linked the whole issue of union activity with the housing crisis. I suppose he, or maybe somebody's office, thought: 'Let's solve two problems in one. We'll blame the housing crisis not on the way we run government, with our negative gearing and our capital gains tax discounts; we'll blame it on the unions.' This is from the Prime Minister. He expressed sympathy for 'young Australian couples that can't afford to buy a house because their costs are being pushed up by union thuggery'. According to the government, that is one of the reasons why we need these rules.

I have to say that the Minister for Immigration and Border Protection, Peter Dutton, really took the cake when he came up with his excuses. This is a quote from Peter Dutton: When young Australians go to an open house this weekend, to a unit that they may not be able to afford or that they have been saving up for, they know that that unit is more expensive because they have seen building costs increase as a result of the involvement of the unions and bikies.

Now they have even pulled the bikies into it as causing the housing crisis.

There they are blaming the unions for the housing crisis. That one blows up in their face, because, if you look at all the causes of the housing crisis, there is no link here. It is worth going through this, because these are the lies the government has been relying on to try and justify the legislation that we now have before us. We are now about to start debating the amendments, so it is very relevant when senators come to consider the amendments.

These arguments from the likes of Prime Minister Turnbull and Minister Dutton rely on various hypotheses. I will just go through them. They include that union activity has expanded in construction, that construction wages and labour costs have accelerated as a result, that total construction costs have also accelerated correspondingly and that housing prices rise in tandem with escalating construction costs.

Let us look at the reality here. This falls over monumentally. How Prime Minister Turnbull allowed himself to go out with that one, I do not know. Maybe he did not have enough sleep that night. At any rate, I will just go through how they all fall over. Average earnings in the construction industry have grown more slowly than the Australian average over the last five
years. Real wage increases in construction have been slower than real productivity growth, with the effect that real unit labour costs in construction have declined.

Then we have construction labour. Construction labour accounts for only 17 to 22 per cent of the total costs of new building. Construction costs in turn account for less than half the market value of residential property. And then there is the main issue—if you want to go back to where they probably started their thesis—that in the housing industry there is very low union activity. Not many construction workers in the housing industry are members of a union.

I thank the Centre for Future Work and the Australia Institute for that analysis, because it is very useful. Here we have a Prime Minister trying to justify why we need to rein in unions, rein in those bad construction workers and bring in the Australian Building and Construction Commission. He says it is because we have a housing crisis and young people particularly cannot afford to buy a house. They heap it all onto the union movement. It all falls over entirely. If we had some honesty from the government, they are the sorts of things that they would bring into this debate that we are considering right now.

The Greens have voted against the legislation in the second reading. We will vote against it in the third reading. But we will move amendments, because at times it is necessary to do that. With appalling legislation that looks as though it could be about to become law, we will do what we can to improve it. Still, our clear position is that it should not pass.

Some of our amendments will be around the issue of procurement. Surely, when we come to talking about the building industry—particularly when you are hearing from the people on the government benches about how we are going to bring in the ABCC and productivity will increase, the economy will bloom and all the rest of the Christmas fairytales that they come out with—if you are sincere about that, what you should be committed to is a building code that includes a requirement for procuring local materials. The steel industry should figure strongly in that, and it would bring such benefit to the country, as the steel industry in this country is on the edge of collapse. Again, it is extraordinary that the government is not giving this more attention. How can you have a country the size of Australia without a steel industry? We have an opportunity to address that in this legislation.

Then there is the issue of local jobs. The Greens will move amendments to require that, where the code applies, jobs have to be advertised locally and the employer must demonstrate there is no suitable local applicant before guest workers can be used. There are a number of people on the cross-bench who regularly talk about the need for local jobs. Here is their opportunity to stand up for local jobs, which are very relevant to this legislation. There are many unemployed construction workers in this country, who often become fly-in fly-out workers, which really disrupts communities. Why is that? It is because they cannot find local work. All senators have an opportunity here to support some very responsible amendments that would help boost productivity in this country and ensure there is jobs growth, particularly in regional areas and in states where there is growing unemployment.

Those are some of the issues that we are looking forward to getting our teeth into, because right now the question is: Minister, can you explain how the housing crisis is in any way associated with the so-called union thuggery that you have been talking about for so long, considering that there is minimal union activity in the housing industry. I ran through the various parameters. None of them stack up to show that there is any link between increased
union activity and the housing crisis. I do think that would be a wise starting point for you, to inject some honesty into this debate.

Senator IAN MACDONALD (Queensland) (13:09): I actually have a question for the minister, which is what the committee stage is about. The committee stage is not about making 15-minute speeches after you have had your chance for 20 minutes in the second reading debate.

I have been listening to this debate quite intently. I have been trying to understand just what it is that the Greens are opposed to in this bill. I am sure Senator Rhiannon does not support the sort of thuggery that we have heard of from union officials or the sort of thuggery, against women in particular, that we have heard of in the royal commission and in various court proceedings around the country. I am sure Senator Rhiannon would not be involved in that. I know Senator Rhiannon was quite openly a member of the Communist Party in days gone by. I sort of understand her political philosophies from that. That is fine. It is a free country. You can support communism if you like. That is one of the glories of being a free country such as this. I am trying to understand why the Greens are opposed. I have listened intently to everything Senator Rhiannon has just spoken about—I was listening on the TV monitor upstairs before I came down—and I cannot find any reason why the Greens would be so opposed to this.

It suddenly occurs to me that perhaps the Greens are getting some political donations, some cash donations, from the CFMEU and others.

Senator Cormann: Surely not!

Senator IAN MACDONALD: I don't know, and that is why I am exercising my right in this committee stage to ask the minister. Minister, can you assist me. Do you have any information that might answer my query? Do the Greens get money donations from the CFMEU or any other trade union? That can be the only reason why the Greens are so opposed to this.

I know why the Labor Party is opposed. I can understand that. They are all here because the unions put them here. They only stay here for as long as the unions give them the tick to stay here. Senator Cameron, who is in the chamber, will know this well. His good mate George Campbell fell out of favour with the unions, and as a result of that Senator Cameron was able to come in. It was nothing Senator Cameron did; it was the unions that did it. So I understand the Labor Party as clearly as a bell. I am not in any doubt as to what that is all about. But I cannot understand the Greens, unless there is an element of monetary donation to the Greens political party. I know the Greens got the biggest corporate donation in the history of Australian politics—$1.6 million from a single businessman. It was the biggest donation ever. I understand that. That is why there were certain funny arrangements made in Tasmania a few years ago, including an attempt to have tax free status for a certain newspaper that was associated with, perhaps, the donor. But that is all past history. I understand that, but I cannot understand why the Greens are so opposed to this particular bill, unless there is a simple explanation. That might be it; it might not be. I am just wondering whether the minister can help me on that.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (13:13): I will turn to Senator
Cameron's question first. Senator Cameron asked me about the appointment of the director of the Australian Building and Construction Commission. In response to that question I refer you to clause 4 of the transitional bill, which provides for the continuation of the appointment of the director.

In response to Senator Rhiannon's question in relation to the impact of costs in the housing market, when you have an increase in costs in the commercial construction sector there is an obvious flow on through the whole construction market. What this bill is designed to do is, obviously, increase productivity and decrease costs in the commercial construction sector, which would have obvious flow ons in relation to the housing market, as you so referred.

In relation to the question posed by Senator Macdonald, my understanding is, yes, the Australian Greens are or have been in receipt of moneys from the CFMEU. It might be that Senator Roberts, who articulated this in his very good speech to the Senate last night, is able to refer to it and provide more information to the Senate, unless of course the Australian Greens would like to.

Senator Cameron (New South Wales) (13:14): Far be it from me to raise the issue that Senator Rhiannon has raised but, as I understand it, Senator Rhiannon was talking about not the commercial building industry but the residential building industry, because that is where the Prime Minister and you, Senator Cash, were saying it would cost more to build a house unless this bill goes through. That is an absolute nonsense. The residential building industry is very, very likely unionised, and it is certainly not unions that determine the rates of pay and conditions in the residential building industry.

I want to go to two other matters while I am on my feet. Given that Senator Macdonald has set the standard by speaking for 10 minutes before asking a question—especially when he said he was going to ask the question and not make a speech—I think the rules have now been set by the other side. There are two issues I want to raise. The first issue is: what is the driver of much of the problem in this industry? What is the impediment to productivity? What is the issue that individual contractors, small businesses and employees face? The issue is that they are not getting paid for work that they do. They are not getting paid. I was very pleased to seek the establishment of an inquiry into insolvency in the building and construction industry. There are lots of things that go to productivity that are much wider than whether there is some rough-haired, stupid union official going onto your site and getting into a brawl with a boss. Come on! That is not the issue. The issue is companies not paying their bills and phoenixing. They are coming back without paying their bills and establishing themselves again as a company.

I saw an analysis of this by a company called Sutton Douglass Lawyers. If you are talking about getting some reasonable industrial relations in the industry then you have to deal with the $3 billion of unpaid bills in the industry that see workers going without any money, companies going bust because they are not getting paid and families breaking up because the chief earner in the household has got no money coming in—and you know all the drama that that can cause in a household.

This firm, Sutton Douglass Lawyers, says that there are a range of issues that go to insolvency, that there are a number of issues that come through. One of those, basically, is that if you do not get paid when you are running a small company then workers are underpaid or paid irregularly. It is not the Labor Party and it is not the unions who are saying this; this is
a big-end-of-town litigation company that deals with these issues. They say workers are underpaid or paid irregularly. They say suppliers are not paid. They say superannuation payments are not paid. We know this mob opposite do not care about superannuation. They have never supported a superannuation increase for workers ever since they have been in parliament—and ever since superannuation has been around. Sutton Douglass Lawyers also say workers have their employment status changed from permanent to casual. How often have you seen that happening? Again, this is big-end-of-town lawyers saying, 'Here are the implications for the industry of not paying your debts.' The implication is that warranties or guarantees provided for workmanship by the old entity have become unenforceable and worthless. So, if you actually get a block of flats built and there is a warranty on that flat, the company simply goes bust and phoenixes up again—they might be building the block of flats next door. There is no warranty and there is no comeback on that company.

Sutton Douglass Lawyers also say that workers are pressured to take leave while the businesses transfer from the old entity to the new and the interest of company owners and directors takes priority at the cost of creditors, who do not get paid.

There is a detrimental effect on the community, there is an erosion of the revenue base and there are increased enforcement costs that stem from the avoidance of regulatory obligations. We had much evidence from the Australian Taxation Office and ASIC about the problems that they have dealing with this issue of phoenixing. Sutton Douglass Lawyers go on to say that, by not paying their taxes and employee entitlements, companies have an unfair competitive advantage. So you have companies that are out there battling to do the right thing—paying the wages of workers week in and week out, paying the proper tax and fixing the warranty issues up—and then you have these phoenix companies that are just going bust and getting an unfair advantage.

This is the type of behaviour that this government is supporting with this bill. Make no mistake about it: this is the type of behaviour that this government is supporting. I will come back to this down the line, because there was a report that had 30-odd recommendations. This government has not responded to a single one of them.

Senator Dastyari: Forty-four recommendations.

Senator CAMERON: There were 44 recommendations. There has not been one response from this government.

I want to go to the second issue that is a big problem, and that is this code. Imagine giving the worst public servant in the country the decision as to whether unions are bargaining effectively with employers. Mr Nigel Hadgkiss—a guy who is arrogant, out of touch and simply doing the bidding of the government—has now got the right to determine whether a company is bargaining with its employees. It is not the Fair Work Commission or the old industrial commission anymore. Part of the problem is not just the issues in the bill as they stand but also the code and the implications of the code. The code prohibits a number of clauses in these agreements. Remember, Mr Hadgkiss is the guy who is going to determine these issues. Under the code that is developed by this government, you cannot negotiate to have apprentices employed under your agreement.

I was a union official for 27 years. I negotiated agreement after agreement after agreement that said that a company would employ apprentices, not only for the benefit of the company but for the benefit of young workers trying to get an apprenticeship. Under the Building and
Construction Industry (Improving Productivity) Bill 2013, if the CFMEU or any union seeks to have a clause in the agreement for the employment of apprentices, of young kids—no, that is illegal. How stupid can this government be to do that? What is the point of trying to deny young workers access to a job when it is the union movement that has been out there pursuing apprenticeships for as long as I have been in this country? It is the union movement that has championed apprenticeships—not this mob over here, who simply complain about them costing too much and who, through Senator Birmingham, gives $2 million to a former senator who sent his own building company broke. They were going to give $2 million to his pet project. This is the sort of behaviour of this government—you cannot negotiate to employ an apprentice; you cannot put local workers ahead of temporary foreign workers.

I thought One Nation were out there being the champion of Australian workers, yet they are going to sign off on this so that foreign workers will get in before an Australian worker. There will be no checks and balances coming from One Nation. All the rhetoric is out there from One Nation about the need to give Australians jobs, but they now have a chance—there is a test for Senator Hanson and her mob now. We will be moving an amendment to give priority to Australian workers. Let us see how big they are then. Let us see how good they are then. All the rhetoric you get from them—we will see whether there is any substance to that. Today is the chance that they have.

What happens if you encourage the employment of a mature age worker? You might have a rigger or a carpenter or a builder's labourer who has worked in the industry for 30 or 40 years, and then the young buck comes in—the 21-year-old labourer—and, because he is bigger and stronger and faster, he gets the job, and 40 years of hard work in the industry stands for nothing. Well, the CFMEU stands up for their members. The CFMEU stands up for mature age workers and wants to give mature age workers a fair go. Even if the boss agrees to do that, this bill outlaws that in the code—absolute nonsense.

What about encouraging site employment levels that maintain safe staffing—safety? Senator Rhiannon outlined some of the issues. Two Irish backpackers—backpackers, inexperienced people—were killed under a massive slab of concrete in Perth. A young female German backpacker fell many metres to her death on a construction site in Perth. Do you hear anything said by this lot over here about that? Absolutely nothing. All they want to do is stop the unions being able to negotiate safe working conditions and safe numbers on the job.

Here is another one for One Nation. This bill makes it illegal to negotiate with a company to use locally manufactured products and building materials on the job. So we will just bring it all in from China, from Korea, from Thailand. Do not give anybody a fair go in Australia. That is what this bill does—stops a fair go for Australian industry. One Nation have already said they are going to sign off on it. So much for the great protectors of workers in this country—One Nation—when you just cave in on these significant issues.

The employment of safety officers on the job is not allowed. How ridiculous is that? And, if you want to discourage casual employment so that a worker gets a decent number of hours on the job, the code makes that illegal. Casualise the workforce, internationalise the workforce, exploit the workforce—that is this mob over there. Even if a property owner wants to invite a union official onto the site of their own property, they have to go through Nigel Hadgkiss, the worst public servant ever to put a foot in this place. No wonder the advisor in the box is smiling—you have seen him in operation. I certainly know that the public servants
have been raising big eyebrows about the operation of this guy. Even if you agree that a union official can come onto your property, this bill outlaws that.

This bill outlaws consultation about the use of subcontractors. This lot want to get the worst subcontractors in the country with the worst wages, the worst conditions, the worst employment ever, to come onto the job and undermine decent wages and decent conditions fought for by the CFMEU and the other unions. That is what this lot are about. They are absolutely hopeless. If the union negotiate with the employer that there will be no cashing out of entitlements, that entitlements will be maintained, that the workers will take their entitlements from one job to another, that is illegal. For Nigel Hadgkiss to be taking over the role of the Fair Work Commission to police this is an absolute outrage.

There is plenty there for One Nation, plenty there for Senator Xenophon, plenty there for Senator Hinch—and Senator Leyonhjelm: well, who knows? We will see where you stand on these issues today. We will see whether you actually stand for Australian workers. We will see whether you actually stand for safety on the job. We will see whether you actually stand for older workers. We will see whether you actually stand for young workers getting an apprenticeship. We will be watching how you vote on every one of those issues. This code is a disgrace. Minister, do you intend to proceed with the code? (Time expired)

**Senator McKIM** (Tasmania) (13:29): I will of course be joining with my colleagues in the Australian Greens to oppose this terrible, draconian, antiworker and antiunion legislation. But I have been listening, like Senator Macdonald, very carefully to this debate and I have been reflecting on the contribution that Senator Macdonald just made—though I guess it was more of an unstructured rant than a contribution. I have been wondering why Senator Macdonald and his colleagues in the Liberal Party are in fact so supportive of this terrible, draconian legislation. I know Senator Macdonald's history. I know he has been a member of the Liberal Party for a long period of time, and that is fine; it is a free country. But, as I was wondering why they are so supportive of this terrible legislation, it came to me in a blinding flash: political donations from the property development industry, because over the last five years the Liberal and National parties combined have received, at the very least, $10.3 million in direct donations from the property industry. And who stands to gain most from this legislation? It is the property industry.

Minister, the question for you is identical in spirit to the one you responded to Senator Macdonald on when he asked you about donations the Greens had received. I ask you: can you place on the record, Minister, how many millions of dollars the Liberal Party has received in donations from the property development sector in this country over the past five years? If you cannot place that on the record today, could you please come back into the chamber and provide us with that advice in the future, as I believe you committed to doing for Senator Macdonald.

I am not going to stand here and listen to the rubbish and the drivel coming out of Senator Macdonald's mouth without pointing out the rampant hypocrisy behind his words. He might want to get up and cast aspersions at my colleague and friend Senator Rhiannon in this place, and he is entitled to do that, but he is going to cop it back every time. We are going to expose his hypocrisy. We are going to expose the links between political donations to the Liberal Party and the National Party from the property development sector, who stand to profit massively from these pieces of legislation.
Do not even get me started on the donations that the Liberal and National parties receive from the fossil fuel industry in this country. In order to receive those donations, they of course deliver massive public policy outcomes for the fossil fuel sector in this country, including about $24 billion—that is billion with a 'b'—of direct taxpayer subsidies to the fossil fuel sector in Australia in every budget. While on the one hand this week they are trying to claw back some money from backpackers who contribute to the agricultural sector in this country, on the other hand they funnel out the door these massive donations, many billions of dollars a year, to the fossil fuel sector in return for the significant donations they receive from the fossil fuel sector. Of course, it is the same with property developers. Those opposite claw in money in political donations—$10.3 million to the Liberal and National parties combined over the past five years—and they deliver outcomes. Make no mistake; that is what Senator Cash is sitting in here doing today, flanked by Senator Cormann and Senator Fifield, with Senator Paterson up in the back row. They are delivering for their major donors and their mates in the property development sector.

I will say to Senator Macdonald—even though he is not in the chamber at the moment he can always read the Hansard—that if he is going to get up and have unstructured rants at the Greens then he can expect to be called out for being a hypocrite. He can expect to have his party's very close links with the property development industry, including the millions of dollars in donations it receives every year, called out and exposed.

Minister, the question to you is: exactly how many millions of dollars has the Liberal Party received from property developers? Could you take that back through five years and provide a breakdown on an annual basis please.

Senator ROBERTS (Queensland) (13:35): I stand as a servant to the people of Queensland and Australia. These bills are about unravelling building industry cartels, and their union cronies are caught in the crossfire. The bills are about protecting and restoring this industry from the grip of the cartels. Above all, these bills support freedom—freedom of choice for union workers, whether or not they want to be in a union; freedom of choice for subbies; freedom of choice for small business; freedom of choice for taxpayers, so that we do not have to keep paying exorbitant rates for buildings that are controlled by a building industry cartel that includes the CFMEU. These bills support small business. These bills support taxpayers. These bills protect honest union members from their union bosses. These bills support the building industry.

I have had the pleasure of talking with Ken Phillips, who has explained to me how small businesses have been crippled by big businesses that want to suppress small business competition. They are pushing the risk down to the small businesses and they are doing the union's bidding. Unpaid bills certainly are rife in the industry—we know about that—and that is due largely to the power and control of a few large companies.

When I listen, in Queensland, to big, burly, well-muscled men running their businesses and they are in tears because of fear for their families and their employees then I know we have got a problem. Yet what did we hear from the Greens and the Labor Party last night? We heard about Fidel Castro, who destroyed his nation. We heard endlessly about Work Choices, ice dealers, diaries, fatalities. Fatalities are sad, but the fact is that safety improved under the previous ABCC provisions.
We heard all about the Chicken Littles—bwok bwok bekerk!—all the scratching and running around in this house last night, all the pecking, pecking, pecking, the Chicken Littles. I do not know which bill Senator Cameron was reading, but I—

The TEMPORARY CHAIR (Senator Back): Senator Roberts, resume your seat.

Senator McKim: Yes, the point of order is that the Senate is a workplace for a number of people, such as people in Hansard, who listen very carefully to the contributions. I think that deliberately tapping the microphone should be ruled out of order.

The TEMPORARY CHAIR: Thank you, Senator McKim, you have made your point. Please resume your seat.

Senator ROBERTS: I have read the ABCC bill from cover to cover, including the building code, and it does nothing that Senator Cameron alleges. The CFMEU is supposedly bargaining for its members, yet it funded GetUp! to the tune of $1.2 million in 2010. And what I am going to discuss next is a very sad thing, and that is black lung. Black lung is a crippling disease in the coal industry, and we thought it was ended thanks to legislation, thanks to modern equipment and thanks to modern high-velocity ventilation. But in Queensland recently we have seen black lung recur. The CFMEU controls four of the levels of responsibility for preventing black lung, including two levels that are paid for by the industry and for which the CFMEU are responsible. That is an indictment of the CFMEU's attitude towards safety.

We see the CFMEU allied with activists and with GetUp!—who are also connected with American billionaires—funding the destruction, and they admit this, of this country's coal industry. And they are closely allied with President Obama and senior people from Hillary Clinton's campaign. This is indeed payback, as Senator Cameron said, for the people in Australia, for the honest union members, against the large building companies and the CFMEU cronies.

Senator Cameron, in my view, is of the old days, when might was right, when safety was seen as a cost. And then it was a constant battle, because the old view was that safety cost money, and that is no longer appropriate. Senator Cameron still sees safety as an alternative to productivity. It is not, and I will get on to the solution in a minute. In the old days, quality was seen as cost. It is not a cost, but that is what it was seen as. So, companies, managers, people throughout the country and people throughout the world thought that higher quality meant higher cost. That has also been tipped away. The environment was seen as a cost, and the Greens still see it as a cost—to the detriment of our civilisation. But times have changed. Safety now is seen to improve productivity. That is why safety makes commercial sense. When people focus properly on safety they improve the work processes, the work environment, and that leads to fewer injuries, fewer near misses and less waste of materials. Safety improves productivity.

This bill is about putting responsibility back on the employers in this industry, and that will improve safety, as it did under the old ABCC. Quality improves productivity. Maybe people in this chamber are not aware of what the Japanese did. The Japanese focused on quality and dramatically improved productivity, and that has given us the modern miracle of modern manufacturing, which reduces costs. The same miracle will start to apply much more rapidly
in the construction sector once management is allowed to behave properly and once the senior management of major companies are required to manage properly. We now see that the environment improves productivity, because the environment is despoiled by pollutants. Pollutants are waste, and when we reduce waste we improve the environment, we improve costs. The Greens, though, seem to think that civilisation and the environment are mutually exclusive, whereas they are mutually beneficial.

I have been made aware of some hours of work—or maybe they are hours of recreation—on the Karara worksite under a greenfields agreement. A typical day during a negotiation—which the taxpayers are paying for—is a 6.30 start; from 6.30 to seven o'clock, workers arrive and attend prework meetings with the relevant foremen. Sounds good. From 7.30 to 9.30 there is a union communication meeting. But wait for it: that is the first communication meeting that they are entitled to. From 9.30 to 10.00 is a scheduled smoko break. It must have been a pretty hectic meeting! And then from 10 o'clock to 11 o'clock there is 'limited work'. From 11 o'clock to one o'clock is—wait for it—the second union communication meeting. The union is not very good at communication, I guess! From one o'clock to 1.30—of course, after a tiring morning—it is necessary for a lunch break, and then from 1.30 to 2.30 there is another hour of 'limited work', and then from 2.30 to three o'clock, knock-off, with a staggered finishing time between 2.30 and 3 pm. So, two hours of work—sorry: two hours of 'limited work'—in an eight-hour day; amazing.

Who is paying for this? We are—the taxpayers. The taxpayers are paying for this. Senator Cameron does not seem to understand economics. He feigned ignorance that the building construction industry does not affect house prices. When the price of apartments rises, the price of houses rises. It is that simple: supply and demand. Everyone knows that—well, I would have thought everyone knows that. Some building workers, contrary to what Senator Cameron said, actually go out to work every day, but they cannot get work. They cannot get work because they are black banned, and sometimes they are threatened and are under intimidation. And it is not only them but also their families and their work mates. Dyson Heydon and many judges have confirmed that. Around 100 CFMEU officials are before the courts—and Senator Cameron raises accountability. That is the core of this bill. But how can we have accountability when workers, when foremen, when shareholders, when owners of buildings have to go through the court system to get it? It is not right. This bill and the building code in particular pushes accountability back to where it belongs—to the head of the senior companies. This bill is about freedom, accountability, safety and workers' rights, and improving every one of them.

Senator Rhiannon talks about protecting the CFMEU. Why? It is because it is a major source of Greens' funds. Another point I want to address is the use of labels by members of the ALP and members of the Greens in this Senate. When I hear someone being labelled as arrogant, as a liar et cetera then, to me, it means that the person using the label does not have the evidence. That, again, is an old, outdated tactic and displays behaviours that are no longer productive. In fact, the old unions, which Senator Cameron seems to exemplify, stifled workers, disconnected workers and stifled apprentices. When people are not free to use their talents through demarcation, it has a very crippling effect on work pride and work satisfaction.
I am of the understanding that when Bill Shorten was minister for employment the number of 457 visas increased dramatically. I am also of the understanding that the board members of GetUp! included Bill Shorten, an ally of the CFMEU. I am also of the understanding that under the previous Labor government Kentucky Fried Chicken and McDonald's used 457 visas. I may be wrong about that, but that is what I have heard.

Senator Cormann: Would you like lies with that?

Senator ROBERTS: Sorry?

The TEMPORARY CHAIR (Senator Back): Direct your comments through the chair, thank you, Senator Roberts.

Senator ROBERTS: Restricting subbies to a CFMEU panel and not being allowed to employ anyone else, apart from those in the CFMEU panel, discriminates heavily against the worker.

I was in a discussion with Senator Pauline Hanson and one of our office staff some months ago and I had the privilege of being with senior members of the ACTU and the CFMEU and I asked them for their opinions on what the big issues are that are facing this country. One of them said, 'The need to increase wages.' None of them said tax. Tax is crippling our industry in this country and crippling payrolls because we are taxing payrolls and we are taxing gross incomes. That means a decent increase to a person's gross income is prohibitive when it comes to employment in many industries. We are taxing people out of work because the tax system is antiquated and designed for another era.

The ACTU does not raise tax. The opposition leader in the lower house does not raise tax. He said he would not raise tax. The Prime Minister has said that the government will not raise tax. And, yet, jobs are supposed to be a big issue. We must address tax so the cost-of-living pressures are removed from everyday builders and their employees. It seems to me that everyday people are cannon fodder for the ALP unions cartel—the machine that tries to control, in cahoots with big builders, this building industry and is holding our country back. We need to protect small businesses and subbies. We need to protect honest workers, and we need to protect the taxpayers from union cartels in collusion with big business.

Then I come to the Greens—again, the Greens. Only the Greens could tell us that depreciation is a subsidy on hydrocarbon fuels. Only the Greens could lack understanding of accounting so that they could classify depreciation as a subsidy and talk about it in isolation as if only the hydrocarbon industry is getting it. I am tired of the rants, I am tired of the labels and I am tired of the old-world tactics. I need to help this country get on with coming back into the 21st century and improving the efficiency, safety and security of this industry. I am very much in favour of this bill.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (13:49): I would just like to respond to a question that was asked by Senator McKim in relation to political donations. All campaign donations received by the coalition are disclosed in accordance with the law and those disclosures are publicly accessible, which is, again, consistent with the law. In response to a question from Senator Cameron in relation to the building code, the answer is, yes, we intend to proceed with the building code.
Senator DASTYARI (New South Wales) (13:49): I did have a series of questions that I wanted to put to the minister, but I think, unfortunately, time will not permit me to be able to have the back and forth that I would like to have. But there are a few questions that I would like to ask and I would like to get some responses back.

Minister, have you had a chance to read the report that was produced by the Senate Economics References Committee, *Insolvency in the Australian construction industry*? I believe it was tabled in the Senate on 5 December last year.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (13:50): If I am referring to the right report then, yes, I have been briefed on it.

Senator DASTYARI (New South Wales) (13:50): Minister, did this report produced by the Senate Economics References Committee play a role in the development of this piece of legislation?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (13:51): No.

Senator DASTYARI (New South Wales) (13:51): Minister, that is disappointing. There were 44 recommendations made. It was quite a bipartisan inquiry. I want to give credit to Senator Cameron, who I think initiated the inquiry. Frankly, while I had the role of chairing the committee, it was Senator Cameron and Senator Cameron's office that did the bulk of the work and then I think Senator Ketter finally presented it. The report itself had 44 recommendations that went to the heart of the issues affecting the building industry. They were largely around the issues of phoenixing—how companies are phoenixing and what the impact of phoenixing has been. Minister, how does this bill, as it currently stands unamended, address the issue of phoenixing in the industry?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (13:52): Thank you, Senator Dastyari. As you correctly pointed out, this Economics References Committee report was tabled in December 2015. You would be aware that the legislation was drafted, I believe, over three years ago now. Obviously, the legislation is in the same form as it was when introduced, given that it was a double dissolution trigger.

In relation to the question that you asked: my understanding is that there will be amendments moved by some of the crossbenchers which will address in further detail the concerns which you raised.

Senator DASTYARI (New South Wales) (13:52): Minister, the report itself came through with 44 different recommendations. Again, not having seen the amendments that you are foreshadowing I may speak a little broadly to the issues that were raised regarding phoenixing and, I hope, to those who are in the process of looking at this issue.

This has been a very politically-charged debate over the past few years. This report was not a politically-charged one; some of the reports that we deal with in this place are and some are not. This really highlighted this incredible issue of phoenixing. Again, it was Senator Cameron who bought it to my attention. It is the situation whereby people within the industry will set themselves up to fail: they will subcontract work, will not pay those workers, will feign insolvency or become technically insolvent and then recreate a similar company with a
similar name and with a similar board of directors—or second cousins, or friends, or next-door neighbours or faux, sham boards—to recreate themselves.

The evidence found in the inquiry was that some of the horrendous, terrible and deplorable behaviour that has gone on in this industry has occurred as the result of people desperately trying to make sure they get paid. People have hired some horrible people. Let me be clear: that is the wrong thing to do. Nobody should condone that and nobody supports that. What I think is unfortunate is the legislative environment that allows phoenixing to happen to the extent to which it is happening. It creates an environment where desperate people have done desperate things. It is horrible behaviour and it should not be supported. But at the same time, we should look at how we frame an environment where it is not necessary—where that type of behaviour is not needed.

With some of these subcontractors, the fact is that they have to price into their own business models the notion that from time to time they are simply not going to get paid—that people are going to come and shut down their businesses. There is frustration in many of these circumstances. To see someone who owes you money for work you have conducted properly reappear a week later with a different company but with a slightly amended company name is actually a huge problem that is affecting so many lives. There were 44 recommendations by the Senate inquiry, largely around bringing the Corporations Act into line with the insolvency act and also about the powers and focus that ASIC is going to have. I think that is a step in the right direction, in so far as we are having a genuine discussion about how we improve the construction industry. The priority should be phoenixing and how some of these companies have behaved.

Minister, again, I think it is disappointing that it is correct when you say that this piece of legislation was produced three years ago. I feel that this is something which could have been incorporated—or should have been incorporated—into any discussion that we were having around this industry. What the Senate economics committee found was that there was no bigger issue than phoenixing. At a practical level it is affecting those who are trying to make a living or to run a business from day to day.

But here we are again, debating this bill one more time. I hope that after we defeat this bill certainly then the government will move on and shift its focus elsewhere. But in the last week of the parliament, six months after an election, here we are debating this bill one more time. Frankly, look at the priorities we should be dealing with—

**Senator Williams:** This is what the election was about!

**Senator DASTYARI:** Well, you say that this is what the election was about. During the election campaign you guys were not talking about it! They were not talking about this! During the election campaign they could not run further away from this issue. What they are doing now in the last week is trying to stitch up as many deals as they can! Dirty deals being done dirt cheap in this place!

*Honourable senators interjecting—*

**The TEMPORARY CHAIR (Senator Back):** Order!

**Senator McGrath:** You were on a bus in Chinatown!
Senator DASTYARI: And you are trying to pull together whatever you can! I am not going to be lectured by Milo man over there! And I am not going to be stirred by your sticky fingers!

Senator Williams: Why are you using chopsticks?

The TEMPORARY CHAIR: Senator Dastyari—your comments through the chair, please. And the speaker will be heard in silence

Senator DASTYARI: Through you, Chair, I am not sure if that is an interjection I should be taking or leaving. Against my better judgement, I think I will let that interjection stand.

This is a bad piece of legislation. This is a piece of legislation that has been defeated time and time again because it does not achieve what it sets out to achieve. This is a bill which is nothing more than a relentless attack on the Australian trade union movement by an ideologically-driven government that is out of ideas, that is out of direction and that is only unified by hate. And when they are not hating each other, when they are not splitting amongst each other, they turn around and start attacking others. And I note that the soon-to-be former Leader of the Government in the Senate has walked in to start question time.

I will say this: this is a bad bill. This is not a bill that should be supported. This is not a bill that should be passed by this Senate, and I await the Senate defeating this bill one more time.

Senator PATERSON (Victoria) (13:59): I have a question for the minister, but before I ask my question of the minister, and in the spirit of goodwill, I want to offer some thanks to other senators. Let me thank Senator Dastyari for very kindly pointing out that it is not a good idea to hire standover men to collect debts from people. That is a great concession on your part, Senator Dastyari, thank you for that. I hope you sent that memo to the CFMEU, because they have not been following your advice on this. That is perhaps why this legislation is necessary.

I would also like to thank Senator McKim for proving that unconstructed sprays are not the preserve of just government or opposition senators, but of the crossbench as well.

Progress reported.

QUESTIONS WITHOUT NOTICE
Attorney-General

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:00): My question is to the Attorney-General, Senator Brandis. In the Attorney-General's statement to the Senate yesterday regarding the Bell Group matter, he indicated that the first personal involvement he recalls having in the matter was on 3 March 2016. When and how did the Attorney-General first become aware that the Western Australian government was seeking the Commonwealth's agreement not to contest the Western Australian legislation?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:00): Senator Gallagher, I am not sure that properly characterises what my understanding of the matter was at any time, as a matter of fact. As I said in my statement yesterday, I became aware on 3 March when I received a visit from Mr Porter, who discussed the matter with me. I had a teleconference with Mr Mischin, the Attorney-General of Western Australia, in which Dr Nahan—
Senator Wong: When did you first become aware? It is not about your first involvement. When did you first become aware?

Senator BRANDIS: I am sorry, Mr President. I am trying to answer the question. I keep being interrupted by Senator Wong.

Honourable senators interjecting—

The PRESIDENT: Order! Interjections are disorderly.

Senator BRANDIS: On 4 March I had a teleconference with Mr Mischin, in which Dr Nahan, the Treasurer, was also involved—as I said in my statement yesterday. That was my first involvement in the matter, although—

Senator Wong: A point of order on relevance. We did not ask about his first personal involvement. We understand this Attorney-General's careful use of language. We asked when he first became aware, not when he was first personally involved, which is the language he used. The question was: when and how did the Attorney-General first become aware?

The PRESIDENT: The Attorney-General was asked when and how he first became aware. He commenced his answer by answering—as he indicated yesterday—3 March. The date was mentioned. He is now continuing with his answer and is indicating another date, 4 March, for subsequent material. The Attorney-General has been in order.

Senator BRANDIS: I know that there had been some communication to my office earlier than 3 March, but my own involvement began on 3 March. Senator Gallagher, the relevant events, to which I understand you refer, occurred in April 2015, which was almost a year before I first became involved.

The PRESIDENT: Senator Gallagher, a supplementary question.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:03): I again refer to the Attorney-General's statement in which he indicated his office had been dealing with the matter prior to his personal involvement on 3 March 2016—

Senator Brandis interjecting—

Senator GALLAGHER: Yes, indeed, that is. Can the minister outline to the Senate: when did his office first become aware of the matter, and what was his office's involvement?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:04): It was before 3 March. I looked at some documents overnight, and I think it may have been in January 2016, but I will check that date. The point I make to you, Senator, is that the relevant discussion, which is said to constitute—at least as pointed to by Western Australian ministers—an arrangement or an agreement of some kind between the Commonwealth and the Western Australian government, took place in April 2015. I had no knowledge of or involvement in that whatsoever. I first became aware of it the following year.

The PRESIDENT: Senator Gallagher, a final supplementary question.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (14:05): I again refer to the Attorney-General's statement to the Senate, in which he claimed not to have been personally involved in the matter until 3 March. How can
he maintain he was not personally involved when counsel appearing on his behalf in the High Court appeared on 8 February?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:05): That is not correct. The counsel who appeared in the matter in the High Court on behalf of the only relevant Commonwealth party, Mr Gleeson, was, as I understand the matter, at that time acting on the instructions of the Australian Taxation Office—not on my instructions. As I was at pains to point out yesterday, at that time and subsequently I was not involved in giving instructions to Mr Gleeson on behalf of the Australian Taxation Office. The Australian Taxation Office is an independent statutory authority; when it retains counsel, counsel appears on behalf of it, not on behalf of the Attorney-General.

**High Court of Australia**

**Senator IAN MACDONALD** (Queensland) (14:06): My question is also to the Attorney-General, but it is a serious question. Attorney, I understand that you have some good news for us in relation to appointments to the High Court. I wonder if you could elaborate for the Senate?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:06): Mr President, I wonder if I might, with the indulgence of the Senate, wish the Father of the Senate a happy birthday. I hope, Senator Macdonald, because it is your birthday, Senator Wong will not be quite so rude to you today! Senator Macdonald, I can indeed advise the Senate that this morning the Prime Minister and I announced the appointment of the 13th Chief Justice of Australia, who will be the Hon. Susan Kiefel—a judge of the High Court of Australia since 2007. The appointment of any Chief Justice is a very significant moment in the history of the nation. When we consider that there are three branches of government, and this is the appointment of the head of one of the three branches of government, the appointment of a new Chief Justice of Australia is a great day in the life of the nation. If I may say so, what lends particular grace to today is the fact that this is the first woman to occupy the office of Chief Justice of Australia.

Justice Kiefel, who I have known for more than 25 years, is an eminent person who will be fine occupant of that office. I also stress that Justice Kiefel was not chosen because of her gender—Justice Kiefel was chosen because of her eminence. But her life story and this crowning accomplishment of her career just goes to show how the barriers to women, to young women and to girls in this country have broken down so significantly over recent years and decades.

The **PRESIDENT**: Senator Macdonald, a supplementary question.

**Senator IAN MACDONALD** (Queensland) (14:08): Thank you, Attorney—I am delighted to hear of Justice Kiefel's appointment. In fact, I think I briefed her once when she first went to the bar in Queensland. Can the Attorney give us some more information about the new Chief Justice?

**Senator BRANDIS** (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:09): Senator Macdonald, through you Mr President, I am not surprised if you briefed Justice Kiefel, because I recall in her very early days at the bar she had something of a specialisation in local government and planning...
I know that when you were a solicitor in North Queensland that was a field in which you practised as well, so I would not be surprised if that was the case—though I think it would be a bit of a stretch to say that you were the one who set her on her way! Justice Kiefel, nevertheless, does have a great story. She left school at 15, she studied at night to complete her high school education and then she studied for admission to the bar. She developed a successful practice, she was very widely briefed and she was very well-thought of and held in great respect and esteem by members of the Queensland bar. I appeared with her myself many times—I appeared against her as well sometimes. She is, Senator Macdonald, the fourth Queensland Chief Justice of Australia.

The PRESIDENT: Senator Macdonald, a final supplementary question.

Senator IAN MACDONALD (Queensland) (14:10): I did ask originally about appointments to the High Court—apart from Justice Kiefel are there any other appointments, Attorney, that you can tell the Senate about?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:10): Yes there are, Senator Macdonald. A vacancy on the High Court will be filled by the Hon. James Edelman, a judge of the Federal Court of Australia and formerly a judge of the Supreme Court of Western Australia. I imagine my Western Australian colleagues on all sides of the chamber will be delighted by the appointment of Justice Edelman. Justice Edelman, at the age of only 42, has had a most distinguished career, both as a judge and as a barrister but also as a scholar of international reputation. Justice Edelman was appointed Professor of the Law of Obligations at Oxford University at the age of only 34—by the reckoning of some, the youngest person ever appointed a full professor of law at Oxford University in history. He is a scholar of international distinction, a very fine judge who I can tell you from the evidence of those who have appeared before him in the Federal Court where he sits in Brisbane is a most welcome appointment. (Time expired)

Attorney-General

Senator STERLE (Western Australia) (14:11): My question is to the Attorney-General, Senator Brandis. Yesterday the Attorney-General failed to either rule out or confirm whether the federal Liberal-National government had a deal or understanding with the Western Australian Liberal government that the Commonwealth would not contest the Western Australian legislation. The Prime Minister, in the other place, twice refused to rule out or confirm whether such a deal or understanding existed. Will the Attorney-General please tell the Senate yes or no—was there any such deal or understanding between the governments or any of their representatives?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:12): Senator Sterle, I am sorry if I did not make myself clearly enough understood, because I did address the issue in my statement. This is what I said:

... the only written record of those dealings—
between Mr Hockey and Dr Nahan; that is, the exchange of letters of April 2015—
does not in my view constitute or evidence such an agreement.

'Does not constitute or evidence such an agreement.'
The PRESIDENT: Pause the clock. Senator Wong, a point of order.

Senator Wong: The point of order is on relevance. We did not ask what the Attorney's opinion as to the nature of the letters was, which is the aspect of the statement to which he is referring. Senator Sterle, as is his wont, asked a very direct question: will the Attorney-General tell the Senate yes or no—was there any such deal or understanding between the governments or any of their representatives? We did not ask about the letters. We know what he said in his statement. He tries to avoid answering the question by referencing the letters—we are not referencing the letters at all; we are asking him to tell the Senate was there was a deal or understanding or not.

The PRESIDENT: My understanding of what the Attorney-General has been indicating is that there was no such deal.

Opposition senators interjecting—

The PRESIDENT: On my left! A point of order has been raised and I have been asked to rule on it. At this stage I am listening to the Attorney-General's answer. The Attorney-General has indicated, in my view, that by inference there was no such deal. But I will allow the Attorney-General to continue answering the question.

Senator BRANDIS: Through you, Mr President, the way I try to approach these questions, Senator Sterle, is to develop premises to a conclusion but for your sake I will state the conclusion first and then explain the premises: no there was not—not in my opinion and not to my knowledge. I do not believe there was a deal, I have no knowledge of a deal. The only evidence I have seen does not support the proposition that there was a deal.

The PRESIDENT: Senator Sterle, a supplementary question.

Senator STERLE (Western Australia) (14:14): I want to refer to the Western Australian Treasurer, Dr Mike Nahan, who told the Western Australian parliament: We had a deal with the commonwealth that it would not oppose the Bell act. Does the Attorney-General believe that Dr Nahan was misleading the Western Australian parliament?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:15): No, I do not, Senator Sterle. In answer to Senator Macdonald's question, I reflected on the years when I used to practice at the bar and I tell you what that taught me, Senator Sterle, because I largely practised in commercial matters: it is the most common thing in the world for two people to have a discussion and both of them, honestly and in good faith, to take a different recollection away from that discussion. Just because the documents do not support or evidence a deal does not mean that Dr Nahan is being dishonest—

Senator Wong: So he's stupid; you're saying he's stupid.

Senator BRANDIS: No, I am not. I am not saying that at all, Senator Wong. I am saying that I do not for a moment doubt Dr Nahan's honesty or good faith in his recollection of his discussions with Mr Hockey, but I have no knowledge of those discussions and the only documentary evidence of them I have seen does not support that conclusion.

Honourable senators interjecting—
The PRESIDENT: Can I have a little bit more quiet on my left. Not only do I need to hear the questions but I need to hear the answers.

Senator Jacinta Collins interjecting—

The PRESIDENT: Order, Senator Collins! Senator Sterle, a final supplementary question.

Senator STERLE (Western Australia) (14:16): I again refer to Dr Nahan, who told the Western Australian parliament:

The understanding was that the commonwealth would not use the powers under the Corporations Act … and it would not take an action to the High Court on the ATO and tax issues.

Does the Attorney-General believe that Dr Nahan was misleading the Western Australian parliament?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): I believe Dr Nahan is an honest man, and I am sure whatever Dr Nahan said to the Western Australian parliament was said in good faith. However—as I said to you in my answer to your previous question, Senator Sterle—just because two people who participate in a conversation have a different interpretation of that conversation does not mean either of them is acting in other than good faith or other than honestly. All I can tell you, Senator Sterle—since my first knowledge of these matters was in 2016 and they relate to events that occurred in April 2015—is that the only documents I have seen, the exchange of correspondence between Dr Nahan and Mr Hockey, do not either constitute or evidence an agreement.

Revenue

Senator WHISH-WILSON (Tasmania) (14:17): I was a bit confused as to who to ask this question to, given Senator Brandis's recent experience with recovering revenue for the Commonwealth, but I will direct my question to the Minister representing the Treasurer, Senator Cormann. Yesterday the Australian National Audit Office published a bombshell report into the collection of North West Shelf royalty revenue. ANAO found that $5 billion worth of deductions were claimed by oil and gas companies despite many of these deductions not being permitted on the Commonwealth royalty schedule. They also found that it had been 17 years since the department of industry audited the oil and gas companies' procedures for royalty calculations. How many hundreds of millions of dollars in revenue have gone begging because of this basic lack of scrutiny? Will the government be establishing a multidepartment task force into fixing this mess?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:18): Strictly speaking, that is actually a question for my good friend and colleague Senator Canavan, who is responsible for royalty arrangements through the resources portfolio. But let me just respond on behalf of the government, in an abundance of helpfulness, as always and as ever, for Senator Whish-Wilson.

The government has welcomed the Australian National Audit Office report. We have accepted all the recommendations. I see Senator Canavan nodding. Of course, we are swiftly implementing all of those recommendations. Indeed, over the last financial year I believe that the department and the Audit Office have worked together to assess how collections in relation to royalty streams have been conducted and all of the royalty revenue has absolutely
and fully been received in accordance with the law. Now, obviously, the government is always happy and keen to take on board any suggestions on how arrangements can be improved.

The PRESIDENT: Senator Whish-Wilson, a supplementary question.

Senator WHISH-WILSON (Tasmania) (14:19): The ANAO audit report identified that the Commonwealth does not carry out any testing of the flow meters that are used to calculate the volume of oil and gas extracted which the royalties are based on. The ANAO report found that one meter, for example, was out of action for a whole five years without anybody noticing. Given the failure of the department over the decades to audit whether the tax deductions were legitimate or not and given that we do not even know if the oil and gas meters are functioning properly, does the Australian government still have confidence in the Department of Industry, Innovation and Science to administer the Commonwealth royalty regime? (Time expired)

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:20): You are now well and truly asking me questions that do not relate to my portfolio. I refer you to the responsible minister.

The PRESIDENT: Senator Whish-Wilson, a final supplementary question.

Senator WHISH-WILSON (Tasmania) (14:20): This one probably should have gone to Senator Brandis, but nevertheless: the ANAO states that the Commonwealth is the only jurisdiction with the legal authority to initiate litigation to recover unpaid royalties. Has the government sought legal advice over recovering these unpaid royalties? Will the government be investigating if any of these wrongly claimed tax deductions might be considered tax fraud?

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (14:20): Senator Whish-Wilson is mixing a whole series of different concepts. Royalty payments are not tax payments. That is probably why he directed the question to the wrong minister. In order to continue to the spirit of cooperation and constructive assistance I will take that question on notice and I will ensure that Senator Whish-Wilson gets an appropriate answer from the accurate minister.

Trade

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:21): My question is to the Cabinet Secretary representing the Minister for Trade, Tourism and Investment, Senator Sinodinos. Noting that the government has already delivered unmatched preferential market access to the three northern Asian powerhouse economies, can the Cabinet Secretary outline what other opportunities the government is delivering for Australian exporters?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:21): I thank Senator Williams for his question and for his ongoing interest in tourism, trade and investment. During the Prime Minister’s first head-of-government visit to Indonesia, he and the President of Indonesia, Joko Widodo, agreed to revive negotiations for a free trade and investment partnership between our two countries. Now, this is an important priority for both countries, which is why, when Mr Ciobo, in the other place, was appointed Minister for Trade, Tourism
and Investment, his first trip of this parliament was to Indonesia to meet with his Indonesian counterpart.

Australia and Indonesia's trade and investment relationship is underdone, despite us being large G20 economies in close proximity. Australia's two-way trade with Indonesia was valued at $14.8 billion in 2014-15, making it our 12th largest merchandise trade partner. With a growing population of more than 250 million people, Indonesia really is the economic superpower of the ASEAN region, and for us it presents a tremendous opportunity. Examples of this can be seen in the beef sector, as well as in food manufacturing. Our wheat is sent to Indonesia and then turned into noodles and biscuits, which Indonesia exports to nations in the region. It is a great mark of our partnership. Like our landmark agreements with China, Korea and Japan, a bilateral trade agreement with Indonesia would be hugely beneficial to Australia.

I hope on this occasion that the Leader of the Opposition will be more supportive of this agreement than he was when we brought the China-Australia Free Trade Agreement to this parliament. He was left rather isolated on the Labor side of politics. Daniel Andrews, Annastacia Palaszczuk, Jay Weatherill, Andrew Barr, Bob Hawke, Simon Crean, Bob Carr, Luke Foley and Bryan Green all publicly endorsed that agreement, while Mr Shorten was a hold-out. It all goes to show that Mr Shorten needs to become a mature national leader who understands the benefits of trade— (Time expired)

The PRESIDENT: Senator Williams, a supplementary question.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:24): Can the Cabinet Secretary detail any examples of Australian businesses trading with Indonesia and how they could benefit from closer economic relations between our two nations?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:24): There are cattle stations right up and down Australia which will benefit from exporting capital to Indonesia—cattle to Indonesia; I spent too long in the banking sector! This includes Consolidated Pastoral Company, one of Australia's biggest beef exporters, with its head office in Brisbane. CPC—

Senator Dastyari: You're just giving us fodder!

Senator SINODINOS: Those opposite do not like listening to this stuff. They do not like it when they hear about Australian companies actually taking advantage of free trade agreements. CPC has almost 400,000 head of cattle across its 18 stations, from Carlton Hill along the Ord River in Western Australia to Cooinda in Queensland's central west and Kirkimbie in the Northern Territory. CPC also employs hundreds of people across Australia, including a number of our First Australians. CPC recognises that Indonesia is Australia's largest cattle export market, with growth to continue strongly over the years and decades to come. Indonesia has the fourth largest population and third fastest per capita income growth. (Time expired)

The PRESIDENT: Senator Williams, a final supplementary question.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:25): Is the Cabinet Secretary aware of any alternative approaches to our trade relationship with Indonesia?

Senator SINODINOS (New South Wales—Cabinet Secretary) (14:25): Yes, I am aware of different approaches to the relationship between our two countries. You judge countries and governments by their actions, not just by their words, and many in this place will
remember how Labor in government treated the great country of Indonesia. Labor shut down the entire cattle industry overnight, leaving Australian farmers devastated, exacerbating Indonesia’s food security concerns and undermining Indonesia’s confidence in Australia as a trade partner. The big mistake Indonesia made was not having the CFMEU on its side! Then maybe Labor would have thought twice about banning the industry. That is the truth. Conversely, this government has established a productive trade in cattle with Indonesia, including securing a commitment from Indonesia to introduce an annual permit, to bring certainty and stability to industries in both countries. It was people like Senator Macdonald, the 'lion of the north', whose birthday it is today, who did so much to bring this issue—

(Time expired)

Minister for Social Services

Senator McCarthy (Northern Territory) (14:26): My question is to Senator Ryan, the Minister representing the Minister for Social Services. I refer to the Attorney-General, who yesterday told the Senate:

Just as Mr Porter had suggested that I speak to Mr Mischin, he had suggested to Ms O'Dwyer that she speak to Mr Mischin.

In what capacity did the Minister for Social Services suggest to the Attorney-General and to the Minister for Revenue and Financial Services that they contact the Western Australian government on this matter?

Senator Ryan (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (14:27): I thank the senator for the question. It is fair to say that that is not something I am briefed on with respect to the minister's portfolio arrangements. Senator Brandis covered all these details in his detailed statement yesterday. If I have anything further—

Senator Wong: Porter was the middle man.

Senator Ryan: to add—

Senator Wong: Porter cut the deal.

Senator Ryan: Senator Wong, I am trying to complete the answer. I know you object to interjections when you speak. I am more than happy to come back to the Senate with any further information. I am sure that Senator McCarthy will understand that that is not a brief relating to the Social Services portfolio.

The President: Senator McCarthy, a supplementary question.

Senator McCarthy (Northern Territory) (14:27): Does the Minister for Social Services have any responsibility for matters related to the Bell liquidation, or was he lobbying ministers on behalf of his Western Australian Liberal mates?

Senator Ryan (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (14:28): I thank the senator for the question. My knowledge of the administrative orders is that the Minister for Social Services—

Senator Sterle interjecting—

Senator Back interjecting—

The President: Order! Order, on my left and my right!
Senator RYAN: My knowledge of the administrative orders is that the Minister for Social Services has no such responsibility as the senator asked in her question. If I am incorrect, I will bring something back to the Senate.

The PRESIDENT: Senator McCarthy, a final supplementary question.

Senator McCarthy (Northern Territory) (14:28): Which other ministers did Minister Porter spend time in Canberra lobbying on behalf of the WA government to do Australian taxpayers out of $300 million?

Senator RYAN (Victoria—Special Minister of State and Minister Assisting the Cabinet Secretary) (14:29): I have taken these questions in good faith until now, when they are starting to be used to slur members of the other place. That question contained an imputation and an effective allegation, supported by no evidence whatsoever, about a former state Attorney General and a minister of the government in the other place. This is nothing less than an attempt by Labor to smear people without any evidence whatsoever. And that question, quite frankly, Mr President, barely deserves my being on my feet to answer it.

Coal Industry

Senator O'SULLIVAN (Queensland) (14:29): My question is to the Minister for Resources and Northern Australia, Senator Canavan. Can the minister please update the Senate on the current state of the coal industry and the benefits it provides to the broader Australian community?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:30): I thank Senator O'Sullivan for his question. He is a great supporter of the great Queensland coal industry. The coal industry is in rude health. It is doing very well. It is exporting record amounts of wealth for our country. It remains the second highest export for our nation. It remains an industry that drives wealth, creates jobs and creates money for tax revenue for all our services that we provide in this place. It is exporting record amounts: around 400 million tonnes of coal is now exported from this country. It is up from 230 million tonnes 10 years ago.

This year prices have been much higher for coal as well, which is a great thing for our nation, given it is our second highest export. It is a great thing for our terms of trade and a great thing for our national income. Metallurgical coal prices have, amazingly, quadrupled over the past year, and thermal coal prices have more than doubled as well. Our coal industry remains strong, and that is a good thing for Australia and a particularly good thing for those regions that rely on the coal industry for many jobs.

Of course, coal still provides the vast majority of electricity in this country. As families and people put up their Christmas lights this year, more than half of that electricity on average around the country will be provided by coal. That will fire those lights. And when Santa comes along looking for houses to land at, Santa will be guided by electricity that is provided by the coal industry. The coal industry will help bring Christmas joy to many families around this country. Indeed, in eastern Australia more than 75 per cent of our electricity through the National Electricity Market will be provided by coal. Many people work in industries that rely on access to cheap, base load power and so need coal. Workers at Boyne Island smelters, near where I live in Gladstone, need that industry. Workers at Alcoa in Portland in Victoria need
that industry. So many families will be able to have good Christmases with good paying jobs thanks to the coal industry in this nation.

The PRESIDENT: Thank you, Minister. Senator O'Sullivan, your supplementary question.

Senator O'SULLIVAN (Queensland) (14:32): There will clearly be no Christmas without coal. What are the risks to the health of the coal sector and benefits it provides to Australia?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:32): I thank the senator again for his question. There are risks. We have an alliance here in this chamber. We have a Labor-Greens alliance that wants to shut coal down in our nation. Just yesterday we saw it in a report. It was out there calling on the Australian government to shut down coal-fired power stations. In this report—signed up to by Senator Waters, Senator Chisholm and Senator Dastyari—it said that the question is not ‘if coal-fired power stations will close’, but how quickly and how orderly those closures will occur. They want to shut down our natural advantage in base load power. They have a leader who was crying crocodile tears with workers down at Hazelwood last week, and then they come back to this place and say their real plans are to shut those jobs down and to shut coal down.

I am proud of our coal industry. I am proud of how it has driven economic growth in places like China. But from Senator Dastyari there is not even a simple ‘xie xie’ to our industry. There is not even a simple ‘thank you’ from Senator Dastyari for all the jobs that coal provides and all the wealth it has provided around the world.

The PRESIDENT: Senator O'Sullivan.

Senator O'SULLIVAN (Queensland) (14:33): Can the minister update the Senate on developments to facilitate major new investments in the coal sector?

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia) (14:33): Because the coal industry, as I said, is in rude health, there are still major investments that we can attract to this nation, notwithstanding, of course, the boom in investment is much reduced from what it was a few years ago. There is a very important project in regional Queensland at the moment that is on the table: the Adani Carmichael project. It could create thousands of jobs in regional Queensland, and it is very good news that we are attracting that investment in this country. It is even better news that over the past week it has got over more hurdles put up against it by environmental activist groups that are taking out court cases—not to try and protect the environment, but to try and disrupt and delay the latest projects. Last week two cases in the Queensland Supreme Court were dismissed against this project, which means now that there are many fewer court cases left to be decided. These are still some outstanding, but I am confident that this project can stack up, as long as we can get those groups who are opposed to coal and opposed to jobs in this country out of the way.

Health Care

Senator HINCH (Victoria) (14:34): My question is to the Minister representing the Minister for Health and Aged Care in the Senate, Senator Nash. Last week in the Senate I revealed the horror affecting thousands of women that is called transvaginal mesh. It is the modern scourge for women that thalidomide was back in the fifties and the sixties. It is commonly inserted into mothers who, after giving birth, develop incontinence and prolapse.
problems. Has the minister taken any steps to investigate this abomination since I raised the issue?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:35): I thank the senator for his question. Clearly these are matters that the government takes very, very seriously. We are sympathetic to any woman who is undergoing any circumstances that are causing distress when it comes to these types of situations. It is a very highly emotive issue for some—I do recognise that—but we also have to make sure that we are responding in relation to data and evidence. The TGA, as senators would know, is responsible for the safety and efficacy of medicines and medical devices. I can advise the senator, with the information provided to me, that steps have been taken.

The TGA has taken a number of steps: it has reviewed the safety of all pelvic meshes on the Australian Register of Therapeutic Goods, it has imposed additional reporting and approval requirements, and it has included additional warnings and risks in the instructions for use. The TGA actually reassessed the clinical evidence of approximately 100 devices and, as a result, removed almost three-quarters from the register. That product delisting began in August 2014 and continued in February 2015 and November 2015. As a result, the pelvic meshes that remain on the register meet the applicable safety and quality standards.

I do note that while, of course, we are very sympathetic to women in these circumstances, for the majority of women it has actually provided effective relief from conditions such as prolapse. I can also advise the senator that that the Australian Commission on Safety and Quality in Health Care has established a reference group on pelvic mesh that will ensure that clinical practice relating to the insertion of these products is appropriate, and that the mesh is only used by women in appropriate cases.

The PRESIDENT: Senator Hinch, a supplementary question?

Senator HINCH (Victoria) (14:37): More than 50 victims have written to the minister about this and, with the TGA taking new steps in reporting, can the minister make it mandatory for doctors to report the complications that women are suffering due to this product?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:37): In general underreporting is very much a focus and we want to ensure that, with any case of adverse event, reporting is appropriate. My understanding is that the issue has been very closely looked at to ensure that underreporting is addressed. The government will certainly continue to monitor this issue—monitor the safety and efficacy. I note that the minister is aware of this issue and, as with any other issue, she will continue to ensure that the TGA is continually monitoring these types of circumstances. If any new evidence or data is presented, it will be considered in the decision making with regard to these types of issues.

The PRESIDENT: Senator Hinch, do you have a final supplementary question?

Senator HINCH (Victoria) (14:38): Transvaginal mesh has roughly a one-in-three failure rate and leaves women in permanent and debilitating pain. In most cases it cannot be removed
until the women die. Why won't the government suspend the use of this instrument of torture, pending an inquiry into its safety?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:38): Firstly, with the greatest of respect, I would certainly want to take those claims on notice; I do not want to accept those claims at face value. They do not necessarily align with information that I have been given on the adverse events that we have seen. What I would say is that, given the importance of this issue and given the senator's very real concern on this matter, it would be appropriate for me to facilitate a meeting with the minister directly so that the senator can raise his concerns directly with her and provide any additional data or evidence or information that might be of use to the minister in her consideration of this issue.

Attorney-General

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:39): My question is to the Attorney-General. I refer to his answer to Senator Gallagher earlier today. The Attorney has indicated that his office was contacted in January in relation to the Bell matter. I ask the Attorney: who contacted his office in January?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:39): I imagine it was my department, but I will check.

The PRESIDENT: Senator Wong a supplementary question.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:39): What was the nature of the contact and what information was passed on?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:39): Well, I am not in a position to tell you, Senator, because as I say I had no involvement in the—

Senator Wong: It was a matter of controversy.

Senator BRANDIS: It was not a matter of controversy, Senator. It was not a matter of controversy—

Honourable senators interjecting—

The PRESIDENT: Order on both sides!

Senator BRANDIS: at the time to which you refer. The initiating proceedings in the litigation to which you refer were filed in the High Court on 27 November. Section 78B notices were issued some time thereafter, though I am not in a position to tell you the date. As a matter of routine, when section 78B notices are received, they are considered by my department. I will check as to the nature of the communication about which you inquire.

The PRESIDENT: Senator Wong, a final supplementary question.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (14:40): Can the Attorney advise what action his office took as a result of that contact? Can he also advise the Senate why it took some three months between his office being advised and him becoming aware of this matter?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:41): Well, I said in January and I said my involvement began on 3 March, and so it is not three months. The premise of your question is wrong. But, Senator Wong, when 78B notices are received—which in the normal course of events is the first time at which the Commonwealth would be made aware of litigation to which it had not been joined as the defendant—they are considered and processed by the department. I will check when my office became aware of the 78B notice, if indeed that was the first communication with my office.

Child Care

Senator PATERSON (Victoria) (14:41): My question is to the Minister for Education and Training, Senator Birmingham. Can the minister update the Senate on how the Turnbull government is clamping down on rorting in the federal government's childcare subsidies?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:42): I thank Senator Paterson for his question. This is a government that does not tolerate and will not tolerate the rorting of taxpayers' subsidies, especially subsidies that are provided to support Australian families—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator BIRMINGHAM: We invest billions of dollars in supporting early education and childcare activities and we have strong record of clamping down on such behaviour. When we came to office the Jobs, Education and Training Child Care Fee Assistance program had no limits as to what parents on income support payments could claim for their childcare support while studying, leaving it wide open to abuse. In January 2015 we put in place an $8 per hour cap and linked qualifications for the payment to the skills list. These initiatives are estimated to have saved over $110 million. Later in 2015 we clamped down on the practice of child swapping—a practice where a childcare educator in one family day-care centre sends their children, or at least pretends to do so, to another family day-care centre which has children enrolled at their original house. These types of practices—effectively child swapping, sometimes only on paper—were reaping millions in federal government subsidies. In fact, since our clampdown occurred, more than $7 million has been saved on a weekly basis as a result of these measures.

In October this year further measures, saving an estimated $27 million, were introduced to ensure fee assistance is not available where there is no genuine liability for the care—where the care merely involves transporting a child to or from school; where a family day-care provider is operating in the child's own home or is in fact their parent or sibling—and by implementing more rigorous suitability criteria. We are now consulting on a further round of reforms to make sure that every dollar of support in early education and child care is going where it is meant to go, rather than in the pockets of those who seek to rort the system.

The PRESIDENT: Senator Paterson, a supplementary question.

Senator PATERSON (Victoria) (14:44): I thank the minister for his answer and his diligence in this matter. Can the minister advise the Senate as to what these ramped-up compliance measures have achieved?
Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:44): What we have seen is real action that has saved, for taxpayers, an estimated $421 million to date and a further $27 million in the savings from those measures already brought to law, with further expected as a result of the new measures we will bring about over coming months.

Just last week the District Court of New South Wales found a director of a family day care business called Aussie Giggles Family Day Care and Education Service, a Ms Melissa Jade Higgins, guilty of 66 counts of obtaining a financial advantage by deception, 14 counts of using a forged document and one count of dealing with money property believed to be the proceeds of crime. The director of this service received benefits exceeding $3.6 million to which she was not entitled. It is the result of a joint investigation between my department, the AFP, the Department of Human Services and the DPP. It comes on top of the work the AFP has undertaken, which has seen 15 individuals charged since July 2015 and 75 services suspended or cancelled as a result of our action to fix these problems. (Time expired)

The PRESIDENT: Senator Paterson, a final supplementary question?

Senator PATERSON (Victoria) (14:45): Can the minister please explain how families, children and the sector stand to benefit from these measures?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:45): Families and all Australian taxpayers should have confidence that their tax dollars are being more effectively used and not going in the pockets of rorters and that people who are caring for children are appropriate individuals.

Under Labor, in the two years to June 2013, there were zero cancellations of services, zero suspensions, only two fines issued and zero criminal charges laid. That is because compliance checks actually fell under the Labor government from 763 checks to 523. We have increased the number of those checks sixfold under our government to 3,100, ensuring compliance with the law, while we have simultaneously toughened and strengthened the law to make sure that it is actually effective in not only determining the suitability of people caring for children but also ensuring that our billions of dollars of investment in supporting early education and child care goes to supporting early education and child care and not into the pockets of the rorters.

Attorney-General

Senator DODSON (Western Australia) (14:46): My question is to the Attorney-General, Senator Brandis. I refer to the reports that the Attorney-General's Queensland Liberal National Party colleagues are actively discussing his replacement. Is the Attorney-General involved in discussions about his own replacement and, if he is not, is he aware that they are taking place around him?

The PRESIDENT: Senator Cormann, a point of order?

Senator Cormann: Yes, I have a point of order. With the greatest spirit of cooperation, I struggle to find how this relates to the minister's portfolio responsibilities.

The PRESIDENT: Senator Wong, a point of order?

Senator Wong: I would have thought that the Attorney-General's job is relevant to his responsibilities.
The PRESIDENT: What I need to determine is if there are any public statements made by the minister that relate to the question asked by Senator Dodson. I am not in a position to make that assessment, so I will allow the Attorney-General to answer that question, if the Attorney-General wishes to answer the question.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:48): I might have thought that there might be more serious matters to ask about than political gossip but, in any event, Senator Dodson, I have not the faintest idea what you are talking about.

The PRESIDENT: Senator Dodson, before you ask your supplementary question, just bear in mind that it must relate to the minister's portfolio responsibilities or statements that the minister has made in public.

Senator DODSON (Western Australia) (14:49): I am not quite clear on whether this does relate, but it does relate to the fact that there have been discussions about the Attorney-General's replacement and whether Senator Canavan, Senator Dutton or someone else may be an appropriate replacement. Maybe the Attorney-General wishes to answer that?

The PRESIDENT: Senator Cormann, a point of order?

Senator Cormann: I know that the Labor Party has run out of material very quickly, but this question is clearly out of order and should be ruled out of order.

The PRESIDENT: I will apply the same rulings I applied to the primary question. I will invite the Attorney-General to answer what part, if any, he wishes to answer. Could I just indicate to all senators that question time should be used for questions that conform with the standing orders.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:50): Senator Dodson, there is no Senator Dutton. There is a Mr Dutton, who is the member for Dickson. He is already a member of this parliament. He has not expressed to me any desire to join the Senate.

Senator Dodson, I have a great deal of respect for you—I really do. I remember our dealings before you became a party politician in relation to the Indigenous recognition referendum in particular, so I do not want to be hard on you. But, seriously, question time is for serious questions about policy issues or matters within minister's responsibilities and, although we say it sometimes as a jest, it is actually the truth that you do not have to take stupid questions that the Labor Party questions committee forces you to ask.

The PRESIDENT: Senator Dodson, do you have a final supplementary question?

Senator DODSON (Western Australia) (14:51): Thanks for the advice, Attorney-General, and I apologise to Minister Dutton. I do realise he is in the other House. I note, Attorney-General, that you did make comments in relation to 'very, very mediocre' performances, so my question is in relation to that. My question is: given the Attorney-General's colleagues are already planning for his replacement, is it clear that they consider his performance very, very mediocre? (Time expired)

The PRESIDENT: Again, Attorney-General, I invite you to answer any part of that question you wish to answer.
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:51): Senator Dodson, I refer you to my answer to the first supplementary question.

Disability

Senator HUME (Victoria) (14:51): My question is for the Minister for the Arts, Senator Fifield. Can the minister update the Senate on how the arts portfolio will mark this year’s International Day of People with Disability?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:52): I thank Senator Hume for her question and for her ongoing advocacy for Australians who face extra challenges, for reasons often beyond their control. The Australian International Day of People with Disability on 3 December is a day to mark the achievements that we have made towards full access and participation by Australians with disability and also an occasion to further champion efforts to that end.

Australian national cultural institutions play a key role in ensuring all Australians have access to arts and culture. The National Museum of Australia, for instance, will hold an event focused on exploring world music for schoolchildren with disability. The Museum of Australian Democracy is hosting social media events and a tour through the spaces where the legislation supporting people with a disability was discussed, debated and decided, to highlight the events and people who have paved the way for disability reform in Australia. The National Gallery of Australia, for its part, will hold a free digital drawing workshop for people with disability and will provide assisted tours throughout December to the Versailles exhibition. Geelong's own internationally acclaimed Back to Back Theatre and Perth's Sensorium Theatre are at the leading edge of theatre, questioning the assumptions that we have about disability and the making and enjoyment of art.

These are just a few examples of the kinds of events being planned to mark this important day in our calendar. I should also note that the National Disability Insurance Scheme will allow many hundreds of thousands of Australians greater opportunity to participate in community life, and that includes artistic and cultural endeavours.

The PRESIDENT: Senator Hume, a supplementary question.

Senator HUME (Victoria) (14:54): Thank you, Minister, for that encouraging and heartening response. Can the minister advise the Senate how the community can show its support for artists with a disability?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:54): There are a great range of activities that will be taking place right around Australia, as I foreshadowed. I encourage all my colleagues over the next few weeks to take part in those activities in their own communities.

Senator Hume will I think be aware of the fantastic Arts Project Australia organisation based in Northcote in Melbourne, who will be holding their annual gala opening this Saturday afternoon, which showcases the work of over 120 artists. I have visited Arts Project Australia on a number of occasions, and I commend it to colleagues. Alternatively, to head north, this Friday Art Matters will be holding a puppetry performance in Shepparton. There are fantastic
events in most communities, and I would encourage all colleagues, where they have the opportunity, to take part.

The PRESIDENT: Senator Hume, a final supplementary question.

Senator HUME (Victoria) (14:55): Thank you, Minister. Clearly, from the silence of those opposite, there is bipartisan support for these programs. I am interested if the minister can tell the Senate how the Turnbull government is supporting artists with a disability.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (14:55): Programs in my department and within the Australia Council are committed to supporting the good work of my colleague in the other place Mr Porter. I mentioned the important role the National Disability Insurance Scheme will play in enhancing access and participation by Australians with disability. I should point out that the government also supports artists with disability through its involvement in the National Arts and Disability Strategy, which is a framework for collaboration across federal, state and territory governments. In 2015-16, I should mention that the Australia Council invested $375,000 in dedicated funding for artists with disability, and some six per cent of its expert peer grant assessors have a disability themselves. So there is a lot that is happening, there is a lot that is positive and I appreciate Senator Hume giving me the opportunity to expand.

Attorney-General

Senator WATT (Queensland) (14:56): My question is to the Attorney-General, Senator Brandis. Did the Attorney-General prevent, discourage or inhibit attempts to challenge the Western Australian government's Bell Resources legislation, which would have favoured that state over federal taxpayers to the tune of $300 million?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): There are so many false premises in that short question, Senator Watt. Might I remind you that what we are talking about is a piece of state legislation that was supported not only by the Liberal-National Party government of Western Australia but by the Labor opposition and even by the Greens, because what the Western Australian state government, with the support of the opposition, wanted to do was to bring a winding-up that had already been going on for 25 years and had already cost more than $200 million in professional costs that the creditors would never see to an end. That was what it was about. In any event—

The PRESIDENT: A point of order, Senator Wong?

Senator Wong: The point of order is relevance. The senator was not asked about the history of the Bell litigation. The senator was asked a single question: did the Attorney-General prevent, discourage or inhibit attempts to challenge the WA government's Bell legislation? Can he just answer that question?

The PRESIDENT: I did hear the Attorney-General, Senator Wong, in relation to the point of order, indicate up-front that there were so many premises in the question that he did not agree with.

Senator Wong: What's the premise?
The PRESIDENT: Senator Wong, I can only go on the answer I am given, and that is what the Attorney-General said up-front.

Senator Wong: It would be useful to know what the premises are, if he does not agree.

The PRESIDENT: It is up to the Attorney-General to explain that. The Attorney-General was answering the question. Attorney-General, you have the call.

Senator BRANDIS: So, Senator Watt, that is what this was about. Nevertheless, backed by litigation funders who had no interest whatsoever in bringing these proceedings to an early conclusion, that bipartisan legislation was challenged in the High Court by initiating proceedings filed on 27 November 2015. I did not do anything to interfere with those proceedings, because I did not know about them.

Senator BRANDIS: And, Senator Wong, you asked me in your question before about a section 78— you asked me before when the Commonwealth first became aware of the matter.

Senator Wong interjecting—

Senator BRANDIS: Senator Wong, if you care to listen to the answer rather than constantly interject, we now know, because it has been checked, that the 78B notices, which in the ordinary course of events would be the first notice the Commonwealth had of a matter of raising a constitutional issue, were filed on 1 December 2015.

The PRESIDENT: Senator Watt with a supplementary question.

Senator WATT (Queensland) (14:59): Given the Attorney-General's refusal to answer my question, I again ask: did the Attorney-General prevent, discourage or inhibit attempts to challenge the Western Australian government's Bell Resources legislation, which would have favoured that state over federal taxpayers to the tune of $300 million?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:00): Senator Watt, I thought you used to be a lawyer. These proceedings were not initiated by the Commonwealth. They were initiated by a litigation funder, a particular—

The PRESIDENT: Senator Watt, a point of order?

Senator Ian Macdonald interjecting—

The PRESIDENT: Order on both sides! Senator Wong and Senator Macdonald!

Senator Watt: We all know the Attorney likes to rephrase questions to suit himself, but at no point in my question did it suggest that the Commonwealth had challenged this legislation. My question was whether the Attorney-General prevented, discouraged or inhibited attempts by anyone to challenge the Western Australian government's legislation.

The PRESIDENT: Thank you, Senator Watt. You repeated your primary question, as you acknowledged when you said—

Senator Wong: He is allowed to do that.

The PRESIDENT: Of course he is allowed to do that. I am not saying he is not. The primary question, and the question you have just asked, was answered by the Attorney-General when he quoted in the primary question that he did not prevent because he had no
knowledge. So I think he has answered that question but I will give the call to the Attorney-General.

Senator BRANDIS: So—through you, Mr President—Senator Watt, the Commonwealth of Australia—

Senator Ian Macdonald interjecting—

Senator Wong interjecting—

The PRESIDENT: Order! Senator Macdonald and Senator Wong!

Senator BRANDIS: The Commonwealth of Australia was not even a party to these proceedings until it intervened on 30 March 2016. These proceedings were conducted in the name of Bell Group creditor companies, funded by litigation funders, with which the Commonwealth of Australia had no involvement whatsoever and of which it had no knowledge whatsoever. Why would the Commonwealth of Australia have knowledge of litigation, initiated by private parties, to which it was not joined?

The PRESIDENT: Senator Watt, a final supplementary question.

Senator WATT (Queensland) (15:02): My question is to the Attorney-General. Given the Attorney-General's answers, what led the Western Australian government to believe that the federal government would not challenge or intervene in a case concerning the Bell legislation?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:02): Well, Senator Watt, that is a question you would have to ask the relevant members of the Western Australian government. But, as I said in my statement yesterday and in answer to previous questions, my first involvement in this matter personally was on 3 March 2016. The only document that evidences any dealings between the Western Australian government and the Commonwealth, the exchange of letters between Mr Hockey and Dr Nahan, was in April 2015, 11 months earlier and more than six months before the action was even commenced. Of those matters I had no knowledge or involvement whatsoever.

I ask that further questions be placed on notice.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator STERLE (Western Australia) (15:03): I move:

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

Something is on the nose. Something is seriously on the nose with this government and the Western Australian Liberal government in terms of who said what and who promised what. I want to go back to the question that I asked. I want to remind the Senate that when I asked the Attorney-General that question I quoted Dr Mike Nahan, the Western Australian Treasurer, when he told the Western Australian parliament:

We had a deal with the commonwealth that it would not oppose the Bell act.
I then went on to ask the Attorney-General: did he believe Dr Nahan was misleading the Western Australian parliament? Obviously, someone is not telling the truth. Dr Nahan may have made that up in his own little mind, but clearly that is not the case.

I am not one to defend the most incompetent state government, in this Barnett Liberal government, that Western Australia has ever seen. Let me just remind the Senate why I say that. Since Mr Barnett and the Liberal government took power in Western Australia nearly eight years ago, we have lost our AAA credit rating. We lost that back in 2013. That is why Dr Nahan is not making this up. That is why I believe it. That is why I believe nothing that happens in Western Australia gets past a number of ministers. Minister Cormann said he knew nothing about it, but you see there is another minister in the other place, Mr Porter. Let us not forget that Mr Porter was the Western Australian Treasurer before he had a change of career and wanted to come over here. The Bell issue is nothing strange or new to Mr Porter. I want to know what is going on between this lot, the Western Australian Treasurer and the Western Australian government.

Let's not forget that the Barnett government have unveiled the state's largest ever forecast budget deficit—I am reading a quote from the ABC—of almost $4 billion. When they took over in 2008 there was a very healthy piggybank. Dr Nahan must be getting a bit worried, because he is the one who is getting a lot of the blame—although that is grossly unfair, because Mr Barnett is the Premier and you have to be surrounded by competent ministers. Sadly, in Western Australia that is lacking. The ABC said:

Treasurer Mike Nahan has handed down his third budget, showing the deficit will surge from a forecast $2.96 billion to $3.9 billion in 2016–17.

We know Dr Nahan has been very vocal, absolutely criticising his federal counterparts and naming none other than Senator Cormann, the member for Curtin, Ms Bishop, and Senator Cash—all cabinet ministers. He named not only them but Mr Porter. He has absolutely criticised them—as you would know, Madam Deputy President—because of the lack of guts within the federal Liberal parliamentary team to stand up for Western Australia, which has been the GST cash cow for our nation.

But let's not blame it all on Dr Nahan's view of the incompetent Liberal ministers from Western Australia in the federal cabinet. Let us not forget that there was a certain minister, back in the Court government, who ushered through the GST—could not wait. I never once heard Mr Colin Barnett oppose the introduction of Prime Minister Howard's and Treasurer Costello's GST. They were all for it. I remember the arguments—as you would, too, Madam Deputy President—so I can understand Dr Nahan's discomfort here. I have read—and if anyone wants to tell me it is not true, you have the opportunity—that there was a blazing row, an absolute blue between the Attorney-General and the state Attorney, Mr Mischin, because someone ratted on a deal that someone in this place or in the place over there had done over the phone or over dinner with the Western Australian Liberal government. They flew to Perth and had some secret meetings: 'She'll be right; we'll sort this out.'

There were a few carrots along the way, too. Remember the $490 million—"Shut your mouth; stop whinging about the GST; we'll give you some money from the federal government"? Now, I say, give us more money; give us back the money you stole off us from the GST. I am running out of time, but I am absolutely gobsmacked, because I can understand the pressure on the Western Australian Liberal government, because they are incompetent, but
also they have been made a promise and someone has ratted on the deal, and we need to find out who that is. (Time expired)

Senator HUME (Victoria) (15:08): It must be close to Christmas, because there is pantomime being performed by those opposite. And as with all Christmas pantomimes, there are colourful characters—like Senator Sterle—cringe-worthy overacting, finger-pointing, confected outrage and audience attention seeking, and no more so than today. Today the opposition has once again, in a week in which important business of government is actually being done, staged a second-rate sideshow on an issue that is as irrelevant as it is opportunistic. The issue of this imagined arrangement between the Commonwealth and the Western Australian government in the Bell Group liquidation is just that: it is a sideshow, it is a witch-hunt and it is aimed squarely at a senator who clearly gets under the skin of the opposition.

The Attorney-General, Senator Brandis, made a comprehensive statement on the Bell Group issue yesterday, and Senator Wong promised that the ALP would carefully consider the Attorney-General's statement. Well, it is painfully apparent that they have not done so. Senator Brandis told this chamber yesterday that there was never an arrangement between the federal government and Western Australia over how to bring the long-running legal dispute to a close or how to carve up $1.8 billion in disputed proceeds. The Bell Group litigation is infamous for its length and its costs. It is the most complex and costly corporate winding up in Australian history. So far it has involved some 30 separate legal proceedings in four countries as well as proceedings in Australia, in the High Court, the Federal Court and the Supreme Court of Western Australia.

As he unambiguously explained to this chamber, the Attorney-General accepted the legal advice of former Solicitor-General Justin Gleeson that the Commonwealth should challenge the Western Australian government over its wind-up of the Bell Group. Every decision that the Attorney-General made on the matter did protect the interests of the Commonwealth, by supporting the decision of the ATO to intervene in the matter and deciding to accept Mr Gleeson's advice that the Commonwealth of Australia should also intervene in the matter. There was never an agreement between the Attorney-General and his WA counterpart, Mr Mischin, which was acknowledged.

Senator Jacinta Collins: How do you know?

Senator HUME: I had a look at the correspondence, Senator. That is how I know. The correspondence between former Treasurer Joe Hockey and his WA counterpart, Dr Nahan, clearly does not constitute that an agreement or understanding was arrived at between the Commonwealth and the Western Australian government. Indeed, despite Labor finger-pointing, Dr Nahan has not in fact cited any specific agreement. The Labor Party speak of an arrangement, but where is this arrangement supposed to be recorded? Is there a written agreement between the Commonwealth and Western Australia? No, there is not. Are there perhaps public statements by Mr Hockey or any other Commonwealth minister? No, not that the Labor Party can point to. And what about in the correspondence? No, there is nothing there either. There was no deal. There was no arrangement. There was no understanding.

The Attorney-General said in his statement that he took countercompeting arguments, that he listened to and tested settlement proposals and then approved or instructed the lodgement of the appropriate documents within the deadline and approved the making of submissions

CHAMBER
completely in accordance with the legal advice he had received. It is clear from the Attorney-
General's statement that he acted properly at all times. Everything was done when it needed to
be done and in accordance with advice as well as established legal processes. The claim that
there was an agreement between the Commonwealth and WA is wrong. The claim that the
Attorney-General ignored the Constitution and instructed the Solicitor-General to do so is
wrong. In short, just about everything the Labor Party and the Greens have said on this issue
is wrong.

What skulduggery by the opposition. Mark Dreyfus and Bill Shorten have significantly
overreached and acted recklessly in their assertions and accusations, and in this chamber
Labor have picked up their union issued and approved pitchforks and continued this witch-
hunt. Opportunism abounds here. Accuracy is forsaken for headlines. This is an opposition
that would rather be quotable than be credible. Protocol is subordinated to steal headlines in
a week that is not going your way. This government is delivering. (Time expired)

The DEPUTY PRESIDENT: Senator Hume, may I remind you, when you refer to
members of the other place, to use their correct titles.

Senator JACINTA COLLINS (Victoria) (15:13): Let's take some of the heat out of this
and reflect on what we did actually hear today and what we did hear in Senator Brandis's
statement. Senator Brandis had notice this morning, in Laura Tingle's article in The Financial
Review, of the most critical question that, once again, he has failed to answer. The question
was: did the Attorney-General prevent, discourage or inhibit attempts to challenge a Western
Australian bill that would have favoured Western Australia over federal taxpayers to the tune
of $300 million? Senator Hume asks, 'What evidence do we have of that?' Well, the evidence
we have is what the Western Australian government tells us; that is what the evidence is. But
more than that, Senator Hume, in trying to support her argument about a pantomime, then
goes on to form a very solid opinion herself—although she is talking about what is truth—
over and above even what the Attorney-General claims. The Attorney-General told us today
that he formed an opinion that there was no deal. This fine legal mind will tell us that he
formed that opinion—

Senator Brandis: Deputy President, I have a point of order. Because this potentially
matters, this is not a pedantic objection. I told the Senate that I was of the opinion that there
was no deal. That is my opinion. That is not what Senator Collins just said.

The DEPUTY PRESIDENT: Senator Brandis, I believe that is a debating point, thank
you. Senator Collins, please continue.

Senator JACINTA COLLINS: That was, indeed, exactly what I said. Now I am going to
address the issue of how he formed that opinion. This, as I said, fine legal mind formed that
opinion in ignorance. He did not even bother talking to his own office about what contacts
they had in this matter. He did not bother talking to Mr Hockey, who, as he has informed us,
was the representative of the Commonwealth upon whom the Western Australian government
members relied in forming their opinion. Sure, as he tells us, different people can come out of
exchanges with different opinions, but you do not then go on to conclude an opinion of your
own in ignorance.

We have all heard about convenient memories and the 'I do not recall' defence. Senator
Sinodinos had it down to fine art. The 'I do not recall' defence was used so many times that
the stature of the argument became very questionable. In this case, we do not have a convenient memory; we have convenient ignorance from Senator Brandis on behalf of the Commonwealth. What I took out of yesterday's statement, listening carefully to Senator Brandis as he delivered it, was that he had been sprung by the Solicitor-General in attempting to prevent the Commonwealth becoming involved in the matter and nowhere has he been able to refute that that was the case.

So we will continue for days on end to get senior commentators and others continuing to ask these questions. Remember how Senator Brandis started this with, 'No comment'. If these issues had not been canvassed in the Senate, we would be still be on the, 'no comment' response. 'The Attorney-General does not respond to questions around matters in which the Commonwealth has been engaged'—that would be his answer. But of course the heat and the temperature rose after his initial response. Pressure came from a number of areas that he did need to at least try to present what he could argue was a comprehensive statement. But we all know, despite its length, despite the grand words and the grand arguments that Senator Brandis sought to put across, there are just so many unanswered questions. The questions that Senator Watt asked today were not answered. There are so many things that Senator Brandis remains ignorant of or refuses to help us understand. Indeed, he refuses to refute the suspicion that he did seek to prevent the Commonwealth's involvement in this matter.

This is no pantomime. Sure, it has attracted humour. I was today sent a reference from the SBS about how Senator Brandis is now ordering more buses because his behaviour here has become a farce. The length of the scandals and the gaffes that reside around this Attorney-General just continue to grow. The SBS humour was that he had to order a fleet of buses so that he could throw more—(Time expired)

Senator PATERSON (Victoria) (15:19): What a compelling piece of evidence was just presented to the Senate by Senator Collins! SBS Comedy thinks that this is a matter of seriousness and one worthy of attention. Well, there we have it. I think in the legal business this is what you call 'resting your case', Senator Collins, and I am sure that the jury will go away and consider very seriously your compelling arguments!

Here we go again: Labor senators are deciding to finish the year in much the same way that they have conducted themselves throughout it, and that is pursuing an attack of personal smear and innuendo and criticism of Senator Brandis instead of pursuing matters of great weighty policy that are of concern to the Australian people. In every question in question time yesterday, in every question in question time today, in the take note after question time yesterday, in the take note after question time today, in the MPI yesterday and again in the MPI today we were advised that Labor senators want to spend hours and hours of the Senate's time on this issue on which they have no evidence to support their claims. This is not what the Australian people sent us here to do. This is not what they expect we do here on their behalf. They expect us to think about, to discuss, to debate, to even argue about the things that affect their lives and about the things that have a tangible impact on the way they live their lives—the great policy issues of today. They do not expect us to agree and they do not expect us to get along, but they do expect us to focus on the things that actually matter to them. We have heard in other debates that if something does not stop them at a barbecue then it should not be dealt with. Well, I would be very surprised if there is a barbecue anywhere in Australia that has been stopped to discuss this issue.
I have a prediction to make and that is that this attack will peter out just like the previous attack along these lines has petered out. There will be nothing to show for it after hours of the Senate's time has been wasted. The most famous resident of Higgins, the member for Isaacs, Mr Dreyfus, has gone off half-cocked yet again. He has prematurely called for the resignation of Senator Brandis. Barely waiting for the ink to dry on the newspaper reports in *The West Australian*, barely waiting for any evidence at all, he has leapt to the most extreme conclusion and the most outrageous option and called for the resignation of Senator Brandis.

Not coming from Western Australia and also being a young person not intimately familiar with the WA Inc era, I found it very interesting to listen to some of the history of this issue that we have heard on this debate in the chamber. I commend Senator Brandis for his very detailed and lengthy statement. I particularly want to draw the attention of senators to the introduction he made to that statement, because I think the history of this issue is illustrative. He said:

Between 1991 and 1993 – a quarter of a century ago – members of the Bell Group of companies, a diversified conglomerate based in Western Australia, went into liquidation. That liquidation is still ongoing, and nowhere near being completed. It is the most complicated and costly corporate winding-up in Australian history. So far, it has involved some 30 separate legal proceedings, in four countries. In Australia, it has involved complex proceedings in the High Court, the Federal Court and the Supreme Court of Western Australia. The hearing of the main case alone, in the Supreme Court of Western Australia, lasted for 404 days and resulted in a judgment by Justice Owen running to 2,643 pages. There is no reliable figure as to the costs so far incurred in the winding-up, in professional fees paid to insolvency practitioners, solicitors, barristers and others. However everybody agrees that the costs so far are in the order of hundreds of millions of dollars. And, of course, every dollar spent on professional fees and other costs, is a dollar that the creditors will never see.

There are many other interesting things in Senator Brandis's statement, which I commend to the Senate. But I also want to highlight very briefly in my remaining time the contribution of another Senate colleague of mine, Senator Back, who also went to the history of this issue. He has foreshadowed that, helpfully, he will be returning to this issue, given that it is going to be a topic of the MPI later on today. I look forward to hearing what he has to say, because he lent some very interesting perspective to this issue as someone who lived in Western Australia in that time.

I commend particularly the comments he made about the government that was in charge at the time of the Bell Group liquidation, about the events leading up to that liquidation, about the involvement of Mr Brian Burke and his government in that liquidation and about the very exorbitant costs that the people of Western Australia have had to bear as a result of the handling of it by Mr Burke and by members of his government. I look forward to his contribution later, although I also hope that at some point the Senate will move on from these matters to more weighty ones.

**Senator DODSON** (Western Australia) (15:24): It intrigues me that Senator Brandis, in his comments on Monday, said that this was an area of law that he had specialised in. We know that the history of this Bell affair, if I can refer to it in that way, has dragged on for some 20 or so years—25 years, I think Senator Brandis mentioned today. As a lawyer specialising in this field of insolvency he appeared only to become really interested in how the resolution to the insolvency was going to take place. It was particularly on the visit by now Minister Porter that his interest seemed to have been sparked, not necessarily out of his
profession. The question of the Commonwealth potentially losing out on revenue in the order of $300 million seemed not to have sparked his interest.

He also mentioned today—and I am not sure whether this was a matter that was a rearrangement of the facts or not—that his personal involvement first began on 3 March, although his office had been dealing with this matter prior to that time. I think he said today that they had been involved since January 2016, which is some two months earlier than the period he highlighted in his statement. It is curious that as an experienced minister he seems to have been comfortable with the fact that his staff did not pass on to him any information on this major legal and financial issue for months. It just intrigues me, whether this is a genuine case of some kind of Chinese Wall being erected between the minister and the staff so that later on, if the matter had gone the way it appears there was some intent to make it eventuate in the courts, the minister could say clearly that he did not know.

Surely, it seems that it is a clear principle that if your ministerial staff are informed of an issue then you are deemed to know about that issue. I note that the minister said that he would check on the paper trail in answer to questions from Senator Wong today. So maybe that matter could also be taken up, as to the dates.

I listened carefully to his explanation of Dr Nahan's statement, and I can see and understand why we in Western Australia become very frustrated with the way we are treated—particularly if the Western Australian ministers who were engaged in the discussion at the time took a different view. They took the view that there had been an agreement, as opposed to the view that we were told here in this chamber—that there was no agreement. Either they were very moronic or stupid, or incapable of understanding what was going on—and I doubt that is the case, given the competencies of the particular ministers involved. It is precisely this kind of attitude towards Western Australia that causes the parties that may normally be— (Time expired)

Question agreed to.

Revenue

Senator WHISH-WILSON (Tasmania) (15:29): I move:

That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Whish-Wilson today relating to the collection of North West Shelf royalty revenues.

The ANAO report into the collection of North West Shelf royalty revenue landed yesterday in the Senate. It is a very important report. We have few agencies in this country that can independently assess situations such as how much tax the Australian Taxation Office collects or whether or not government departments are adequately collecting royalties from regimes we have around the country. I recommend that senators have a look at the ANAO report from yesterday. The report found that nearly $5 billion of deductions were being claimed by oil and gas companies in Australia—some of the biggest, wealthiest multinational corporations we have operating in this country—that were not permitted under the Commonwealth royalty schedule.

This issue has made a splash in the media today. It is on the front page of The Sydney Morning Herald. Why has this issue resonated so strongly? I have called it a bombshell, and I think that is exactly what it is. The Australian National Audit Office has released a damning
report, an indictment on a federal government and a government department that is failing to do its job properly and provide oversight on a royalty regime which requires big, wealthy oil and gas companies to pay revenue to the Australian government, to pay for hospitals, to pay for schools, to pay for police.

The same week that that report arrived, here in the Senate we are trying to squeeze the proverbial lemon, as Mr Scott Morrison calls it—that is, backpackers. They are some of the lowest paid workers in this country, they provide important, critical labour for our agricultural producers, and we are trying to squeeze every dollar we can out of them. Mr Scott Morrison said we cannot squeeze any more out of the lemon. I put to Mr Morrison that he has some very ripe mangoes hanging right in front of his face, if he would only choose to see them.

This is exactly what Australians want their government to do: they want them to crack down on big companies that are rorting our tax system. But it is not just that the big companies are doing this—and, who knows, knowingly doing this—it is that we are not actually picking it up. This audit report identified that these issues have not been looked at for nearly 17 years. A Western Australian government department is providing some basic oversight into this with some very limited auditing, and the limited auditing that they have done has found significant underpayments, claims and deductions.

I do not like getting into distracted arguments at a time like this, because I have very limited time, but Senator Cormann's lack of response to my questions was very telling. He tried to say it was Senator Canavan's portfolio. That is not the case; this is a whole-of-government approach. The Australian Taxation Office liaises with the Western Australia government and the industry department on the collection of revenues. And, of course, the Treasurer is responsible for setting what deductions corporations can and cannot claim, yet Senator Cormann would not answer the question to the Australian Senate today, to the Australian people. He refused to answer the question asking why some of the biggest, wealthiest companies on the planet operating in the North West Shelf have not paid up to $4 billion in potential revenues to the Australian government. That is just over a very short period of time. Who knows how far back this goes and how much the Australian people have been duded, because a government department is not doing its job and because a government has its priorities wrong.

On Radio National on the weekend, the Prime Minister said, in response to an interview that I did, that the ATO should go after all backpackers and audit them on paying their tax. I have no problem with the ATO auditing backpackers, but it shows you where their priorities are. Their priorities are not chasing after big oil and gas—the big mining companies that are large backers of the Liberal-National Party. Their priorities are to go after some of the lowest paid workers in this country, who we need for our agricultural enterprises. We need them in Tasmania to prop up our fruit growers and our vineyard industry. Here we have a government that has its priorities all wrong. They are not taking on the big end of town. They need to fix this problem. The Greens will be moving an inquiry into this issue, because that is exactly what the Australian people expect us to do in this parliament.

Question agreed to.
NOTICES

Presentation

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:35): I give notice that, on the next day of sitting, I shall 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:

- Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 (No. 2)
- Passenger Movement Charge Amendment Bill (No. 2) 2016

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 statement read as follows—

INCOME TAX RATES AMENDMENT (WORKING HOLIDAY MAKER REFORM) BILL

Purpose of the Bill
The purpose of this bill is to amend rates of income tax as they apply to working holiday makers.

Reason for Urgency
Introduction and passage of the bill during the 2017 Spring sittings is required to give effect to the Government's commitment made in the Senate to give certainty to affected industries and taxpayers.

(Circulated by authority of the Treasurer)

PASSENGER MOVEMENT CHARGE AMENDMENT BILL (No. 2)

Purpose of the Bills
The purpose of this bill is to provide that the $60 rate of the passenger movement charge that applies from 1 July 2017 will not increase for at least five years from that date.

Reasons for Urgency
Introduction and passage of the bill during the 2016 Spring sittings is required to give effect to Government's commitment made in the Senate on 24 November 2016 not to further increase the passenger movement charge for five years.

(Circulated by authority of the Treasurer)

Presentation

Senator Waters to move:

That the Senate—

(a) notes that:

(i) the study by the ARC Centre of Excellence for Coral Reef Studies published this week shows 67 per cent of corals in a 700 km swathe of reefs in the northern region of the Great Barrier Reef have died after the Reef's worst ever mass bleaching event,

(ii) mass coral bleaching is driven by human-induced global warming,

(iii) Climate Action Tracker has assessed Australia's climate pollution reduction targets and clean energy policies as 'inadequate' to meet our fair share of action to stop dangerous global warming, and

(iv) the latest government figures show that Australia's climate pollution is increasing rather than decreasing; and
(b) calls on the government to save the Great Barrier Reef, and the communities and workers which rely on its health, and help stop dangerous global warming by taking rapid action to cut pollution and build clean energy.

Senators Waters and Siewert to move:
That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 21 March 2017:

The Commonwealth's responsibility under the *Environment Protection and Biodiversity Conservation Act 1999* to protect the globally significant and National Heritage listed Aboriginal rock art of the Burrup Peninsula in Western Australia, with particular reference to:

(a) the total industrial pollution load from existing industrial activities and port zone on the Burrup Peninsula in Western Australia, and its existing impacts on Aboriginal rock art;

(b) the projected additional pollution load from the Yara Pilbara Fertilisers Pty Ltd ammonium nitrate plant, including the likely impacts on the Aboriginal rock art, human health and the environment;

(c) the accuracy and adequacy of reports used by the Western Australian and Commonwealth Governments when setting the relevant technical, environmental and cultural conditions regulating the construction and operation of the Yara Pilbara Fertilisers Pty Ltd ammonium nitrate plant in an area of highly significant Aboriginal rock art;

(d) the rigour and adequacy of the monitoring, analysis, compliance and enforcement performed by the Western Australian and Commonwealth government agencies in carrying out their legislated responsibilities in overseeing industries on the Burrup Peninsula;

(e) the projected level of fugitive gas and nitric acid leaks from the Yara Pilbara fertiliser and ammonium nitrate plants, their effects on human health, likely effects on rock art and the general environment, and the adequacy of the company responses;

(f) the failure by Yara Pilbara Fertilisers Pty Ltd, the Western Australian Government or the Federal Government to include risk analysis of establishing an ammonium nitrate plant in close proximity to the rock art, a gas hub and major port and in a cyclone surge zone;

(g) the adequacy of the Yara Pilbara plans to protect the communities of Dampier and Karratha and the rock art sites from the consequences of any explosion caused by 'sympathetic detonation' or other factors, including the ability to douse the nitrate stores with sufficient water to prevent a spontaneous explosion; and

(h) any related matters.

Senator Di Natale to move:
That the Senate—

(a) notes:

(i) that Australian Parliament House is the most significant monument that represents our democracy, owned by its citizens, to be enjoyed by thousands of Australians and visiting tourists alike,

(ii) that Parliament House was designed to reflect Australia's egalitarian traditions where politicians are subservient to the Australian people, and

(iii) the significant expanse of security in and around Parliament House in recent years which has already impacted on the amenity and utility enjoyed by previous visitors; and

(b) rejects further restrictions on the freedom for visitors to enjoy this building and freely participate in their democracy.

Senator Di Natale to move:
That the Senate—
(a) recognises that:
   (i) the cost of visiting a dentist has been consistently shown to create a significant barrier for
       Australians seeking dental care, particularly for those experiencing the greatest disadvantage, and
   (ii) poor oral health has significant health impacts, including increasing the risk of heart disease
       and stroke;
(b) notes the:
   (i) impending expiry, on 31 December 2016, of funding to the states and territories for public
dental services via the National Partnership Agreement on Adult Public Dental Services, and
   (ii) Government’s failure to outline an alternative plan to ensure that this funding does not dry up –
       putting patients at risk; and
(c) calls on the Government to:
   (i) urgently put in place arrangements to ensure that the crucial funding to states and territories for
       public dental services is maintained beyond 31 December 2016, and
   (ii) end its attack on public dental services by finally giving up on its failed plan to cut the Child
       Dental Benefits Schedule which provides Medicare-funded dental care to children in lower income
       families.

Senator Rhiannon to move:
That the Senate—
(a) notes that:
   (i) the chemical contamination on and around Defence, airport and firefighter training sites across
       Australia of per and poly-fluoroalkyl substances (PFAS), resulting from the use of legacy firefighting
       foams, is a national public health, environmental, economic and workplace safety issue,
   (ii) preliminary tests conducted at 12 investigation sites around the country detected PFAS at every
       site, and PFAS levels exceeding interim standards at three sites,
   (iii) it has been three weeks since the Department of Defence released the preliminary
       investigation report, and
   (iv) the Turnbull Government has not yet commented on the report; and
(b) calls on the Government to:
   (i) urgently consult with all residents living in and around every investigation site, and
   (ii) urgently consult with all workers, including former workers, who have been exposed to PFAS
       through the use of firefighting foams.

Senators Gallagher and Culleton to move:
That—
(a) the Senate notes that:
   (i) confidence and trust in the financial services industry has been shaken by ongoing revelations
       of scandals, which have resulted in tens of thousands of Australians being ripped off, including:
       (A) retirees who have had their retirement savings gutted,
       (B) families who have been rorted out of hundreds of thousands of dollars,
       (C) small business owners who have lost everything, and
       (D) life insurance policy holders who have been denied justice,
   (ii) it is clear from the breadth and scope of the allegations that the problems in this industry go
       beyond any one bank or type of financial institution,
(iii) the Australian Labor Party, the Australian Greens, crossbench, Liberal and Nationals parliamentarians have supported a thorough investigation of the culture and practices within the financial services industry through a Royal Commission, which is the only forum with the coercive powers and broad jurisdiction necessary to properly perform this investigation,

(iv) Australia has one of the strongest banking systems in the world, but Australians must have confidence in their banks and financial institutions, making it necessary to sweep away doubt and uncover and deal with unethical behaviour that compromises that confidence, and

(v) the case for a Royal Commission into misconduct in the banking and financial services industry has only become stronger over time;

(b) the Senate calls on the Government to request His Excellency the Governor-General of the Commonwealth of Australia issue Letters Patent to establish a Royal Commission to inquire into misconduct in the banking and financial services industry, including their agents and managed investment schemes; and

(c) this resolution be communicated to the House of Representatives for concurrence.

Senators Pratt, Rice, Kakoschke-Moore and Hinch to move:

(1) That a select committee, to be known as the Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill, be established to inquire into and report on, by 13 February 2017, the Commonwealth Government's exposure draft of the Marriage Amendment (Same-Sex Marriage) Bill, with particular reference to:

(a) the nature and effect of proposed exemptions for ministers of religion, marriage celebrants and religious bodies and organisations, the extent to which those exemptions prevent encroachment upon religious freedoms, and the Commonwealth Government's justification for the proposed exemptions;

(b) the nature and effect of the proposed amendment to the Sex Discrimination Act 1984 and the Commonwealth Government's justification for it;

(c) potential amendments to improve the effect of the bill and the likelihood of achieving the support of the Senate; and

(d) whether there are to be any consequential amendments, and, if so, the nature and effect of those consequential amendments, and the Commonwealth Government's justification for them.

(2) That the committee consist of 8 senators, as follows:

(a) 4 nominated by the Leader of the Government in the Senate;

(b) 2 nominated by the Leader of the Opposition in the Senate;

(c) 1 nominated by the Leader of the Australian Greens; and

(d) 1 nominated by the Leader of the Nick Xenophon Team.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator; and

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee.

(4) That 4 members of the committee constitute a quorum of the committee where at least one member present was appointed to the committee on the nomination of the Leader of the Government in the Senate and at least one member present was appointed to the committee on the nomination of the Leader of the Opposition in the Senate.
That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.

That the committee elect as chair one of the members nominated by the Leader of the Government in the Senate and, as deputy chair, one of the members nominated by the Leader of the Opposition in the Senate.

That the deputy chair shall act chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senators Xenophon and Hinch to move:

That the following matters be referred to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report by 30 June 2017:

(a) the development and implementation in the corporate, public and not-for-profit sectors of whistleblower protections, taking into account the substance and detail of that contained in the Registered Organisation Commission (ROC) legislation passed by the Parliament in November 2016;

(b) the types of wrongdoing to which a comprehensive whistleblower protection regime for the corporate, public and not-for-profit sectors should apply;

(c) the most effective ways of integrating whistleblower protection requirements for the corporate, public and not-for-profit sectors into Commonwealth law;

(d) compensation arrangements in whistleblower legislation across different jurisdictions, including the bounty systems used in the United States of America;

(e) measures needed to ensure effective access to justice, including legal services, for persons who make or may make disclosures and require access to protection as a whistleblower;

(f) the definition of detrimental action and reprisal, and the interaction between and, if necessary, separation of criminal and civil liability;

(g) the obligations on corporate, not-for-profit and public sector organisations to prepare, publish and apply procedures to support and protect persons who make or may make disclosures, and their liability if they fail to do so or fail to ensure the procedures are followed;

(h) the obligations on independent regulatory and law enforcement agencies to ensure the proper protection of whistleblowers and investigation of whistleblower disclosures;

(i) the circumstances in which public interest disclosures to third parties or the media should attract protection;
(j) any other matters relating to the enhancement of protections and the type and availability of remedies for whistleblowers in the corporate, not-for-profit and public sectors; and

(k) any related matters.

Senator Whish-Wilson to move:
That the following matters be referred to the Environment and Communications References Committee for inquiry and report by 30 June 2017:

The efficacy and regulation of shark mitigation and deterrent measures, with particular reference to:
(a) research into shark numbers, behaviour and habitat;
(b) the regulation of mitigation and deterrent measures under the Environment Protection and Biodiversity Conservation Act 1999, including exemptions from a controlled action under section 158;
(c) the range of mitigation and deterrent measures currently in use;
(d) emerging mitigation and deterrent measures;
(e) bycatch from mitigation and deterrent measures;
(f) alternatives to currently employed mitigation and deterrent measures, including personal responsibility and education;
(g) the impact of shark attacks on tourism and related industries; and
(h) any other relevant matters.

Senator Whish-Wilson to move:
That the following matter be referred to the Economics References Committee for inquiry and report by 14 June 2017:

The tax and royalties collected from the extraction and sale of Australia's oil and gas resources, with particular reference to:
(a) the adequacy and integrity of the existing Petroleum Resource Rent Tax (PRRT) and Commonwealth royalty regime;
(b) compliance with the PRRT and Commonwealth royalty regime;
(c) responsibilities and effectiveness of state and Federal Government departments in administering the existing PRRT and Commonwealth royalty regime;
(d) the suitability of the PRRT and Commonwealth royalty regime in the modern global economy;
(e) the comparison of tax and royalty regimes with other oil and gas producing countries that export to the Asia-Pacific region;
(f) principles for modification of the PRRT as it applies to gas;
(g) principles for an extended Commonwealth royalty regime covering offshore oil and gas projects in Commonwealth waters; and
(h) any other related matters.

Senators Moore and Fifield to move:
That the Senate—
(a) records the sincere gratitude of senators for the dedicated service given by all staff in the Senators' and Members' Dining Room and Parliament House functions employed by the Intercontinental Hotels Group (IHG); and
(b) acknowledges Mr Timothy Stephens as Manager, Members' Guests Dining Room, whose significant contribution was consistent over his 14 years of service, along with his professional dedication, his courtesy, high level of hospitality, and sometimes his music taste.
Senator Waters to move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 23 August 2017:

The rehabilitation of mining and resources projects as it relates to Commonwealth responsibilities, for example under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), with regard to:

(a) the cost of outstanding rehabilitation obligations of currently operating projects;
(b) the adequacy of existing regulatory, policy and institutional arrangements to ensure adequate and timely rehabilitation;
(c) the adequacy and transparency of financial mechanisms, including assurances, bonds and funds, to ensure that mining and resources projects are rehabilitated without placing a burden on public finances;
(d) the effectiveness of current Australian rehabilitation practices in safeguarding human health and repairing and avoiding environmental damage;
(e) the effectiveness of existing abandoned mines programs, with regard to repairing environmental damage and safeguarding human health;
(f) whether any mining or resources companies have engaged in conduct designed to avoid fulfilling their rehabilitation obligations;
(g) the potential social, economic and environmental impacts, including on matters of national environmental significance under the EPBC Act, of inadequate rehabilitation;
(h) the potential social, economic and environmental benefits of adequate rehabilitation, including job opportunities in communities affected by job losses in the mining and resources sectors;
(i) international examples of effective rehabilitation policy and practice;
(j) proposals for reform of rehabilitation of mining and resources projects; and
(k) any other related matters.

Senator Moore to move:

That the Senate—
(a) notes:
   (i) the important role of the Australian Ambassador for Women and Girls, which was introduced by Labor in 2011,
   (ii) the valuable work provided by our first Ambassador, Ms Penny Williams, and
   (iii) that that our second Ambassador, Ms Natasha Stott Despoja, has just finalised her term;
(b) recognises and thanks Ms Natasha Stott Despoja for her work during her role as Australian Ambassador for Women and Girls from 16 December 2013 to December 2016;
(c) acknowledges the tremendous achievements by Ms Natasha Stott Despoja during her tenure, including:
   (i) her commitment to her work which built our relationship internationally with a clear focus on women and girls,
   (ii) her extensive travel in the Indo-Pacific region to advocate for women's equal participation in political, economic and social affairs,
   (iii) representation of Australia at international meetings and forums working to promote women's leadership, economic empowerment and gender equality,
(iv) strong advocacy to change the attitudes and behaviours across the community that condone or support gender inequality and sexism including victim-blaming, and

(v) steering Australia's foreign policy and aid programs towards women's economic empowerment, and the fight to end violence against women and girls; and

(d) congratulates Dr Sharman Stone on her appointment as the new Ambassador for Women and Girls, commencing January 2017, and looks forward to her work continuing the important role.

Senators Culleton and Lambie to move:
That the Senate notes the many issues in this country in relation to proper process not being followed in judicial and other matters.

Senator Watt to move:
That—

(a) the following documents relating to the Bell Group liquidation and the Western Australian Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) legislation be provided to the Legal and Constitutional Affairs References Committee by the Attorney-General:

(i) correspondence, including but not limited to, briefings, letters, memoranda and aides memoire between the Attorney-General and:

(A) the Treasurer of Western Australia,
(B) the Attorney-General of Western Australia, and
(C) the Solicitor-General,

(ii) any file notes held of any meetings between the Attorney-General and:

(A) the Treasurer of Western Australia,
(B) the Attorney-General of Western Australia, and
(C) the Solicitor-General,

(iii) briefings to the Attorney-General from the Solicitor-General, Australian Government Solicitor and Attorney-General’s Department, and

(iv) correspondence between the Australian Government Solicitor and the Attorney-General’s Department and the Western Australian Department of the Attorney-General, or the Western Australian State Solicitor's Office;

(b) the time frame for the documents covered by this motion is 1 November 2015 to 30 March 2016; and

(c) the documents be provided by no later than 14 December 2016.

COMMITTEES

Community Affairs References Committee
Reference

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (15:36): At the request of Senator Brown, I move:
That the following matter be referred to the Community Affairs References Committee for inquiry and report by 13 September 2017:

The delivery of outcomes under the National Disability Strategy 2010-2020 to build inclusive and accessible communities, with reference to:

(a) the planning, design, management, and regulation of:
(i) the built and natural environment, including commercial premises, housing, public spaces and amenities,

(ii) transport services and infrastructure, and

(iii) communication and information systems, including Australian electronic media and the emerging Internet of things;

(b) potential barriers to progress or innovation and how these might be addressed;

(c) the impact of restricted access for people with disability on inclusion and participation in economic, cultural, social, civil and political life; and

(d) any other related matters.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:36): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator McGrath: Arrangements for the National Disability Strategy had been agreed by all governments through COAG’s Disability Reform Council. Commitments are organised over three implementation plans and reports on progress are provided to COAG through the Disability Reform Council. The government also recently announced the establishment of the National Disability and Carers Advisory Council, which will oversee the implementation of the National Disability Strategy and report to the Disability Reform Council regularly on progress.

Question agreed to.

Scrutiny of Bills Committee
Documents

Senator Urquhart (Tasmania—Opposition Whip in the Senate) (15:37): On behalf of Senator Polley, I move:

That—

(a) where the Scrutiny of Bills Committee writes to a minister it expects a response to be received in time to be considered by the committee and reported on while the bill is still before the Parliament;

(b) if the committee has not completed its inquiry due to the failure of a minister to respond to the committee’s concerns, senators should have the right to ask the responsible minister why the Scrutiny of Bills Committee has not received a response; and therefore:

(c) the following amendment to standing order 24 operate as a temporary order from the first sitting day of 2017 to the last sitting day of March 2018:

Add the following paragraph:

(1)(d) If the committee has not finally reported on a bill due to the failure of a minister to respond to its concerns then, immediately prior to the consideration of government business on any day or immediately prior to the consideration of the bill:

(i) any senator may ask the minister for an explanation as to why the minister has not provided a response to the committee, and

(ii) the senator may, at the conclusion of the explanation, move without notice either a motion relating to the consideration of the bill or—that the Senate take note of the explanation; or

(iii) in the event that the minister does not provide an explanation, the senator may, without notice, move a motion with regard to the minister’s failure to provide an explanation.
MOTIONS

Disability Awareness Week

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:38): I move:

That the Senate—

(a) notes that this week is Disability Awareness Week, and that 3 December 2016 is International Day of People with Disability;

(b) acknowledges the report of the Community Affairs References Committee into the violence, abuse and neglect suffered by people with disability in institutional and residential settings which was tabled on 25 November 2015;

(c) notes that disability abuse continues to be an issue of national shame; and

(d) calls on the Government to respond to the report and to commit to implementing the 30 recommendations of the report, including the recommendation for a royal commission.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (15:38): I seek leave to make a short statement.

The PRESIDENT: I am sure leave will be granted for one minute.

Senator McGRATH: The government acknowledges the importance of ensuring that appropriate quality and safeguards are in place to protect people with disability from violence and abuse. The government has reached in principle agreement with most states and territories for a new national quality and safeguards framework and will respond to the Senate committee's report after the framework has been presented to COAG.

Question agreed to.

International Day of People with Disability

Senator O'NEILL (New South Wales) (15:39): I, and also on behalf of Senator Brown and Senator Siewert, move:

That the Senate—

(a) recognises that:

(i) Saturday, 3 December 2016, is International Day of People with Disability,

(ii) the United Nations proclaimed International Day of People with Disability for the first time in 1992 as a way of promoting better understanding of disability issues, and as a sign of support for the dignity, rights and well-being of people with disabilities, and

(iii) each year, the United Nations chooses a theme for International Day of People with Disability, and this year's theme is 'Achieving 17 Goals for the Future We Want', which draws attention to how the 17 Sustainable Development Goals can create a more inclusive and equitable world for people with disabilities;

(b) acknowledges that:

(i) December 2016 also marks the 10 year anniversary of the United Nations General Assembly's adoption of the Convention on the Rights of Persons with Disabilities (the Convention), and

(ii) the Convention's purpose is to 'promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity';
(c) urges all levels of government to take action to remove barriers to employment, education and full community participation of people with disability through the long overdue Second Action Plan under the National Disability Strategy;

(d) urges the Government to take action to fix the problems with the National Disability Insurance Scheme roll-out, and ensure that people with disability get the care and support they need to improve their lives; and

(e) encourages all Australians to get involved in celebrations in their local communities.

Question agreed to.

COMMITTEES
Public Accounts and Audit Committee

Meeting

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (15:39): At the request of Senator Smith, I move:

That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 9.30 am, as follows:

(a) Wednesday, 8 February 2017; and
(b) Wednesday, 15 February 2017.

Question agreed to.

Resilience of Electricity Infrastructure in a Warming World

Reporting Date

Senator HANSON-YOUNG (South Australia) (15:40): I seek leave to amend general business notice of motion No. 134 by omitting the date 30 March 2017 and substituting it with 24 March 2017.

Leave granted.

Senator HANSON-YOUNG: I move the motion as amended:

That the time for the presentation of the report of the Select Committee into the Resilience of Electricity Infrastructure in a Warming World be extended to 24 March 2017.

Question agreed to.

Strengthening Multiculturalism Committee

Appointment

Senator DI NATALE (Victoria—Leader of the Australian Greens) (15:41): I seek leave to amend general business notice of motion No. 135, standing in my name, relating to the establishment of a select committee, in the terms circulated.

Leave granted.

Senator DI NATALE: I move the motion as amended:

(1) That a select committee to be known as the Select Committee on Strengthening Multiculturalism be established on 27 March 2017 to inquire into and report on ways of protecting and strengthening Australia's multiculturalism and social inclusion, with particular reference to:
(a) the views and experiences of people from culturally and linguistically diverse, and new and emerging communities;
(b) the adequacy and accessibility of settlement and social inclusion services and resources available to individuals and communities;
(c) the adequacy of existing data collection and social research on racially motivated crimes;
(d) the impact of discrimination, vilification and other forms of exclusion and bigotry on the basis of 'race', colour, national or ethnic origin, culture or religious belief;
(e) the impact of political leadership and media representation on the prevalence of vilification and other forms of exclusion and bigotry on the basis of 'race', colour, national or ethnic origin, culture or religious belief;
(f) how to improve the expected standards of public discourse about matters of 'race', colour, national or ethnic origin, culture or religious belief;
(g) how to better recognise and value the contribution that diverse communities bring to Australian social and community life;
(h) the potential benefits and disadvantages of enshrining principles of multiculturalism in legislation;
(i) the potential benefits and disadvantages of establishing a legislative basis for the Multicultural Advisory Council, or for an ongoing Multicultural Commission; and
(j) any related matters.

(2) That the committee present its final report on or before 14 August 2017.

(3) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of the Australian Greens and 1 nominated by minority groups and independent senators.

(4) That:
(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, the Leader of the Australian Greens or any minority party or independent senator; and
(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee.

(5) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(6) That the committee elect as chair a member nominated by the Leader of the Australian Greens and, as deputy chair, a member nominated by the Leader of the Opposition in the Senate.

(7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(8) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(9) That the committee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings, the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
(11) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of proceedings which take place in public.

Question agreed to.

**DOCUMENTS**

**Red Imported Fire Ants**

**Order for the Production of Documents**

**Senator RICE** (Victoria) (15:42): I move:

That—

(a) the Senate notes:

(i) the adverse effect of Red Imported Fire Ant (RIFA) populations on ecosystems, native species, agricultural communities and human health,

(ii) the ongoing program since 2001 to eradicate Red Imported Fire Ants,

(iii) the communique of the Agriculture Ministers Forum held in Auckland, New Zealand on 20 May 2016, which indicated that:

(A) it remains in the national interest to eradicate the ants and that it is technically feasible and cost beneficial to do so,

(B) ministers agreed to continue to cost share the RIFA South East Queensland eradication program in 2016-17, in accordance with the nationally agreed 2013-18 Response Plan, and

(C) funding of a 10-year eradication plan or transition to a management plan for the SEQ Programme will be considered at the next AGMIN meeting, and

(iv) the right of all Australians to sufficient information to understand the important decision that the agriculture ministers will be making at their next meeting in 2017 on whether the eradication program should continue, the implications of proceeding and not proceeding, the costs involved and the lessons learnt from the program so far; and

(b) there be laid on the table, by the Minister representing the Minister for Agriculture and Water Resources, by no later than 9.30 am on 1 December 2016, the Independent Review of the National Red Imported Fire Ant Eradication Program: Report of the independent review panel.

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

**The President:** Leave is granted for one minute.

**Senator McGrath:** The coalition government is supporting the effort to eradicate red imported fire ants in Queensland. In partnership with all states and territories the government has been addressing the inclusion of these ants in South-East Queensland since 2001. The Commonwealth has already provided over $150 million in assistance. In November 2014 the Agriculture Ministers Forum commissioned an independent review of the eradication program for the red imported fire ant inclusion in South-East Queensland. The review found the eradication of red imported fire ants is still in the national interest.

Question agreed to.

**Minamata Convention on Mercury**

**Order for the Production of Documents**

**Senator Waters** (Queensland—Co-Deputy Leader of the Australian Greens) (15:43): I move:
That there be laid on the table, by the Minister representing the Minister for the Environment and Energy, by no later than 9.30 am on 1 December 2016, the cost-benefit analysis undertaken by Marsden Jacob Associates of Australia ratifying Minamata Convention on Mercury commissioned by the Department of the Environment and Energy.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:43): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator McGrath: The government intends to release the cost-benefit analysis with a regulatory impact statement during December 2016. It is appropriate that documents are released as part of a package of relevant information and not as independent documents.

Question agreed to.

MOTIONS

New South Wales Independent Commission Against Corruption

Senator Rhiannon (New South Wales) (15:44): I move:

That the Senate—

(a) notes that:

(i) since 1989, the New South Wales Independent Commission Against Corruption (ICAC) has investigated New South Wales (NSW) politicians and public officials and exposed a range of corrupt activities,

(ii) the NSW Liberal-National Government, with the support of Christian Democrats and the Shooters, Fishers and Farmers Party, have voted to replace the ICAC Commissioner with a three-commissioner model,

(iii) this change will mean that the power to conduct public inquiries initiated by the ICAC Commissioner will be severely weakened,

(iv) former Assistant ICAC Commissioner, Mr Anthony Whealy, stated the changes have a perception of payback, and former ICAC Commissioner Mr David Ipp has described the changes as scandalous, and

(v) all Australian states and territories have some form of an anti-corruption commission; and

(b) calls on the federal government to support current and sound future research into potential anti-corruption systems appropriate for Australia, including the research led by Griffith University, in partnership with Transparency International Australia.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:44): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator McGrath: The government takes a zero tolerance approach to corruption in all its forms. Australia is consistently ranked as one of the least corrupt countries in the world. The government has a multifaceted approach to combatting corruption and financial crime, including: a $127 million reform package to strengthen the Australian Securities and Investments Commission and better protect Australian consumers; the Fraud and Anti-Corruption Centre housed in the Australian Federal Police, with a $14.7 million investment from proceeds of crime to expand the centre's foreign bribery investigative capability; the release of a public discussion paper on a possible deferred prosecution agreement scheme;
and $127.6 million over four years to fund the serious financial crime task force to ensure Commonwealth financial crimes are disrupted and deterred.

Question agreed to.

COMMITTEES

Funding for Research into Cancers with Low Survival Rates Committee

Appointment

Senator URQUHART (Tasmania—Opposition Whip in the Senate) (15:45): At the request of Senator Bilyk, I move:

(1) That a select committee, to be known as the Select Committee into Funding for Research into Cancers with Low Survival Rates, be established to inquire into and report on, by 28 November 2017, the impact of health research funding models on the availability of funding for research into cancers with low survival rates, with particular reference to:

(a) the current National Health and Medical Research Council (NHMRC) funding model, which favours funding for types of cancer that attract more non-government funding, and the need to ensure the funding model enables the provision of funding research into brain cancers and other low survival rate cancers;

(b) the obstacles to running clinical trials for brain cancers and other cancers with relatively lower rates of incidence, with regard to:

(i) funding models that could better support much-needed clinical trials, and

(ii) funding support for campaigns designed to raise awareness of the need for further research, including clinical trials;

(c) the low survival rate for brain cancers, lack of significant improvement in survival rates, and strategies that could be implemented to improve survival rates and;

(d) other relevant matters.

(2) That the committee consist of 8 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate and 2 nominated by minority groups and independent senators.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator; and

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee.

(4) That the provisions of standing order 29 apply with respect to quorum.

(5) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.

(6) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate and, as deputy chair, one of the members nominated by the Leader of the Government in the Senate.

(7) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.
(8) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

(9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Question agreed to.

Economics References Committee

Reference

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (15:46): I move:

That the following matter be referred to the Economics References Committee for inquiry and report by the last sitting day of the autumn sittings of 2018:

The regulatory framework for the protection of consumers, including small businesses, in the banking, insurance and financial services sector (including Managed Investment Schemes), with particular reference to:

(a) any failures that are evident in the:
   (i) current laws and regulatory framework, and
   (ii) enforcement of the current laws and regulatory framework, including those arising from resourcing and administration;

(b) the impact of misconduct in the sector on victims and on consumers;

(c) the impact on consumer outcomes of:
   (i) executive and non-executive remuneration,
   (ii) incentive-based commission structures, and
   (iii) fee-for-no-service or recurring fee structures;

(d) the culture and chain of responsibility in relation to misconduct within entities within the sector;

(e) the availability and adequacy of:
   (i) redress and compensation to victims of misconduct, including options for a retrospective compensation scheme of last resort, and
   (ii) legal advice and representation for consumers and victims of misconduct, including their standing in the conduct of bankruptcy and insolvency processes;

(f) the social impacts of consumer protection failures in the sector, including through increased reliance of victims on community and government services;

(g) options to support the prioritisation of consumer protection and associated practices within the sector; and
(h) any related matters.

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

The PRESIDENT: Leave is granted for one minute.

Senator McGrath: The government opposes this inquiry because the government has taken and continues to take strong action to improve consumer outcomes in the financial services sector by: commissioning the Financial System Inquiry and implementing its recommendations; developing legislation to address misaligned incentive structures and to lift professional standards of financial advisers; strengthening the Australian Securities and Investments Commission with a $120 million funding package; and commissioning a review of the external dispute resolution schemes in the financial sector, to deliver a one-stop shop and a review of small business lending practices. The government notes that on 14 September 2016 the Senate referred an inquiry into the life insurance industry to the Parliamentary Joint Committee on Corporations and Financial Services for report by mid-2017.


The PRESIDENT: Leave is granted for one minute.

Senator Whish-Wilson: Since I have been here, in four years I have been involved in nearly six inquiries into matters related to what we have before us in the motion today. That has been very useful. A lot of good people have spent a lot of time looking at the problems, misconduct and bad behaviour in the banking industry and looking at financial regulations. The conclusion that many of us have drawn after spending time in these committees is that we need to go the next step—that the Senate has done everything it can to help these people, especially the victims of financial crime—and that we need a parliamentary commission of inquiry or a royal commission into banks which could compel witnesses and have strong investigative powers. While we support this motion today, we really have to get on with looking after victims and getting some justice for them. The Senate has done everything it can, and we do need to go to the next step.

The PRESIDENT: The question is that business of the Senate notice of motion No. 1, moved by Senator Gallagher, be agreed to.

The Senate divided. [15:52]

The Senate divided. [15:52]

(AYES)

Ayes .................... 40
Noes .................... 25
Majority ............... 15
Tuesday, 29 November 2016

SENATE

AYES

Kakoschke-Moore, S
Kitching, K
Leyonhjelm, DE
Marshall, GM
McCarthy, M
Moore, CM
Rhiannon, L
Roberts, M
Sterle, G
Waters, LJ
Whish-Wilson, PS

Ketter, CR
Lambie, J
Lines, S
McAllister, J
McKim, NJ
O'Neil, DM
Rice, J
Siewert, R
Urquhart, AE (teller)
Watt, M
Xenophon, N

NOES

Abetz, E
Birmingham, SJ
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Hume, J
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ryan, SM
Seselja, Z
Williams, JR

Back, CJ
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fierravanti, MP
Macdonald, ID
McKenzie, B
O'Sullivan, B
Paterson, J
Ruston, A
Scullion, NG
Sinodinos, A

PAIRS

Ludlam, S
Polley, H
Pratt, LC
Singh, LM
Wong, P

Cormann, M
Payne, MA
Smith, D
Bernard, C
Brandis, GH

Question agreed to.

Legal and Constitutional Affairs References Committee

Reference

Senator WATT (Queensland) (15:55): I, and also on behalf of Senator McKim, move:

(1) That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 21 March 2017:

The nature and scope of any agreement reached by the Commonwealth and Western Australian Governments in relation to the distribution of proceeds of the liquidation of, and litigation concerning, the Bell Group of companies (the proceeds), with particular reference to:

(a) the priority order for distribution of the proceeds;
(b) the Commonwealth's position in relation to the distribution of, and litigation concerning, the proceeds;
(c) any connection between the above and the settlement of other disputes between the Commonwealth and Western Australian governments, including regarding the distribution of GST revenue between the states;

(d) any direction or instruction given by the Attorney-General to the Solicitor-General, either directly or through his office or department, in relation to the conduct of litigation concerning the proceeds;

(e) any connection between the above and the issuing of the Legal Services Amendment (Solicitor-General Opinions) Direction; and

(f) any other related matter.

(2) That the Senate directs the Attorney-General (Senator Brandis) and the Minister for Finance (Senator Cormann) to appear before the committee to answer questions.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (15:55): I seek leave to make a short statement.

The President: Leave is granted for one minute.

Senator McGrath: The government opposes the motion. Firstly, from the Commonwealth's point of view, there was never any agreement with Western Australia relating to the distribution of proceeds of the Bell Group liquidation, or the High Court proceedings. Secondly, the Attorney-General instructed the Solicitor-General to intervene on behalf of the Commonwealth following the receipt of advice from the Solicitor-General. The distinction drawn in the motion between 'direction' and 'instruction' is spurious; barristers act only on instructions. Thirdly, there is no connection between the issuing of the legal services direction and the Bell Group litigation. The Attorney-General has made clear that the process leading to the issue of the direction began in November 2015, months before discussion about intervention in the Bell Group proceedings.

The President: The question is that the motion moved by Senator Watt be agreed to.

The Senate divided. [15:57]

Ayes ..................... 36
Noes ..................... 29
Majority ............... 7

AYES

Bilyk, CL
Cameron, DN
Chisholm, A
Culleton, RN
Di Natale, R
Farrell, D
Gallagher, KR
Hanson-Young, SC
Kakoschke-Moore, S
Kitching, K
Lines, S
McAllister, J
McKim, NJ
Pratt, LC
Rice, J
Sterle, G

Brown, CL
Carr, KJ
Collins, JMA
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Hinch, D
Ketter, CR
Lambie, J
Marshall, GM
McCarthy, M
Moore, CM
Rhiannon, L
Siewert, R
Urquhart, AE (teller)
Tuesday, 29 November 2016

SENATE

AYES

Waters, LJ
Whish-Wilson, PS

Watt, M
Xenophon, N

NOES

Abetz, E
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Hume, J
Macdonald, ID
McKenzie, B
O'Sullivan, B
Paterson, J
Roberts, M
Ryan, SM
Seselja, Z
Williams, JR

Back, CJ
Burston, B
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Hanson, P
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Sculion, NG
Sinodinos, A

PAIRS

Ludlam, S
O'Neill, DM
Polley, H
Singh, LM
Wong, P
Cormann, M
Smith, D
Payne, MA
Bernardi, C
Brandis, GH

Question agreed to.

MOTIONS

Australian Broadcasting Corporation

Senator HANSON-YOUNG (South Australia) (16:00): I move:
That the Senate—
(a) opposes recent cuts to the Australian Broadcasting Corporation (ABC) that have resulted in:
   (i) the loss of almost 500 Australian jobs,
   (ii) the closure of all 50 ABC retail outlets around Australia,
   (iii) a substantial reduction in Australian made children's content,
   (iv) a substantive reduction in local regional content, and
   (v) a reduction in government funding totalling 29.2 per cent over 30 years;
(b) opposes the severe cuts to the ABC outlined in the 2016-17 Budget paper, totalling almost $50 million over the forward estimates; and
(c) supports the ongoing strengthening of the ABC as a bold, vital and well-funded national broadcaster with strong local and regional content for all Australians.

Senator McGRATH (Queensland—Assistant Minister to the Prime Minister) (16:00): I seek leave to make a short statement.
The PRESIDENT: Leave is granted for one minute.

Senator McGrath: The government opposes this motion. The coalition is committed to budget repair and the ABC, like all government agencies, has been asked to contribute to this effort. The ABC and SBS efficiency study demonstrated that the national broadcasters could realise significant savings without impacting on their programming or services. The ABC has previously confirmed that the decision to close its portfolio of leased stores was in no way related to the government's efficiency savings. The ABC has further advised that there has been no reduction in ABC commissions of children's content. The ABC has also confirmed that its regional services have been quarantined from any efficiencies or savings.

Senator O'Neill (New South Wales) (16:01): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator O'Neill: While Labor supports this position, we want to put on the record that Labor believes the ABC is one of Australia's most important public institutions. We believe that the ABC plays a very important role in adding to the diversity of news in our media landscape and providing an opportunity for Australian content to be shown and heard. The ABC also plays a vital role in our regional and remote communities by providing news, public announcements and emergency messages. Labor supports the Greens' motion on the basis that it expresses Labor's sentiment and record on the ABC.

In government, Labor implemented measures to ensure the institutional independence of our public broadcasters and their governing boards. Labor also provided additional funding that helped establish a dedicated digital children's channel and found efficiencies in the ABC that helped fund ABC News 24 and ABC online. This is in stark contrast to Mr Turnbull who, as a former communications minister, savagely cut more than $250 million from the public broadcaster in the horror 2014 budget. Most recently, the 2016 budget, in the hands of Mr Turnbull, has cut $48.6 million. (Time expired).

The PRESIDENT: The question is the motion moved by Senator Hanson-Young be agreed to.

The Senate divided. [16:03]

(The President–Senator Parry)

Ayes .......................35
Noes .......................30
Majority .................5

AYES

Bilyk, CL
Cameron, DN
Collins, JMA
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Kakoschke-Moore, S
Kitching, K
Lines, S
McAllister, J
McKim, NJ
Brown, CL
Carr, KJ
Culleton, RN
Di Natale, R
Farrell, D
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Lambie, J
Marshall, GM
McCarthy, M
Moore, CM
I move:—
(a) the Senate notes:
(i) the grave concerns of the wider agricultural and agribusiness community that the Australian Pesticides and Veterinary Medicines Authority's (APVMA) relocation will irreversibly damage the capacity of APVMA to carry out its core responsibilities,
(ii) the recently released Ernst and Young independent analysis of the APVMA relocation, which identified the following key risks:
(A) the APVMA is unable to effectively relocate or recruit key APVMA executive management and technical assessment staff within the first two years,
(B) during transition and in the short term, the APVMA is unable to sustain its rate of effort for registration of new agricultural and veterinary chemical products,
(C) the APVMA is unable to maintain and grow its capability in the medium term, and
(D) The APVMA has reduced access to stakeholders, and
(iii) the recommendation in the independent analysis calling for the carrying out of the following critical next tasks for risk mitigation:
(A) an analysis of supply (and demand) for regulatory scientists,
(B) an analysis of connectivity between APVMA business groups,
(C) the development of recruitment, retention and training strategies, and
(D) the development of a transition plan; and
(b) there be laid on the table, by the Minister representing the Minister for Agriculture and Water Resources, by no later than 9.30 am on 1 December 2016, the following documents held or prepared by the Department of Agriculture and Water Resources and/or the Australian Pesticides and Veterinary Medicines Authority:

(i) an analysis of supply (and demand) for regulatory scientists,
(ii) an analysis of connectivity between APVMA business groups,
(iii) any APVMA recruitment, retention and training strategies, and
(iv) any APVMA transition plans.

The PRESIDENT: The question is that the motion moved by Senator Rice be agreed to.
The Senate divided. [16:07]

(The President—Senator Parry)

Ayes ......................36
Noes ......................28
Majority ............... 8

AYES

Bilyk, CL
Cameron, DN
Culleton, RN
Di Natale, R
Farrell, D
Gallagher, KR
Hanson-Young, SC
Kakoschke-Moore, S
Kitching, K
Leyonhjelm, DE
Marshall, GM
McCarthy, M
Moore, CM
Pratt, LC
Rice, J
Sterle, G
Waters, LJ
Whish-Wilson, PS

NOES

Abetz, E
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Fawcett, DJ
Fifield, MP
Hume, J
McGrath, J

Back, CJ
Burston, B
Canavan, MJ
Duniam, J
Fierravanti-Wells, C
Hanson, P
Macdonald, ID
McKenzie, B
Nash, F  O'Sullivan, B
Parry, S  Paterson, J
Reynolds, L  Roberts, M
Ruston, A  Ryan, SM
Scullion, NG  Seselja, Z
Sinodinos, A  Williams, JR

Question agreed to.

MOTIONS

Australian of the Year

Senator LAMBIE (Tasmania) (16:09): I move:
That the Senate—
(a) notes that:
   (i) Retired General David Morrison, AO, was appointed Australian of the Year for 2016,
   (ii) Australian of the Year has traditionally demonstrated excellence in their field, a significant
collection to the Australian community and nation, and been and inspirational role model for the
Australian community,
   (iii) a recently uncovered New South Wales Police Force investigation into the 'Jedi Council', the
Strike Force Civet report, which investigated sex assaults and other related crimes involving members
of the Australian Defence Force (ADF) during General Morrison's command of the Army, indicated a
sophisticated, high-level, military cover-up, including deliberate lies, withholding of evidence,
fabrication of information, and supported the conduct of criminal and serious internal offences,
   (iv) sworn testimony from a subordinate of General Morrison, retired Lieutenant Colonel Karel
Dubsky, indicates that General Morrison and others deliberately ignored the facts as stated in the Strike
Force Civet report, and allowed Lieutenant Colonel Dubsky and others to be wrongly accused of being
members of a group of sex offenders, and/or demeaners of women, and
   (v) General Morrison's behaviour caused exceptional and undue harm to retired Lieutenant Colonel
Dubsky, his family, and other innocent members of the ADF, and demonstrated behaviour that was the
opposite required of the Australian of the Year; and
(b) calls on the Government to make a recommendation to remove General Morrison as Australian of
the Year, and replace him with a person worthy of the title.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:09): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator McGrath: I thank Senator Lambie for raising the Australian of the Year Awards. The awards recognise outstanding Australians from across the community in a range of fields of endeavour. Nominations come from the community and finalists are selected by state and territory Australia Day Councils. The National Australia Day Council then independently selects the national winner, based on long-established criteria. Given the importance and prominence of their role, it is proper that every Australian of the Year is held to account for their actions and statements during their term. The government does not have
the power to select, replace or remove any Australian of the Year. In any event, a new Australian of the Year for 2017 will be awarded in less than two months' time.

Senator LAMBIE (Tasmania) (16:10): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator LAMBIE: I urge all members to support my notice of motion, which calls on the government to make a recommendation to remove General David Morrison from Australian of the Year and replace him with a person worthy of the title.

The uncovering of a secret New South Wales police report—Strike Force Civet, which examined the Jedi Council's sex scandal—has raised serious questions about the competence, honesty and integrity of all senior Australian Defence officers involved in the management and investigation of this crisis, including retired General Morrison. General Morrison's management of the crisis has denied natural justice to many Australian Defence Force members and, in cases like retired Lieutenant Colonel Karel Dubsky's, maliciously ruined the career and life of an innocent man to protect the reputation of the Australian Defence Force. The appointment of General Morrison was a slap in the face for Australians who believe in justice for the innocent, and it should be reversed.

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

The Senate divided. [16:13]

Ayes ...................... 7
Noes ...................... 52
Majority ............... 45

AYES
Burston, B
Hanson, P
Lambie, J (teller)
Roberts, M

Culleton, RN
Hinch, D
Leyonhjelm, DE

NOES
Back, CJ
Birmingham, SJ
Bushby, DC
Canavan, MJ
Collins, JMA
Dodson, P
Farrell, D
Fieravanti-Wells, C
Gallacher, AM
Hanson-Young, SC
Ketter, CR
Lines, S
Marshall, GM
McCarthy, M
McKenzie, B
Moore, CM

Bilyk, CL
Brown, CL
Cameron, DN
Cash, MC
Di Natale, R
Duniam, J
Fawcett, DJ
Fifield, MP
Gallagher, KR
Hume, J
Kitching, K
Macdonald, ID
McAllister, J
McGrath, J
McKim, NJ
Nash, F
Question negatived.

BUSINESS

Consideration of Legislation

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:16): I move:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Civil Nuclear Transfers to India Bill 2016, allowing it to be considered during this period of sittings.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Revenue

The President (16:17): I inform the Senate that at 8.30 am today Senators Gallagher and Siewert each submitted a letter in accordance with standing order 75 proposing a matter of public importance. The question of which proposal would be submitted to the Senate was determined by lot. As a result, I inform the Senate that the following letter has been received from Senator Gallagher:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:
The Government's willingness to enter into an arrangement to forgo $300 million in tax revenue in order to benefit their political allies.

Is the proposal supported?

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

The President: I understand that informal arrangements have been allocated to allow specific times for each of the speakers in today's debate, and, with the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator Sterle (Western Australia) (16:18): It gives me, unfortunately, not great pleasure to speak on this, but it has to be said. We cannot be silent. We have to let everyone in Australia know what the heck has been going on. There is something absolutely rotten going on between the Western Australian state government and this Commonwealth government, both from the Liberal family of politics. We heard very, very clearly in question time today the answer when Minister Brandis was asked very clearly about some comments made by the
WA Treasurer, Mr Nahan, where he had said words to the effect of, 'We have a deal'—'we' being the state Liberal government—with the feds to bring the Bell Group resources drama, the 'fair Bell plan', to a head, but we'll circumvent the opportunity for the ATO to collect the money.' These are the words that Mr Nahan said to none other than the Western Australian parliament. He said:

We had a deal with the commonwealth that it would not oppose the Bell act.

As a Western Australian, I think we need every single cent we can get because we, Western Australians, have been ripped off—I say that without any fear of retribution—by the government of GST take. But what makes it even worse than that is the total incompetence of the Barnett Liberal government that oversaw the greatest boom in Australia's history—the mining boom. It was only five years ago that we were standing here—every Western Australian in this place—bragging about Western Australia being the engine room of the economy.

I just want to say that two of the best reporters, I believe, in this nation are based here in this building, and they are Andrew Probyn and Shane Wright, who write for The West Australian. They have written some very, very telling articles about the nonsense going on between someone over here in the Commonwealth government and someone in the Western Australian government. We heard Senator Brandis's explanation yesterday—and I will put it in my words, not his—that, 'It's all former Treasurer Mr Joe Hockey's fault. He is the one who did the deal.' The reason those opposite say that is because back in April last year Mr Hockey wrote to his counterpart, Dr Nahan, in WA, with a nod and a wink or whatever the wording was, saying, 'It'll be all right; we won't oppose it.' I can understand why Dr Nahan is absolutely fuming, because he is the one that has to take all the pain on the jobless figures. He is the one who has to come out, do the budgets and try to defend the incompetence of the Barnett Liberal government.

I just want to share some figures that would explain Dr Nahan's anger after being, in my words, dudged by someone in the federal parliament. I would not for the life of me say it was Senator Cormann. I would not say that, even though Senator Cormann is the Geppetto of the WA Liberal Party. He is the puppetmaster, make no mistake. They might use the term 'powerbroker'. It is him and one of his mates over there, Minister Peter Collier. It is well known that, if you want to be a WA Liberal member of parliament, you go to the powerbroker.

This is why Dr Nahan and co over there are absolutely ropable, I would assume, after being dudged. It could be Mr Porter—I do not know who it is; I would not have a clue—in the other place. He has had some dealings. In fact, Mr Porter is now a senior minister in the Turnbull-Liberal government. Mr Porter was also Treasurer in the Western Australian government, so he knows all about the Bell Group deal, the Bell Group plan and the Bell Group problems. That had been going on for 20-odd years. Make no mistake: my colleagues on the other side, I am convinced—in fact, I will lay a bet. Are you allowed to lay a bet here? I will lay one with you, Mr Acting Deputy President—

Senator Gallacher: London to a brick.

Senator STERLE: Yes, London to a brick, so no money changes hands—that I am sure Western Australian Liberals will get up and go absolutely berko, scream at the top of their voices about Brian Burke and WA Inc. Do you know what? It was a pretty sad time in WA
that it ended up that way. A lot of the people are no longer with us; they have passed away. Anyway, I am sure the intentions were right, but it did not end well. The courts have dealt with it. People went to jail. We needed to fix the mess.

We need to find out the truth here. Who is lying? That is a pretty strong word to use. I am not accusing anyone of being a liar, but who is not telling the truth? Is it the WA Treasurer, Dr Nahan, or is it the federal parliamentary Liberal Party over here? They cannot both be right. One is saying they got a deal; one is saying they did not. There are some very senior ministers in this government who are Western Australian based, and we all know that the Premier, Colin Barnett, but through Dr Nahan, the Treasurer, has been very critical of the pathetic efforts—or nonefforts—of Western Australian senior Liberal cabinet ministers: none other than Senator Cormann, none other than Senator Cash, none other than Mr Porter and none other than Ms Bishop, the member for Curtin. It is very disappointing, because they are selling out WA; they are not standing up for it.

Let us talk about some figures that would give anyone heartburn. Yesterday's The West Australian, that fantastic journal on the other side of the rabbit-proof fence, made it very clear in an article titled 'WA jobless level "in line with recession"'. The Western Australian Liberal government of Mr Colin Barnett had their heads in the clouds while we were going through one of the greatest booms in history. They did not make any plans about what the heck we were going to do when it stopped. Where were all these jobs going to be? I will tell you what—they are not in WA. Shane Wright is a fantastic economics editor for The West Australian, because he is always on the money; he is a visionary. He came out and told it very clearly:

Commonwealth Bank economist Gareth Aird said recession was a fair description of the WA jobs market—

the 'R' word, goodness me—

which has shed 64,000 full-time jobs over the past 22 months.

What would I do if I were Dr Nahan, the Treasurer, and I had been made a promise from someone in the federal arena? That is, apart from Mr Hockey—we know where he is; he is Australia's Ambassador to Washington. I think the more we stuff up, the bigger job we get at the end when we leave—and I am not going to pull that one, because it is true. I will give you some other figures where, if I were Dr Nahan, I would be absolutely panicking. WA has lost its AAA credit rating. In 2013 the boom had just finished. This is how incompetent the state government of WA is. An article on the ABC website states that this year alone the Barnett government:

… unveiled the state's largest ever forecast budget deficit of almost $4 billion.

The article continues:

Treasurer Mike Nahan has handed down his third budget, showing the deficit will surge from a forecast $2.96 billion to $3.9 billion in 2016–17.

Not 'creep' but 'surge'. It was the engine room of the economy a couple of years ago. The article goes on to say:

… state debt will continue to climb, reaching $33 billion next year and growing to $40.19 billion in 2020.
The previous Carpenter government left a pot of money. That mob—their cousins in the West over there—have blown it, and for years Western Australia had the greatest growth and economic opportunities known in this nation. Where the heck has that money gone? I am not even Dr Nahan; I am not the one that has been ratted on, but I am cranky. The article continues:

The Treasurer revised down the budget deficit forecast this year from $3.1 billion to $2 billion, due in part to a $500 million Commonwealth payment for the National Disability Insurance Scheme.

Good. Dr Nahan:

… revealed the deficit would jump by $2 billion in 2016–17.

In The West Australian yesterday was an article written by two of the best reporters in this building—Mr Shane Wright and Mr Andrew Probyn. The article, on page 14, is headed 'Cormann backs "fair" Bell plan'. Minister Cormann is quoted as saying that they are backing it. We just had a vote in this chamber where they did not back it. They do not want an inquiry. They do not want to know what is going on with the 'fair Bell plan'. There is nothing to see here; move along. Senator Cormann was not in here. He is probably busy now. I thought that if he had been in here he would have backed us, because in The West Australian he is quoted as saying:

We want to ensure—the West Australian Government wanted to ensure, and certainly the Australian Government was aware through the treasurer Joe Hockey, that there was an attempt to bring this issue to a close in a way that was fair to all creditors …

What the heck does that mean? He is in here arguing against it. You heard it yourself, Mr Acting Deputy President Whish-Wilson. You have seen him in here denying any knowledge of it. As I said when I started—and I will finish with this—someone is not telling the truth. Have the guts, stand up and dob yourself in.

Senator BACK (Western Australia) (16:28): Senator Gallagher is almost right when she talks about the government's willingness to enter into an arrangement to forgo millions of dollars in tax revenue in order to benefit political mates—but you are out by 29 years, Senator Gallagher, as I will explain in a few moments.

The genesis of the background of this scenario goes back to 1987 and beyond, to the then stock market crash during the time of Mr Brian Burke as the Premier of Western Australia. It was a time when Burke and his mates—Bond, Connell, Holmes a Court and others—ran Western Australia like their own personal fiefdom. We then go to 1988, when Mr Robert Holmes a Court owned the Bell Group. Do you know what the Bell Group was? It was largely involved in heavy transport—a big cash cow. Holmes a Court owns the Bell Group, but of course as a result of the 1987 stock market crash he has gone bad. To whom does he turn? He turns to his mate Burke, now managing probably the most rotten government ever—a Labor government—since this state was developed. I know Senator Sterle will not agree with me.

What happened? The deal was done. On behalf of the Western Australian community and Bond, the Bond Group bought the assets of the Bell Group. Then, of course, as we know, by 1991 she goes to the wall, and of course it goes into liquidation. Who then was asked to pick up the cost of this whole exercise? None other than the Western Australian community, through a levy on third-party vehicle insurance. Senator Sterle assured me earlier that this was history; it had all finished. It has not finished. It is ongoing to this very day.
Let me explain to Senator Gallagher why it is that she is quite right—that there was a willingness on the part of a government to enter into an arrangement to forego millions of dollars in tax revenue. By 1992-93, the Premier of the state was Ms Carmen Lawrence. Her brother, Bevan Lawrence, made the point publicly that his estimate at that time, in 1990, was that the efforts of the Burke government—the corruption and the rot that was the Burke Labor government—had cost the taxpayers of Western Australia some $600 million. In today's dollars that is $1.2 billion. That was the brother of the Premier of the state who said we had to have a royal commission into the rot that was the Western Australian Burke—followed by Dowding, followed by Lawrence—Labor government. Senator Gallagher could not have known how right she was, because in 1987, in evidence to the royal commission that became known as the WA Inc. royal commission, forced upon Premier Lawrence partially by her own brother but also by academics and even, by then, journalists in Western Australia—

Senator Smith: Western Australians marching in the streets.

Senator BACK: Absolutely! Senator Smith is right: people by then were marching in the street. The corruption was there for all to see. Mr Connell alleged, under oath, in evidence to the royal commission, that Hawke—being then Labor Prime Minister Hawke—dropped a proposed gold tax after Connell and various Perth high-flyers each donated $250,000 to Labor during an infamous lunch in Brian Burke's office. Senator Gallagher is right: there was an attempt by Labor mates to avoid tax. It was to do with lifting, or not imposing, a tax on gold. There is no question at all here, Mr Acting Deputy President—and, through you, to the gallery—that in the issue that has come before us today Senator Gallagher would have been far wiser to learn the lessons of history to make sure that she did not make a fool of herself.

So here was Connell, in evidence, damning himself and others for the fact that they all got their chequebooks out and gave a quarter of a million dollars to the Labor Party so that then Prime Minister Hawke would not charge a proposed gold tax, which of course would have been revenue for the people of Australia. That was the saddest part of the whole sad litany of Western Australia during that era.

I was asked this morning, because of my interjections at question time, why I had such a keen interest in it. Well, I was in business in Western Australia at that time, and I thought I was the frontrunner for an engineering project for which I had introduced the technology into Western Australia. It was original and it was unique. I engaged the services of experts from the eastern states. I influenced the then minister simply by saying to him, 'Please consider this new, unused, untested technology.' Of course, he then went and got his own consultant engineers in his department to go and check and, indeed, the technology that I had suggested was to become the technology that was used on that project. We went to tender, Mr Acting Deputy President, but I will tell you what I was told behind the scenes. I was told that if I did not use a certain firm of engineers, a certain firm of consultants, a certain firm of electricians, and plumbers, and carpenters, and transport organisations—and, by the way, if there was not going to be a brown paper bag with money in it—I was unlikely to win that tender, despite having been the person who introduced that technology into Western Australia.

We went ahead with our tender and—do you know what?—I was not going to be party to that; I was not going to be party to the corruption and the rot that had become the state Labor government in Western Australia. History records that my company did not win that tender. Another party, which presumably was willing to go down the path of these others, won it. Of
course, the wrong technology was put into place and it subsequently failed. So when I speak with some passion about my memory and my recollection, it is not just the $50 per vehicle per annum that we have all had to pay for donkey's years to repay the debt incurred in those circumstances; it is my own personal memory of those times.

The question now becomes: who funded the litigation? The litigation by the liquidator was against the Commonwealth Bank, against Westpac, against NAB—against a consortium of some 20 banks. But who funded that litigation? Did the Commonwealth government fund the litigation? No. The Commonwealth government did not put in a penny. Did other creditors put any money in? No. It fell to the Western Australian community. That court case started in the 1990s. It eventually was dealt with by Justice Owen, over 404 sitting days in 2002-03, and history records that, indeed, he found in favour of the liquidator and the Western Australian insurance commission. That litigation, at the expense solely of Western Australian taxpayers, went on and on.

That brings us to the point raised by Senator Gallagher today, which is the possible involvement of the now Western Australian Liberal-led government and the coalition government here in Canberra. Those of us who know anything about litigation know that in most cases it is a lawyer-led recovery. They will keep going until there is no money left. And that is the situation that was facing the Western Australian government in 2015. If anybody has been listening to this debate, they would have thought that somehow there was a backyard deal being done—

Senator McKim: There was.

Senator BACK: listen!—between Attorney-General Brandis and Western Australian ministers for some gain. Well, let me go to the correspondence, which all of us have. I go to the letter of 15 April 2015 in which Treasurer Nahan wrote to federal Treasurer Hockey, speaking about proposed legislation to be brought to the Western Australian parliament to try to bring this event to a conclusion. Those in the gallery would be amazed to learn that the legislation had the full support of the Labor opposition in Western Australia and the Greens. You would think this is some Liberal stitch-up.

I will quote a couple of words from Nahan, who said that litigation between the creditors about distribution was ‘in full flight’ in both Australia and England and was likely to run for another five to 10 years, out to 2026. And now we have the circumstance in which Nahan says to Hockey that the Western Australian government is planning to introduce legislation that will—and here is dot point 1:

... deliver a more rapid financial return to the Commonwealth, the State Government and other creditors;

Who is first in that list? The Commonwealth. What is this nonsense about trying to stitch up a deal to avoid $300 million of tax revenue to the Australian taxpayer after the Labor government in 1987 accepted money from their mates to avoid tax? The second purpose is to eliminate further speculation by professional litigation funders—the very ones who were going to extend this and extend it, and extend it, until there was nothing left. And thirdly:

... ensure no 'misdistribution' due to group complexity or leverage through litigation or a scheme;

And:

... only apply to Bell companies that are registered in WA;
Where is the problem with that? Nahan says to the federal Treasurer, 'We want to bring this to a conclusion with the support of our Labor and Greens colleagues and the first creditor to be dealt with is the federal government.' And Hockey writes back to him and says, amongst other things, 'I trust the Western Australian government will therefore continue to engage in good faith in the forthcoming mediation process'.

In the few seconds I have left to me, I will say that the advice I have learnt over time is that I never try to pick a Queen's Counsel lawyer, because they are good. And what I have seen evidenced in the last few days in this place is that Senator Brandis is good all right; he is a jolly sight better than anyone who has tried to come up against him. There is nothing to see here, except— (Time expired)

Senator McKIM (Tasmania) (16:40): Well, what an unstructured, irrelevant rant we have just heard from Senator Back. I am just going to calmly explain why nothing Senator Back just said is relevant to the crucial question before this chamber and the crucial question Attorney-General Brandis has consistently failed to answer over two days now in this chamber and two days preceding that in the public conversation in Australia.

What the Bell act did or did not do is irrelevant here. We all know what the Bell Act did. What the Attorney-General said or did not say on behalf of the ATO is irrelevant here. What the Attorney did or did not do in terms of the Commonwealth joining the High Court case in regard to the Bell act is irrelevant here. There are two relevant matters. Firstly, was a deal cooked up between the Commonwealth Liberal government and the Western Australian Liberal government that the Commonwealth would either not challenge the legislation in the High Court—the Bell act—or not join a challenge to the Bell act in the High Court or not run a particular argument against the Bell act in the High Court? That is the first question, and we know the answer to the question, because Dr Nahan confessed it in the Western Australian parliament when he said very clearly that there was an agreement between the Western Australian government and the Commonwealth government for the Commonwealth not to oppose the Bell act.

So, we know the deal was cooked up, because the Liberals in Western Australia have confessed on the record in the Western Australian parliament that a deal was cooked up. So for Senator Brandis to come in here yesterday and say that from his viewpoint there was no deal—it does not stack up. Just to be clear, the Greens do not make an allegation that Senator Brandis was involved in cooking up the deal. That, I have no doubt, was done by former Treasurer Joe Hockey and the Western Australian government. Where Senator Brandis comes in is that he was tapped to give effect to the deal. He was asked, almost certainly, by former Treasurer Hockey to instruct then Solicitor-General Gleeson to not run a particular line of argument in the High Court case relating to the Bell act. That particular line of argument of course was section 109 in the Constitution, ultimately the one that Mr Gleeson did run in the High Court and the one the High Court agreed with to the extent that it voted seven to zero to strike down the Bell act. It was an open and shut case. The Bell act was clearly unconstitutional. Anyone with a modicum of legal knowledge could have seen that. And that is why the deal was stitched up.

Senator Brandis has consistently refused to answer that question. That is the substantive most serious allegation before him. I have asked him on multiple occasions in this place. Senator Watt has asked him on multiple occasions in this place. And he has refused to answer.
Either he has talked about something else entirely, as he is wont to do consistently, or he has drawn the veil of legal privilege down and said, 'I'm not going to answer that, because it's legally privileged.' Well, this Attorney-General is the most selective user of legal privilege I have seen in my political career, and that is saying something, because I have dealt with people like Paul Lennon in the Tasmanian parliament, who used to use it all the time, as does the current Liberal government in Tasmania. Senator Brandis is quite happy to waive legal privilege when it suits him politically, but of course when it suits him politically to claim legal privilege, that is exactly what he does.

So, this Senate voted quite comfortably today to send this matter to an inquiry. It is worth pointing out that the motion actually compels the attendance of Senator Brandis and also Senator Cormann, who, of course, was the cigar-smoking mate of Joe Hockey and finance minister at the time that this sordid affair went down. I look forward to this Legal and Constitutional Affairs References Committee inquiry. I believe that we will have the opportunity to, once again, ask these questions. We will find out whether the Attorney-General believes in the rule of law in this country and whether he is a fit and proper person to hold that office. (Time expired)

Senator GALLACHER (South Australia) (16:45): I rise to make a contribution this debate. It seems not so long ago that the Attorney-General made a very comprehensive statement in this place, and it was obviously as a result of some very careful consideration over the weekend. When this story came out, I think, on Friday—I thought, 'Well, I'm not a lawyer.' That is pretty obvious to most people in this place. I mean, I barely finished high school. But through my working life I did go through a couple of instances where I had to deal with liquidation and the like. In all of those cases it was exceedingly clear that the tax office was the first secured line of credit, then the secured creditors and then the employees. It seemed, to me, like an immovable, immutable law that when someone owed some money the first people who would get paid would be the Commonwealth of Australia, which is all of us. The taxation department would take the first bite of any assets that were left.

Senator Back has given us a great history lesson about some of the shortcomings in Western Australia some 25 years ago, but I do agree with Senator McKim that I am not sure that is all that relevant to this debate here today. What is relevant to the debate here today is, firstly, how the Attorney-General keeps getting in this position. How does he keep getting front and centre in all manner of arguments? I listed all the attorneys-general since 1972, and there have been some colourful attorneys-general in those 44 years. None of them had the capacity that this Attorney-General has to get right in the middle and be obvious to everybody that he is furiously trying to avoid what has basically hit him in the face. He cannot avoid the fact that his very complex and complete statement avoids the obvious. Why didn't he, as the Attorney-General—the representative of all the people in Australia—step up and say, 'That's rubbish'? It is simple rubbish. You cannot put in legislation which would move the secured creditor, the ATO—the Commonwealth of Australia—down the list.

I think there have been some moves between Western Australia and the federal parliament. Remember they said the grown-ups were in charge—Joe Hockey and the grown-ups were in charge. Senator Cormann was right there with them with a big cigar and a big glass of wine at the 2014 budget. They played the tune 'The Best Day of Our Lives'. In all that bonhomie and
goodwill that they had, did they cook up a deal? Did they cook up a deal to fix what had been a pressing domestic issue for the Western Australian federal members of parliament where their own side was saying that they were weak and that they were not advocating for Western Australia in the federal parliament and they were not doing enough to regain funds which Western Australia claimed it had lost under the horizontal fiscal equalisation and in other areas? They were getting internal criticism. Did they actually go across the border and do a deal?

We know that the Hon. Christian Porter, former WA Treasurer and former WA Attorney-General, would have been well placed to argue the case. Senator Brandis basically came out and said that it was all to do with Joe Hockey and that he was not party to a number of things. According to Brandis, the whole Bell litigation mess was the fault of Joe Hockey; the Western Australia Treasurer, Mike Nahan; the Western Australian Attorney-General, Michael Mischin; the Hon. Christian Porter; and the Hon. Kelly O'Dwyer. Remarkably, the Hon. George Brandis somehow escaped any blame at all—he was just the poor innocent Attorney-General who it all happened around. Apparently it all happened around him and nothing went through his office. Senator Dodson talked about Chinese walls. Apparently the Attorney-General's staff did not talk to him for two months and, if it was happening, he was not made aware of it.

These things are simply not good enough. The question that Senator Brandis needs to answer is: if he had no objections to the ATO office intervening in the case, why was their submission not made until the last possible day? If Senator Brandis says advising the ATO not to intervene in the case was an option he was considering, how long did he hold that view? What advice did Solicitor General Justin Gleeson give to Senator Brandis on the ATO intervening? Did Senator Brandis contest this advice? Why didn't Senator Brandis seek to correct the view of Western Australian ministers that they had a deal? I am not a lawyer—far from it. I am not the Attorney-General—far from it. I am not a QC—far from it. But I could have told them their deal would not last two minutes, because whenever there is liquidation the Australian Commonwealth through the ATO has the first chop at any liquidated proceeds. Attempting to pass some legislation in the state simply would not succeed unless there was a deal to say nothing, do nothing and hope that the Solicitor-General was a compliant person who would let this all go through to the keeper and no-one would know. But, as is always the case, as soon the deal was struck, other creditors immediately appealed to the High Court. So then the Attorney-General was in the box. He was the one who had to either stay shtum and hope the deal passed some way or other or just leave it to the court to rule it out and say, 'It's rubbish. It should never have been promulgated.'

When you think about it why is Western Australia so important? I do not count numbers in the Liberal Party. I have no idea of those. But I have heard people who are not members of the Labor Party say this. Whoever leads the Liberal Party cannot do so without the support of New South Wales and Western Australia.

Was there a deal? Was there a deal cooked up between two groups of people about achieving an outcome, where the Western Australian contingent were under increasing pressure from their own side? I think that Senator Smith did get up and advocate for a better deal for Western Australia. Not everybody in cabinet could do that though. But did Senator...
Cormann say, 'Don't you worry about that; I pull the strings in Western Australia. I will fix this'?

And maybe Senator Brandis is right: maybe there were Chinese Walls built around his office and his particular activities in this. He certainly has been very careful to try to demonstrate that he knew nothing about this dodgy deal, which basically looks like a politically expedient arrangement which probably carried through two prime ministers. It was probably done in the Abbott years and passed through to Mr Turnbull. And the one common denominator is Senator Cormann.

Senator Cormann has this amazing capacity to be part of every disaster—the 2014 budget; the cigar and the glass of wine; and the tune played—'Best Day of My Life'. He gets through that and still remains intact. Where is the Hon. Joe Hockey? He has been put out to pasture—very good pasture, in Washington. But that is where he is now; his career is finished. But Senator Cormann is still there, and he has this capacity to move through all of these disasters unscathed.

You can look at some of the things that come out of the Department of Finance which are not really contested in a lot of areas. We had his secretary, Jane Halton, come to the Public Works Committee and apologise because they omitted costings in a huge proposal. It does not stick on Senator Cormann. He is Mr Teflon over there, and you have to wonder why that is. Is it because he wields such incredible factional power?

The Liberal Party and the coalition are always on about factions in the Labor Party, and how there are factions about this and factions about that. Well, they are alive and well in Western Australia. They appear to have been on their way to doing a very good deal for Western Australia, to the detriment of the Australian Commonwealth and with the blind acquiescence of the Attorney-General—or he was too dumb to know what was going on. But the central player in it all, Senator Cormann, is not getting the opprobrium that he should get in this. I believe that he was misusing his position to the advantage of Western Australia.

You could argue that he is a senator for Western Australia and that he can do whatever he likes. But he should realise that the Commonwealth is the first creditor in liquidation, and that the ATO and the Australian people are entitled to get the first bite of any proceeds. To do anything other than that is pure stupidity and a misuse of his factional power.

Senator IAN MACDONALD (Queensland) (16:55): This Bell issue all arose from those horrid days, decades ago now, but summarised by the term 'WA Inc.' Let me tell you what Wikipedia says about WA Inc.; I use Wikipedia because it has a fairly succinct description:

WA Inc was a political scandal in Western Australia. In the 1980s, the state government, which was led for much of the period by premier Brian Burke, engaged in business dealings with several prominent businessmen, including Alan Bond, Laurie Connell, Dallas Dempster, John Roberts, and Warren Anderson. These dealings resulted in a loss of public money, estimated at a minimum of $600 million and the insolvency of several large corporations.

Bond and Connell were major contributors to the party in government, the Australian Labor Party and its remarkable fundraising structure, the John Curtin Foundation.

During a royal commission set up to look into this scandal, Connell alleged that Hawke, the then Labor Prime Minister:

… dropped a proposed gold tax after Connell and various Perth high-flyers donated $250,000 each to Labor during an infamous lunch in Brian Burke's office in 1987 …
I could go on, but suffice it to say that Wikipedia also sets out very concisely that the Western Australian, Labor-led government:

… lent large sums of money, offered financial guarantees and acquired assets at inflated prices. Because of the connections between many of the deals and cross-ownership of businesses involved, it is difficult to say precisely where the government's fault started and ended. A minimum loss to the state of $600M has been reported.

And that is what Senator Back was talking about when he said that Western Australians are still paying for that criminal activity by the Labor Party back in the 1980s.

Now, fast forward, because this fixation by the Labor Party and the Greens in trying to attack Senator Brandis is quite comical, frankly. They have had one attempt at doing it; they set up this dodgy committee to inquire into some very administrative matters with the Solicitor-General. Now, the Solicitor-General was appointed by Labor in the dying days of the Rudd-Gillard-Rudd government. But Labor and the Greens in this chamber thought that there was a chance to destroy the Attorney-General.

So they had this wonderful inquiry—they had written the report before the inquiry started, that is how dodgy the inquiry was. It was a majority Labor-Greens thing, with four Labor, one Green and two government senators. So they set out to destroy Senator Brandis, the Attorney-General. But who did they end up destroying? Their mate the Solicitor-General, Justin Gleeson, who did the only thing possible—the right thing in the circumstances—and resigned.

I am looking forward to this inquiry because I just wonder which Labor mate is going to get it in the neck as a result of this witch-hunt.

Senator Brandis is a very skilful politician. He is a brilliant lawyer and he is a very good Leader of the Government in the Senate. The Labor Party and the Greens hate him because they get nowhere in question time. Senator Brandis just flicks their attacks off as if they were flies landing on his forehead! And the Greens and Labor keep at it and at it to try to destroy the Attorney-General. They will not do it—I am giving them some advice now—but they will persist and they will end up destroying one of their own.

Do you know why I am looking forward to this inquiry? It is because we might just call Mr Bob Hawke, the former Labor Prime Minister. We might see if we can get Brian Burke, the former Labor Premier of Western Australia, who I think is probably out of jail by now. We might call him along. We might call some of the other Labor luminaries to the inquiry. I think Carmen Lawrence was mentioned. Peter Dowding was the Deputy Premier, was he not, and the successor to Brian Burke? And there was another Labor luminary involved in these things. This inquiry could be real fun, if we get all of these crooks, these criminals—some of whom have served time in jail—to come and give evidence to tell us what the Bell Group was all about. It was as a result of these dealings by the Western Australian Labor government, the Labor Party and these corrupt businessmen—some of them were found to be corrupt—that we have this situation where legal proceedings have been instituted for two decades now relating to the Bell Group shares which were purchased by the government from Robert Holmes a Court.

As my colleagues have explained, the Western Australian government tried to stop the professional litigators who bought into this deal from continuing to waste legal funds from the limited resources that were in the Bell Group that, if liquidated, could have been used to pay off some of the creditors, including the Commonwealth, the state government and many other
creditors. But nobody was going to get anything, because these professional funders of litigation—how that all works is another story—did not want to settle. They did not want to come to any resolution, because their profit lies in keeping these court cases going and going forever until the money of the bankrupt company runs out. They get their money in legal fees and the creditors get nothing.

So what the Western Australian government tried to do was say: 'Let's stop this rort. Let's pass some legislation that will get the funds in Bell Group and distribute them fairly to those entitled.' In fact, the letter that Senator McKim talked about, dated 13 April 2015, from the Hon. Mike Nahan, the Treasurer of Western Australia at the time, said, 'Accordingly, the Western Australia government is planning to introduce legislation that will'—and this is the first dot point—'deliver a more rapid financial return to the Commonwealth, the state government and other creditors.' So, in the Western Australian Treasurer's letter, the Commonwealth was to be the first one to be paid. The second dot point says, 'Eliminate further speculation by professional litigation funders.' Then it goes on, 'Ensure no redistribution,' et cetera. There is something greatly conspiratorial about this letter, according to Senator McKim, but there it is. It is a public letter; you can see it. The Commonwealth was going to be the first favoured.

That letter was responded to by the then Commonwealth Treasurer, Mr Joe Hockey. Where this great conspiracy comes from that Senator McKim and the Labor senators talked about, I do not quite know. Mr Hockey's response simply says, amongst other things:

I trust the Western Australia government will therefore continue to engage in good faith in the forthcoming mediation processes.

Finally, he says:

Given the significant nature of the proposed course of action, I urge the Western Australia Government to ensure that the utmost probity is evidenced throughout the process so as to ensure that Australia remains and continue to be seen as an attractive destination for foreign investment.

So, regarding this inquiry, those letters are there. I cannot see how Labor and the Greens think they can in any way challenge Senator Brandis. They have asked him questions and wasted question time every day this week so far with ridiculous and repetitive questions, which have got them absolutely nowhere, and will continue to get them absolutely nowhere—because there was no deal. There was no conspiracy.

I have a photo of that lunch with then Labor Premier Brian Burke, then Labor Prime Minister Bob Hawke and a few other very senior businessmen at the time of WA Inc. It would be lovely to get some of them before a Senate committee and find out what WA Inc. and the purchase of Bell Group shares were all about. This has been litigated before, as a result of various nefarious activities. Brian Burke, the former Labor Premier of Western Australia, ended up in jail. This inquiry could turn out to be quite fun.

But, as far as the substantive issue has gone, on Monday morning Senator Brandis voluntarily delivered a very, very lengthy statement to this chamber, in which he carefully and precisely went through all the issues concerning his involvement—which was pretty limited and occurred right towards the end. The statement clearly sets out the real facts. In those facts, there is nothing that really requires answering. Because Mr Justin Gleeson—who I mentioned previously in relation to another inquiry—was involved, suddenly the eyes of the Labor Party and the Greens lit up, and they thought: 'We lost that one. We facilitated poor old Justin
Gleeson's resignation as the nation's Solicitor-General, but, hang on, he's mentioned in this. Perhaps we can redeem ourselves by having him somehow involved in a further attack on Senator Brandis on this occasion. It did not work last time; it will not work the next time.

I just wish the Labor Party would use the remaining time of this parliament this year at question time to ask questions about education, about health, about infrastructure, about border security, stopping the boats—but we do not hear any of that. All we hear is this fixation with Senator Brandis, and they will continue with that. Eventually the penny will drop and the Labor Party will again end up with egg on their face. I am looking to seeing which Labor mate is destroyed by this Labor-Greens inquiry into the Bell Group shares issue when this next inquiry comes up. It is an inquiry in which, again, there will be four Labor-Greens senators and only two government senators, but I do not think it really matters because the facts will speak for themselves. It will get nowhere and, as I say, I am looking forward to seeing who is destroyed.

Senator ROBERTS (Queensland) (17:08): As a servant to the people of Queensland and Australia I ask: what is a measly $300 million among friends? What is $300 million? The subtlety of the language betrays the core belief, and here it is: the government's willingness to enter into an arrangement to forgo $300 million in tax revenue in order to benefit their political allies. Senator Gallacher's stated belief is exposed in the use of the word 'forgo'. It is not the government's money by right, it is not tax revenue by right—that language simply reflects the government's air of entitlement, the Senate's air of entitlement. It reflects the air of entitlement of both the Labor Party and the Liberal Party. This is a betrayal of the underlying intent behind the Labor Party and the Liberal Party in governing this country for the last seven decades. It also brings to mind the corruption of language around tax. We have so-called savings measures that are really tax increases. This reminds us of Stalin's abuse of language and the marshalling of language as a force to suppress people.

As I understand it, the government has three roles. They are to protect life, to protect property and to protect freedom. Yet it seems to me that the solution within the Labor and the Greens parties is to increase tax rates, and the solutions in the Liberal and National parties focus on cutting spending. So it is either cut spending or raise revenue. But there is a third alternative—lowering tax rates. That has been repeatedly proven successful, in Reagan's America, Thatcher's Britain and many other places throughout history. In fact, it was also proven successful in John F Kennedy's America, in the 1960s,

It is absurd and reckless spending that now drives government. There is no accountability in this chamber or in the House of Representatives, because we rarely see cost-benefit analyses on major spending items, let alone trivial spending items. Think of the national broadband network, the NBN—worked out on the back of a beer coaster in the middle of a flight by then Prime Minister Rudd and Minister Conroy—$50 billion, $60 billion, $70 billion? How much? When will it end? We do not know. What will the service speed be? We do not know. There is no business case, and we see the frittering away of our money.

Then we think about climate policies, with the Clean Energy Finance Corporation costing $10 billion—but none of the climate policies have a cost-benefit analysis, and these policies are costing tens of billions of dollars. It is not only the tens of billions of dollars spent, and wasted, but there is also disruption to industry and disruption to productivity, which ultimately costs everyone. We recently have seen the backpackers tax—and apparently
someone on the staff of the Treasurer has said there was no cost-benefit analysis done. Now we have farmers being disrupted because of the threat of people not coming to Australia to pick their fruit. No cost-benefit analysis, and suddenly people are wondering why we are $356 million in debt. That is only 1,000 times $300 million—and what is $300 million among friends? Among friends, $300 million leads to a mentality that just wastes money, just fritters it away, with no accountability, and pretty soon that measly $300 million becomes $356 billion. That is our taxpayers' money.

Then we see our tax system based on raising revenue by cutting things like payrolls, things like employment—because we all know that when we tax something we cut its use. Payrolls are taxed—why? Employment is taxed through PAYE tax—why? The request from employees to have more money in take-home pay leads to very high gross income, which puts people out of work. So what is $300 million among friends? It is thousands of jobs and inefficiencies, and instead of people being servants of government we need to get back to governments serving people. Let us make Australia great again for everyone, with comprehensive tax reform. (Time expired)

Senator McCARTHY (Northern Territory) (17:13): Three hundred million dollars of taxpayers' money matters in terms of how the money is spent and what is going on. There are so many unanswered questions—there is too much ducking for cover; too much ducking and weaving. Who is responsible; who is telling the truth and who is not? These are questions that the Australian public need answers to but we are not getting those answers. When we think about Western Australia we remember the almost 300 communities that were set for closure. People's lives in the remote areas of that state were being questioned—where they were going to go; how they were going to live—so, when we see cuts to services in the federal budget of nearly $500 million, of course we have to ask what is happening to $300 million.

It is all very well for ministers and members opposite to say that, in the statement by the Attorney-General, all questions have been answered. In fact, they have not been. The Attorney-General's statement has shown that there are so many more critical questions that need answering. What was the understanding between WA Treasurer Dr Mike Nahan and Mr Hockey over the federal government not intervening to challenge the legislation in the High Court? What has Mr Hockey said in recent days in response to what is going on here in the parliament? What role have other government officeholders played in this? Why did the federal Minister for Social Services go to see Senator Brandis about this matter in early March? What did the former WA Treasurer put to the Attorney-General about this issue?

Remember we are still talking about taxpayers' money and the extent to which the Attorney-General was involved in legal proceedings designed to recover this money. These are very valid, critical, important questions not only to the Senate and not only to the parliament of Australia but to the Australian people.

Why does the Attorney-General say that he only became involved when the former WA Treasurer, now Minister for Social Services, talked to him about it in March? This is despite the Attorney-General being represented in an earlier High Court hearing of the matter on 8 February. Was the Attorney-General somehow unaware of any of the facts in a High Court hearing where he was being represented? It is absolutely murky—totally murky. As the Senate, the house of review, we have to ask these questions. As uncomfortable as these questions may be to members opposite, to ministers in the Australian government and to
ministers in the Western Australian government, they are questions that must be asked and must be answered.

Previous speakers have spoken about the Labor Party's supposed fixation on this issue. Well, clearly we know that it is important. It is not comical to not know what is going on here. It is not comical to see a former Solicitor-General have to resign from his position when he stood for particular values of accountability, transparency and giving competent legal advice that was required in this situation. These are things that do need examination. To hear members opposite speak as though we on this side of the House have an obsession and to hear them belittle the importance of questioning these matters says a lot about the members opposite; it says a lot about the disrespect that they hold for the Australian people's money and the way it should be spent—especially when there are Australians out there who need resources and who need to know they are supported in infrastructure, health, education and housing. There are so many more questions to be asked. We will certainly keep the members opposite on their toes in regard to this issue.

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

DOCUMENTS
Consideration

The following orders of the day relating to government documents were considered:


COMMITTEES
Community Affairs References Committee

Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:18): I present the report of the Community Affairs References Committee on the indefinite detention of people with cognitive and psychiatric impairment, together with the Hansard record of the proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT: I move:

That the Senate take note of the report.

This is, in effect, a follow-up report to the report that the Community Affairs References Committee did last year that was tabled on 25 November 2015. That was the inquiry into violence, abuse and neglect against people with disability in institutional settings. Out of that inquiry, we identified the issue of indefinite detention. In fact, we thought that the issue was so important that we asked for the issue to be referred to the committee for an inquiry in and of itself.

The report that I have presented today is in two parts. The first part deals with people held in indefinite detention under forensic orders, which are criminal orders. Then there are those held via a civil route via a scheduled order under mental health, disability or guardianship
frameworks. Yes, people can end up in what is basically indefinite detention via these civil routes as well.

My comments right now are specifically directed at part 1 of the report, which applies to those held in indefinite detention under forensic order. Across our states and territories, people with cognitive and psychiatric impairments are being indefinitely detained in prison due to flawed legislation, lack of support or secure care accommodation, lack of services, and not being properly diagnosed. In some cases they are in fact spending more time in prison than if they had pleaded guilty and served a sentence in full. In some cases, people are being advised to plead guilty instead of unfit to plead, because if they plead guilty they will end up doing less time in prison than if they were found unfit to plead and held in indefinite detention. I might add there that they may plead guilty when they have not in fact committed a crime.

Worryingly, we have no consistent data in this space, and, as you will see in the report, some of the latest data we have for some states is from back in 2013-14 or even earlier. What we do know from the available information is that people who are held in indefinite detention in this manner are predominantly Aboriginal and Torres Strait Islanders, and we had a number of examples of that.

The report touches on a wide range of issues, including legislative reform, the lack of forensic non-correctional or non-prison accommodation, the lack of supports and the lack of diagnosis. It is clear from this report and our inquiry that there are a range of urgent actions that are needed. We make 32 recommendations and reiterate a number of the recommendations from our previous inquiry, the inquiry into violence, abuse and neglect against people with disability in institutional and residential settings. We reiterate them because, to date, we have had no response from the government to these imperative issues, even though the report was tabled just over a year ago. So we have reiterated a number of those recommendations, but we have also gone further and made a number of other recommendations.

For a start, we need to see legislative reform. At the moment, in some states, the judiciary has no alternative but to either put somebody with a cognitive or psychiatric impairment in prison or let them go into the community. There is no middle ground, as Chief Justice Wayne Martin said at our Perth hearing. I would suggest to anybody who wants a clear understanding very quickly of the issues in Western Australia—my home state, which I am very embarrassed to say has very poor legislation in this space—to read the Hansard of the Chief Justice's evidence to our inquiry. There are very limited options, other than holding people in indefinite detention.

We received evidence around Mr Marlon Noble, whose case is now well known in Western Australia, who was held in indefinite detention for 10 years without being found guilty of a crime. He has now been released into the community but under very strict conditions, which the UN Committee on the Rights of Persons with Disability have strongly criticised, recommending that the conditions on his release be removed.

We did hear further evidence about this and in fact visited a number of correctional facilities where people are being held in indefinite detention. In Western Australia, we visited the newly established Bennett Brook Disability Justice Centre, which was very welcome, and we very much appreciated it. This is the first declared place in Western Australia where
people can be released from prison into the centre and transitioned into the community. It has had limited use to date; I hope they make more use of it. But, as the Chief Justice in Western Australia explained, they cannot be sent there directly under Western Australian legislation.

We also received evidence and spent time in the Northern Territory and visited a number of facilities there, and I would like to thank the department for organising that for us in both WA and the Northern Territory.

We need to be looking at issues around better supply of accommodation so that there are alternatives to indefinite detention. We make recommendations about the need to implement a disability screening strategy so that all people who come into the criminal justice system are screened and diagnosed—and we need better diagnostic tools. In particular, we need to start using the better diagnostic tools that are coming out for people with FASD. We need to make sure, if people are entering prison but they have got through the system without having been screened or diagnosed, that they are screened as well.

We particularly need culturally appropriate resources for Aboriginal and Torres Strait Islander peoples, who are, as I said, the people who are predominantly subject to indefinite detention. We need to make sure that there are Aboriginal support workers and that Aboriginal-controlled organisations are involved in providing support and care for people under forensic orders.

I also urge people to read the recommendations in part B of our report, which relates to people who are held under involuntary orders. As I said, we received evidence, some very good evidence, that clearly points out that the system allows people to be held under what constitutes indefinite detention, and there are some changes that are needed there.

I take this opportunity to thank all of those who gave us a submission or oral evidence and participated in this inquiry. Without these people we would not have the knowledge that we have. We would not have heard about the lived experiences of people, from guardians and those who are affected to those who have been such strong advocates on behalf of those people caught up in indefinite detention. I know it is hard to believe that, in 2016, people are still being held in indefinite detention.

I thank the secretariat of the Community Affairs References Committee, who go above and beyond the call of duty. I will be tabling two more reports tomorrow—so, over this time, we have completed three substantial inquiries, and they really have worked extremely hard. I also thank members of the committee, who have also worked extremely hard to get through these three reports, of which this is the first. As I said, I will be tabling two more tomorrow.

I urge the government to read this report. Read it together with the committee's report on violence, neglect and abuse of people with disability. Implement these recommendations, or we will see no change in the terrible circumstances that Australians are finding themselves in—in indefinite detention and subject to abuse, violence and neglect.

Senator CAROL BROWN (Tasmania) (17:29): I also rise to speak on the tabling of the committee report into the indefinite detention of people with cognitive and psychiatric impairment in Australia. This is the first major inquiry that has focused solely on the specific question of the indefinite detention of people with cognitive and psychiatric impairment. As Senator Siewert stated in her contribution, it arose out of a community affairs 2015 inquiry.
into the violence, abuse and neglect against people with disability in institutional and residential settings.

At its very core, this report provides us with an opportunity to consider and reflect upon the experiences of some of the most vulnerable people in our community. It has allowed us to look to the legislative environment, in which people with disabilities can be subject to misunderstanding and punitive detention. It has also allowed us to measure how our treatment of people with various and diverse cognitive and psychiatric impairments stacks up against Australia's human rights obligations.

The committee received 78 submissions and held six hearings across the country. Significantly, the committee also undertook a number of site visits to facilities and correctional facilities in Western Australia and the Northern Territory. The report is structured in two parts to adequately deal with the legislative provisions and processes that govern the pathway to indefinite detention in Australia. The indefinite imprisonment of Australian citizens is, and should always be, a last resort. Even where people have been declared mentally impaired or unfit to plead, it is vital that we have a system that strives to give all people a voice and representation in legal matters, because when we fail to give a voice to the most vulnerable people, we fail to build strong and fair communities.

A number of the committee recommendations reiterate the recommendations of the committee's 2015 inquiry into violence, abuse and neglect against people with disability in institutional and residential settings. The key matters relating to the indefinite detention of people with cognitive and psychiatric impairments identified in that report remain the same and need to be acted on. As evidence put to the committee explained so well and so clearly, access to justice for people with a disability is more than simply providing a wheelchair ramp into a court room—it is so much more than that. It is about fully supporting a person with disability to appropriately engage with all aspects of the criminal justice system.

I am pleased to say that among the committee's recommendations is the call for each state and territory to implement a disability justice plan. It also recommends that COAG develop and implement a disability screening strategy, including hearing assessments for all Australian jurisdictions. This screening strategy would apply to all adults and minors who engage with the criminal justice system. If this recommendation were adopted, it would mean that the strategy would be applied at multiple points through the criminal justice system, such as a person's first contact with police, courts, prisons and related facilities.

In closing, I would also like to indicate that I am very pleased that one of the recommendations from the committee is that the Joint Standing Committee on the National Disability Insurance Scheme look at an inquiry into the issue of eligibility and access to NDIS supports for people in prisons and in the criminal justice system more broadly.

I would also like to add my thanks to the secretariat, who work very hard on these inquires and who assist and support the committee so well. As Senator Siewert indicated, they have worked very, very hard over this last year, and, with their support, the committee has produced some very good reports. I look forward to the government response to this inquiry, and I also look forward, even though it has been a year coming, to the government's response into the committee's 2015 inquiry into violence, abuse and neglect against people with disability in institutional and residential settings. I say to senators that this is an important report and they should all seek to have a look at the report and the recommendations that are
before them today. I commend the report to this place, and I seek leave to continue my remarks.

The ACTING DEPUTY PRESIDENT (Senator Marshall): I think Senator Duniam wishes to speak.

Senator DUNIAM (Tasmania) (17:36): Sorry about that, Senator Brown. Yes, I will make a very brief contribution on this committee report. Senators Brown and Siewert have gone over the content of the committee report in some detail. As a Tasmanian and a relatively new senator my insight and experience into the matters this committee inquired into were very limited. So participating in the work of this particular inquiry on the community affairs committee was eye opening, to say the very least. Getting out to communities in Western Australia and the Northern Territory was incredibly informing.

I concur with Senator Siewert in thanking those who made submissions to the inquiry, which made for some pretty weighty reading, I have to say. There are some pretty disturbing things covered, when you read the impact that this has on individuals and their families and, in many cases, entire communities. What was heartening, though, was the degree of compassion shown by many in the community—those who are genuinely trying to make a difference and who fronted up to our committee hearings and suggested ways forward and things which governments across the country could be doing to make the lot and lives of those who were subject to indefinite detention better. I do want to thank those who provided submissions and those who came and gave us oral evidence. I think there was a general agreement among the committee membership as to what needed to be done. Everyone seemed to be pulling in the same direction in suggesting the need for legislative reform as well as early intervention—trying to head these problems off at the pass, rather than allowing things to get to the point where the easiest thing to do is, sadly and to put it crudely, to lock people up and throw away the key. That is effectively what we saw happening in many instances.

We did tour some excellent facilities, and again I would like to thank the governments of the Northern Territory and Western Australia for opening their doors and giving us a very full and frank insight into how they operate, the problems they face and the support they need. I would also like to acknowledge the committee members, particularly the chair Senator Siewert for heading up this inquiry with such passion, but also Senators Dodson and McCarthy who have particular interests in how this impacts on their communities. I would like to thank them very much and, as others have before me, thank the secretariat for their incredible work in bringing this report to a conclusion and other reports to come. With that, I seek leave to continue my remarks.

Leave granted.

Economics References Committee
Government Response to Report

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (17:39): I present the government's response to the report of the Economics References Committee on its inquiry into agribusiness managed investment schemes. I seek leave to have the document incorporated into Hansard.

Leave granted.
**Report on Agribusiness Managed Investment Schemes, Bitter Harvest**

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<th>Recommendation 1</th>
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<td>The committee recommends that the ATO undertake a comprehensive review of its product rulings to obtain a better understanding of the reasons some investors assume that an ATO product ruling is an endorsement of the commercial viability of the product. The results of this review would then be used to improve the way in which the ATO informs investors of the status of a product ruling.</td>
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<td>The committee recommends that the ATO and ASIC strengthen their efforts to ensure that retail investors are not left with the impression that they sanction schemes, including the use of disclaimers prominently displayed in disclosure documents including PDS.</td>
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<tr>
<td>- The Government notes this recommendation.</td>
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<td>- ATO product rulings carry a disclaimer. The disclaimer states that the ruling only sets out the tax consequences of investing in a particular product, and does not guarantee the commercial or financial viability of the product.</td>
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<td>- The ATO has recently completed the review recommended by the committee. The ATO is implementing a range of initiatives to combat retail investor misunderstanding of ATO product rulings, including:</td>
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<td>- introducing a requirement to prominently feature its customary disclaimer about product rulings in all scheme documents given to investors, including the product disclosure statement, promotional and other marketing material;</td>
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<td>- requiring that retail sellers sign a declaration stating that they:</td>
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<td>- understand that a product ruling is not an endorsement of commercial viability;</td>
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<td>- will advise buyers that a product ruling is not an endorsement of commercial viability; and</td>
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<td>- will encourage buyers to seek independent advice with regard to commercial viability.</td>
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<td>- requiring the provider of an agribusiness MIS to obtain a signature from applicants on a separate section of the form, to ensure retail investors’ attention is drawn to the disclaimer and that they understand what the disclaimer means.</td>
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<td>- The ATO anticipates these changes will be introduced by the end of 2016.</td>
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<td>- ASIC recognises the importance of retail investors not having the impression that ASIC sanctions or endorses MIS. ASIC will consider how best to strengthen the message where appropriate in its communications to retail investors.</td>
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<td>- ASIC’s current communications practice involves warning consumers that it does not 'approve' any form of investment, including into agribusiness MISs products, through media releases, consumer warnings, its consumer website (MoneySmart), speeches, media commentary and other public statements. ASIC reviews, modifies and enhances its communications with retail investors where needed.</td>
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<td>- ASIC also acts promptly to correct any statements to retail investors which misrepresent ASIC’s role, including statements suggesting ASIC has &quot;endorsed&quot; or &quot;approved&quot; a product. In flagrant cases, ASIC’s remedial action extends to prosecutions of the parties responsible for making such statements.</td>
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<th>Recommendation 2</th>
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<td>The committee recommends that ASIC be vigilant in monitoring the operation of the FOFA legislation and to advise government on potential or actual weaknesses that would allow any form of incentive payments to creep back into the financial advice sector.</td>
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The Government notes this recommendation is primarily a matter for ASIC. However as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016, ASIC will dedicate $57 million to ongoing surveillance and more intensive enforcement action in respect of financial advice, responsible lending, life insurance and breach reporting.

**Recommendation 3**

While noting the 1 July 2016 expiry of the ‘accountants’ exemption’ under Regulation 7.1.29A of the Corporations Regulations 2001, the committee recommends that the Treasury look closely at the obligations on accountants or tax agents providing advice on investment in agribusiness MIS (or similar schemes). The intention would be to identify any gaps in the current regulatory regime (or the need to tighten-up or clarify regulations) to ensure retail investors are covered by the protections that exist under FOFA and that the level of regulatory oversight of tax agents or accountants providing advice on agribusiness MIS (or similar schemes) does not fall short of that applying to licensed financial advisers.

The Government notes this recommendation.

ASIC will monitor compliance with the new regime following the expiry of the accountants' exemption from 1 July 2016. Any gaps identified will be referred to Treasury.

**Recommendation 3**

The committee agrees with the view that financial literacy has 'got to get aggressive' and recommends that the Australian Government explore ways to lift standards. In particular, the government should consider the work of the Financial Literacy Board in this most important area of financial literacy to ensure it has adequate resources.

Drawing on the lessons to be learnt from the evidence on the need to improve financial literacy in Australia, the committee also recommends that the Australian Government in consultation with the states and territories review school curricula to ensure that courses on financial literacy are considered being made mandatory and designed to enable school leavers to manage their financial affairs wisely. The course content would include, among other things, understanding investment risk; appreciating concepts such as compound interest as friend and foe; having an awareness of what constitutes informed decision-making; being able to identify and resist hard sell techniques; and how to access information for consumers such as that found on ASIC’s website. Financial literacy should be a standing item on the Council of Australian Governments' (COAG) agenda.

The Government notes this recommendation.

The Australian Government Financial Literacy Board is a purely advisory board. This is because the primary responsibility for financial literacy rests with ASIC. The Government values the advice provided by the Board on strategies aimed at lifting financial literacy standards across the community.

ASIC is working closely with the States and Territories to build capacity in teachers to deliver financial literacy as part of the new Australian schools curriculum, through ASIC’s MoneySmart Teaching program. Financial literacy is to be embedded in the new Australian Curriculum which States and Territories will be implementing from 2017.

The Government notes that ASIC, as the principal agency responsible for development, implementation and leadership of the National Financial Literacy Strategy, produces and delivers a number of literacy initiatives. These include ASIC’s MoneySmart website and the MoneySmart Teaching program referred to above. The National Financial Literacy Strategy also identifies a set of strategic priorities, providing a practical framework for action by stakeholders across the government, financial services, education, community and not-for-profit sectors.
The Government considers that ASIC’s existing resources and funding (that were increased as part of the package announced on 20 April 2016) are adequate to continue these initiatives.

**Recommendation 5**
The committee recommends that the government gives high priority to developing and implementing a code of ethics to which all financial advice providers must subscribe.

- The Government supports this recommendation. The reforms announced by the Government to raise the professional standards of financial advisers is expected to include the development of a code of ethics, which all advisers will be required to comply with. The Government intends to introduce legislation as soon as possible.

**Recommendation 6**
The committee recommends that the government consider the banning provisions in the licence regimes with a view to ensuring that a banned person cannot be a director, manager or hold a position of influence in a company providing financial services or consumer credit.

- The Government notes this recommendation and will consider this issue when addressing recommendation 24 of the Financial System Inquiry (FSI) (reviewing ASIC’s powers to ban individuals from the management of financial firms) and recommendation 29 of the FSI (dealing with the review of ASIC’s enforcement regime).

- The ASIC enforcement review is also being accelerated as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016.

**Recommendation 7**
The committee recommends that the government consider legislative amendments that would give ASIC the power to immediately suspend a financial adviser or planner, subject to the principles of natural justice, where ASIC suspects that the adviser or planner has engaged in egregious misconduct causing widespread harm to clients.

- The Government notes this recommendation and will consider this issue when implementing recommendation 24 of the FSI (dealing with ASIC’s powers to ban individuals from the management of financial firms) and recommendation 29 of the FSI (dealing with the review of ASIC’s enforcement regime).

- The ASIC enforcement review is also being accelerated as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016.

**Recommendation 8**
The committee recommends that, based on the agribusiness MIS experience, the Australian Government consult with industry on ways to improve the presentation of a product’s risks in its respective PDS. The intention would be to strengthen the requirements governing the contents and presentation of information, particularly on risks associated with the product. This measure should not result in adding to the material in these documents. Indeed, it should work to further streamline the contents but at the same time focus on information that an investor requires to make an informed decision with particular attention given to risk.

- With this objective in mind, the committee also recommends that the Government consider expanding ASIC’s powers to require additional content for PDSs for agribusiness MIS.

- The committee recommends further that ASIC carefully examine the risk measures used in Europe and Canada mentioned by the FSI and prepare advice for Government on the merits of introducing similar measures in Australia.
In conjunction with the above recommendation, the committee recommends that the government consider the risk measures used in Europe and Canada mentioned by the FSI to determine whether they provide a model that could be used for Australian PDSs.

The Government notes this recommendation. It supports industry-led initiatives to improve the disclosure of risk to consumers in PDSs and is considering removing regulatory impediments to innovative product disclosures as part of the implementation of recommendation 23 of the FSI.

ASIC has previously engaged with industry around disclosure for agribusiness schemes, unlisted property schemes, mortgage schemes and infrastructure schemes. This resulted in the release of a number of ASIC regulatory guides describing the information it considers should be disclosed to investors for these types of schemes to help them better understand the risks associated with the products. ASIC has also issued investor guides to assist investors to understand risks and information contained in PDSs. In addition, ASIC has reviewed compliance with its guidance and noted that the PDSs for recent agribusiness offerings are compliant.

The Government announced in its response to the FSI that it will review the MIS framework, and as part of this, will deal with the recommendation about expanding ASIC’s powers to require issuers of MIS, including agribusiness schemes, to further improve PDS disclosures. Similarly the Government's proposed product intervention power and related obligations to be imposed upon issuers and distributors, announced in response to the FSI, should also assist in future to prevent a recurrence of the issues identified in respect of agribusiness scheme products and offer documents.

Recommendation 9
The committee recommends that the government consider not only renaming general advice but strengthening the consumer protection safeguards around investment or product sales information presented during promotional events.

The Government notes this recommendation and will address the issue of strengthening consumer protection safeguards when implementing recommendation 40 of the FSI. Further, the Government will introduce more accountability in relation to the distribution of financial products (including through promotional events) and provide ASIC with a product intervention power as part of the implementation of recommendations 21 and 22 of the FSI.

The implementation of recommendations 21 and 22 is being accelerated as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016.

Recommendation 10
The committee recommends that ASIC strengthen the language used in its regulatory guides dealing with general advice. This would include changing ‘should’ to ‘must’ in the following example:

“You must take reasonable steps to ensure that the client understands that you have not taken into account their objectives, financial situation or needs in giving the general advice”.

The Government notes that this recommendation is a matter for ASIC. The Government is aware that ASIC periodically reviews and updates its regulatory guidance based on need (for instance, following the identification of gaps in regulation or compliance or receipt of Court judgements concerning misconduct in the financial system) and notes that ASIC has responded to the Committee on the outcome of its consideration of this recommendation.

Recommendation 11
In light of the concerns about the lack of understanding of the role that referral networks had in selling agribusiness MIS without appropriate consumer protections, the committee recommends that the government's consideration of 'general advice' also include the role of referral networks and determine whether stronger regulations in this area are required.

- The Government notes this recommendation and will introduce more accountability in relation to the distribution of financial products (including through referral networks) when implementing recommendation 21 of the FSI (dealing with strengthening product issuer and distributor accountability).

- The implementation of recommendation 21 is being accelerated as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016.

**Recommendation 12**

In respect of research houses and subject matter experts providing information or reports to the market on financial products such as agribusiness MIS, the committee recommends that the government implement measures to ensure that IOSCO’s statement of principles governing integrity and ethical behaviour apply and have force. In particular, the committee recommends that the government consider imposing stronger legal obligations on analysts, and/or firms that employ analysts to rate their product, to act honestly and fairly when preparing and issuing reports and applying ratings to a financial product.

- The Government notes this recommendation.

- Entities releasing research on financial products to the market are currently subject to the Australian Financial Services Licencing regime, which requires them to act efficiency, honestly and fairly and have in place arrangements to manage conflicts of interest. The Government has announced that it will strengthen financial services and credit licensing regimes in addressing recommendation 29 of the FSI.

**Recommendation 13**

- The committee recommends that Korda Mentha continue, through its hardship program, to resolve expeditiously outstanding matters relating to borrowers who are yet to reach agreement on repaying their outstanding loans from Timbercorp Finance.

- The committee recommends that spokespeople for HNAB—Action Group consult with Korda Mentha and the independent hardship advocate on implementing measures that would help to restore confidence, faith and good-will in the hardship program.

- The Government notes this recommendation is a matter for Korda Mentha and the HNAB—Action Group.

**Recommendation 14**

The committee recommends that Bendigo and Adelaide Bank support the appointment of an independent hardship advocate to assist borrowers resolve their loan matters relating to Great Southern.

- The Government notes this recommendation is a matter for Bendigo Bank and Adelaide Bank.

- However, as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016, the Government has established a panel of eminent persons to review the role, powers and governance of all of the financial system’s external dispute resolution and complaints schemes and to assess the merits of better integrating these schemes to improve the handling and outcomes of consumer complaints. This Panel will produce its final report to Government in March 2017.

**Recommendation 15**
The committee recommends that the Australian Government initiate discussions with the states and territories on taking measures that would lead to the introduction of national legislation that would bring credit provided predominantly for investment purposes, including recourse loans for agribusiness MIS, under the current responsible lending obligations. The provisions governing this new legislation would have two primary objectives in respect of retail investors:

- Oblige the credit provider (including finance companies, brokers and credit assistance providers) to exercise care, due diligence and prudence in providing or arranging credit for investment purposes; and
- Ensure that the investor is fully aware of the loan arrangements and understands the consequences should the investment underperform or fail.

The Government notes this recommendation. Implementation of this recommendation would require either a referral of powers from the States or a co-operative legislative scheme, similar to what existed previously with the Corporations Law.

The Government will consider the level of consumer protections associated with MIS, including any related credit arrangements, as part of its announced review of the MIS framework (FSI Recommendation 42).

**Recommendation 16**
The committee recommends that the Australian Government consider ways to ensure that borrowers are aware that they are taking out a recourse loan to finance their agribusiness MIS and also to examine the merits of imposing a maximum loan-to-valuation limit on retail investors borrowing to invest in agribusiness MIS.

The Government notes this recommendation. The Government will consider the level of consumer protections associated with MIS, including any related credit arrangements, as part of its announced review of the MIS framework (FSI Recommendation 42).

**Recommendation 17**
The committee recommends that the Banking Code of Conduct include an undertaking that the banks adhere to responsible lending practices when providing finance to a retail investor to invest. This responsibility would apply when the lender is providing finance either directly or through another entity such as a financing arm of a Responsible Entity.

The Government notes this recommendation is a matter for the Australian Bankers' Association, given its responsibility for the Banking Code of Conduct.

On 21 April 2016, following the Government’s announcement of the Improving Consumer Outcomes in Financial Services package, the Australian Bankers' Association announced, that as part of its 6-Point Plan, it will review the Code of Banking Practice by the end of this year.

**Recommendation 18**
The committee recommends that the Victorian Legal Services Commissioner and Legal Services Board thoroughly review the conduct of the lawyers who provided advice to retail investors in collapsed agribusiness MIS to cease repayments on outstanding debts and the circumstances around this advice.

The intention would be to determine whether the profession needs to take measures to ensure it maintains high ethical standards and that its members adhere to best interest obligations towards their clients. The investigation would include making recommendations or determinations on:

- remedies available to investors belonging to the class actions who have suffered considerable financial loss as a result of following advice to cease repayments on their outstanding loans;
• whether disciplinary action should be taken against the lawyers who provided the advice to stop repayments;
• whether the matter warrants any form of compensation; and
• whether the matter should be referred to any appropriate disciplinary body.

The Government notes this recommendation is a matter for the Victorian Legal Services Commissioner and Legal Services Board.

Recommendation 19
To augment ASIC’s product intervention power, the committee recommends that the government review the penalties for breaches of advisers and Australian Financial Services Licensees’ obligations and, under the proposed legislation governing product issuers, ensure that the penalties align with the seriousness of the breach and serve as an effective deterrent.

• The Government notes this recommendation and will consider this issue as part of the review of ASIC’s enforcement regime (announced as part of the response to the FSI recommendation 29).
• This review is being accelerated as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016.

Recommendation 20
The committee recommends that the government use CAMAC’s report on managed investment schemes as the platform for further discussion and consultation with the industry with a view to introducing legislative reforms that would remedy the identified shortcomings in managing an MIS in financial difficulties and the winding-up of collapsed schemes.

• The Government supports this recommendation and agrees that an enhanced regulatory framework for MIS is required, drawing on the CAMAC’s report (as part of the implementation of recommendation 42 of the FSI).
• As part of the 2016-17 Budget, the Government announced that it would introduce the framework for two new collective investment vehicles (CIVs) (a corporate model and a partnership model) which would, once implemented provide alternate investment vehicles to the MIS. As part of this reform there will also be a number of features in the regulatory framework which will be examined in response to the CAMAC’s report and this Senate Inquiry.
• The Government's review of MIS will commence following the introduction of the CIVs regime to ensure there is policy consistency across investment fund frameworks from a retail investor perspective.

Recommendation 21
The committee notes that neither the ATO nor Treasury have undertaken a comprehensive review of the tax incentives for MIS and whether they had unintended consequences, such as diverting funds away from more productive enterprises; inflating up front expenses; or encouraging poorly-researched management decisions (planting in unsuitable locations). The committee recommends that Treasury commission a review to better inform the policy around providing tax concessions for agribusiness MIS.

• The Government notes this recommendation.
• Currently, there are only three providers offering forestry MIS arrangements. The ATO, as part of the range of initiatives it is implementing to combat retail investor misunderstanding of ATO product rulings, will be monitoring compliance by the remaining forestry MIS to
include, from late 2016, a prominent disclaimer, to obtain a retail seller declaration, and to require a retail investor acknowledgement concerning any applicable product rulings in each case.

- Any new forestry and other agribusiness MIS providers will be required to approach the ATO for a product ruling if they wish to access the tax concession. This provides an opportunity for the ATO to scrutinise their promotion arrangements. Those operating without a product ruling will generally be identified as part of the ATO’s normal risk management processes. Therefore, rather than commissioning a review, the Government agrees to continue to monitor the operation of the scheme through the ATO’s product ruling processes.

**Recommendation 22**

The committee recommends further that the proposed review consider the approach to the incentives offered to investors in agribusiness ventures by other countries such as the United Kingdom to inform the review’s findings and recommendations.

- The Government notes this recommendation and will consider the experience of other jurisdictions such as the United Kingdom in this area, as part of its announced MIS review.

**Recommendation 23**

In addition to the above recommendation, the committee recommends that the government request the Productivity Commission to inquire into and report on the use of taxation incentives in agribusiness MIS. As part of its inquiry, the Productivity Commission should identify the unintended adverse consequences, if any, that flowed from allowing tax deductions for agribusiness MIS. For example:

- the potential for mis-selling financial products on the tax concessions;
- the incentive for retail investors to borrow, sometimes unwisely, to fund their investment;
- whether the taxation concessions:
  - became an end in themselves rather than the business model;
  - showed up as subsidies to higher cost structures, operations and/or returns to the operators of the schemes; and
  - distorted land values and diverted high value farmland into passive monoculture such as Blue Gums.
- The main purpose of the inquiry would be to draw not only on the experiences of the failed MIS but also the successful schemes to determine whether there is merit in reforming the system of tax incentives and, if so, what those reforms.

- The Government does not support this recommendation.
- Rather than the Productivity Commission undertaking a separate review on the use of taxation incentives in agribusiness MIS, the ATO and ASIC will continue to test and monitor these arrangements as the regulators best placed by expertise and powers to address these issues.

**Recommendation 24**

The committee recommends that ASIC review the complaints made against advisers and accountants, licensed or unlicensed, who engaged in alleged unscrupulous practices when recommending that their clients invest in agribusiness MIS. The review would identify any weaknesses in the current legislation that impeded ASIC from taking effective action against those who engaged in such unsound practices. This review would also examine the adequacy of the penalties available to ASIC to impose on such wrong doers. In particular, ASIC should consider the adequacy of penalties that apply to those who were unlicensed or have since become unlicensed. Banning in such cases is redundant.
The committee also recommends that as part of this review, ASIC consider the practice of advisers using bankruptcy as a means to avoid recompensing clients who have suffered financial loss as a result of their poor financial advice and any possible remedies.

The committee recommends that ASIC provide its findings to the committee.

- The Government notes this recommendation is a matter for ASIC.
- ASIC previously gave consideration to these matters, when investigating a range of individuals and entities involved in agribusiness failures such as Great Southern and Timbertcorp.
- The regulatory landscape for advisers, including in respect of advice that may be given on agribusiness MIS, has been reform since the Government's implementation of FOFA. Those reforms included new powers to seek civil penalties or administrative sanctions against AFS licensees and advisers who accept conflicted forms of remuneration or do not act in the best interests of their clients. ASIC will continue to be vigilant in monitoring compliance with the reforms and in taking action to enforce them.
- ASIC's enforcement tools are the subject of the review which the Government announced as part of its response to the FSI. This review is being accelerated as part of the ASIC reform package announced on 20 April 2016. Penalties are also being considered as part of this review.
- The Government has established a panel of eminent persons to review the role, powers and governance of all of the financial system's external dispute resolution and complaints schemes. This Panel has been asked to make observations on the establishment of a statutory compensation scheme of last resort. This Panel will produce its final report to Government in March 2017.

Nick Xenophon's recommendation

That a compensation scheme of last resort for victims of 'Forestry Managed Investment Schemes' be established with a combination of Government funding and a contribution from financial institutions. This should be established in parallel with stricter requirements for insurance for financial planners as part of an ongoing compensation scheme for prospective failures of financial advice.

- The Government notes the recommendation. The Government has established a panel of eminent persons to review the role, powers and governance of all of the financial system's external dispute resolution and complaints schemes. This Panel has been asked to make observations on the establishment of a statutory compensation scheme of last resort. This Panel will produce its final report to Government in March 2017.
- The Government will consider this recommendation in light of the observations of the Panel.

Green's recommendation 1

That the Government establish a Royal Commission to examine misconduct within the financial services sector.

- The Government does not support this recommendation because a Royal Commission will not benefit consumers and will delay important reforms which the Government is currently implementing.
- There have already been several Senate committee and other inquiries into the financial system including an inquiry into the conduct of the Commonwealth Bank of Australia's financial planning divisions, and the Australian Securities and Investments Commission. In addition, the Senate Economics References Committee is currently conducting an inquiry into the scrutiny of financial advice.
The Government commissioned the FSI, and has now accepted 43 recommendations from that review. In addition, the Government has added an additional 5 measures to its FSI response, bringing the total commitment to 48 actions.

The Government has made substantial progress towards developing legislation that will lift the education, training, ethical and professional standards of financial advisers and has commissioned an important review into the financial system’s external dispute resolution framework.

In addition, in April 2016, the Government provided additional funding to ASIC to enhance its surveillance and enforcement activities, to better identify misconduct. The Government also announced that it would accelerate work already underway to assess the regulatory tools available to ASIC to protect consumers and punish wrongdoing, such as increasing penalties and giving ASIC new powers to ban the distribution of harmful financial products.

The Government's focus is now on implementing the reforms that will strengthen our financial system — a Royal Commission would indefinitely delay this important work.

### Green’s recommendation 2

That the Government should legislate to require investment in forestry MIS to be treated as investment in capital, and for tax deductions to be spread across the life of the asset.

- The Government notes this recommendation.
- The ATO will continue to monitor the tax treatment of agribusiness MIS and provide advice to Government on any issues, as they arise.

### Green’s recommendation 3

That the Government legislate such that only limited recourse loans are able to be provided for investment in complicated financial products.

- The Government notes this recommendation.
- The Government has legislated significant reforms that improve the protections for people investing in complicated financial products, including the Future of Financial Advice reforms.

- In addition, the Government is progressing reforms to introduce more accountability in relation to the distribution of financial products in implementing recommendation 21 of the FSI (dealing with strengthening product issuer and distributor accountability). The implementation of recommendation 21 is being accelerated as part of the Improving Consumer Outcomes in Financial Services package announced on 20 April 2016.

- The Government considers these measures more appropriately deal with issues around the distribution of complex financial products.

Senator WHISH-WILSON (Tasmania) (17:39): I move:

That the Senate take note of the document.

I really like that title, *Bitter harvest*. Sometimes the names of committee reports can really frame what the committee has discovered. No punches were pulled in this report. Unfortunately, however, the Greens did have to put in a dissenting report at the end. This is one of many inquiries which I have been on in recent years where we looked at financial misconduct. This to me was the most powerful inquiry I have sat on. Being a Tasmanian, over the years I have witnessed the rise and fall of Gunns Ltd. I have witnessed the rise and fall of the managed investment scheme industry—some would say it was a perverse incentive
provided by government and legislation to grow the forestry industry in Australia. There may have been good intentions when it was first put up but it led to an absolute catastrophe, not just in Tasmania but right around the country.

The Senate heard evidence that nearly $4 billion of investors' money was put into forestry managed agribusiness schemes—in other words, tree farms—and the whole lot was lost. Many of the investors were mum and dad investors, not sophisticated investors. Not only did they lose their investments but some of them were leveraged into those investments. They went to their accountants and financial planners and they were sent to the company, and the company said, 'If you don't have the money to buy a tree farms scheme to claim against your tax, we'll lend you the money.' So they borrowed money to invest in what was a high-risk scheme, but many of them did not understand any of the risks associated with this scheme.

In fact, we found evidence that these tree schemes were sold as being as safe as houses. But they were anything but as safe as houses. Let me say this: ASIC admitted on the last afternoon of the inquiry that these tree schemes were not retail investment grade. They should never have been sold to Australians who were saving for their retirement. I could probably spend an hour or two just going through why they were not retail grade. At the end of the day, these were tax driven schemes—they were driven by tax deductions. Billions of dollars were poured into these schemes so Australians could get deductions to lower their tax. This was all legal; this was set up by the government. Then there was a gold rush of people getting into these schemes, setting them up, taking that money, buying land—good agricultural land, as Senator Duniam knows, in my state of Tasmania—

Senator Duniam: Our state of Tasmania.

Senator WHISH-WILSON: I will take the interjection, Senator Duniam: our state of Tasmania. They bought the land, which was often used for agricultural purposes prior to tree farms—good high-grade agricultural land. The communities that used to service those farms were gone, because these trees take 20 or 30 years to grow. At the end of that, not only did investors lose their money, but the schemes all collapsed like a house of cards, as did Gunns Ltd, the timber company. What happened? What about the plan for Australia to be self-sufficient in forestry products? At the end of it, all these trees were sold for a few cents in the dollar in terms of their asset backings to foreign investors. So Australians pumped $4 billion into managed investment schemes; it all went to the wall—all the trees were sitting there unpruned and a fire risk. Farmers wanted to get rid of them but they could not get access to the land because of legal issues.

It was a total catastrophe. No-one has ever been brought to account. This was Australia's mini GFC moment. Senators Duniam, Bilyk and Brown may be thinking that, had we had a pulp mill in Tasmania, it might have bought the trees. There may be some truth to that. Had one of the world's biggest pulp mills been built in the Tamar Valley—which, I unashamedly will say, I campaigned against 14 years—it probably would have bought these trees. I have to say that these investors bought the trees for next to nothing and they still do not know what they are going to do with them. That suggests that they do not have a market. It would have been an absolute catastrophe if another couple of billion dollars of investors money had been poured into a dirty, stinking, rotten pulp mill in a tourist valley in beautiful Tasmania.
The whole thing was a house of cards from the start. Anyone with half a brain would have seen it coming. But nevertheless the investors—because of what we call, in technical terms, asymmetrical information—did not know the risks. Many of the financial planners did. Certainly the companies that were spruiking these tree farms knew the risks. What did they do? When they knew that this was a giant Ponzi scheme, the only way they could keep going was to keep new investors' money coming in so they could pay the bills. Even though they knew it was a giant Ponzi scheme, they kept dancing until the music stopped. Guess who else kept dancing until the music stopped? The banks did. Lo and behold, the big banks were loaning the money to the tree farm scheme companies to on-loan to the mum-and-dad investors who were being told that these things were as safe as houses.

But the banks were very clever. ANZ, for example, loaned the money to Timbercorp—a colossal catastrophe—but they refused to put tree farms in their own financial planning wealth management arms. We asked them, and they said they were too high a risk. But they were happy to loan this money to these investors at 15 per cent. Those of us who understand finance would be wondering why we were paying 15 per cent, because that spells risk by any means. Nevertheless, a lot of these good people, these good Australians, were not sophisticated investors. They trusted their accountants and they trusted their financial planners when they were told that these would be good for their retirement: 'They are almost annuities. They're trees. They'll pay out in the future, and you get a tax deduction now.'

No-one has been brought to account for this scheme. This report makes a number of recommendations that will help prevent this from ever happening again. However, the Greens believed, after this report, that a royal commission was needed into misconduct in the financial services sector. A royal commission could just look at this catastrophe alone, without looking at the banks, without looking at any other of the many scandals that we have seen in the financial services sector in this country in recent years. It could just look at managed investment schemes.

At the end of the day, the most important thing is that the Senate's report is here for people to read and that we act on it and make sure this never happens again. One thing I did learn in my years in finance and in teaching finance is that financial catastrophes, Senator Williams—through you, Chair—always tend to happen just outside the boundaries of people's active living memories. They always tend to happen just outside people's memories. They will happen again. There is no doubt about it. We have to put legislation in place and make changes to make sure that managed investment schemes—complex, risky products—are not bundled up by people who have their snouts in the trough trying to make a quick buck by ripping off investors. I have no doubt that it will happen again if we do not act on it. I applaud this report to senators in the chamber and ask that they read it.

The Greens will continue to crusade for an inquiry into financial services misconduct, an inquiry which will look at who is responsible for this and hopefully get some justice for the many victims who still are losing their homes and who still are tens of thousands, if not hundreds of thousands, of dollars out of pocket. We need laws reviewed and looked at to make sure this does not happen again.

Debate adjourned.
Environment and Communications References Committee

Report

Senator WATERS (Queensland—Co-Deputy Leader of the Australian Greens) (17:50): I rise as Chair of the Environment and Communications References Committee to speak to this report of the committee on the closures of electricity generators, Retirement of coal fired power stations: interim report. I move:

That the Senate take note of the report.

Those of us in this chamber who accept the science know that we are in the middle of a climate crisis. The seas are rising and threatening our infrastructure. Our homes are threatened by more-severe bushfires and floods. Increasing numbers of heatwaves will harm our businesses and the health of our elderly. We have to cut pollution. That is why the restructuring of our electricity sector, which is our largest source of carbon pollution, is so critical. That transition is inevitable, but justice for workers and communities is not. That is why we need to plan, and that is why we need to start early.

That was the issue that this historic Senate report considered in detail. Really, the report marks a red-letter day for the end of coal-fired power. It is also a red-letter day for clean energy. For the first time ever, a parliamentary body has called for the managed replacement of coal-fired power with renewables. I congratulate everyone who was involved in this interim report. This report should be a wake-up call for the Australian government. When even AGL, which is Australia's largest coal-fired power operator—and our largest polluter, I might add—is calling for a clear plan to transition, for the orderly retirement of coal-fired power generators, surely the government should listen. On any other day, they would listen to one of our enormous corporates.

I note that the report was supported by Labor senators, and it represents a collective view across much of the community, industry and now the parliament. The electricity market is going through a dramatic transformation whether we like it or not, but we should be managing that transition. Evidence to the committee showed that Australia's biggest power companies, unions, non-government climate organisations and, importantly, affected communities such as those in the Latrobe Valley are all pleading with the federal government to develop a plan. The closure of Australia's direst coal-fired power station at Hazelwood is just the beginning. If we do not have a national plan for the orderly retirement of those remaining coal-fired generators then we will not get the investment that we need in clean energy, and we need that investment for stability, security and a smooth transition.

The government needs to stop sitting on its hands and claiming it cannot do anything and blaming the states. The energy transition is already happening, but if we leave it to the chaos of the market it will not be fast enough. It will be an incredibly bumpy ride and, once again, we will see communities racked with uncertainty, with very little notice given to them when these plants close their doors. Australia's energy future should be decided by our governments working with industry, with unions and, importantly, with communities. It should not be decided in the boardrooms of those big generating companies in Paris or Tokyo. When you have everyone from the Greens to Australia's biggest coal-fired power company calling for a national plan to phase out coal-fired power stations so that workers, communities and clean...
energy investors can plan for the future then surely it is time for the government to get on board.

I commend this report to the chamber, and I want to thank all of those who submitted to the inquiry. I think we had over 100 submitters. I want to thank those submitters who gave us evidence. I want to particularly thank the secretariat staff who have done, as always, an excellent job, and I also want to thank my colleagues for their participation on the inquiry. It was extremely informative and the level of engagement by all of the senators at the hearing was commendable. I have already mentioned that some of submitters included Australia's biggest power companies as well as government agencies like the Energy Regulator and the Clean Energy Finance Corporation, but we also heard from the union sector, many affected communities and environment groups. It is pretty rare that all of those people speak with one voice. That is why we have been able to come up with four very clear and very important recommendations.

The first recommendation is that the Australian government adopt a comprehensive energy transition plan that includes reform of the National Electricity Market Rules. It is no mean feat but long overdue. Those rules were designed when we did not have such a penetration of clean energy and when we did not have those Paris climate commitments that should be driving the transition to clean energy.

The second recommendation is that the Australian government in consultation with the community, industry, unions and other stakeholders develop a mechanism to manage that orderly retirement of coal-fired power stations and that that be put to the COAG Energy Council. As we learned through the course of the inquiry, at the moment companies are making that decision themselves. There is no consultation with communities, and the government is not having any role and so, on average, communities get about four months notice of the closure of one of these big power stations that have often traditionally been very large employers in those small communities. Four months is not enough for an economy in transition or for a community that has been dependent on the company that has just decided to shut their doors. Of course, if we want to continue that secure energy supply, which I am sure we all do, then we need to manage that transition rather than letting those big companies dictate when they close their doors.

The third recommendation is that the Australian government, through the COAG Energy Council, put in place a pollution reduction objective that is consistent with our Paris obligations in the national electricity objectives, or the NEO, as it is known. That guides the sort of decision-making that happens in the operation of the national electricity market. Without a pollution reduction objective in there, it is going to be very tricky for that managed transition to a cleaner grid to be operationalised. Indeed, if as a nation we have signed up to those commitments—and even this government has done so; we think the commitments needed to have been stronger but they have at least been signed up to—then at the very least we should be following through and reflecting that in our domestic energy market.

The final recommendation is that the Australian government establish an energy transition authority, with sufficient powers and resources to plan and coordinate that transition, including a just transition for workers and communities. Again, this comes back to the principle that the energy market is in transformation. Coal-fired power generators are on average about 40 years old now. They are all going to be closing soon anyway. They need to
be replaced with something. Government, community and industry should work together to design their replacements in a way that keeps those jobs safe in the community and meets our climate objectives. We think a new body could bring together the expertise to perform that role and to help government finally step into this space.

I mentioned earlier that the average notice that has been given to communities on the closure of one of these stations is less than four months. You could in no way describe that as best practice; that is worse practice. The government is taking such a hands-off approach that we are seeing mass community shocks and, worse, unemployment localised in those regions. Come on. We can actually plan ahead. Surely that is part of the reason that we have been elected. when we have, as I say, not just the Greens but the biggest polluters, the unions and the communities all saying: 'Please give us a plan. We know that we are going to have to shut our doors at some point. We have put our closure dates on coal-fired power stations. But if we can plan that and stage that then the transition to the grid can be smooth. The transition in those communities can be smooth. And we can start to meet our climate objectives. We know there is a lot of doubt about whether the government's policies can meet those climate objectives. Most commentators say there is no way they can. This is one way that the government could start to operationalise those commitments and then ideally increase those commitments.

I commend this report to the Senate. It makes for important reading. This is only an interim report, so the inquiry will continue. We will be reporting in the new year with recommendations as to the sorts of mechanisms that could be used to manage this transition to a cleaner electricity network, which we know will be job rich, which will safeguard communities and which, importantly, will help us make that transition to clean energy which will safeguard beautiful places like our Great Barrier Reef and all of the other important ecological sites, as well as the metropolitan areas in which we live.

Question agreed to.

DOCUMENTS
Community Affairs References Committee
Order for the Production of Documents

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:01): I table a document relating to the order for the production of documents concerning the government's response to a report of the Community Affairs References Committee.

BILLS
Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016
Explanatory Memorandum

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:00): I table an addendum to the explanatory memorandum relating to the Criminal Code Amendment (High Risk Terrorist Offenders) Bill 2016. The addendum responds to recommendations made by the Parliamentary Joint Committee on Intelligence and Security.
**Competition and Consumer Amendment (Country of Origin) Bill 2016**

**First Reading**

Bill received from the House of Representatives.

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:00): I move:

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

Question agreed to.

**Second Reading**

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:00): 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—

The *Competition and Consumer Amendment (Country of Origin) Bill 2016* seeks to simplify and clarify the safe harbour provisions within the Australian Consumer Law.

This Bill forms part of the Government's country of origin labelling reform package that was agreed by the states and territories in March this year. A key element of this reform package, the *Country of Origin Food Labelling Information Standard 2016*, commenced in July this year.

Before I detail the specific amendments this Bill seeks to make, please allow me to briefly elaborate the objectives of the Government's country of origin labelling reform package.

The reforms aim to provide consumers with clearer, more meaningful and easier to find, country of origin information so they can make informed purchasing decisions in line with their personal preferences.

Inquiries and research conducted in recent years show that the current labelling framework is largely ineffective in meeting its objectives, especially when it comes to food. Some origin labels were unclear or unhelpful, and the rules tended to confuse both consumers and business.

We have bipartisan support for reforming country of origin labelling, because this is an issue that has vexed parliamentarians of all political persuasions for many years—and it is worth noting that these reforms meet a key commitment of the Agricultural Competitiveness White Paper, released last year.

The Government's reform package has benefitted from extensive consultations and discussions with businesses, the community, and their representatives—as well as state and territory governments, and our overseas trading partners. It is particularly important to note that, we secured broad state and territory support for these reforms through this process.

We take this opportunity to thank the thousands of people who took the time and trouble to contribute their views and to work with us during the development of these reforms. Your participation has helped us achieve our goal of providing Australian consumers with the country of origin labelling information they value most, without imposing excessive costs on business. This is a major breakthrough that Australians have long been waiting for.

As part of the reforms, the mandatory country of origin labelling requirements for food will be enhanced and moved from the Australia New Zealand Food Standards Code to an Information Standard under the Australian Consumer Law.
As Australians, we want to know whether the food we buy is from the country we live in, or somewhere else – and if it was made or packaged here, we really want to know how much of it was grown here by our farmers.

Under the new Information Standard, the well-known kangaroo in a triangle symbol will be required on many foods found on Australian retail shelves, identifying those which were grown, produced or made in Australia.

The new labels for food will also include a bar chart and words to indicate the proportion of Australian ingredients in the food. Research has shown that this is the most important piece of country of origin information for consumers when it comes to food.

Through this package of reforms, consumers will be able to trust that claims such as 'Made in' and 'Product of' are applied consistently. Businesses will be able to use these terms with greater certainty, and will be less inclined to make meaningless origin claims like 'Made in Australia from local and imported ingredients'.

These changes will give consumers a clearer understanding about where their food comes from, while ensuring Australian businesses receive the information and support they need as they transition to the new rules.

I am delighted to announce to the House that many Australian companies have already adopted these reforms. Many of us have started noticing these new labels in our local supermarkets already. Companies such as Maggie Beer Products have recently launched the labels for their range of products and are fully supportive of the reforms that clearly indicate the country of origin of the food we eat – something Australian consumers have told this government is very close to their hearts.

To support the effective implementation of the reforms, the Government has provided the Australian Competition and Consumer Commission with additional funding of $4.2 million over five years to undertake compliance and enforcement activities in relation to the new requirements. The Government is also funding a $15.2 million information campaign to ensure consumers and businesses understand the revised framework.

Please allow me to now describe some of the detailed amendments that the *Competition and Consumer Amendment (Country of Origin) Bill 2016* aims to achieve.

The Australian Consumer Law prohibits false or misleading representations about the origin of goods.

To provide certainty for businesses, the Australian Consumer Law provides 'safe harbour' defences for country of origin claims where goods meet certain criteria. If goods satisfy the relevant criteria, the business has not engaged in misleading or deceptive conduct, or made a false or misleading representation.

The proposed changes to the Australian Consumer Law will:

- Make it clearer that minor processes such as packaging, slicing or canning are not sufficient to justify origin claims like 'made in', consistent with consumer expectations and international norms;
- Remove unnecessarily burdensome or redundant provisions; and
- Amend and align remaining provisions with the new Information Standard.

Inclusion of changes to these safe harbour defences in the package of reforms is broadly supported by all industry sectors. Businesses will find it easier to make reliable country of origin representations through a clarified substantial transformation test and the removal of the burdensome and capricious production cost test.

In fact, even a couple of weeks ago, Tindo Solar, a well-known South Australian manufacturer of solar panels, wrote to my colleague, Minister Hunt, seeking the removal of the exceedingly onerous production cost test so that the company could supply panels certified as Australian-made into the
market. Tindo Solar and many other small and innovative businesses will benefit from these amendments.

Consumers will also welcome the changes that make it clear goods cannot be claimed to be made here just because their form or appearance has changed.

Before I conclude, please allow me to acknowledge the detailed and exhaustive consultations undertaken by my department and the Department of Agriculture and Water Resources during the various stages of this reform development process. I congratulate them for their hard work and effort. I also wish to thank once more the many businesses, peak industry groups and individuals who invested precious resources and time in responding to questionnaires and participating in detailed discussions during the consultation phase.

I would also like to acknowledge leadership of the former Minister for Industry, Innovation and Science, Christopher Pyne, in seeking to ensure these reforms were implemented as quickly as possible. Finally, I wish to commend my colleague, Deputy Prime Minister Barnaby Joyce, on the commitment he has shown throughout this process, and over many years, to reform in this important area of public policy.

I commend this Bill to the Chamber.

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.

Building and Construction Industry (Improving Productivity) Bill 2013
In Committee
Consideration resumed.

Senator CAMERON (New South Wales) (18:01): It seems to me that things are very fluid out there in relation to this bill. There are a number of amendments we have got sheets for that outline amendments from Senator Xenophon and Senator Hinch—and we have got an amendment. But I notice that Senator Xenophon has been publicly indicating that there is some deal in place that means there will be some process to deal with water for South Australia that includes COAG. As I understand it, the deal is that there will be discussions at COAG and there will be some discussions on an ongoing basis like an estimates process within the processes of the Senate itself. Whether this is at estimates, whether there is going to be a special estimates process, is pretty unclear. But I did hear Peter Hartcher, one of the leading commentators on parliamentary issues, indicate that what has happened is that the issue of water for South Australia has been sent to what he described as 'the sinkhole of reform'—which, in his view, is COAG—and he said this was a win for the Liberal Party.

In going through this, I cannot see much that Senator Xenophon has achieved in relation to this so-called agreement. I heard Paul Kelly indicate that he felt that Senator Xenophon had overreached in his rhetoric and that what he had was a deal on process. So there will be a process to talk about South Australian water. I do not understand. This is a bit like the situation we had under the Fair Work (Registered Organisations) Bill, where someone who was in a very powerful position to negotiate a settlement to the issues that he is concerned about simply rolled over. If I were a South Australian resident, I would be very worried about putting all this faith in the Xenophon political party and getting so little in return—commitments to process, which mean nothing.
I noticed Senator Xenophon on the television later on. He said that, if there is no progress on the issue of water, then obviously there will be consequences. Well, if you are in the most powerful position and you fail to deal with it—it is like an industrial dispute when you are negotiating at the bargaining table and you are in dispute with the employer: there comes a time when you have got to make a call as to when your bargaining position is at its strongest and when you can actually get the employer to concede to what your members want to achieve. I did it for 27 years. You have to make some judgements about when your bargaining position is at its most powerful.

My view is that Senator Xenophon's bargaining position on such a major bill was at its most powerful and Senator Xenophon has completely failed to deliver on all the rhetoric, all the arguments, all the bluster that he has been going on with for a couple of weeks in relation to South Australian water. And if Senator Xenophon is going to be a politician who is going to try and lever one issue against another issue, if he is prepared to give up on rights for working people on an issue of water for South Australia, then he should at least try and deliver an outcome on water in South Australia. That has not happened.

The consequences that Senator Xenophon talks about are a bit like negotiating an agreement and then having a no-extra-claims clause. You have a process to deal with the agreement, you are bound by legal procedure and you threaten the boss, 'If you don't deliver, we're going to do something about it,' but there is no capacity to do anything. That is really the position that Senator Xenophon is in. When I was listening to him, it reminded me a bit of the cartoon with the mouse with a finger up in the air and the eagle is just about to take his head off. That is a bit like where Senator Xenophon is at the moment: the finger is waving, but the eagle's claws are just about there. If you ever want a lesson on how not to negotiate and if you ever want a lesson on how not to use power effectively, I am sure people in the future could write books about the Xenophon political party and their incapacity to actually deliver when they are in a powerful position to deliver on issues that are of concern to them. I am not going to the morality of trading off workers' rights against a position that you want to take, but that is exactly what Senator Xenophon has done: he has traded off his vote, it seems to me, on issues of importance to working-class people in this country, to families in this country and to building workers in this country who depend on a strong union to deliver decent wages and conditions. What Senator Xenophon has done is say, 'I've got a more important issue—that is, water to South Australia,' but there is no guarantee that water will be delivered under the process that Peter Hartcher describes as a 'sinkhole of reform'.

I am not sure that Senator Xenophon overreached. I would say to Paul Kelly, who said that Senator Xenophon had overreached, that he has not overreached. I think he was arguing his position. I do not see that as an overreach. But what he certainly has done is underachieve. Overreached—I do not think so; underachieved—I think yes; a big underachievement on this. Add that to the fair work and registered organisations deal, which is about setting up more committees. There are big underachievements in these areas.

I am not sure what Senator Xenophon is saying the consequences are, because this is the biggest bill the government has before the Senate. This is a bill that is about the coalition's ideology, about taking rights away from working people. I take the view that, if you are going to trade off workers' rights—I would never put myself in that position anyway, but if you are bent towards trading workers' rights away for another issue that you think is important, and I
do not underestimate how important water is to South Australia—if you are going to set
yourself up for that deal, then at least get a deal that delivers, not something that sends you, as
Peter Hartcher says, back to the 'sinkhole of reform', COAG. It is an absolute joke.

I must say, if I were one of the government ministers and I had Senator Xenophon of the
Xenophon political party knocking on my door and making threats, I would look back on this
week and say, 'Don't worry'. If I were an adviser, I would be saying: 'Don't worry about this
team. They are C grade. They're not going to deliver. They're going to jump up and down,
they're going to make a lot of noise, but they're not going to deliver.' Look at the key issues
that they have brought forward in these Senate sittings: on the Fair Work (Registered
Organisations) Amendment Bill they delivered nothing but caved in; on water—

Senator Hinch: Whistleblower.

Senator CAMERON: I will take that interjection from Senator Hinch, who is trying to
help his mate—his mate in distress, I think. Senator Hinch, if you are going to do something
on whistleblower, you would do whistleblower for everybody. You would do it for the banks.

Senator Hinch: We'll get them.

Senator CAMERON: Senator Hinch says, 'We'll get them.' Senator Hinch, I have been
around here a little while now and I do not believe you. I do not believe that you will get
them, because I have not seen any strength of conviction, any character on these issues. I am
watching what is happening to working people as a result of bad deals done by the Xenophon
political party and other independents. I do not really believe that you will deliver much,
because you have the opportunity now. This is when the government is at its weakest in terms
of these bills. This is when your bargaining capacity is at its strongest, and you have delivered
nothing. You have delivered process. It is not just me saying that. There are experienced
people like Peter Hartcher who said that all that has basically happened is that you have deals
on process. That was Paul Kelly. Everybody has to listen to Paul Kelly, don't they! I do not
think so.

Senator Whish-Wilson: The singer.

Senator CAMERON: Yes, Paul Kelly the singer, not the political analyst! For the
Hansard record, I was being a bit funny there, hopefully! This is a classic example of getting
into power and not being able to use that power effectively. That is what has happened here.
Let's see what comes out of the crossbenchers tonight. My main concern—and I am very
concerned about water in South Australia—in relation to this bill is that working people do
not end up being pushed back and their standard of living falls; where the unions operating in
the building and construction sector have no capacity to bargain effectively; where workers in
every other area of industry across the country have certain rights and, under the Fair Work
Building Commission and now the ABCC, if this bill goes through, you see building workers
being treated as second-class citizens and ending up not being able to negotiate and bargain
on issues that every other worker in the country has access to.

This looks to me to be an absolute fizzer in terms of a deal on water for South Australia.
This is simply putting building workers around the country in danger of not being able to
bargain effectively and not being able to bargain on the casualisation of the workforce, on
temporary workers and on apprenticeships in the industry. This is really a bad bill. For
Senator Xenophon and the Xenophon political party to be on the TV tonight crowing about
doing a deal and giving the odds as to how the bill will go through—I appeal to Senator Xenophon. He should sit down with the Labor Party, talk through these issues and work on how we can improve what he has got and in doing that ensure that we protect workers' rights in this country.

This is bad deal after bad deal getting done here. I hope that Senator Hinch gets a better deal. I am not sure what you are going to be reporting in terms of your deals, but, if they are anything like Senator Xenophon's deals, it will be crap. It will be absolutely nothing. I hope that we can do something about this.

Minister, can you explain how this COAG process will work?

**Senator LEYONHJELM** (New South Wales) (18:16): I rise to advise that I will vote to re-establish the Australian Building and Construction Commission. The government has won two elections promising to re-establish the ABCC. I respect that, but it is not enough to win my vote. After all, I have won two elections promising to protect liberties, and the bills to re-establish the ABCC are a mixed bag in this regard.

The bills seek to counter thuggish behaviour by the CFMEU that restricts the freedom of workers to choose their own bargaining representative, to choose their own superannuation fund, to pursue enterprise bargaining in their interests and to get on and off the work site. The bills also counter thuggish behaviour by the CFMEU that restricts the freedom of employers to choose their employees and contractors, to assign duties as they see fit, to freely negotiate rates of pay and to see that work gets done.

But, against this, the bills also do damage to our liberties. They reverse the onus of proof, allow some retrospective effect, allow entry onto premises without a warrant, reduce the role of the Administrative Appeals Tribunal in the use of powers requiring the answering of questions and the production of documents, and allow the minister to make decisions on the scope of these powers by regulation.

The freedoms secured by the bills go some way to offset the freedoms lost. But to me this has been far from certain, so I communicated my concern to the government and flagged the need for amendment. But it was clear that amendments to undo the liberty-restricting elements in the bills would gut the bills, at least in the government's eyes, so I also communicated the need for liberty offsets, separate liberty-enhancing commitments that, in conjunction with the bills, allow the package as a whole to be worth supporting. The government listened and engaged productively, and now we have agreed on a package that I am confident is well worth supporting.

Firstly, the government has agreed to support my amendment, co-sponsored by Senators Xenophon and Hinch, to remove the bill's worst example of a reverse onus of proof. With the passage of this amendment, workers who down tools because of what they claim is an imminent risk to health or safety will not have to prove that their claim is reasonable. Instead, an employer complaining about this action will need to establish, on the balance of probabilities, that the safety claim is unreasonable. I will also support Senator Xenophon's amendment to extend judicial review to decisions made under this legislation.

Secondly, the government has agreed to publish key historical series—like government spending, net debt and tax—in real per capita terms rather than just in nominal terms and as a share of GDP. This will commence from next year's budget and will also appear in mid-year
economic and fiscal outcomes. This will communicate, in terms people can readily understand, that the size of government is growing at a concerning rate.

Thirdly, the government has agreed to seek changes to suppression order regimes across the states and territories via the Law, Crime and Community Safety Council of COAG. Excluding subject-specific regimes covering family, children and national security cases, it will promote a regime in which suppression orders specify the topic to which they relate, only suppress such information as is necessary to achieve the purpose of the order, set out a limited duration of operation and give the media an express right to seek a review of the scope or duration of a suppression order. In conjunction with that, it will also review and—subject to the findings of the review—amend the suppression order regime in courts in the federal jurisdiction according to the same principles. This has the potential to result in a very worthwhile enhancement of free speech, including the ability of the media to report freely. This is especially important in relation to our judicial system because an open and transparent judicial system helps maintain public confidence in it.

Fourthly, the government has agreed to require the boards of the ABC and SBS to hold open community forums in conjunction with at least half of their board meetings, with at least two of these forums to be held in regional areas each year and with the cost of these forums to be absorbed within current budgets. This is intended to promote a greater level of communication between the ABC and SBS with their shareholders, the taxpayers of Australia, who are located mostly outside the inner areas of the major cities. The ABC's CEO, Michelle Guthrie, recently warned that political parties need to be aware of the perils of failing to engage with disenfranchised voters. The same principle should apply to the ABC and SBS. Engaging with disenfranchised voters will not do the ABC or SBS any harm whatsoever.

I am not arguing that the amendments and freedom offsets achieved here amount to a libertarian utopia, but each is important and each is real. Some senators in this place are good at whingeing but do not ever achieve anything. In fact, I suspect a number of them are happy not to achieve anything, because it enables them always to complain about the state of affairs. I will not allow the perfect to be the enemy of the good, and I am confident that the Liberal Democrats will never be such a party. I, and also on behalf of Senator Hinch and Senator Xenophon, move amendment (1) on sheet 7990:

(1) Clause 7, page 16 (lines 1 to 4), subclause (4), to be opposed.

[burden of proof]

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (18:23): I thank Senator Leyonhjelm for moving his amendment. This amendment omits clause 7(4) so that a person seeking to rely on the health and safety exception to the definition of industrial action in clause 7(2)(c) would not have an express burden of proving that he or she held a reasonable concern about his or her health or safety. The government will support Senator Leyonhjelm's amendment. We acknowledge that it would be consistent with the position under the Fair Work Act 2009.

Senator CAMERON (New South Wales) (18:24): Apart from the lecture on libertarian polices, for Senator Leyonhjelm to come in here and tell us about high achievers I think is an absolute joke. I would not put 'Leyonhjelm' and 'achievement' in the same sentence, but that is another issue. The issue that we have before us is, as I understand it, the removal of the
reverse onus of proof for an employee who takes industrial action. That is based on a reasonable concern about an imminent risk to health and safety. Senator Leyonhjelm, maybe you could clarify that that is basically what this is about.

Senator XENOPHON (South Australia) (18:25): As a co-sponsor of this amendment I am very pleased to speak to it. In answer to Senator Cameron's question to Senator Leyonhjelm, as a co-sponsor I am very happy to say that this was an anomaly that needed to be dealt with to be brought in line with the Fair Work Act so that the reverse onus of proof of provisions did not apply in relation to the construction industry—so that the same standard that applies more broadly in the Fair Work Act in respect of not requiring a reverse onus of proof ought to apply to the construction sector. That is why, from an occupational health and safety point of view, this is a good amendment. I would have thought that even those who are implacably opposed to this bill would agree that this actually is an improvement on the current bill.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:26): I have a question relating to the negotiation that took place on the basis of the changes to the ABC Act. I reckon I have been here for six years and I do not think I have ever seen, in return for support for a piece of government legislation, a government respond by saying it would introduce a separate, completely unrelated, piece of legislation, as is the case here with the changes to the way the ABC conduct their board meetings.

I am interested as to whether this sets a new precedent, that from now on when we are here discussing any piece of legislation it is quite possible that in the committee stage we will be talking about completely unrelated bits of legislation in return for crossbench support. If so, the sky is the limit. Could you please explain whether this is now a precedent for trying to negotiate changes through the crossbench?

Senator RHIANNON (New South Wales) (18:27): I did not jump in order to seek a clarification, because I was interested in the question of my colleague and was waiting for the minister to jump. If I have jumped in front of her I would obviously let her go first.

The CHAIR: I called you, Senator Rhiannon. The minister did not give any indication that she was going to stand.

Senator RHIANNON: Thank you, Chair. I was interested to read the amendment and to see some of the comments by the senator who has moved it, who often talks about his interest in a libertarian approach to his work in this place and in reducing the laws that he often argues encumber how Australians go about their life and their work. I have therefore been surprised at his willingness to support this legislation. I was interested in this amendment, in the context that it would appear that it runs cover, I suppose one could say. It appears to be doing something to the legislation but at the end of the day the legislation is still the same. I am constantly receiving new information about this legislation and what it will do. I think there is a disjunct here between the amendment we are considering and what is suggested its intent is and then the overall legislation, which will not be fundamentally altered in any way.

One aspect that has come up a lot is the issue of people's safety. That really is integral to what is going on here. We know that under this legislation it will be harder for unions to ensure that there is safety on the job. Again, that is where the end product here is very damaging to the Australian way of life. You would think a starting point for everybody here would be public safety. I thought it would be useful to share some information about the John
Holland Group companies. It is a huge player in the construction industry, and it is very significant. I might come back to this later because I think it would be relevant to some of the other issues that we will be considering. It has contracts worth hundreds of millions of dollars, many of them awarded, in fact, by the federal government. What I have found out—I did not actually know this even though I have worked on some aspects of some of the problems with this company—is that, when it comes to the workplace, it actually has a very privileged position with regard to workers' compensation arrangements. Since 2007, it has held a self-insurance licence under the Comcare scheme. This allows it to manage all its own workers' compensation claims. That is pretty extraordinary. You have to be really trusted to do that. This means that the John Holland Group companies accept the liability to make compensation payments in cases of work related injury or death. It is one of only very few private sector businesses that have been granted that privilege. It is an extraordinary privilege and something that is significant in the whole gamut of the legislation we are considering.

But, when you look into it, the number of accidents on John Holland worksites is truly alarming. Then there is the compensation in how it plays out. Again, I would argue that it is very important that we consider this. Considering that in many of the speeches here we have discussed some of the tragic accidents that have occurred, it is relevant to share some of those with senators who are here now. In 2008, Mark McCallum, at Dalrymple Bay Coal Terminal in Queensland, had his legs caught. The whole machinery ran over him and he died. John Holland was fined $180,000. In case after case you start to realise what a life is valued at under this scheme, and it makes very unpleasant reading.

Comcare v John Holland Pty Ltd in 2009 was about another fatality. Wayne Moore, at Mount Whaleback mine in Western Australia, was standing on some unsecured grid mesh. He fell into a pit and was killed. There had been two previous incidents, but John Holland had not done anything about it. In that case, the court decided to impose the maximum penalty under the act of $242,000. John Holland had given an undertaking to ensure they would 'use their best endeavours to observe and implement industry best practice in relation to work, health and safety'.

Then there was another fatality in 2011. Anthony Phelan was sinking railway tracks and could not hear the train coming because of all the noise. He had earplugs in because of the job he was doing. The hose he was using was very noisy. The train came, and he was run over—another fatality. In that case the company was fined $180,000. Also in 2011, Sam Beveridge was struck by a falling beam. The fine was $170,000 in his case.

Now let's get into the very serious injuries. In 2007, tragically, a young man suffered second-degree burns to 20 per cent of his body. They estimate it would have been much more extensive and much more serious if another employee had not intervened. The fine was $124,960. This is the other trend: serious injuries, as well as tragic fatalities.

John Holland give undertakings about what they will do, but you see time and time again the failure to comply. That is under the present system. Under the new system that we are debating here now, the regulations for these companies are virtually gone. The examples we have given of the tragic accidents, fatalities and injuries for Australian workers, backpackers visiting us and overseas workers are going to increase. We saw it when we had the ABCC last time, and that is where we are heading again this time. It is worth reminding ourselves—because I do believe that everybody must be concerned about this incredibly important issue
of safety—that this industry we are talking about here, the construction industry, is one of the most dangerous in the country. It is incredibly dangerous. Although the construction industry employs about nine per cent of the nation's workforce, it accounts for 15 per cent of workplace fatalities. If people are wondering why so many of us have addressed this point and why I am addressing it now, it is because of how serious it is.

What we know is that the ABCC will be another federal government body with coercive powers to force ordinary citizens to attend and answer questions. It will be, as some people call it, the 'cop' of the construction industry, the new police force, or whatever you want to call it. But it is not just about the coercive powers. It is about the intimidation and how the culture will change. It will make it so much harder for workers to work together collectively and to organise collectively so that these tragedies that we hear of stop occurring and so we do have safe workplaces.

When I spoke in the second reading debate, I identified that there is a big lie going on here from the government quarters with regard to the reason they are bringing this in. They cannot own up that they are doing it for their corporate mates—the people they will be sharing some pretty high-powered Christmas drinks with and having a good time with. They cannot say that that is why they are doing it—to deliver for the corporations who fund them. But here we have a very clear example: John Holland. Since 1998, John Holland has been a very generous donor to the parties that make up government in this country: Liberal, National and Labor. Over $300,000 has been given. That is money that these parties use to run their election campaigns and to pay for all those glossy television ads making all the promises and making out that they will do the right thing by people, particularly working Australians, when they get into office. We are dealing here with legislation that would turn back the clock in Australia.

The construction union, the CFMEU, has a fine history—150 years—of organising workers, defending working conditions, working for improvements—improvements that affect the whole country, because they flow on. Holiday pay, lunch breaks, sick leave, and occupational health and safety did not come about because some of our forebears arrived here one day and had a good idea. They came about because people on the job organised and went on strike. Their families were often on the picket line, doing it really tough. Those conditions came out of collective action. What we are dealing with here tonight is really ugly, really ruthless. It is about winding that back. It is very relevant when we hear what Senator Leyonhjelm wants to do, whatever you think of the amendment—I am not arguing the point on that. Here we have somebody who says he stands up for a libertarian approach to how we develop our laws or unwind these laws. Let us look at what the outcome of that means, if that is what he wants to do with the ABCC, because it is a very irresponsible approach.

As my colleague Senator Richard Di Natale has identified, doing deals about the ABC and the SBS is just criminal. It is unwinding and undermining some incredibly important public institutions— institutions that I really think help bring Australians together in an incredibly important way. Having a widespread national broadcaster is absolutely integral to our work. So I am deeply disturbed with what I am seeing playing out here with amendments that are attempting to justify why this legislation should be supported. It should not be supported on any basis. If you were committed to the public good, if you were committed to ensuring that we are improving safety on the job and if you were to recognise that people have a right to
come together to organise collectively for improved wages and conditions, then you would be ensuring that we do not adopt this legislation.

When you look at the Building Code that is part of the legislation—and I am sure we will come to that in detail in debates on further amendments—you see that it is effectively Work Choices by stealth. That is what is going on there. That aspect would allow the stripping of so many of the important aspects of awards—again, conditions that have been won, that make a real difference to people's lives, that mean they can spend more time with their family, that mean they might have a greater chance of getting a decent wage so that they do not have to work two and three jobs to make ends meet. That is the reality for so many people in this country today.

I have spoken at other times and I will continue to participate in this debate, because what is going on here right now is really very serious. It is so serious for people's lives, for the type of country we are and for how we will be seen. So much of this is not just damaging to people's lives; from what I have been hearing today with some of the lobbying going on, for a number of companies it will not work. They already have arrangements with their workforce—they already have their agreements in place—and it will throw all of that into disarray. There are so many reasons why we should not be agreeing with this legislation. I look forward to the rest of the debate.

Senator CAMERON (New South Wales) (18:41): Could I indicate that Labor supports the amendment from Senator Leyonhjelm, Senator Hinch and Senator Xenophon, but we do not support the trade-off on the ABC that has been proposed. I just want to put that on the public record. Can I also indicate that we are in a position to vote on this now.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (18:41): I asked a question previously of the minister, who appears to have refused to answer it, so I will ask this question of Senator Xenophon. It is regarding the ABC changes that have been proposed by Senator Leyonhjelm. I know that Senator Xenophon has been a strong defender of the independence of the ABC and the SBS, so I suppose a question for Senator Xenophon is whether he is aware that, as a consequence of his support for this legislation, we are going to see a direct threat to the independence of the ABC. Quite possibly, the government will need to issue written directions to the SBS and the ABC forcing them to change the way that they conduct their board meetings. As we know, the ABC fiercely guards its independence from governments—and rightly so. We know that there are potentially other aspects of this deal that would see the government taking a role in reforming suppression order regimes as well.

So I am interested in whether Senator Xenophon is aware that his support for this legislation may result in these quite significant changes to the ABC. As somebody who is on the record—I think quite rightly—as well as the Greens, in supporting the independence of the ABC, I would like to know whether he is comfortable that his support for this legislation will mean those significant changes to the ABC, or whether in fact he may be prepared to reconsider his position on those amendments.

Senator XENOPHON (South Australia) (18:43): I can indicate that the first I was aware of these proposed changes that Senator Leyonhjelm had negotiated—the acronym is almost the same: ABC, ABCC and SBS—was when I read media reports on it this morning. I have not looked at them in detail. I understand there is a requirement that there be, in at least half the board meetings, some community consultation. I have not considered this at length. I am
more concerned about budget cuts to the ABC and SBS. I am more concerned about getting rid of Fact Check, which I thought was a good accountability measure; there were suspicions that it was removed as a result of political pressure on the ABC, which the ABC, in fairness to them, denies.

I think that at the next Senate estimates we should ask the ABC what they actually think of these changes. If the extent of the measure proposed by Senator Leyonhjelm is that the boards open it up to questions from members of the public about what they are doing, that would concern me much less than issues of budget cuts and subtle pressures on the editorial independence of the ABC and SBS, in particular in respect of their investigative reporting.

Senator Di Natale (Victoria—Leader of the Australian Greens) (18:45): I will just follow up on that. It appears that Senator Xenophon has not had the opportunity to look at the impact of the amendment in detail. I wonder whether he would still be comfortable signing off on a piece of legislation when he is not fully aware of the ramifications for the ABC, in particular the issue of challenging the independence of the ABC, which clearly this amendment does, and whether he would consider waiting until the Senate estimates process to get a gauge from the ABC as to the level of their concern. As Senator Xenophon says, we cannot be sure—given this amendment was something that was negotiated in secret with Senator Leyonhjelm and we have not had the opportunity to discuss it with the ABC—so is Senator Xenophon prepared to hold off on his support for this legislation until such time as we get some confidence that this is not a significant challenge to the independence of the ABC?

Senator Xenophon (South Australia) (18:46): There are many things that Senator Leyonhjelm proposes that I am implacably opposed to. Some of them I find quite obnoxious, and he probably says the same about some of my ideas. This does not fall into that category. If the extent of the measure were that at a board meeting they opened it up to questions from the public about what they do—the terrific work that the ABC and SBS do—then I would not find that particularly objectionable. The method of it being negotiated may be unorthodox. I would imagine that at the next Senate estimates, if not earlier, we can hear from the ABC and SBS boards as to what their views of this are. If there is a real issue in respect of that then I suppose that would be a matter for further discussion. But this did not strike me as a deal-breaker in terms of requiring the ABC and SBS boards to meet with members of the public. It did not, on the face of it, strike me as an obnoxious idea. I am more interested in ensuring that the ABC and SBS have strong funding streams. The triennial funding needs to be expanded to either five-yearly or seven-yearly funding, a rolling funding basis, which I think would be more appropriate to ensuring the independence of the ABC and SBS, and there is the question of whether we look at funding models that are used for other public broadcasters, such as the BBC in the UK. In short, it is not a deal-breaker for me. It is something that is novel, perhaps a bit unorthodox, but I think requiring the board of the two major public broadcasters in this country to spend a bit of time taking questions from the public is not such a bad idea.

Senator Di Natale (Victoria—Leader of the Australian Greens) (18:48): We will move on to another issue that may or may not be a deal-breaker—I think it was a deal-breaker a week ago—and that is the issue of the 450 billion litres of water going to the Murray. Senator Xenophon quite rightly indicated that he was concerned about that a week or so ago, when he indicated that he would not support the passage of the legislation unless there was a
commitment to the 450 gigalitres into environmental flows for South Australia. Could Senator Xenophon outline whether he has indeed secured any commitment for that 450 gigalitres of water into South Australia and, if so, what form this commitment takes.

Senator XENOPHON (South Australia) (18:49): I am very pleased to discuss this, even though it is not directly related to the legislation. I have had numerous discussions with both the Prime Minister and the South Australian Premier, the Hon. Jay Weatherill, in relation to this issue. In fact, I spoke to Premier Weatherill about these matters less than an hour ago. The Prime Minister forwarded a letter to the honourable Mr Weatherill earlier today, a copy of which was forwarded to me and to other basin first ministers. That is something that I have put online, with the permission of the parties involved, as I was copied in to it. It seems to me that there has been real progress made. I was concerned over the comments made by the federal water minister. I have had numerous discussions with the South Australian water minister, the Hon. Ian Hunter. I could say parenthetically that, despite the publicity about Mr Hunter's language, not once has he used a profanity in all my discussions with him in the last 10 days.

Senator Gallacher: I'll have to speak to him about that.

Senator XENOPHON: You may provoke him to use profanities, Senator Gallacher.

I am very happy to table, in due course, the letter from the Prime Minister. It is online. But it now is the case that the issue of the implementation of the Murray-Darling Basin Plan, something that the Australian Greens had a very strong and passionate interest in, as have I, over a number of years, is now elevated to the status of first ministers—to the Prime Minister, premiers and the Chief Minister of the ACT. So it is now going to be on the COAG agenda twice a year. It will now be subject to an additional Senate estimates hearing twice a year, in the cross-portfolio estimates, which will allow a significant degree of scrutiny of the plan and its progress, and I am aware that Premier Weatherill and Prime Minister Turnbull have had a number of discussions about this in recent days.

There is more work to be done. You cannot simply turn on the tap with respect to the 450 gigalitres, but you can make commitments and progress with respect to the water efficiency measures, whereby $1.78 billion was set aside. That is something that, as Treasurer Morrison reiterated to me today, is in a special account. It is not something that can be taken away. It goes beyond forward estimates; $1.58 billion of that is for the water efficiency measures in respect of the 450 gigalitres, for those on-farm efficiencies, and $200 million is to deal with issues of constraints.

The important issue is that if there has been any slowing down of the plan or there has not been that political will, then there is what has happened in recent days and the commitment that this will now be elevated to the top of the agenda of COAG twice a year, at a first ministers level, and will be elevated to a greater degree of scrutiny at Senate estimates. And of course I will continue to work constructively with Premier Weatherill to ensure that the plan is implemented fully and on time. I am reassured not just by the discussions I have had with the Prime Minister but also by the letter to Premier Weatherill, the commitment to a new process that we have never had before and my discussions with Premier Weatherill and South Australian water minister Ian Hunter.
Senator CAMERON (New South Wales) (18:53): I must indicate, again, that Labor is ready to vote on the Leyohjelm amendment. However, the issue that I did indicate earlier was that we have heard reports about the deal on this part of the Building and Construction Industry (Improving Productivity) Bill 2013 in relation to the ABC. I have not seen any written documentation on what the deal is. This is pretty typical of how this has been operating this week, both on the Fair Work (Registered Organisations) Bill and this bill. Deals are done behind closed doors. We come to the Senate. We are not sure what the deals are. But we are asked to vote on these issues.

I think it is appropriate that Senator Di Natale has been asking questions in relation to the ABC, because we know that the position of many of the extremists in the coalition is that they would love to see the demise of the ABC. You only have to be at Senate estimates over the years, listening to some of the grumpier extremists on that side of the chamber, in there sticking it into the ABC because they dare to run programs that are progressive, that support LGBTI people and paint them in a decent light. You just have to watch what they do week in, week out. That is why I would think that some would be very concerned about the implications of this deal.

Again, I have not seen the deal—I am not sure whether it is online—because I have been in here for some time. So, Senator Xenophon, are you prepared to table now—all the agreements that you have signed off with the government on all related matters to this bill? I think that is important, so that we know what has been done. I also think it is important that this Senate actually protects the ABC. It is as if the ABC were the dominant broadcaster around the country, when in reality there is the Murdoch press, there is the Fairfax press, there are all of those TV stations owned by multibillionaires putting out all sorts of clearly biased views on issues. Yet the ABC is the one that is accused of being too left-wing. The ABC is accused of not having enough extreme right-wing propaganda on the ABC. Well, I thought the ABC had been set up exactly to make sure that there was a balance—


Senator CAMERON: a clear view on the news, unbiased, not what Rupert Murdoch wants you to hear, not what Kerry Stokes wants you to hear, but exactly to report on the news and report on current affairs issues. You just have to watch Senator Macdonald, every time you talk about the ABC—I have sat through many, many estimates committees where Senator Macdonald, in his usual manner, is coming after the ABC on programs that they have run, on various issues. It all has to do with Senator Macdonald's extreme right-wing agenda.

So, I reckon this is an issue we have to be very careful about. We need to make sure we know what we are talking about in relation to the ABC deal that has been put in place. I again draw your attention to the fact that we have come here tonight and deals have been signed off in the back rooms and are being presented here as a fait accompli. Well, I have to say, I do not think the deals have been very good. I think they have been deals that the coalition must be rubbing their hands over, because no pressure has been put on the coalition to actually deliver on water. And I go back again to what Peter Hartcher said—that all that has been achieved is referral to the sinkhole of reform, and that is COAG. And there will be some report that could be done at estimates anyway. None of the issues could not have been dealt with by estimates.
Labor is very proud of the ABC and how the ABC has represented the news and current affairs and issues of public importance to the country and the community over many, many years. I do not want to end up in the same position as some other countries where you do not have a strong national broadcaster because the national broadcaster is intimidated by right-wing extreme views coming out of a government with no leader, a rudderless government where the extremists have got control and where the former Prime Minister, Mr Tony Abbott, is setting the agenda. Day in and day out, month in and month out, he is out there actually determining what has got to be done, where it should be done, how it should be done and when it should be done.

**Senator Ian Macdonald:** Temporary Chair, on a point of order: I know in committee we allow a lot of latitude, but unless we have moved on since I came down from listening to it on my monitor we are talking about an amendment on reverse onus of proof. I am not sure what Tony Abbott or the ABC has got to do with any of that. I am just wondering if you could ask the senator to stick to the subject before the chair.

**The TEMPORARY CHAIR (Senator Gallacher):** That is the matter before the committee, but as you are aware, Senator Macdonald, debate can be wideranging.

**Senator CAMERON:** Through you, Chair, to Senator Macdonald: if you had been actually been listening to the debate, you would understand that a deal has been done. That deal has been done in relation to getting this actual amendment through the Senate. The amendment is clearly linked to changes to the ABC, and Labor is simply saying to Senator Xenophon, 'Table all the agreements. Table all the documents you have in relation to the agreements that you have signed off. Let's have a look at them. Let's understand the context of where we are in relation to the deals that have been done.' I am looking at these so-called deals and it seems to me that it is capitulation. This is not dealing; it is capitulation. When you capitulate to the extreme right wing of the coalition, you will not get any sense out of them on any future issue you bring to them. They know that you will capitulate, they know that you will blink and they know that you are not going to deliver on the threats that you make. That is why Labor is so concerned to understand what is behind the agreement to take rights away from workers in relation to this bill. Labor is saying to Senator Xenophon, 'Why would you take rights away from workers when you could not deliver anything more than a talkfest about the South Australian water supply? You could not do anything better than that.'

This one is an amendment that we can agree to. We can agree to this amendment and we will agree to the amendment, but we want to make it clear to the Australian public that our agreement to this amendment is not based on some public Star Chamber every time the ABC board meets where you are going to have every right-wing ratbag from around Australia coalescing on the ABC board to give them a touch up so that they get the message that their programs should be right wing based and that they need more Sky-News-after-seven-o'clock type programs. What good is the rubbish that goes on Sky News after seven o'clock at night to the public? I actually saw it tonight; it is after six o'clock that the rubbish starts. It is early on sitting days.

**Senator Williams:** What is wrong with Richo? Don’t you like Richo?

**Senator CAMERON:** I will take the interjection on whether I like Richo.

**Senator Ian Macdonald:** What about Kristina Keneally?
Senator CAMERON: Kristina Keneally is on before seven o'clock when all the loons come out. They all come out with their right-wing rhetoric, banging the table, saying how bad it is that the working class have got unions to look after them, how bad it is that the Labor Party understands the science of climate change, how bad it is that people are concerned about CO2 emissions from the coal industry and how we should simply let the bosses get away with whatever the bosses want. You have just got to listen to that. Well, we do not want the ABC to turn into Sky News—certainly not after seven o'clock. Some of the programs on Sky are pretty good, but after seven o'clock I do not know what happens at Sky News. The werewolves come out!

Senator Ian Macdonald: Peter Beattie comes on.

Senator CAMERON: Peter Beattie is there. I will take that interjection from Senator Macdonald. Peter Beattie comes on and who is it about with? It is the Hon. Peter Reith—'Mr Work Choices'. It is great that Peter Reith is there to try to control the werewolves of Work Choices. Surely, it is good that Peter Reith is there, but I would say to Peter Reith, 'Don't get infected by the post-seven-o'clock lunacy that takes place on Sky News.' We need an ABC that can reflect unbiased, genuine news to the Australian public and can provide unbiased, genuine current affair programs, not programs that say, 'Here we go; let's get stuck into the poor welfare recipient in some of the lower socioeconomic areas in this country.' That is not what we want. That is definitely not what we want!

So while we support this amendment—and I indicate that we are prepared to vote on this amendment now—I just want to indicate that we are not party to the dirty deal that has been done to force the ABC board to face up to all the right-wing extremists around the country or to get after the ABC. All the clones of Senator Macdonald out there, frothing at the mouth, with their aprons on to keep their suits clean—frothing, frothing against the ABC! What good will that do for broadcasting in this country? My view is that it will do nothing.

Again, I say to Senator Xenophon, if you are going to do dirty deals behind the scenes, let's see what the dirty deals are so that if we do agree with one of the amendments we will deal with the amendment. We will deal with this amendment right now. We are happy to deal with that amendment. But we need to know what the implications are for the bill down the track, what the implications are for the ABC, what the implications are for good broadcasting in this country and what the implications are for the people of South Australia, who will get nothing—absolutely nothing—but a talkfest, what Peter Hartcher described as the sinkhole of reform. That was well said.

Paul Kelly said that Senator Hanson was now a more effective and straightforward politician then Nick Xenophon. If it gets to that stage, Senator Xenophon, I have to tell you that you are not doing something right. I do not agree with everything that Paul Kelly says, but these are the comments that he has made tonight.

So there are real problems. We would like to vote on this. We would again say to Senator Xenophon to table all the documentation that he has in relation to the dirty deals that have been done to allow workers to have their rights stripped in relation to what I think is not a lot. That is our position and we would like to vote on this amendment.

Senator IAN MACDONALD (Queensland) (19:08): I did want to contribute to this important amendment, but before I do that I can just respond—this is a debate—to Senator
Cameron. What did he call me? A 'right-wing ideologue'? Well, I have always classed myself in the moderate wing of the Liberal Party—not that we have factions within the Liberal Party. But I have always classed myself on the Left of the party. Now, I am fortunate that a lot of the things that some of my other colleagues raise I agree with, because we do not have these rigid factions like the Labor Party or the Greens political party. We are a party for all people.

I just wonder what Senator Cameron is on about. That was a 15-minute filibuster. He said about 15 times that he wanted to vote on the bill, but he kept talking for 15 minutes on a fairly simple amendment. But for some reason, Senator Cameron went off onto the ABC, South Australia and Pauline Hanson—and I can see Senator Xenophon trembling in his boots as a result of his vicious attack on him, saying that Pauline Hanson is more effective. That was a real killer, Senator Cameron!

Can I just say in relation to the ABC—Senator Cameron has been speaking about it; I was not going to, but this is a debate and he has raised the issue—that I wonder what Senator Cameron has against Sky News, when we have Peter Beattie, the former Labor Premier of Queensland, on Sky News? We have Graham Richardson, who I had the misfortune to be in this chamber with for a number of years many centuries ago. I know Richo, and I know what he is like. You should love him, Senator Cameron—although I suspect he was in the other faction to you.

And what about that respected former leader of the Labor Party, Mr Latham? He is on Sky News regularly. He was a revered leader of the Labor Party and we all think he is pretty good these days, actually! We agree with you Labor Party people! You are right with Mr Latham; he is quite an impressive fellow. And Kristina Keneally—I think she was a wonderful leader in New South Wales. I do not understand why the Labor Party dumped her. Why did they execute Kristina Keneally? I thought she was one of the best premiers that the Labor Party had had in New South Wales for a long period of time and yet the Labor Party got rid of her.

These people are all people on Sky News, and I do not understand what Senator Cameron has against all those Labor luminaries, unless it is of course that they are in a different faction to him—unless they are not in the CFMEU faction that I think Senator Cameron is in, and certainly Senator Wong is in.

On the issue of the ABC board going out into regional and rural Queensland, remote from the capital cities: I think it is a wonderful idea. I love the ABC. Can I just say that I love the ABC in regional Australia. They are doing what they are supposed to do by their charter, and I congratulate the communications minister for overseeing such a wonderful organisation in country and rural Australia. ABC Rural does not always agree with me—they do not always run me—but they are at least balanced. And I cannot say the same for what comes out of Ultimo.

I had the misfortune on Sunday morning to be riding my bike around and I had my earphones in—they were on ABC NewsRadio and they were broadcasting Insiders. I was too intent on my bike ride to stop and take the earphones out so I had to listen to it. It is the first time I have heard Insiders for about 10 years. I refuse to listen to it because if I want to hear that sort of stuff I will go along to the local ALP branch meeting. As I said on my Facebook page, the greatest thing about Insiders is that it means that Labor Party people do not have to go to a branch meeting on Sunday morning; they just turn on Insiders. They get all the info
from the ALP and they get all the bias—the balanced board they always have! The bloke that runs that—wasn't he a former Labor Party staffer? Is that right? That Barrie Cassidy?

As I said, I do not bother. I would not listen to it normally, but I was forced to listen to it on Sunday morning and it has not changed in 10 years. It is just the Ultimo branch of the ALP, spewing out all the ALP lines all the time. At least on Sky News we get a little—is Bolt on Sky News? I do not watch it—

Senator Paterson: It is.

Senator IAN MACDONALD: So we get Bolt on Sky News. That is one side, and then on the other side we get Beattie, Keneally, Latham and all those Labor luminaries. At least on Sky there is a little bit of balance, but on the ABC it is just wall-to-wall Labor Party and lefty journalists who are renowned for their support for the ALP. If the ABC were to go out into non-Ultimo Australia, they would realise that there is a whole new world out there. The board would benefit from the views of people in other parts of Australia about the ABC and the one-sided approach they have. Someone mentioned Four Corners before. Four Corners have done some good work at times, but usually they do not. I remember that, as minister for forestry, we had occasion to call them to order. I know that has happened a couple of times since, including that disgraceful program trying to destroy the Tasmanian salmon industry. I know Senator Bilyk would have been appalled at that. I am sure you would have complained to the ABC in your state, Senator Bilyk, because they were trying to destroy one of the major industries of Tasmania.

Senator Bilyk interjecting—

Senator IAN MACDONALD: You did complain? I am sure you would have, Senator Bilyk. Thanks for confirming that. It is important that all Tasmanian senators—and I know Senator Lambie would have too, and I am sure even Senator McKim might have been able to avoid his bias—

An honourable senator interjecting—

Senator IAN MACDONALD: Look, when you are dealing with the salmon industry in Tasmania, that is Tasmania. That program was so inaccurate, so vicious and so biased that even Senator McKim would have been unhappy with it. Ten or 15 years ago they did the same thing with forestry, and were forced to apologise.

Unfortunately, someone mentioned earlier that it is my birthday. Yesterday, Senator Cameron and Senator McKim referred to me 95 times in debate—my staff counted this up. I think they must like me or something.

A government senator: You are very popular.

Senator IAN MACDONALD: I am only very popular with the Labor Party and the Greens, I have to say! But thanks for thinking about me and talking about me so often. I have my staff counting again today. I think today we are up to about 73, and the day is not anywhere near finished. I really find that very flattering, so thank you to the Labor Party and the Greens for your constant references to me.

Now, unlike Senator Cameron, I want to talk about the amendment before the chair. The amendment before the chair is about reverse onus of proof. Unlike members of the Labor Party, in our party we have a free voice. We are not lobotomised zombies—as some
prominent Labor person referred to the ALP caucus; I do not want to mention names—when it comes to policy discussions. In our party, if we feel strongly enough about a matter we can cross the floor. We can certainly talk about it in our party room. There were a couple of issues about superannuation—I do not want to give away what is said in our party room—where I did say to the Treasurer, 'If these retrospective elements go through, you'll find me on the other side of the chamber, even if I am the only one.' And we are allowed to do that. Fortunately, it did not come to that, because there were amendments made that did away with the retrospective elements that I was concerned about. But we are allowed to do that in our party, and we do have these robust policy discussions in our party and in our backbench policy committees. We do not just sit there like lobotomised zombies and put a hand up when the Prime Minister says, 'Nod'. We do not do that in our party.

An opposition senator interjecting—

Senator IAN MACDONALD: I am getting to the reverse onus of proof. When I saw this in this legislation, I was concerned. I do not like reverse onus of proof. In some matters it is essential. With some security issues, it is unavoidable.

Senator Di Natale interjecting—

Senator IAN MACDONALD: Senator Di Natale, we have been in various committee hearings looking at legislation, particularly in relation to security matters, and I think you and some of your colleagues have raised these issues. But when it comes to security matters, when it comes to the safety of other Australians—

Senator Lambie interjecting—

Senator IAN MACDONALD: Senator Lambie, we have to look after their safety, and in some instances you do have to impose laws that are more draconian than others. Without labouring the point, there is a time when that has to happen.

I know you were all praising Mr Castro before, so I will just divert a little bit. Senator Di Natale, you were praising Castro. There is an author in the Adelaide Advertiser called Caleb Bond. I do not know him, but he summed up Castro very well: He was an evil, horrible man who impoverished a nation and killed many of his people. He established concentration camps in which undesirable people were forced to work and subjected to a litany of abuses. The camps were crowded and the detainees slept on dirt. Among the people thrown in those camps were homosexuals, who were described by the Castro government as "sick". In fact, Castro said a homosexual could never be a proper communist because their sexuality "clashes with the concept we have of what a militant communist must be". They were placed in camps to be "rehabilitated". Converted, in other words.

This is the guy that you said was a pretty good guy.

The TEMPORARY CHAIR (Senator Gallacher): Senator Rice, on a point of order?

Senator Rice: On relevance. Can you please ask Senator Macdonald to keep to the question under consideration?

The TEMPORARY CHAIR: Yes, we are having a wide-ranging debate, but I do ask Senator Macdonald to address the amendment.

Senator Lambie: I think he's getting dementia.
Senator IAN MACDONALD: Senator Lambie is talking about dementia; she must have been looking in her mirror.

Senator Lambie: Is that the best shot you've got?

Senator IAN MACDONALD: Senator Lambie, you are pretty good at throwing around the insults. I suggest you have a look in the mirror once or twice. I am talking about human rights and the reverse onus of proof. I take those sorts of things very seriously. But Mr Castro did not, and I am just reminding you, Senator Di Natale, that this is a guy who you said was a great statesman and leader. But, with reverse onus of proof, I have always been concerned—

The TEMPORARY CHAIR: Senator Di Natale, on a point of order.

Senator Di Natale: I think it is important that Senator Macdonald firstly address the question at hand but, secondly, he might want to reflect on his comments and check the facts, because he is misleading the parliament. I have not said a peep about Castro. He might want to check his facts.

The TEMPORARY CHAIR: Senator Macdonald, could you address your remarks through the chair.

Senator IAN MACDONALD: My colleagues tell me perhaps it was not Senator Di Natale as leader of the Greens, but one of his party. I read which one it was but it went in my mind and straight out again. Anyway, it was suggested that Castro was a bit of a statesman and I am just telling you what he was.

Getting back to the amendment that I want to speak about, but I am being attacked and the interjections are diverting me all the time, I am concerned about the reverse onus of proof, particularly in a bill like this one. I think that reverse onus of proof in security legislation is a very important and very serious thing designed to protect Australians but it is perhaps not justified in bills such as this. I have not heard from the minister so I do not know what the government's position is, but I will be supporting this amendment. I think the amendment proposed by Senator Leyonhjelm on the reverse onus of proof is one that does deserve the support of the chamber, and of the parliament, and I would certainly be urging my colleagues to support it. As I say, perhaps the minister has already mentioned the government's position; frankly, I do not know what it is, but I would be urging the government to accept this amendment because I think it does improve the bill and it adds to that suite of measures that we as a small 'l' liberal party, a party that believes in freedom and believes in the rule of law, would support. We understand these things and that is why I think it is worthwhile adopting this amendment to fix that reverse onus of proof issue. I would certainly urge the chamber to support the amendment.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (19:24): I want to continue with some questions for Senator Xenophon, who again has indicated that he is likely to support this bill subject to the passage of amendments. I want to clarify two points. The first point is that Senator Xenophon, as I understand it, said last week he would not support this legislation unless 450 gigalitres was going to be returned to the Murray, and today he is saying he is going to support it in return for having the Murray listed as an agenda item on COAG. I want to be clear if that is the nature of the deal that he has. Last week Senator Xenophon made it clear—I think it was a sensible position—that he would not support this legislation, because he was so concerned about the 450 gigalitres being taken from the
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Murray, and now it looks like the concession he has achieved is that we have it as an agenda item for a meeting at some point in the future.

The second point I want to ask Senator Xenophon about is the protection of local jobs, and in particular the amendment that the Greens are putting forward on steel procurement. I know Senator Xenophon has expressed significant concern about this—it is a big issue in South Australia, and indeed in New South Wales. I know that Senator Xenophon did say during the last election campaign that he was very keen to see an overhaul of government procurement laws to ensure that Australian steel is used in taxpayer-funded infrastructure projects. We agree—we think that is a very important change. We recognise that there are significant jobs in Australia that are dependent on the steel industry, in particular a steel industry that works efficiently and that can be one of the most efficient steel industries anywhere in the world.

The Greens have put forward a steel procurement amendment to give force to Senator Xenophon's words, and that is to ensure that we mandate the use of local steel in a number of projects. We have, for example, costings that indicate if we were to mandate local steel in New South Wales we would get 10,000 jobs from that decision, 5,000 of them in the Illawarra. Of course in South Australia, in response to the Arrium crisis, we know it is critical that we support the local steel industry there. In light of that I am very keen to know whether Senator Xenophon will be supporting the Greens amendment to give force to his words—that is, ensuring that we have government procurement laws that mandate the use of Australian steel in Australian projects.

I would like Senator Xenophon to address both of those issues—firstly to confirm that, even though last week he said he would not deal with the government unless 450 gigalitres were returned to the Murray, today he is saying he is happy with this simply being listed as an agenda item at a COAG meeting, and secondly to clarify whether he will support the Greens local procurement amendment.

Senator XENOPHON (South Australia) (19:27): I will be as brief as I can. I thank Senator Di Natale for his questions. Firstly, in relation to water, I remind Senator Di Natale—he was not here at the time—that in February 2009 I secured a commitment from the Rudd government, after some considerable negotiation—it was a very long night on 12 or 13 February 2009—of almost $1 billion for the River Murray. There was $500 million in water buybacks, $200 million for stormwater recycling, which has impacts in urban areas and regional areas as well, and $200 million for river communities, as well as enhanced irrigation exit packages. That was hard-fought, and I do not think anyone could question the enormous benefits to river communities and to the environment of that biggest amount of water buyback. That is something that met with a lot of resistance at the time, but I got it through and it was done with absolute goodwill with the then Rudd government and with the support of the Australian Greens as well.

The position is this: the package, the plan, has been confirmed in terms of commitments by Prime Minister Turnbull to Premier Weatherill. The COAG process is important, as is the estimates process, but it is important to understand that my colleagues Rebekha Sharkie MP, the member for Mayo, who is absolutely passionate about the health of the river because her electorate encompasses the Lower Lakes, the lungs of the system, where it is so important to have decent water flows, as well as Senator Skye Kakoschke-Moore and Senator Stirling Griff are absolutely committed to and passionate about the health of the river system. So, in
relation to this, I am satisfied with the correspondence between the Prime Minister and Premier Weatherill about the commitments made and about the processes put in place. I am satisfied that this is a reset, with first ministers—the Prime Minister and premiers—involvement in this process.

Senator Cameron interjecting—

Senator XENOPHON: Senator Cameron, stop being so rude. I listened to you in silence. I just want to get on with this and answer the question, in fairness to Senator Di Natale.

My position has not changed; our position has not changed. We now have a process in place to ensure that these water efficiency measures can be carried out and that the money is spent. I am satisfied with this and I am also satisfied as a result of my discussions with the South Australian government. South Australia is the basin state that is particularly vulnerable to any drought, because we are at the end of the river system, and we know from great environmentalists and from those who are passionate about water, such as Professor Mike Young at the University of Adelaide, that great river systems die from the mouth up. To me, this was an important measure that was announced today. Of course, you cannot turn on the tap for 450 gigalitres instantly. That needs to be done by ensuring that there is a process of accountability in respect of this. I do not say this lightly to Senator Di Natale: we will be monitoring this, we will want to see the progress and the government is aware of how important this is to us—to my colleagues here in the Senate and to Rebekha Sharkie MP.

In relation to the issue of protection of local jobs, that amendment has not yet been moved. I do want to speak to it because I do want to ask Senator Cormann to table some documents in relation to the issue of procurement. I am very grateful to Senator Di Natale for raising that question. I also pay tribute to the work that Senator Rhiannon has done on the issue of procurement and local jobs.

At the moment, I understand that before us is an amendment in respect of reversal of onus of proof. I do want to have an opportunity to discuss issues of procurement, either when we are discussing Senator Rhiannon’s amendment or at an earlier time, because I do want to ask Senator Cormann for documents to be tabled. I have even made a few copies myself here to make it easier for my colleagues both in the crossbench and in the opposition to get access to those documents about some very important changes to procurements that I think will make a very real difference to Australian jobs. I hope that has answered the questions satisfactorily for now, and I hope we can move to vote on the amendment that I have cosponsored with Senators Leyonhjelm and Hinch.

Senator LAMBIE (Tasmania) (19:33): Prior to the recent historic double dissolution election I voted against what is known as the ABCC legislation. I voted against these bills because I believed that to do so was in the best interests of Tasmanians, despite the double dissolution threat from the government and knowing that our jobs were on the line. The JLN policy, which I took to the election, was to oppose the legislation. You know what? You can make all the amendments that you like, but the bottom line is that no matter what colour lipstick you put on the pig, it is still a pig.

This legislation is bad law which erodes and attacks the fundamental democratic civil rights and liberty, under the Liberal government’s pretext of ‘tackling lawlessness and intimidation in the construction industry’. Well, if the government really wanted to do that—if
they were serious—they would have listened to me before the last election and taken legislative steps to deregister the CFMEU and bring about a national ICAC. You want to talk about corruption? You want to talk about lawlessness? You think it only happens in the construction industry. Have a look what is happening in New South Wales. It is in your own party!

It is not just me who is saying this legislation is bad law. The Law Council of Australia, when you cut through all the lawyer talk, have effectively said that this legislation has more holes in it than a target at the shooting range. Okay, the Law Council did not use those exact words; however, they did say this about the legislation:

… it is inconsistent with those principles in many respects, including those relating to the burden of proof—

I will have a look at the amendment when it goes through—

… the privilege against self incrimination, the right to silence, freedom from retrospective laws and the delegation of law making power to the executive. The Law Council’s February 2016 submission also noted that it is unclear as to whether aspects of the Bill which infringe upon rights and freedoms are a necessary and proportionate response to allegations of corruption and illegal activity within the building and construction industry. For these reasons, the Law Council’s primary recommendation was that the Bill not be passed in its current form.

In its latest Senate Education and Employment Legislation Committee submission, the Law Council said:

The Law Council notes that the current Bill is identical in terms to the Bill before Parliament in 2013 and early 2016.

So nothing has changed. You over there did not try and fix it. You actually did not do anything. The ABCC legislation which was brought before the parliament about three years ago and then nine months ago is identical—what do you know!

This is the same legislation that gives a person of interest or witness to a crime an indemnity to murder, should they confess during one of these interviews where you lose your right to silence! How do I know that? Well that gem came from the minister's own mouth, in my office during a briefing on the ABCC legislation. It gets more bizarre. If you confess to a murder that was committed because of a dispute related to the building industry, you are granted an indemnity under this legislation. However, according to the minister, if you confess to a murder that is not related to the building industry, under questioning where you have no right to silence, you are not covered by any indemnity. More holes in it than a target at the firing range, hey! Even though I do not have any formal legal training—except for the training I received as an Australian military police member, I think it is fair to say that it is very odd that a minister can present legislation to this Senate which allows one type of murder to qualify for an indemnity while another murder does not. That situation must surely ring alarm bells for the crossbench senators sitting here listening to me right now.

So should the Law Council of Australia's previous submission on this unchanged legislation, which, in summary, allows for new coercive powers with retrospective operation, the exclusion of judicial review without proper justification, inappropriate delegations of legislative power, insufficiently defined and overly broad discretionary powers, inappropriately reversing the onus of proof in certain circumstances, and the exclusion of a particular legal practitioner from an examination. There is a lack of oversight in the process of
authorising the use of extraordinary coercive information-gathering powers, and the legislation is incompatible with the right to freedom of association and the right to form and join trade unions. These are the reasons why the Law Council of Australia effectively say that this is very poor, badly written legislation.

We should be talking about the introduction of a national building licensing register to replace state-based arrangements, with a limit of one licensee per builder, and lifetime industry-wide bans imposed on those found guilty of construction-related fraud and tax evasion. Instead, we have this legislation, which the Law Council of Australia has laughed at. This legislation has no justification. It is simply designed to bash the unions, let's be honest; take away basic civil rights from ordinary citizens and blue-collar workers; and give the Liberal Party of Australia a political advantage over everyone else—or so they thought when they called an early double dissolution federal election. How did that go for you over there, by the way!

It is clear the best interests of Tasmanians are served by strongly opposing this legislation. Indeed, the average Tasmanian has little concern for this bill, to be honest. The average Tasmanian is trying to provide for their families and pay their bills, keep their jobs, find jobs for their children, access affordable and timely health care in a state public health system that is broken and badly damaged, pay their power bills, help their kids pay for their university education—thank goodness we did not deregulate universities when we are here last time—worry about the increasing lawlessness that is going on in our streets, not to mention the drugs, including ice, and the influence of organised crime going on out there while you are slashing the guts out of our Federal Police budget.

As I said, the Law Council found a number of key difficulties with this legislation. Other bodies, such as the Senate Committee for the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights, have identified the same key concerns, which are, firstly, that the provisions of this bill only deal with corruption in the building and construction sector and not more broadly across various industries. Geez, why would that be! It applies a different set of industrial relations rules that apply only to persons associated with the building and construction industry. They provide new coercive powers with retrospective operation. There is exclusion of judicial review of certain decisions, without adequate justification, and contrary to a recommendation by the former Administrative Review Council. There are inappropriate delegations of legislative power, and insufficiently defined and overly broad discretionary powers. The legislation inappropriately reverses the onus of proof in certain circumstances and inappropriately prohibits entry onto premises without consent or warrant. There is a lack of oversight in the process of authorising the use of extraordinary coercive information-gathering powers. The prohibition of picketing and further restrictions on industrial actions have been found by the Parliamentary Joint Committee on Human Rights to be incompatible with the right to freedom of association and the right to form and join trade unions. The Australian Building and Construction Commissioner may exclude a particular legal practitioner from an examination if the commissioner concludes on reasonable grounds and in good faith that the representative either will or may prejudice the investigation.

As I have mentioned before, during the last sitting of this parliament I had a meeting with Senator Cash and her legal adviser, and I raised the Law Council's concerns. We also talked about section 62 of the bill, which takes away the right to silence of an Australian citizen who
appears before the commission. Section 62 allows the government to charge and have imprisoned an Australian citizen for six months should that citizen choose to say nothing and exercise the right to silence during an official interview. And Senator Macdonald is saying he believes in freedoms! Jesus. The section is found on page 49 of the Building and Construction Industry (Improving Productivity) Bill 2013 and reads:

62 Offence for failing to comply with examination notice
A person commits an offence if:
(a) the person has been given an examination notice; and
(b) the person fails:
   (i) to give information or produce a document in accordance with the notice; or
   (ii) to attend to answer questions in accordance with the notice; or
   (iii) to take an oath or make an affirmation, when required to do so under subsection 61(5); or
   (iv) to answer questions relevant to the investigation while attending as required by the examination notice.
Penalty: Imprisonment for 6 months

A couple of things came out of our discussion with the minister regarding section 62. As it is written, we are not sure if the imprisonment for six months for exercising the right to silence is a mandatory, maximum or minimum period of time. So, as soon as I have finished, if Minister Cash can get up and answer that, that would be great. It is bad enough that this extreme legislation is being entrusted to public servants with doubts over their qualifications, but to have a question mark over whether is it a minimum, maximum or mandatory sentence is just plain careless and an example of poor legislative drafting.

The minister tried to calm my office’s fears about removing a basic civil liberty from Australian citizens, such as the right to silence, by informing me that the government had arranged for indemnity from prosecution for any crime should someone be forced to incriminate themselves during those extreme interrogations. When asked about the sorts of crimes that this indemnity covered, the minister was forced to admit that, even if someone had committed a murder but confessed to that crime during an ABCC official interview, they would receive an indemnity—as long as the murder was related to the building industry. But, if you have committed a murder that is not related to the building industry and confess during an interview covered by the provision of the ABCC legislation, then you do not qualify for an indemnity.

This response raised eyebrows at the Law Council. Firstly, it is ridiculous that this parliament is being asked to support legislation which gives you an indemnity from prosecution for murder, should you confess to it during an interview. And, secondly, it is completely bizarre that the minister and her legal adviser could suggest that one type of murder qualifies you for indemnity while another type of murder does not. According to this minister, if you bury the body under cement and say the murder was related to the building industry, then guess what? You have an indemnity. But if you bury the body in the woods and the murder was carried out because of a non-building related activity, you do not get given an indemnity from prosecution. And that was the point where it became very clear that this legislation was drafted by a room full of monkeys and a typewriter. It is bad, poorly drafted legislation. No matter how many times you go back to draft it and no matter how many
amendments you put through, it is crap. If it was not crap, you would have got it right in the first place and we would not have had to go to a double D.

I admit there was a period when, in good faith, I would have passed this legislation had the government met certain conditions: deregistration of the CFMEU, the viewing of the royal commission secret reports—which I hope all the crossbenchers have actually looked at because if you have not you have not done your job and you have neglected to gather all the evidence—and the establishment of a federal ICAC. What is wrong with the establishment of a federal ICAC? What are you scared of over there? What are you scared of? After Brandis, I will tell you what, you should be shaking in your boots. Your integrity leaves a lot left to be questioned.

**Senator Williams:** I am well aware that Senator Lambie has problems at times with civility in this place, but could she refer to the senators by their correct titles, not just their surnames please.

**The TEMPORARY CHAIR (Senator Gallacher):** Senator Lambie, I do remind you to refer to senators in the chamber by their correct title.

**Senator LAMBIE:** I will do that. I am in a unique position to pass judgement on Commissioner Heydon's secret reports and findings. Unlike most Australians and politicians, I have read Commissioner Heydon's secret reports. They were fiction; they were a lie. There were no grave threats to the Australian state. If there was, ASIO would have been all over the Heydon royal commission like a rash. When I questioned ASIO at estimates about Heydon's secret reports, no copy had been referred to them, nor had ASIO even thought of asking for a copy. A royal commissioner who agreed to participate in a Liberal Party fundraiser lied to the Australian parliament and the Australian people about the seriousness of the threat to the Australian state through his investigations into union and other corruption. And this is a debate when the question 'Why?' must be asked.

According to Parliamentary Library research that I recently commissioned, the four big banks—CBA, NAB, Westpac and ANZ—over a five-year period from 2010-11 to the present day have donated $2.56 million to the Liberals, Nationals and LNP. That is why you will not see a banker lose their right to silence to prove their innocence if they are accused of an offence or crime in the finance industry. But, if this legislation passes, you will see a blue-collar worker lose their right to silence and the right of a presumption of innocence, while bankers are treated separately. Indeed, this law is so bad that citizens accused of murder and rape will have more rights than a construction worker if summoned under the ABCC legislation.

The United Nations Universal Declaration of Human Rights adopted and proclaimed by the General Assembly of the United Nations on 10 December 1948 states in article 7:

> All are equal before the law and are entitled … to equal protection of the law.

My question to you is: as it stands written, we are not sure if the imprisonment for six months for exercising a right to silence is the mandatory minimum or maximum period of time. *(Time expired)*

Question negatived.

**Senator XENOPHON** (South Australia) (19:49): by leave—I move Nick Xenophon Team amendments (1) and (2) on sheet 8010 together:
Clause 5, page 12 (after line 29), after the definition of WHS Accreditation Scheme, insert:

Working Group means the Security of Payments Working Group established by section 32A.

(2) Page 28 (after line 9), at the end of Chapter 2, add:

Part 4—Security of Payments Working Group

32A Security of Payments Working Group

(1) The Security of Payments Working Group is established by this section.

(2) The functions of the Working Group are the following:

(a) monitoring the impact of the activities of the Commission on the conduct and practices of building industry participants in relation to their compliance with laws (security of payment laws) of the Commonwealth, the States and the Territories that relate to the security of payments that are due to persons in relation to building work;

(b) making recommendations to the ABC Commissioner about policies, procedures or programs that could be implemented to improve compliance by building industry participants with security of payment laws;

(c) making recommendations to the Minister about any matter that the Minister requests the Working Group to consider;

(d) any other functions conferred on the Working Group by the rules.

32B Membership of Working Group

(1) The Working Group consists of the following members:

(a) the ABC Commissioner;

(b) at least one member who has experience or background in employee representation in the building industry;

(c) at least one member who has experience or background in employer representation in the building industry;

(d) at least one member who has experience or background in contractor representation in the building industry;

(e) any other members (if any) appointed under section 32C.

(2) The rules may specify entities that must be represented on the Working Group.

32C Appointment of members

(1) A member of the Working Group (other than the ABC Commissioner) is to be appointed by the Minister by written instrument.

Note: A member of the Working Group is eligible for reappointment (see section 33AA of the Acts Interpretation Act 1901).

(2) A member appointed by the Minister holds office on a part-time basis.

(3) A member appointed by the Minister holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

32D Chair

(1) The Minister must appoint a member (other than the ABC Commissioner) to be the Chair of the Working Group.

(2) The Minister may, by written instrument, appoint a member (other than the ABC Commissioner) to act as the Chair:
(a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
(b) during any period, or during all periods, when the Chair:
(i) is absent from duty or from Australia; or
(ii) is, for any reason, unable to perform the duties of the office.

Note: See sections 20 and 33A of the Acts Interpretation Act 1901.

32E Remuneration

(1) A member of the Working Group appointed by the Minister is not entitled to be paid remuneration or allowances.

(2) A member of the Working Group appointed by the Minister is entitled to be reimbursed reasonable expenses that he or she incurs in performing functions as a member.

32F Resignation of members

(1) A member of the Working Group appointed by the Minister may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

32G Termination of appointment

The Minister may terminate the appointment of a member of the Working Group appointed by the Minister:
(a) for misbehavior; or
(b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity; or
(c) if the member:
   (i) becomes bankrupt; or
   (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
   (iii) compounds with one or more of his or her creditors; or
   (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
   (d) if the member is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months.

32H Other terms and conditions

A member of the Working Group appointed by the Minister holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

32J Meetings

(1) The Chair must convene:
   (a) such meetings of the Working Group as are, in his or her opinion, necessary for the performance of its functions; and
   (b) at least 4 meetings of the Working Group in each financial year.

(2) The procedures to be followed at a meeting of the Working Group are to be determined by the Chair.

32K Annual report
The Chair must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on:

(a) the membership of the Working Group during the financial year; and
(b) the operations of the Working Group during the financial year.

[Security of Payments Working Group]

The issue of security of payments has been a vexed one and seemingly insoluble for many years. Back in 2004, at the time when the Cole royal commission findings were handed down, Commissioner Cole recommended we have a national scheme to deal with security of payments and that the current system in place of security of payments was woefully inadequate.

The report that was done by the Senate economics references committee into insolvency in the Australian construction industry, headed I just want to be paid, was tabled in December 2015. Senator Cameron is to be commended for playing the key leading role in driving that report. That report found a litany of failures across the country when it comes to security of payments legislation. It is done on an ad hoc basis. It is done on a state-by-state basis with varying schemes and complexities. In some cases it works, but in many cases it does not. One example of where it did not work was as a result of the Newman government in 2014 amending, in a very retrograde way, the security of payments laws—they were working quite well—as a result of pressure, I believe, from the big end of town to make it much more difficult for subcontractors to be paid.

This amendment establishes a process. I know that some will say, 'Well, it's just a process.' There are constitutional issues as to whether we can actually amend this at a federal level, but what we can do is drive the reform with a security of payments working group, which is designed to complement the new section 11 of the Building Code. The group will be made of employee, employer and contractor representatives and is required to meet at least four times a year. The group will monitor the impact the ABCC has on the conduct and practices of building industry participants in relation to security of payments legislation. A requirement to comply with security of payments legislation is not a new feature of the Building Code; however, the ABCC—or the FWBC in the past—has not undertaken any serious compliance work to ensure contractors are complying with their obligations.

As I mentioned previously, this amendment works in tandem with the new section 11D of the Building Code. It creates a new clause that strengthens the requirement for code-covered entities to comply with security of payments legislation. While the amendment could be criticised in that it repeats what is already contained in various state and territory security of payments legislation, the laws that the ABCC will be tasked with undertaking include compliance activities to ensure contractors are complying with their security of payment obligations. If, for example, during a building code audit an ABCC investigator is told by a subcontractor that they are having difficulty obtaining a progress payment from a contractor, formal compliance activity can be undertaken, together with other amendments that I am moving to ensure impartiality—to ensure that the work of the ABCC must be carried out in an impartial and effective manner which lends itself to administrative law remedies—that will give it more teeth.

This addition to the building code, together with the establishment of a security of payments working group, is designed to effect cultural and attitudinal change in the industry.
in relation to security of payments. Contractors will take security of payments much more seriously once they realise that not complying with security of payments legislation may result in an exclusion sanction. I would like to indicate again that the work that Senator Cameron did—and I was part of that committee; I attended a number of hearings—on insolvency in the Australian construction industry, which brought into issue security of payments legislation, was pretty fundamental work. I commend it to anyone on any side of politics to read this report for its substance, for the evidence that was given and for the conclusions that were reached.

I want to advance this. We have had this since 2004; the Cole royal commission said we had to get on with security of payments laws. Nothing substantive has been done in relation to this. I see this as a very useful and significant step forward to make an actual difference to security of payments laws. Senator Cameron, whatever differences we have, I think we are on a unity ticket when it comes to making sure that we have strong security of payments laws in this country. I would like to hear the minister's attitude to this amendment and on practical measures to resource this working group—to go through a process where we can have some real substance to advance this at a national level.

Senator CAMERON (New South Wales) (19:54): I would like to indicate that I am a bit disappointed that Senator Xenophon has reached another backroom deal that will not actually fix the problem. This security of payments working group is a working group. Senator Xenophon spoke about the Economics References Committee report which was called 'I just want to be paid'. Workers, contractors, businesses in that industry just want to be paid. What this does, as I read it, is set up a working group to monitor:

… the impact of the activities of the Commission on the conduct and practices of building industry participants in relation to their compliance with laws (security of payment laws) of the Commonwealth, the States and the Territories that relate to the security of payments that are due to persons in relation to building work;

It goes on to say: 'make recommendations to the ABC commissioner'.

Making recommendations to the worst public servant this country has ever seen—making recommendations to Nigel Hadgkiss, a discredited, biased political operative. How dumb can this get! This guy has no interest in any of these issues. He is the person who said that he has 'core business and nothing else matters'. Security of payments has never been a core business for this guy. The single biggest issue in the industry of non-payment is phoenixing—where a company deliberately goes bust and sets up as another entity with maybe not even the same board or the same directors but sets up with basic control of the puppets who are there doing their bidding.

This in my view will not work. The main loss of money in the industry—and there is $3 billion worth of unpaid debt or $2 billion according to ASIC and the ATO—comes out of phoenixing. All this talk of 'We will chase them down' and 'We'll have Nigel Hadgkiss out there fixing them up' is absolute Disneyland stuff. All this does is monitor the impact of Nigel Hadgkiss and his minions. It doesn't do anything. It makes recommendations to Nigel Hadgkiss about 'policies, procedures or programs that could be implemented to improve compliance by building industry participants with security of payment laws'. What is this?

Senator Xenophon talks about our committee's report. There are 44 recommendations in the report. Senator Xenophon, I do not know if you were there when the ATO and ASIC gave
their evidence, but they indicated that they had set up a phoenix task force. They understand where the real problem is. It is not having Nigel Hadgkiss running around if he feels like it, reporting to some group under his basic direction. It is not that at all. It is actually dealing with the phoenixing in the industry and the money which that rips out of the industry. The task force that is there now has 16 government agencies on it. They are working on the big issue now, and you are trying to tell is that Nigel Hadgkiss is going to fix this up with some monitoring group, or work group, reporting to Nigel Hadgkiss and the minister. Nonsense! It is absolute nonsense. The real work is being done by this task force. One of the groups on the task force is Fair Work Building and Construction. When I asked them at estimates who attended on behalf of Fair Work Building and Construction, they could not tell me. Nigel Hadgkiss could not tell me; that is how much interest he has in this. This is another piece of flim-flam dressed up as some great breakthrough for working people and small business in the building and construction industry. It is nothing of the sort. The recommendations we put forward were about actual practical issues that could deal with this after hearing from businesses that had lost everything and hearing from small businesses that are getting ripped off by first- and second-tier building groups that line the pockets of the coalition for their election funding. We heard day in and day out at those hearings about this issue.

This is, in my view, another piece of flim-flam from 'Team Xenophon'. It will not do the business. You only have to look to see that two million bucks of this is from phoenixing. If those 16 agencies—including the ATO, the Federal Police, the ACCC, the departments of employment, environment, human services, immigration and border protection, migration, the state and territory revenue offices, the Australian Business Register, ASIC and the Crime Commission—cannot fix it, do you think this bit of nonsense is going to fix this issue? Of course it will not fix it. Labor have recommendations in the Economics References Committee's report that go to these issues and will fix them. We do not support this legislation. We think it is another example of 'Team Xenophon' being absolutely outdone by this government putting up an excuse to vote for legislation that is going to take rights away from workers to give them a veil of some kind of legitimacy—"Look at what we are doing. That is why you have to take rights away from workers—because we have these commitments.' These are commitments that are meaningless. These are commitments that will not deliver.

Sixteen different government organisations are dealing with the main issue: phoenixing. Nigel Hadgkiss does not have any interest in this. When I asked him about phoenixing, he said it was not his core business. Do you expect him now, because of this, to turn that around? Of course he will not. He has absolutely no respect for the Senate, no respect for the estimates process and no respect for individual senators. He briefs journalists on individual senators, and he briefs journalists on stories that attack working people in this country. This guy is hopeless. This guy is the worst individual I have ever come across in a decade of estimates. He does not know what he is doing other than he is simply going to attack the trade union movement.

This will not fix the problem for small business. Senator Xenophon says, 'Well, the government has done nothing about it and this is a step.' One of the steps is already there and that is the Phoenix Taskforce. That accounts for two-thirds of the nonpayments in the industry. If there is phoenixing going on, this working group will not be able to fix it. We
know it is going on, and this will not fix it. This is another example where, in my view, Senator Xenophon has either not understood the issues or has done a deal. I do not know what the deals are, but I have seen nothing tonight to say that working people are going to get a fair go out of any of this capitulation to the government from the Xenophon team and the crossbench. You, too, Senator Hinch: I hope you have some amendments coming forward that are going to make it decent for ordinary working people in this country. You can give me a thumbs up and smile all you like, but I hope that is going to happen. This is a big test for the crossbench. Are they going to allow this flim-flam, this veil of an excuse, to go forward and put up this working group that will deliver nothing in the context of the nonpayments and insolvencies in the industry?

We had sons of successful business people coming forward to our committee in Perth. You were there in Perth, Senator Xenophon. We had a major first-tier building company send a big building company to the wall. The owner of that building company—a successful, highly respected Perth businessman—committed suicide because he could not pay his workers. Your working group will not fix that, your working group will not deliver and your working group is not part of a substantive piece of legislation that will resolve this issue.

The answers are in that report. Again, the crossbench had the capacity to force this government to deal with a report that they have ignored, a report that deals with the issues of the importance of nonpayments and insolvencies in the industry. But what did they do? They have given us a working group. It just beggars belief that they can have so much power and exercise so little of it. It is not an outcome that will deal with this issue. I am of the view that this is not acceptable. The crossbench could have had the recommendations of the references committee that Senator Xenophon speaks so highly of. I thank Senator Xenophon for recognising the role that I had: I was part of the committee process and part of the Senate process. I was pleased to be there. I was the senator who got this up and running. I was keen to try and deal with this. I did not want to see the suicides, I did not want to see the family break-ups, I did not want to see the small businesses going bust and I did not want to see workers not getting paid and not being able to pay the bills, leading to family disruption. We have come up with 44 recommendations. Those are the recommendations this government should have been forced to accept. If it had done that, we could have had trials in place to deal with this for projects worth more than $10 million.

This lot over here are pretty quick to force their ideology on working people. When we have the power and capacity to force reasonable positions on this government to safeguard workers, to safeguard small business, what do we come up with? We come up with a working group under the auspices of Nigel Hadgkiss, reporting to Nigel Hadgkiss—what an absolute joke! I have been disappointed in what has been done so far, but let me tell you: this is my biggest disappointment. I do not want to see more suicides, I do not want to see more businesses go bust, I do not want to see more family break-ups, I do not want to see workers not being able to put food on the table for their kids. The answers are in the Senate references committee report that Senator Xenophon was part of. And what do we get? We get a security of payments working group reporting to the worst public servant in the country. Why would we give Nigel Hadgkiss more power? Why would we give Nigel Hadgkiss more responsibility? I do not understand that. We should be getting rid of the guy. He is biased, he
is incompetent, he is secretive, he is full of cronyism in that place, and we are giving him more if we support this tonight.

Well, Labor does not support this. These are devastatingly bad amendments trying to deal with an issue that is so important. This leads nowhere. No wonder the government are smiling over there. No wonder they think this is great. This is taking the play lunch off the Xenophon party. This is not good and this should be opposed, because there will be more deaths, more businesses going bust, more families busting up because we have not exercised the power that we have. *(Time expired)*

**Senator RHIANNON** (New South Wales) (20:09): The security of payments working group that the Nick Xenophon Team have put forward as their first set of amendments is no solution. It is not a fix. It really is an embarrassment. It is an embarrassment because it shows just how bereft this team has become when it comes to dealing with this legislation, because it does not deal with the problems of payments, of phoenixing and of the insolvency that is inherent in this industry and that will become worse under the legislation that we are now seeing. In fact, moving these amendments in the form they have been moved, with this extraordinary proposal of a working group, acknowledges that there is a huge problem. But all they come up with is a working group. I share Senator Cameron's concern.

I have worked with Senator Xenophon on procurement issues. That issue will be coming up shortly in a Greens amendment. That is where I hope that Senator Xenophon will stay committed, as he has been in the past, on this very issue. This is where we can bring some substance into this legislation and ensure that at least one small aspect of it does the right thing for construction workers, the right thing for the people of Australia, rather than giving them such onerous legislation that will not be changed in any way with the amendments before us now.

**Senator XENOPHON** (South Australia) (20:11): Senator Cameron mentioned the issue of suicide several times, and I know it was a very heartfelt contribution. We are being broadcast. In the event that people out there are going through difficulty, I think it is always good to mention that Lifeline does provide an incredibly valuable service. Their number is 131114. For those who are doing it tough, who need help, there is help out there.

I accept absolutely Senator Cameron's sincerity, his genuineness and his very fine work in relation to this. But I do not accept that Senator Cameron will not at least support this working group. As inadequate as he may find it, it actually is a way forward. I suggest to Senator Cameron—I say this not disrespectfully to him—that when the Cole royal commission handed down its findings in 2004 about the need for security of payments legislation as a national approach, nothing was done in the six years of the Labor administration, of the Rudd-Gillard-Rudd governments. It is not a criticism; it is just an observation. This is an opportunity to do something about this. This is actually in concert with the code so that there are real sanctions if you do the wrong thing in terms of security of payments.

Senator Cameron mentioned the issue of phoenixing, and it is absolutely appropriate that he does so. The security of payments working group can look at issues of phoenixing in this sector. If there are directors that go from one company to another, they should not be getting Commonwealth money, Commonwealth jobs, and that is something that the working group could advance. Senator Cameron, I note your opposition, but please do not kill off this appreciable reform to deal with these issues. It is a step forward. I would like to hear from the
minister as to her attitude, because we have spent a long time discussing this. There is no secret deal. I have been very open about the issue of security of payments legislation.

I will make one other observation, and that is in relation to Mr Hadgkiss. I said this in my contribution to the second reading debate. To say that I am unimpressed with Mr Hadgkiss as a regulator would be an incredible understatement. I have very serious concerns about the way he has been running the FWBC. Senator Cameron, whatever differences we may have on this, I have very real concerns about the way he has been conducting himself and the way he has been operating, and, who knows, there may well be a need for a separate Senate inquiry in relation to the conduct of Mr Hadgkiss, which I would very gladly support. I for one hope that he retires much, much sooner than later.

Senator HINCH (Victoria) (20:14): As I was about to board the flight to Canberra on Sunday afternoon I received a text from an old Canberra hand—as they used to call them—warning me to brace myself because it was going to be 'a very nasty week'. I had already had a taste of it over the weekend as the debate over the looming ABCC brawl played out on Twitter and other social media. There was the charming tweet directed at me showing a picture of a pair of bloodstained hands. Much was made on social media and in the MSM of my comment last week on *AM* that the Turnbull government might get a much sought after Christmas present with the passage of their ABCC legislation, which had been rejected twice before and was the trigger for the double dissolution, which blew up in the government's face, slaughtered their huge majority in the other place and elected minor party senators like me upstairs. What the Santa Claus predictors neglected to pass on was my important qualifier, which I reiterated on Twitter. I said that the government could get their ABCC legislation through, but to get my support they would need to accept some crucial amendments; otherwise I would say, 'Bah! Humbug!' and have no hesitation in voting it down. I repeated that at a press conference yesterday after we got a 24-hour extension from the government to submit amendments to their flawed legislation.

The tweeters who said I would have blood on my hands and would be personally responsible for any future worksite deaths—like that poor backpacker in Perth—had not, I bet, even seen the amendments about worker safety, about increased penalties for the bosses, about more protection for scapegoat subcontractors left holding the financial bag, and about retrospectivity. In fact, Senator Xenophon and I have made huge progress in negotiations with the government over subbie protection, and I thank him and his team for that. I have made progress with other issues, and I thank Senator Culleton for that. I called the tweeters 'Twitter sheep', and they are.

In considering this legislation I have met a number of times with the opposition leader, Bill Shorten; several times with the CFMEU, both here and in Melbourne; with Brendan O'Connor; and with Michael O'Connor. I have talked to union champion Senator Doug Cameron. I have talked with the Minister for Employment, Senator Cash, many times and I have met with the Prime Minister several times, as recently as tonight. And I have worked with the Nick Xenophon Team senators, and Senator Leyonhjelm, and Senator Culleton, and Senator Lambie in looking for genuine amendments that would improve this bill.

I have said countless times that I am pro-worker but anti-corruption. I remember when Norm Gallagher and the BLF used to come and monster me in my radio studio in Melbourne all those years ago. I am proud of last week's successful amendment on whistleblowers, which
I co-sponsored with Senator Xenophon. I share Senator Cameron's and Senator Xenophon's fears and worries about some of the behaviour of the commissioner. I am proud of my amendment on ending auditor shams and auditor rorts, plus the promise from the government to extend whistleblower protection into the corporate world. I know, Senator Cameron, that you do not believe that, but I believe we will get our way.

To get my position on these amendments clear I went back to the sage words of my dear old grandma, who used to say, 'What's sauce for the goose is sauce for the gander.' The clean-up of the unions must mean a clean-up of employers' behaviour too. There must be sanctions and penalties for employers found guilty of risky practices that lead to death and injury on our building sites.

I have told both the Prime Minister and Leader of the Opposition, Bill Shorten, that my perhaps naive newcomer's dream is to get an ABCC bill through this place that will be so clean and just and fair that when the next Labor government get in they will not want to abolish it like they did last time. This can and should work for the benefit of workers and employers and work against the thugs, the goons, the liars and the cheats on both sides—yes, the liars, cheats and bullies on both sides. If we can achieve that then I will feel that some lasting good has come out of all this bitterness and brawling and protracted, decades-long 'us against them' class warfare. We can then have a better system for the benefit of our economy and all Australians, and we will all go home from here to a better, more certain Christmas.

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:19): The government will be agreeing to the amendments moved here tonight by Senator Xenophon. In the first instance can I say thank you to Senator Xenophon, Senator Stirling Griff and Senator Skye Kakoschke-Moore for being available to work so constructively with the government in relation to amendments to the bill, in particular to amendments that the government agrees improve this piece of legislation.

There have been a number of comments in relation to security of payment tonight, and certainly security of payment has been identified by reviews and inquiries to be a major problem. It is a fundamental belief of the government and certainly, I believe, a fundamental belief of those supporting this amendment tonight that anyone who performs work in accordance with a contract should be paid without delay for the work that they have done. Everyone has a right to be paid for the work they do without being subject to unnecessary delay. Ensuring subcontractors are paid on time is essential for a strong and productive construction industry. I note in that regard Senator Hinch's comments that you also need to ensure that the head contractors are complying with their particular responsibilities in relation to payments. This, the government believes, is a sensible proposal that will assist the ABCC to bring about meaningful reforms and improve the compliance of building industry participants with security of payment laws. Again, I thank the crossbench for working constructively with the government to put forward what I believe are amendments that do enhance the legislation.

Question agreed to.

**Senator CAMERON** (New South Wales) (20:21): I move opposition amendment (1) on sheet 8006 revised:

(1) Clause 34, page 29 (after line 19), after subclause (2), insert:
(2A) Without limiting subsection (1), the Building Code must include provisions ensuring that no person is employed to undertake building work unless:

(a) the position is first advertised in Australia; and

(b) the advertising was targeted in such a way that a significant proportion of suitably qualified and experienced Australian citizens and Australian permanent residents (within the meaning of the Migration Act 1958) would be likely to be informed about the position; and

(c) any skills or experience requirements set out in the advertising were appropriate to the position; and

(d) the employer demonstrates that no Australian citizen or Australian permanent resident is suitable for the job.

As a union official who was active for 27 years, I have seen the rip-offs that have been taking place with some of these workers coming in from overseas—absolute rip-offs. I think first of all we should be ensuring that Australian workers get access to the jobs that are available if they are qualified and willing to do the work. I just cannot understand why One Nation would not support this resolution. This amendment seems to me to be consistent with the rhetoric about jobs, about ensuring that Australian workers get a fair go. That is simply what this is about. So I would ask all of the crossbench to support this, because this is one issue that we can be sure will be welcomed by Australian workers around the country, and that is that they get first chop at any job they are qualified and willing to do. That is the proposal that is here, and I say we should support it and that it is an extremely important proposition for all Australians, and I urge the Senate to support this.

Senator RHIANNON (New South Wales) (20:24): This amendment provides all senators with a rare opportunity to address the issue of jobs, something that we hear so much about in this place and an area where we can make a real difference. I very much welcome the amendment, which is actually very similar to some amendments the Greens put forward—so similar, in fact, that the last line of this amendment is what we had in ours. But this one has popped up first, and we are keen to support it. It is important not just because it is about jobs but because it is about jobs in the context of this ABCC legislation. Currently there is no provision to ensure that Australian resident workers can get a job before those on temporary work visas. The bill includes a requirement for the building code, a very extensive code, to regulate what conditions apply on building projects. Employers that fail to comply with the code will be unable to work on government funded projects. So, there is a real complexity here around the issue of work.

For the Greens, the way we see this playing out and the reason we think this amendment is so important and that surely everybody should see their way through to support it is that if the position is advertised locally and a local is qualified and the right person for the job, then the system has worked, because the local person has a job. But if there is not a local person, if there are no suitable applicants for the job, then, with this system, the employer will be able to prove this and then move on to advertise and hire a worker from overseas. So, we have this very important provision here to put forward a process so that the advertisements are in place, so that Australian residents have a chance to find work. We know that the unemployment situation is incredibly serious across this country, particularly in regional areas, particularly for young people. This is quite a simple measure but a measure that goes to the heart of something that really needs to be sorted out.
We have heard many strong speeches about the need for local jobs here, and here we have this unique opportunity to address this very issue. While we come from many different perspectives in this chamber, I think one of the most common themes from all of us is the need for more jobs to be created across the whole country, for the future of the country and so that young people have a future to look forward to and people in transition can pick up work. There are so many reasons that this amendment should be supported.

I would argue that it is very important that we pass this amendment, because, as I said, currently there are no provisions to ensure that Australian resident workers can get a job before those who are on temporary work visas. We have an opportunity to fix that up in a very fair way. It does not penalise companies, because they can still move ahead and advertise for overseas workers if there are no locals to fill the jobs. We really can have a win-win here, and it is an amendment that we are keen to support. As I said, the Greens have an amendment that is very similar, and right now we have an opportunity to get something decent out of tonight.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:28): The Australian government's policy is that Australians are first priority for jobs. Where there is an Australian who is ready, willing and able to undertake the particular job, an employer should look to that person first. But in relation to the amendment that has been put forward—and the government will not be supporting the amendment—there are already substantial protections for Australian workers under the standard Temporary Work (Skilled) (subclass 457) program, which includes a number of sponsorship obligations for employers. Also, Australian employers must formally attest that they have also employed local labour and have not engaged in discriminatory recruitment practices. Senators will be aware that these obligations are monitored by the Department of Immigration and Border Protection.

Visa holders must be engaged in accordance with workplace law and must show that they have the skills and experience relevant to the occupation. Visa holders also have to hold all relevant licences and certificates to work in an occupation. The current rules on labour market testing were put in place by the previous Labor government. Under new regulations introduced in November 2015, companies seeking to sponsor subclass 457 visa holders under a work agreement need to demonstrate that they have made recent and genuine efforts to recruit local workers first. To summarise, there are already strong protections in place and they are appropriately regulated by the Department of Immigration and Border Protection within the Migration Act framework.

Senator LAMBIE (Tasmania) (20:30): I have a question for the minister. I just want to know about the 'genuine efforts' when it comes to advertising for jobs. Is it true that you have only got to put an ad in the newspaper twice and apparently that is what you call a genuine effort?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (20:30): The current rules on labour market testing were put in place under the previous Labor government and, under these rules, employers must show that they have tested the labour market. One of those ways is, yes, putting an advertisement in the local paper because that is one way that you can
obviously ensure that potential employees know that a job is available. The monitoring of it is
undertaking by department officials in the Department of Immigration and Border Protection.

**Senator LAMBIE** (Tasmania) (20:31): I say through the chair and to the minister: I do
not care whose market testing it is. Obviously if there is a problem you should fix it. Do not
blame somebody else is. That is my first point. Putting two ads in a newspaper is not
acceptable for all those Australians out there who are unemployed. That is not an effort and
that is not being genuine.

**Senator XENOPHON** (South Australia) (20:32): Several years ago, when the Labor
government was still in office, I moved a Senate inquiry into 457 visas and issues of labour
market testing were raised. There were some improvements made by the Labor government
and they were welcome. I think there is scope for further improvement. I have difficulty
supporting this particular amendment because of its breadth. It requires, under clause
1(2A)(d) that:

… the employer demonstrates that no Australian citizen or permanent resident is suitable for the job.

I am not sure how that test would work in a practical sense. I understand the sentiments
behind it. It also requires that a significant proportion of significantly qualified and
experienced Australian citizens are aware of the advertising. How would that work on a
regional basis?

I honestly want to see many Australian citizens and Australian residents filling jobs, but I
think it is acknowledged by most sides of politics that there is scope and there is a need for
457 visa holders to fill genuine skills shortages. I believe that this ought to be dealt with in
terms of quite broad changes to the Migration Act and a strengthening of labour market
testing requirements. In that regard, I think the work of Dr Joanna Howe of the University of
Adelaide has been quite instructive in that regard in looking at sensible reforms in relation to
this issue. I will be speaking shortly in relation to procurement issues. I think having locally
procured materials will have a very significant impact on local jobs and jobs growth. I have
seen an amendment that Senator Hinch as well as Senator Lambie and Senator Culleton have
moved in respect of procurement. That is my reservation with respect to this particular
amendment—it would actually not be workable in the form that it is. But I think that it does
highlight the need for further reform of labour market testing requirements.

**The CHAIR:** The question is that the amendment moved by Senator Cameron on sheet
8006 be agreed to.

The committee divided. [20:38]

(The Chair—Senator Lines)

Ayes ....................35
Noes ....................28
Majority..............7

**AYES**

Bilyk, CL
Burston, B
Carr, KJ
Collins, JMA
Dastyari, S
Dodson, P

Brown, CL
Cameron, DN
Chisholm, A
Culleton, RN
Di Natale, R
Farrell, D
Question agreed to.

Senator KIM CARR (Victoria) (20:41): I move opposition amendment (1) on sheet 8024, which is being distributed:

(1) Clause 34, page 29 (lines 17 to 19), omit subclause (2), substitute:

(2) Without limiting subsection (1), the Minister:

(a) must issue one or more documents under that subsection in relation to procurement matters relating to building work; and

(b) may issue one or more documents under that subsection in relation to work health and safety matters relating to building work.

(2A) A document issued under subsection (1) relating to procurement matters must include a requirement that a tenderer for building work must demonstrate the following:
(a) the extent to which locally sourced and manufactured building materials will be used to undertake the building work;

(b) whether the building materials to be used to undertake the building work comply with relevant Australian standards published by, or on behalf of, Standards Australia;

(c) the whole-of-life costs of the project to which the building work relates;

(d) the net economic impacts of the project to which the building work relates;

(e) the jobs impact of the project to which the building work relates;

(f) whether the project to which the building work relates will contribute to skills growth.

[procurement matters]

This is an amendment that goes to the question of the code.

I am sure that senators would be aware of how important procurement is when it comes to the question of providing jobs for Australians in Australia. The value of Commonwealth procurement contracts in 2014-15 were around $59 billion. That is a very considerable amount of money in terms of our capacity in this country to shape the kind of economy we have. We should, I trust, in this chamber be seeking to develop an economy with a diverse industrial base, capable of generating high-skill, high-wage jobs. We should not be entirely dependent upon the vagaries of the commodity market. What we have, of course, are current circumstances where there is increasing casualisation of employment. And, in fact, because we are so dependent upon the vagaries of the commodity market, increasing numbers of Australians endure insecure employment.

Now, the unique purchasing power of the Commonwealth makes government procurement of crucial investment a fundamental instrument for industry policy. Good government procurement policy is about getting value for money, and I do not walk away from that proposition—good procurement policy is about getting value for money. But it is also about ensuring that we build the capabilities of this nation. It is not about featherbedding local industry; it is about making sure we put in place a framework to make local industries stronger and more competitive using the unique purchasing power of government.

More than a million people are employed in this industry, as we have heard repeatedly throughout this debate on the question of the building and construction industry in Australia. So how the government actually spends its procurement dollar in this sector has a real impact on Australian jobs, on Australian industries and on the broader economy. This amendment seeks to harness the purchasing power of government in the building and construction sector. It amends clause 34 of the bill, which deals with the Building Code. It stipulates that, in relation to procurement matters, a tenderer for building work must demonstrate the extent to which locally sourced and manufactured building materials will be used to undertake the work, whether the building materials used comply with the relevant Australian standards, and whether the whole-of-life cost of the projects can be identified. And it seeks to establish the net economic impact of the project to which the building work relates. This amendment seeks to ensure that we have an understanding of the job impacts of any project, and whether the project will contribute to skills growth.

What we have is an amendment that, we would all have to acknowledge, is not new. This is exactly the same amendment that my colleague Senator Xenophon moved in the last parliament, so it clearly has enormous merit. If Senator Xenophon was able support this and
move this proposition in the last parliament, I think we are entitled to know why he will not support it today. I am disappointed that Senator Xenophon, while recognising the clear and obvious merit of this proposal—Senator Xenophon who has shown such gusto on these questions in the past—has not moved this proposition here today. I am looking forward to hearing Senator Xenophon on why that is the case. I trust that he will have a good explanation.

It is a shame that this amendment cannot be applied more generally to Commonwealth procurement rules. I acknowledge that that is a weakness, because we are dealing here with the question of the Building Code and only the Building Code. These rules ought to apply to the economy-wide purchasing power of the Commonwealth of Australia. These are propositions which are entirely consistent with our trade obligations. They are entirely consistent with the need to build Australia and build Australian jobs, and to ensure that the Commonwealth is able to use its purchasing power to support the Australian people. So I am surprised that we have not seen these measures being advanced today. As I say, this was Senator Xenophon's amendment in the past, and I am very pleased that the Labor Party has the opportunity to take up this proposition here today, and I hope my colleagues in the Senate are able to agree with this proposition and amend the bill.

I will make a general point: we want this country to be one that makes things. We want this to be a country that generates high-skill, high-wage jobs, and I am particularly concerned about what is happening with our steel industry. We know how important the steel industry is to the building industry in this country. But it is not just steel. It is aluminium, glass, plastics, cement—all things for which we have an enormous capability in this country, if we were only able to utilise it. We need to ensure that the Australian government meets its responsibilities to the Australian people and ensures that it uses its purchasing power to secure that.

A Shorten Labor government is committed to ensuring compliance with Australian standards, and we made this point very, very clear with regard to steel, for instance—the steel that is used in Australian projects, whether in the public or private sectors, must be compliant with the standards used in Australia wherever we use Commonwealth funded resources. We know there are too many examples where substandard steel has been used in building projects—whether it be bridges, roadworks or buildings. The evidence put before the Senate inquiry has highlighted the consequences of importing cheap, substandard steel which endangers the lives of Australians. A Shorten Labor government is committed to ensuring that we use Australian standards in all federally funded projects, and that we ensure that the antidumping regulators have the necessary powers to do their jobs effectively.

We have also committed to ensuring that we have a national steel advocate that is there to preserve the supply chain when it comes to providing steel to contractors who work in the building industry. We want to ensure that we use locally produced steel in federally funded projects, and then report on that. It is all very well agreeing to propositions about our pious commitment to these principles, but we need a provision to ensure that standards are used and are reported upon and that there is a compliance mechanism in place. We want to ensure that the thresholds for the Australian Industry Participation plans are lowered so that we can get these measures put into circumstances where we are able to ensure that standards are actually applied. That is why we want to double the funding for the Australian Industry Participation
Authority and appoint the relevant board—which, currently, this government has been somewhat tardy in doing.

These are measures that were good enough for my good friend Senator Xenophon to move in the last parliament. I trust they are good enough for him to support now, and I am looking forward to the support of the chamber for these very worthwhile and worthy propositions to preserve Australian jobs and build Australian industry.

**Senator CORMANN** (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (20:51): Procurement is of course a matter that comes under my area of responsibility as the Minister for Finance, and I would indicate right up front that the government will not be supporting Senator Carr's amendment, even though we are sympathetic to what he is arguing. That is because a much better amendment has been put forward by crossbench senators, namely Senators Hinch, Culleton, Lambie and Xenophon. The government will be supporting that amendment.

Let me make some general points in relation to the issue. The amendments that the government will be supporting do change the code making power in clause 34 to require the minister to issue a document relating to procurement that will have the effect of requiring the preferred tenderer for building work to provide information about: the extent to which domestically sourced and manufactured building materials will be used to undertake the building work; whether the building materials to be used to undertake the building work comply with relevant Australian standards published by or on behalf of Standards Australia; the preferred tenderer's assessment of the whole-of-life costs of the project to which the building work relates; the impact on jobs of the project to which the building work relates; and whether the project to which the building work relates will contribute to skills growth. The issued document must also have the effect of requiring a funding entity to require building industry participants to use only products that comply with Australian standards.

The government understands, of course, that the building and construction industry is a key driver of growth and is vital to the competitiveness and prosperity of the Australian economy. The amendment that the government will be supporting, which has been circulated by crossbench senators, would ensure that the preferred tenderer for Commonwealth funded building work will notify the funding entity of the expected economic and social impacts of the project on the local economy. This includes the extent to which domestically sourced and manufactured building materials will be used to undertake building work. The proposed amendment which we will be supporting supports a fair, safe and productive building and construction industry, which of course is crucial to the Turnbull government's economic plan for jobs and growth.

In relation to paragraph 2(b) of the amendment put forward by Senators Hinch, Culleton, Lambie and Xenophon, Australian standards of course comply with international standards so do not cause any problems with trade agreements or other international undertakings but the Australian government is supportive, of course, of promoting the use of building products that comply with Australian standards.

I would also like to inform the chamber that I have had extensive discussions with Senator Xenophon, for a period in Senate estimates but more recently one-on-one in my office, in relation to the government's Commonwealth procurement guidelines. I am pleased to inform the Senate that the government has agreed on some improvements to the Commonwealth
Procurement Rules, and indeed coming into effect on 1 March 2017 will be a slightly revised set of Commonwealth Procurement Rules, which I table now. As I am on my feet, I will take the chamber through the relevant improvements that we have made.

The chamber will note that there are new rules 10.10 and 10.37. Where standards are applied it is important for integrity and probity that suppliers to government are capable of meeting standards. As much as anything this is important for ensuring that value for money has been achieved, that is, by ensuring goods or services are fit for purpose, and 10.37 sets the expectation for the level of verification for officials checking verification or seeking other forms of independent assurance that would satisfy a test of making reasonable inquiries. There is also a new rule, 10.18, which says that suppliers to government need to comply with regulations that are applicable to them, including Australian rules and any regulatory frameworks applying in other jurisdictions where relevant. Three of the most significant examples are specified in the rules covering labour, OH&S and environmental regulations. Where one of these areas of regulation is not applicable or alternatively other forms of significant regulation apply, then officials would use their judgement to make the appropriate inquiries. Inquiries by officials must amount to a reasonable effort. The rule does not require comprehensive compliance auditing that would add materially to the cost for taxpayers. The purpose is to ensure that there is sufficient evidence to give officials sufficient confidence in the veracity of any representations made.

There are also new rules 10.30 and 10.31. We will be requiring officials to take into account the economic benefit of a procurement for Australia as part of their decision making process. Our free trade agreements require that Australia does not engage in prejudicial decision making, but this does not preclude us from appropriately gathering information and looking at the full economic effects of a procurement as part of the decision making process. This is a reasonable addition to the process for larger procurements and one that allows us to balance our accountabilities to taxpayers and our undertakings to other countries.

As I have indicated, I have tabled the revised Commonwealth Procurement Rules, which come into effect on 1 March 2017. I thank Senator Xenophon and the Nick Xenophon Team for their constructive engagement with the government in relation to these rules.

Senator XENOPHON (South Australia) (20:57): Can I go to the comments made by Senator Carr. I could call him my good friend and I would actually mean it, but I am worried about what that might do to his preselection chances.

Senator Kim Carr: Don't worry, we'll look after that.

Senator XENOPHON: You'll look after your preselection chances! I have worked incredibly constructively with Senator Carr on issues of manufacturing, on the car industry and on shipbuilding. It has been a pleasure to work with him and, at the risk of making him blush, I thought he was an outstanding industry minister. Back in July 2014 the Finance and Public Administration References Committee published the report of an inquiry into Commonwealth procurement procedures. I pay tribute to my former colleague, former Senator John Madigan, who was a great advocate for local procurement. The amendment that I moved previously, that Senator Carr has so graciously copied, plagiarised, was based on the work of that report. I again pay tribute to former Senator Madigan for his work.
So why am I not supporting this amendment? Because what has been achieved, what Senator Cormann, the finance minister, has announced tonight—I want to go through it again—are the biggest changes to the Commonwealth Procurement Rules we have seen in many years. These are changes that have involved a lot of negotiation with Senator Cormann, in absolute good faith. I know we have had our shouting matches at Senate estimates, where we have argued about procurement issues, but I am so pleased to say that these changes are very significant and will make a difference—a real difference—because it is an instrument that is not disallowable; in other words, once it is tabled, that is it, these are the rules that are in place.

If we go to the issue of Australian standards, at 10.10 under the new procurement rules that will apply from 1 March 2017, where an Australian standard is applicable for goods or services being procured tender responses must demonstrate the capability to meet the Australian standard and contracts must contain evidence of the applicable standards. That is a sea change in what we have in terms of procurement rules in this country, ensuring that Australian standards are met. Senator Carr, in his contribution, made reference to Australian steel. This will make a real difference in ensuring that Australian steel is used not just in the context of the building and construction sector but across the board. These changes are across the board changes in respect of the $59 billion that the Commonwealth spends on procurement each year.

Clause 10.10 needs to be read in conjunction with 10.37, where it actually says where applying a standard—Australian or, in its absence, international—for a good service relevant entities must make reasonable inquiries to determine compliance with the standard. This includes gathering of relevant certifications and periodic auditing of compliance by an independent assessor. That reflects the approach of the South Australian government in terms of its Industry Participation Advocate, Ian Nightingale, who does outstanding work in that state. That will mean that it will have teeth, which will mean that it will be effective. It goes far beyond the amendment that I thought of and that I moved a couple of years ago.

In the terms of 10.18, officials must make reasonable inquiries that the procurement is carried out considering relevant regulations and/or regulatory frameworks including but not limited to tenderer's practices regarding: (a) labour regulations, including ethical employment practices; (b) occupational health and safety; and (c) environmental impacts. So if there is one company that has child labourers overseas or is pouring toxins into a river, these are the sorts of things that must be considered.

In terms of 10.30 and 10.31 about value for money and broader benefits to the Australian economy, for the first time ever, in addition to the considerations at paragraph 4.4 for procurements above $4 million, Commonwealth officials are required to consider the economic benefit of procurement to the Australian economy. That is a first. I want to congratulate the Minister for Finance, Senator Cormann, for taking a fair and pragmatic approach. One of the issues here is that we need to comply with our free trade obligations.

I have been a critic of our free trade obligations, but I am not a mug; I also understand that if we put something up that breaches the WTO obligations it will be struck down. That leaves another issue about whether we should have entered into those obligations in the first place, but we have and we are required to comply with the rules. These new procurement rules are WTO compliant, which is very important. They will be effective, and I give credit to Senator Cormann.
Cormann for the reasoned, measured approach that he took. We negotiated this in good faith and we now have something that will be unambiguously good for Australian industry in this country. We have made significant dramatic reforms in respect of procurement in this country.

So I commend these changes. They are not an amendment as such. They have been tabled. They are relevant to this amendment and to another amendment of Senator Hinch, which I will be cosponsoring. I want to make this very clear: this is a big deal. This is a massive change in procurement rules in this country, and I absolutely commend the government for going down this path. I want to thank my colleagues, Senators Kakoschke-Moore and Griff and Ms Sharkie in the lower house. This is something we have been absolutely committed to and passionate about. What we have done now is very significant. It has come about because of good will and good faith negotiations. I commend what Minister Cormann has tabled in the chamber.

Senator KIM CARR (Victoria) (21:04): I congratulate the proponents of these procurement measures. It is unusual for me to do that. I acknowledge that this is a very significant change which the Labor Party supports, but this should not come at the expense of building workers. I acknowledge that these measures are good policy; they are clearly an argument that the Labor Party has pursued for a very long period of time. We were told, of course, that none of this could be done, because it was in breach of this or that or it offended this or that agreement. Now we discover that there is a political motive here. There is a political imperative and the government has to fundamentally change its attitude on procurement. These are measures which I support, but what are the circumstances that have led to them? This is a government desperate to find a mechanism by which it can secure a majority in this chamber to do over building workers. This is what disturbs me.

These are good measures, but why should building workers have to pay for them? These are measures that should benefit all Australians and be developed in such a way as to protect all Australian industry and allow Australian industry to participate in their country and in building their capabilities to secure the prosperity of the nation. Why is it that building workers have to be traded off to secure these changes? It strikes me that that is the real flaw here. There is an arrangement which is essentially immoral because it trades off one group of workers for another in circumstances which I say are totally unnecessary.

As to the measures that are contained in this procurement proposition, I think we should acknowledge just how significant the changes are. I trust, Senator Xenophon, that they are actually delivered. This is an intention the government has announced here. What is the status of the document? I ask the minister: is this actually a decision of government or an intention of government? It is important to distinguish between those two matters. As for the details of these changes to the guidelines that are being proposed, it strikes me that there are some very significant measures here. I cannot recall a set of circumstances where the Commonwealth procurement guidelines have looked at the overall economic impact of a project and, specifically, as outlined at 10.18, using these words:

Officials must make reasonable enquiries that the procurement is carried out considering relevant regulations and/or regulatory frameworks, including but not limited to tenderers’ practices regarding:

- a. labour regulations, including ethical employment practices;
- b. occupational, health and safety; and
c. environmental impacts.

These are very good measures. But there is also a question here about value for money, because this is the great, thorny issue of procurement policy: how do you determine value for money? Should it be based on the cheapest price or the whole-of-life cost, or should it be based on the other factors that go to make up the actual project costs?

Then there is the proposal at 10.30—when the minister read it out, I did not hear him actually use the figure—which is:

In addition to the considerations at paragraph 4.4, for procurements above $4 million, Commonwealth officials are required to consider the economic benefit of the procurement to the Australian economy.

Now, the existing guidelines provide for a threshold amount of $80,000 for an FMA Act agency, and $400,000 for a relevant CAC act agency. But here is this new figure of $4 million. So my second question to the minister is: what is the relationship between the $4 million that you have announced tonight, according to the draft guidelines that you have tabled, and the existing division 2 of the Commonwealth procurement rules in regard to the threshold of $80,000 for an FMA Act agency and $400,000 for a CAC Act body?

I understand that there will be some vehicle to examine this matter—Senator Xenophon? I have heard a rumour that there is some sort of Senate or joint committee process. That is quite an important part of any of these things, because it leads me to the view that we need to establish what it is that the government is doing by enforcement, because, if we have entered into an arrangement here to trade off the interests of building workers to do this, then surely we have to understand what the terms are.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (21:10): Firstly, this is not a draft document. These are the Commonwealth procurement rules which will come into effect as of 1 March 2017, which I said earlier. As Senator Xenophon rightly indicated, I will formally give effect to them through a non-disallowable instrument. That is a commitment that the government has made. It is a decision the government has made. It is something of course that comes within my direct responsibility as the Minister for Finance. I just say right up-front that, when Senator Carr refers to this document as a draft set of guidelines, that is not accurate. These are the Commonwealth procurement rules which come into effect on 1 March 2017, and the government will give effect to them formally through the relevant legislative instruments as a non-disallowable instrument.

In relation to the question about the $4 million amount—I actually referred to 10.30 quite explicitly. I am happy to read it out for Senator Carr. It does indeed say:

In addition to the considerations at paragraph 4.4, for procurements above $4 million, Commonwealth officials are required to consider the economic benefit of the procurement to the Australian economy.

That is the threshold that Senator Xenophon and I agreed, because the judgement was made that it was appropriate for this to be applied to appropriately material procurements because there is an additional effort involved, and that threshold is there, transparently disclosed, in the new Commonwealth procurement rules, which come into effect on 1 March 2017.

Senator HINCH (Victoria) (21:12): I rise to support Senator Xenophon and his comments and to point out why I will be voting against Senator Carr’s amendment. Although a lot of
what he said it makes a lot of sense and I support a lot of it, it is included in some of the stuff that Senator Xenophon and I worked on over time.

I just have to say tonight, Senator Carr, that you remind me a bit of the Greens on this one. I said once to the Greens, to Senator Di Natale, that I was going to make a movie about the Greens. I am going to call it *A Bridge Too Far*, because I get one of their motions and I read it and I get to clause 1 and I think, 'That's great.' I get to clause 2 and I think, 'That's great.' I get to clause 3: 'That's common sense.' I get to clause 4 and think, 'Not sure about that.' And then, at clause 5, I think, 'Oh God, I can't go along with that.'

So, Senator Carr, your amendment wants the tenderer to demonstrate:
… the whole-of-life cost of the project to which the building work relates—
that is extremely hard—
… the net economic impact of the project to which the building work relates;
… the jobs impact of the project to which the building work relates—
and finally, the last one, which I do not think I could ever come up with:
… whether the project which the building work relates to will contribute to skills growth.
I do not think you can do that very easily. Senator Carr, I like a lot of what you say, but on this one I will oppose you.

**Senator Di Natale** (Victoria—Leader of the Australian Greens) (21:13): My question is to Senator Xenophon. I just want to be clear about something Senator Xenophon said in expressing his opposition to the Labor amendment. Senator Xenophon indicated that he would not support the Labor Party's amendment on procurement because he had concerns over conflicts with WTO rules. I just want Senator Xenophon to reflect on some of the commentary he made during the election campaign, where he said, as reported in *The Australian* on 3 June:
… he will be ruthless in using his numbers in the upper house to impose his agenda on the next government, including that Australia withdraw from free trade deals at the heart of Malcolm Turnbull's growth strategy.

In particular, it says:

The South Australian … seized on the fate of Arrium's troubled Whyalla based steelworks to oppose Australia's entry into a World Trade Organisation procurement agreement …
It gives me no pleasure to point out these huge contradictions in Senator Xenophon's position. It appears that during the election campaign Senator Xenophon indicated that he did not support the World Trade Organization's restrictions imposed on Australia, and that, in fact, he would use his position within the Senate to outline, or at least influence, Australia's stance on the World Trade Organization rules, and yet here his justification for not supporting this agreement is that he has concerns that this amendment would be in conflict with WTO rules. As I said, Senator Xenophon, the Greens and I have worked on a number of issues in the past, so it gives me no pleasure to point out that it appears there is a huge contradiction here. I would be interested in hearing from Senator Xenophon whether he has now changed his position on trade, his position on Australia's commitment to free trade deals and, in particular, our commitment to WTO procurement agreements, or whether he remains committed to what he said during the election campaign, which is that he does have huge concerns. If that is the case then obviously he would continue to support a sensible amendment that ensured that
procurement policies were based on the national interest, even when they may have been or they may be in conflict with WTO rules.

**Senator Xenophon** (South Australia) (21:16): I almost feel like a minister, without the pay rise, when answering these questions. I welcome the questions by Senator Di Natale. I do not resile from my position on free trade agreements. I think we have negotiated them very badly. I think we have compromised issues of sovereignty. The one good thing about the election of Donald Trump is that he is implacably opposed to the TPP and it looks as though the TPP will not go ahead. That is about the only thing I can think of, because I find many of his other views a complete anathema to what I believe in and stand for, particularly his views on race, religion, women and a whole range of other issues.

The amendment that was moved by Senator Carr was an amendment that I moved a couple of years ago in identical terms. But since that time I have negotiated, with the support of my colleagues, the biggest amendments we have seen to Commonwealth procurement rules that actually deal with these issues. They need, whether I like it or not, to be WTO compliant, because if they are not they will be struck down. That is a separate issue.

I say to Senator Di Natale that I hope we are pretty much on the same page insofar as if we can renegotiate agreements in the longer term then we should. I do not resile from that. But I am trying to get a practical and measurable outcome in relation to Commonwealth procurement rules. These changes to Commonwealth procurement rules are the biggest we have seen in terms of requiring the Australian Standards to be measured and goods and service supplies to take into account: labour regulations, occupation health and safety, environmental impacts and the regulatory frameworks running to that—ensuring that those Australian Standards for goods and services are subject to auditing and certification processes and, absolutely, for the first time, to turn on its head what we have done in the past by ignoring the economic benefit of procurement for the Australian economy by requiring that it must be considered for procurements above $4 million. That is a massive change. I have not changed. There is no contradiction. This is actually an improvement on the amendment that I moved.

I do want to take this opportunity to put on the record—and I would be grateful if Senator Cormann can confirm this—and I will be in a position to table this tomorrow—that the government is committed to a joint select committee process on procurement to report by 31 May 2017, which I genuinely hope the Australian Greens can be a part of. I have worked terrifically well with Senator Rhiannon on these issues. It will be a thorough process and it will be a well-resourced process in order to deal with these issues.

Right now, the Commonwealth government has not entered into the WTO procurement agreement—which I implacably oppose. Here is a mechanism where we have these changes that will make a very real difference in any negotiations with respect to any WTO procurement agreement that we may sign up to, because this will be embedded in Commonwealth procurement rules. As Senator Cormann has indicated, this is not a draft. This is actually a decision of government to come into effect from 1 March 2017. I hope that I have gone some way to answering Senator Di Natale's very reasonable questions.

**Senator Di Natale** (Victoria—Leader of the Australian Greens) (21:20): Not really, Senator Xenophon. Again, the proposition is very straightforward. You said during the election campaign that you would use your position, the balance of power, to rip up free trade
agreements, and now what you are saying is that you will not support an amendment because it does not comply with the free trade agreement. So you have gone from saying, 'I don't support free trade agreements and, in balance of power, I will rip them up,' to now arguing in support of a free trade agreement, and not supporting a sensible amendment simply because you are worried that it is in contravention of a free trade agreement. It is hard to see that as anything other than a contradiction. I suspect there will be many people who will be concerned about your position now on free trade, because you made very strong noises during the election campaign about your concerns and yet here you are saying that you will use your position to ensure that we comply with free trade agreements. I cannot see how those two positions are reconcilable.

**Senator Xenophon** (South Australia) (21:21): I am sorry if I have not appropriately articulated my position in relation to this. There is no contradiction for these reasons. In respect of this amendment, I did not say that this amendment did not comply with free trade agreements. I made the point that the changes to the Commonwealth procurement rules are a significant improvement on the actual amendment that Senator Carr moved—which was in fact an amendment that I would have moved, had the previous iteration of this bill got to committee stage. I am still concerned and still opposed to a number of the agreements we entered into. I am pleased that it looks as though the TPP will not be going ahead. That is a positive move in my view, given that the US appears to be pulling out of that agreement. I do not see any inconsistency. I will continue to campaign against free trade agreements that are not in our national interest. In terms of the practical reality if we move an amendment that is in breach of a WTO agreement, as much as I may disagree with it and as much as I may want to see it gone, then if that is struck out under the current WTO rules, as much as I disagree with them, then I would rather see an approach where we have rules that cannot be challenged because of the way they have been drafted such that they will be effective and make a real difference to procurement in this country with the $59 billion a year the Commonwealth spends on procurement.

**Senator Rhiannon** (New South Wales) (21:23): Just back to the amendment that Senator Carr has moved. The Greens are clearly on the record that we oppose a building code. If there is going to be a building code, then bringing in the issue of the local procurement of steel is certainly necessary. It is something that should be coming forward at this time of the amendments. However, the amendment that Senator Carr has put forward is clearly limited. The Greens have a more comprehensive position which we will still move. The reason it is limited is that it is based on standards. The whole issue with standards is that they are not enforced. So often it just does not happen. That is why you need steel procurement. We have examples of how this can be done properly, and I look forward to going into more detail when we come to the Greens amendment on it. We will support the amendment as it has been moved.

**The Temporary Chair (Senator Ketter):** The question is that the amendments on sheet 8024 be agreed to.

Question negatived.

**Senator Hinch** (Victoria) (21:24): I seek leave to move amendments (1) and (2) on sheet 8021 in my name and on behalf of Senators Lambie and Culleton and also Senator Xenophon, who did a lot of work on a similar amendment.
Leave granted.

Senator HINCH: I move:

(1) Clause 5, page 9 (after line 26), after the definition of full-time Commissioner, insert:

funding entity has the meaning given by subsection 34(2C).

(2) Clause 34, page 29 (lines 17 to 19), omit subclause (2), substitute:

(2) Without limiting subsection (1), the Minister:

(a) must issue one or more documents under that subsection in relation to procurement matters relating to building work; and

(b) may issue one or more documents under that subsection in relation to work health and safety matters relating to building work.

Note: A single document may contain the entire Building Code (including the matters referred to in paragraph (2)(a) and, if applicable, paragraph (2)(b)).

(2A) Without limiting subsection (1) or paragraph (2)(a), a document issued under subsection (1) relating to procurement matters must require a funding entity to ensure that the preferred tenderer for building work provides the following information:

(a) the extent to which domestically sourced and manufactured building materials will be used to undertake the building work;

(b) whether the building materials to be used to undertake the building work comply with relevant Australian standards published by, or on behalf of, Standards Australia;

(c) the preferred tenderer’s assessment of the whole-of-life costs of the project to which the building work relates;

(d) the impact on jobs of the project to which the building work relates;

(e) whether the project to which the building work relates will contribute to skills growth.

(2B) Without limiting subsection (1) or paragraph (2)(a), a document issued under subsection (1) relating to procurement matters must require a funding entity to require building industry participants to only use products in building work that comply with relevant Australian standards published by, or on behalf of, Standards Australia.

(2C) Each of the following is a funding entity:

(a) a non-corporate Commonwealth entity (within the meaning of the Public Governance, Performance and Accountability Act 2013);

(b) a corporate Commonwealth entity (within the meaning of that Act) that is directed by the Minister administering that Act to comply with the Building Code.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the Government in the Senate) (21:25): So as not to hold up the chamber, the government will support these amendments, as I flagged in my detailed contribution on this in relation to Senator Carr's amendment and for the reasons that I outlined in that contribution.

The TEMPORARY CHAIR: The question is that amendments (1) and (2) on sheet 8021 be agreed to.

Question agreed to.

Senator RHIANNON (New South Wales) (21:26): I move Greens amendment on sheet 7984:

(1) Clause 34, page 29 (after line 19), after subclause (2), insert:
(2A) Without limiting subsection (1), the Building Code must include provisions ensuring that no less than 90% of the steel (other than excluded steel) used in a particular building work is manufactured in a blast furnace or an electric arc furnace located in Australia.

(2B) For subsection (2A), excluded steel means:

(a) any kind of steel that is not manufactured at any location in Australia and could not be manufactured in Australia for the purposes of a particular building work:

(i) at a cost (a reasonable cost) that does not exceed 20 percent of the base cost of the steel if manufactured in Australia; and

(ii) within a reasonable time; or

(b) any item made in Australia that is required to be made from a special kind of steel that is not manufactured in Australia and could not be manufactured in Australia at a reasonable cost; or

(c) any steel not manufactured in Australia for which the unit price would be 20 percent higher than the relevant price for steel specified by MEPS International Ltd or another global steel price prescribed by the regulations.

The Australian steel industry is on an knife edge. In Whyalla the steelworks are under administration. In Port Kembla the steelworks are somewhat healthier but, coming from that state, I know the fear the locals have, and I share them, that one morning you could wake up and the headline in the Illawarra Mercury could well be that BlueScope has closed its doors. That is why the amendment we are moving here is responsible. The wise thing would be for people committed to jobs growth to our regional areas and particularly to our steel industry—giving the steel industry in Australia of future—would support this.

There has been a great deal of work on this issue. I would certainly congratulate the South Coast Labor Council and the Australian Workers Union from the Illawarra because they have set out a very clear case around steel procurement and why this is a responsible way to go. We have just finished some debate on the issue of the future of the steel industry. Part of the problem with the former amendment was its reliance on standards. It might sound good in words and look okay on paper, but nothing really happens—it is not enforced; it is abused time and time again. Whereas if you have clear procurement requirement that a certain amount of steel has to be used in projects in which the government is involved must be sourced locally, then you really have a very easy solution to ensure that there is an ongoing market for steel produced in this country.

Costings show that mandating local steel in New South Wales alone will increase the annual construction budget by less than $34 million in return for maintaining 10,000 jobs—5000 of them in the Illawarra—and $10 billion in economic activity. This is comprehensive research that has been undertaken over a long time. This proposal for local steel procurement is not a radical idea. Today we were talking with BlueScope Steel about their very successful operations in the United States, where there is a Buy American program, which they acknowledge is not impacting on their local operations. It counters the false barrier which is often thrown up about the future of the steel industry when it is linked to procurement—‘Oh, well, it is not compliant with trade agreements.’ There are so many states in America with a steel industry that can operate under this Buy American campaign, and there is no way that they are not compliant with international trade agreements. The BlueScope people acknowledged in this meeting that, if there was a problem, they would have been jumped on and other companies would have been jumped on long before, but that is not the case because
it has been worked out. I want to give emphasis to this because this argument we have heard, disappointingly, from Senator Xenophon, who has shifted his position considerably—not that I do not acknowledge that there has been some progress around the procurement issue tonight—but we should still be going to what this amendment sets out.

As I said, it is not a radical proposal. China and the US have reserved the right in trade agreements to exercise local procurement strategies over imports. So they are actually getting some balance back between trade agreements and their local industry. The extraordinary thing is that when successive Australian governments have negotiated trade agreements they have not looked after our steel industry the way China and the US have looked after theirs. Across the United States laws requiring domestic steel to be used in government infrastructure are already in place. As I said, they have done this in a number of states. The bill that was passed in the New South Wales parliament on the combined votes of the Greens, the Labor Party, the Christian Democratic Party and the Shooters, Fishers and Farmers Party was based on some of the developments in the United States. So there is a movement here. It is possible. In the New South Wales situation, the bill has been passed, is now on its way and is waiting for debate in the lower house. We really should be catching up with these new trends.

We know that current production measures emit a lot of greenhouse gas emission—I totally acknowledge that. Nonetheless, we need steel to combat climate change. We need steel for so many things. We need steel for wind turbines. There are so many aspects to the renewable energy revolution that is occurring. Again, it is about getting the balance right and moving away from reliance on thermal coal as the energy source for the steel industry. We acknowledge that the issue with coke and coal remains a challenge, but there is fantastic research going on in this area. A lot of it—I am very proud to say—is coming out of the University of Wollongong Innovation Campus. Australia could lead the world in transitioning to a jobs-rich renewable-energy future and lead the world in developing clean steel production methods.

There is a real question here for Senator Xenophon and the whole Nick Xenophon Team. I am very concerned to hear the shift that has gone on in this debate. Ahead of the election, Senator Xenophon vowed to make the survival and future of Arrium in Whyalla a key election issue. He warned that, if re-elected, he and any parliamentary colleagues from his team:

… unashamedly use our votes to hold out for Arrium to get the help it needs.

He went on to say:

… Whyalla will turn into Australia’s biggest ghost town without Arrium operating and thriving. The cost of assistance now would be a fraction of the cost of the welfare bill and loss in tax revenue if Arrium falls over.

My colleague the Australian Greens parliamentary leader, Senator Richard Di Natale, has outlined this serious contradiction that we are now seeing arise within the Xenophon team.

Also very relevant to our considerations here is that Senator Xenophon outlined the policy below during the election campaign:

An overhaul of government procurement laws to ensure that Australian steel (and other locally manufactured products) is used in taxpayer funded infrastructure projects (whether federal, state or local where commonwealth money is involved) taking into account the social and economic benefits of local
procurement. This would in-effect be a 'buy Australian policy' given the enormous flow-on benefits to
the economy.

That was what the three senators from the Xenophon team took to the election. It is a very
good position that we should be building on, working to get into the legislation that we are
debating here in parliament and, hopefully, getting supported.

Having worked very closely with Senator Xenophon, I am deeply troubled by the shift that
we see here. It was only a few months ago that those words were written. It was only a few
months ago that the commitment to this was spelled out so clearly to South Australia in the
federal election. And we can see the results. I am not saying that it was just around the steel
procurement, but to go to four MPs in the whole parliament and three senators from one is a
huge achievement. People have elected the Xenophon team on the basis of a range of
promises and commitments. I would believe, knowing how serious the trouble is that the
Whyalla steelworks is in, that that would have been a very significant promise when it was
made.

These amendments the Greens are proposing will achieve what the Xenophon team set out
in their policy document. I would argue that it is now time for the Xenophon team to match
their rhetoric, to match the words that they went to the election with—this is very serious—
and to support the Greens amendments. I would argue that it is not inconsistent with what
they are doing with the government and with Senator Carr. There are steps that we can take in
getting to a good position on a whole range of issues. We know there are complexities around
the procurement issue, but I do not see contradictions. That is why I would argue the
Xenophon team are contradicting what they have been supporting.

I urge all senators here today to get behind these Greens amendments. They are a way to
protect local jobs and, most importantly, ensure that Australia has a steel industry now and
into the future. Right now, what is happening in Whyalla and Port Kembla is very worrying.
The steel industry is in a precarious position. It is bringing great uncertainty to local
communities, which is something that we should address—and we can address it with this
amendment. It is also bringing uncertainty to the future of the steel industry and has wide
implications for our economy. So I recommend the Greens amendments to senators.

Senator CORMANN (Western Australia—Minister for Finance and Deputy Leader of the
Government in the Senate) (21:36): Firstly, the government will not support this proposed
Greens amendment, which seeks to mandate the use of Australian steel. The Australian
government procurement framework is based on the principles of value for money, open
competition and nondiscrimination, which have applied under former governments of both
persuasions, including, of course, former Labor governments.

Australia is party to a range of free trade agreements. International obligations arising from
these agreements are reflected in the Commonwealth procurement rules, and these obligations
include the requirement for non-discriminatory government procurement. It is important to
understand that Australia's exporting businesses heavily rely on these arrangements, because
we want our exporting businesses to be able to compete for business in these overseas
markets. If we were to go down the path of discriminatory government procurement, then
obviously the same would be directed at Australian exporting businesses in relevant overseas
markets.
What the government has agreed with Senator Xenophon is not only a significant step forward in terms of the general issue that Senator Rhiannon raises; what the Nick Xenophon Team has done is be very mindful of the need for the change and the step forward to be sustainable—that is, not to be successfully challenged down the track. We have agreed improvements to the Commonwealth procurement rules that the Senate can have confidence will be in place on an ongoing basis, because they make progress in imposing some additional requirements, which Senator Carr has acknowledged as being good additional requirements. They frame it in a way that will ensure that Australia does not breach its international obligations. As such, these are rules that will make a practical and tangible difference. Of course, what Senator Rhiannon is proposing will essentially die at the first hurdle and not make any practical difference at all. One day the Greens will have to explain to me their strong support for steel in the context of their strong opposition to coal, but that will be a debate for another day.

Senator KIM CARR (Victoria) (21:39): I indicate the chamber that, while we would all have to acknowledge that the crisis in the Australian steel industry has been caused by a glut of cheap imported steel, there have been numerous calls in public for Australian governments to mandate targets for the use of Australian steel. The usual proposition is for a 90 per cent mandate, which this amendment also puts forward. Labor's position is that we do not mandate the content; we mandate the standards. This is a very substantial difference. I think the one-size-fits-all approach that is being advocated in some quarters will not do the job, will not meet the needs of Australian industry. For instance, there are many gauges of steel that we do not have produced in this country anymore. In many defence contracts we will be required to. So there are some questions that have arisen in terms of the practicalities.

More particularly, I think on the issues of international trade and industry policy there needs to be a much more careful and nuanced argument so that the policy positions, which I think many in this chamber, particularly on this side, support will not be the subject of challenge and frustration by our competitors. I disagree with the minister to this extent. We do know that our international competitors are only too happy to use measures like this when it comes to their country. Try pulling this sort of free trade approach in the United States. I am not talking about under the new administration; I am talking about under the current administration. There are a whole series of legislative measures in place which frustrate our capacity. Just recently BlueScope has been hit with savage penalties in the United States under their dumping regime, which is much more coercive and much more brutal than anything we would ever propose. We seem to maintain in this country a set of standards for us which of course are not applied by our competitors around the world. We do this in the name of free trade. I take the view that we can ensure that we preserve Australian industry capabilities and be consistent with our trade obligations if we use our heads. This is what I am concerned about with this measure. That is why I say that the position of the Australian Labor Party is that we mandate Australian standards. That insures, as we have seen in practical terms, that we can deliver.

In South Australia the Industry Participation Advocate of the Department of State Development, Mr Ian Nightingale, works across all sections of manufacturing industry. He has highlighted his role in terms of being a steel industry advocate in that state, which has seen his capacity to monitor the level of local products used and the jobs created in public
projects, which are evaluated in terms of the economic benefit to the state. He has helped negotiate contracts to preserve the supply chain. For instance, the Auburn project allowed particularly the use of steel from OneSteel in Whyalla, which was then sent to Victoria to convert it to reinforced steel, and then sent back to South Australia to use on the project. We saw here that the capacity to coordinate and facilitate major projects was done in a much more flexible and effective means, supporting Australian industry, than we have seen in many other circumstances.

The evidence presented to the Senate inquiry on these matters highlighted that the contracts for state government public sector procurement, other than for building and construction, have seen an increase in local content of 40 per cent—that is, from 51 to 91 per cent. What we have seen in those circumstances is the work of ensuring the application of standards. I acknowledge that continuing work needs to be done.

Similarly, in Victoria the state Labor government is pursuing policies consistent with our trade obligations, in particular on the question of small and medium-sized enterprise arrangements within those agreements, to ensure that the rail crossings project is able to use local steel and to secure contracts with local steel fabricators to an extent unforeseen in recent times.

So it is possible to actually pursue industry policies consistent with our trade obligations which preserve industry capabilities and Australian jobs. Of course, it was a policy that this party, the Australian Labor Party, highlighted within government, and we have now announced a six-point plan that would see those provisions strengthened. The Buy Australian at Home and Abroad program would be strengthened under a Labor government. The industry supplier advocates would be strengthened under a Labor government. We would ensure that we have the capability to assist our supply chain companies to get contracts and keep contracts, but to do it on a competitive basis consistent with our trade obligations. We would ensure that we are able to use Australian product to build Australian capabilities and preserve Australian jobs without having to mandate it in the way that is proposed in this measure, and the Labor Party will not be supporting it.

Senator RHIANNON (New South Wales) (21:46): Sadly, when you hear Senator Carr speak like that you know he has been captured by the free traders.

Senator Kim Carr: Me? Me? I claim to have been misrepresented!

Senator RHIANNON: No, you have, because you more than anybody should be standing up here and speaking about steel procurement. These arguments that have been thrown up have no basis. Let's go through them. The free trade one is a furphy. So many very capable people, like Senator Penny Wong, are so obsessed with free trade that all of you have become locked into this position.

The Bluescope one is an interesting one. North Star is their company in the United States. It is incredibly profitable at the moment, as is much of the steel industry in the United States. They have a Buy America policy. I asked the CEO from BlueScope about it today and he said that it is not causing them a problem with regard to any of the free trade agreements. Buy America is not a problem for them because it actually allows their operations to go ahead and does not contradict the trade agreements. Seriously, the government and the opposition should be getting their heads around this and doing their trade agreements properly. They are the
ones who are penalising Australia while other countries, like China and the US, have worked it out. North Star's profits have gone up 160 per cent because it has worked out that you can have a local procurement position and you are not contradicting your trade agreements. Both sides of politics are so far behind on the developments that are occurring fast in that area.

The other area where Senator Carr criticised what we are saying was with regard to steel procurement. I would really urge senators to read the motion, because we have there the important subsection about excluded steel. We know that a whole variety of steel types are needed, depending on what the construction is, so we have in there a clause about excluded steel. If the steel that is required cannot be sourced in Australia, it can be sourced from overseas. Again, we have put in there a very responsible, clear position with regard to local procurement. If the steel cannot be sourced from Australia because it is not made here—or even, as we have got there, because it is not going to be available within a reasonable time—it can be sourced from overseas. That definition is there. So please do not misrepresent what is a very responsible position. Again, this is where we should be able to have unity to give some certainty to the steel industry and to advance trade agreements that are not living in the 20th century.

The CHAIR: The question is that the amendment as moved by Senator Rhiannon on sheet 7984 be agreed to.

The committee divided. [21:54]

(The Chair—Senator Lines)

Ayes ...................8
Noes ...................52
Majority.............44

AYES

Di Natale, R
McKim, NJ
Rice, J
Waters, LJ

Hanson-Young, SC
Rhiannon, L
Stewart, R (teller)
Whish-Wilson, PS

NOES

Abetz, E
Bilyk, CL
Brown, CL
Bushby, DC
Canavan, MJ
Cash, MC
Collins, JMA
Cormann, M
Dastyari, S
Duniam, J
Fawcett, DJ
Fifield, MP
Griff, S
Hinch, D
Kakoschke-Moore, S
Kitching, K
Marshall, GM

Back, CJ
Brandis, GH
Burston, B
Cameron, DN
Carr, KJ
Chisholm, A
Conroy, SM
Culleton, RN
Dodson, P
Farrell, D
Fierravanti-Wells, C
Gallagher, KR
Hanson, P
Hume, J
Ketter, CR
Leyonhjelm, DE
McAllister, J
Question negatived.

Senator HINCH (Victoria) (21:57): I, and also on behalf of Senator Lambie, Senator Culleton and Senator Xenophon, move amendment (1) on sheet 8022:

(1) Clause 16, page 21 (after line 7), at the end of the clause, add:

(2) Without limiting subsection (1), the ABC Commissioner must perform his or her functions in relation to the following provisions of the FW Act:

(a) Chapter 2, including (but not limited to) in relation to wages and entitlements;

(b) Part 3-1 (general protections, including protection of freedom of association and prohibitions on coercion), including (but not limited to):

(i) section 351 (discrimination); and

(ii) sections 357 to 359 (sham arrangements);

(c) Part 3-3 (industrial action), including (but not limited to):

(i) section 474 (payments not to be made relating to certain periods of industrial action); and

(ii) section 475 (accepting or seeking payments relating to periods of industrial action);

(d) Part 3-4 (right of entry).

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (21:58): Thank you, Senator Hinch, for moving that amendment. The government will be supporting the amendment put forward. We accept that the proposed amendment will make it clearer that the ABC commissioner is required to exercise his or her functions in relation to a broad range of compliance matters.

Senator XENOPHON (South Australia) (21:59): I am very pleased to co-sponsor this amendment with my colleagues Senators Hinch, Lambie and Culleton. It requires the commissioner to perform his or her functions in relation to a number of matters, including wages and entitlements, protection of freedom of association, discrimination, sham arrangements and a number of other matters, including right of entry, because there has been concern that the current FWBC director has not been carrying out these functions, and it is important that the commissioner is required to do so. This gives it some statutory teeth and, arguably, administrative remedies in terms of mandamus should the commissioner fail to do so.

Senator CAMERON (New South Wales) (21:59): Well, well! Let's see how this works. I am quite happy with this proposal, but while you have Nigel Hadgkiss, the worst ever appointment to a senior Public Service job in the country, this will be a battle. This guy has
got complete contempt for the Australian parliament, the Senate and the estimates process. This is the guy who told estimates he does not keep a diary and then, when there was a freedom-of-information request, he provided a bit out of his diary. The guy tells lies. The guy is not fit to be in the position he is in. I have not agreed with a lost that Senator Xenophon has said tonight, but I certainly agree with Senator Xenophon that this guy should not be in charge of anything when it comes to integrity. He should not be in charge of looking after supposedly unbiased approaches on workers' rights. He has a terrible reputation. His actions have been biased. His actions have been criticised by the judiciary. He is absolutely hopeless. To get him to actually look after anything other than what he wants to look after will be something we will need to look at. I look forward to the next estimates. Trying to keep this guy on the straight and narrow is a very difficult job, but I will give it a good shot. I will be looking at this very closely to make sure that Nigel Hadgkiss actually does the job that he is supposed to do, because for the last number of years he has not been doing it. He has been setting up a little team of cronies within Fair Work Building and Construction and he has been setting up an agenda that he wants to pursue regardless of what the act does. All this mob over here, this rabble of a government, this rabble sitting opposite want to do is cut loose on workers' wages and conditions. We will support this amendment because it is about time there was accountability for Nigel Hadgkiss. We need accountability on what is the most unaccountable senior public servant in the country.

Senator HINCH (Victoria) (22:02): Despite Senator Cameron's cynicism—and I am sure that we will surprise him—I believe that this amendment will ensure that clear instructions are in place as to what the ABCC remit is and what the commissioner has to do and must do. I have to say that I am proud to have extended this to include sham contracting and wages and entitlements.

Senator XENOPHON (South Australia) (22:03): The significance of this amendment is that it gives the right to issue a writ of mandamus against whomever is in this position as ABCC commissioner—and I hope it is not still Mr Hadgkiss—which I expect is something that will be a very powerful mechanism not just for accountability but for enforcement. I am glad that Senator Cameron welcomes that. You actually have a right to the writ of mandamus if the commissioner does not do his or her work.

Senator CAMERON (New South Wales) (22:03): I find it absolutely unbelievable. I do not have an argument with you on this, Senator Xenophon. But why would we need a writ of mandamus to make a public servant carry out the responsibilities under the act that they preside over? It is absolutely ridiculous. Again I indicate that I am with you: if this Nigel Hadgkiss is leading the ABCC then I predict all sorts of problems. All the vision that you have for the ABCC, no matter how flawed that vision is, will never come to fruition if Nigel Hadgkiss is leading the fair work building commission. If anyone ever deserved to lose their job it is that guy. I have spent my life saving people's jobs, but this is one job that should go. Nigel Hadgkiss incompetent, overbearing, secretive and he thinks he is the J Edgar Hoover of Australia. That is who he thinks he is. He should go—I agree with you, Senator Xenophon.

The CHAIR: The question is that the amendment as moved by Senator Hinch on sheet 8022 be agreed to.

Question agreed to.
Senator XENOPHON (South Australia) (22:05): I move Nick Xenophon Team amendment (1) on sheet 8020 in relation to the functions of the Federal Safety Commissioner:

(1) Clause 38, page 32 (after line 22), after paragraph (c), insert:

(c) auditing compliance with National Construction Code performance requirements in relation to building materials;

This relates, very briefly, to the issue of compliance. We have seen the dramatic moves forward that we have made in relation to procurement, but this relates to the Federal Safety Commissioner having the ability to ensure compliance with Australian standards in relation to materials used on building sites that are subject to the code. That is a significant move forward and it is an enforcement mechanism which has already been agreed to.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:06): The government agrees with this amendment because it believes that all building materials used on Australian building sites should meet Australian standards. The government already uses its influence as a client and as a provider of capital to drive improved standards and culture within the construction industry by its continued commitment to the Federal Safety Commissioner's work health and safety accreditation scheme. The amendment would extend that influence to driving improved compliance with existing requirements to use building materials certified to comply with Australian standards. I thank Senator Xenophon for moving the amendment.

The TEMPORARY CHAIR (Senator Reynolds): The question is that the amendment on sheet 8020 be agreed to.

Question agreed to.

Senator HINCH (Victoria) (22:07): I, and also on behalf of Senator Culleton, move Derryn Hinch’s Justice Party revised amendment (1) on sheet 8016:

(1) Clause 119, page 97 (after line 6), after the clause, insert:

119A Review of operation of this Act

(1) Before the end of the period of 12 months after the commencement of this section, the Minister must cause to be conducted a review into the operation of this Act.

(2) The Minister must cause to be prepared a report of a review under subsection (1).

(3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

The TEMPORARY CHAIR: Can I just clarify that it is the revised amendment? Sheet 8016, clause 119, revised—is that correct?

Senator HINCH (Victoria) (22:07): Yes, it is. This is a review of the operation of the act. Question agreed to.

Senator XENOPHON (South Australia) (22:08): by leave—I move the Nick Xenophon Team amendment (2) on sheet 8012, which is consequential on the amendment (1) on sheet 8012:

(1) Schedule 1, page 4 (line 2), omit the heading.

[judicial review]

(2) Schedule 1, item 2, page 4 (lines 3 to 6), to be opposed.

[judicial review]
This relates to judicial review. This amendment will mean that decisions made under the ABCC legislation—for example, the issuing of a compliance notice—are subject to judicial review. This is the first time an industrial relations law will be subject to judicial review and is a significant amendment which will add a layer of review and improve accountability. This is something that the Law Council of Australia has had a very strong view on. It will ensure that there will be that element of scrutiny. I commend this consequential amendment to my colleagues. I am happy to answer any questions in respect of that.

Question negatived.

The TEMPORARY CHAIR: The question now is that the Nick Xenophon Team amendment (1) on sheet 8012 be agreed to.

Question agreed to.

Senator XENOPHON (South Australia) (22:10): At the request of Senator Hinch, I move Derryn Hinch's Justice Party amendment (1) on sheet 8023:

(1) Schedule 2, item 14, page 13 (line 8), omit "other than regulation 7.13,"

It relates to legal expenses. I note that Senator Hinch is not in the chamber at the moment, but my understanding is that this would make it much less onerous. Senator Hinch has just come into the chamber—he can save the day and refer to his legal expenses amendment, which I am sure he is dying to speak to!

Senator HINCH (Victoria) (22:11): You are watching the new boy, all right! Sheet 8023—I have it here. Thank you, Senator Xenophon—we are trying to do some team work here. At this stage of the night we are trying to get as many amendments through as we possibly can. The Senate knows what it is about, so thank you.

Question agreed to.

Senator RHIANNON (New South Wales) (22:12): I withdraw Australian Greens amendment (1) on sheet 7983 and I move Australian Greens amendment (1) on sheet 8003:

(1) Clause 34, page 29 (line 29), at the end of the clause, add:

(4) If the Building Code includes provisions in relation to building enterprise agreements:

(a) the provisions may only apply in relation to a building enterprise agreement made on or after the commencement of this section; and

(b) any building enterprise agreement made, or approved under the Fair Work Act 2009 before the commencement of this section is taken to comply with the Building Code.

The TEMPORARY CHAIR: Senator Rhiannon, I understand that it is not on the running sheet but that it has been circulated previously?

Senator RHIANNON: Yes. This amendment is about the Building Code. The Building and Construction Industry (Improving Productivity) Bill 2013 will not only put in place a new politicised union-busting commission but it will also usher in a new Building Code. This is really what we need to concentrate on. The Building Code is the essence of the problem that we have here; it epitomises the seriousness of what we are dealing with. It is the Building Code that will have enormous detrimental impacts on workers and employers in the industry. The government's Building Code will put severe limits on what can be covered by workplace agreements. If a company negotiates an agreement that does not conform to the requirements of the code, the company will be ineligible for Commonwealth funded projects. This is where
the government has come up with a scenario to really lock in a code that will really restrict companies being able to get on with their workforce and get the job done. The government is saying that they have put improving productivity into the bill now—the improving productivity bill—whereas this will in fact do the reverse, because it is so onerous in the way it will play out. It will be particularly punitive to companies that are attempting to do the right thing by the workforce and to actually work in a reasonable way.

We know that more than one million Australian workers will be impacted by the new code. This includes not only employers tendering for government construction projects but also all employees of the entity tendering for the government work working in the private sector, all entities that supply transport or prefabrication manufacturing to government jobs, and other entities that include contracting for transport suppliers. Again, this is why the Greens and the people opposed to the ABCC give such emphasis to the Building Code. Here, as you can see, the reach of it is enormous; it reaches right into the transport industry as well as the construction industry. Those who want to destroy the union movement go as far as they can to achieve that by gaining maximum control and by being so punitive right across the construction industry, pulling in the transport aspects as well.

The Building Code not only prohibits union-friendly clauses, the code will also prohibit major existing employment conditions for construction workers. Again, this is where we see the seriousness of this agreement. For example, the code prohibits 76 clauses in a construction ETU agreement for electricians. I will go through what those clauses are. When I am spelling them out, keep Work Choices in mind, because this is why the Building Code is being called 'introducing Work Choices by stealth'. Remember there were many problems with Work Choices and many onerous aspects to it, particularly because it is stripped down the agreements that workers should have the right to collectively determine with their employer. It removed the ability for workers to do that. Here is just one example from an ETU agreement, which, as I said, the code would totally remove 76 clauses from. These include clauses that: prevent unlimited ordinary hours worked per day; guarantee the employees' ability to have a day off on Christmas Day and Easter Sunday public holidays; encourage employment of apprentices; discourage discrimination against mature workers; include agreed stable and secure shift arrangements or rosters; ensure construction workers' conditions and entitlements cannot be eroded; provide for equality and fairness on-site for construction workers; and impact on the rights of construction workers to have a safe workplace.

This is what we have been talking about through the second reading debate and in the committee stage—how sinister this ABCC legislation is. It is about smashing working conditions and how workers collectively come together to improve their pay and improve their conditions. That is a most extraordinary list. And how horrible as we come into Christmas. I so love this time of year, yet here we read that, if you work for the ETU, in your agreement for electricians—my dad was actually an electrician for a long time—you could lose the ability to have your Christmas Day and your Easter Sunday and your public holidays. People here are going to be enjoying their public holidays. I bet everybody here is looking forward to Christmas. And this is what we are about to do: we are about to come forward with legislation that has a building code in it that would knock out all those conditions for working people.
The coalition rip into the CFMEU time and time again. I put on the record again my congratulations to the CFMEU for continuing 150 years of really solid work—not just for their own members, but work that has benefited working people across this whole country by establishing standards and conditions. And here we are at 10.20 pm, two days to go before the end of parliament, and you bring this in? It is so ugly.

I know, from some of the meetings I have had with construction workers and people who work in the industry, that many employers are actually concerned about the code, not only because the code will increase costs and risks to companies and remove conditions to maximise labour productivity, but also because the code introduces 8,465 words of prescriptive red tape, removing entities' managerial rights to employ staff in accordance with their own commercial practices. This is, again, where it is punitive to the companies that are not going along with the ideological obsession of the government to smash the union movement. Lots of companies work very productively and constructively with the union or unions that cover workers in their workplaces. But, no, this government wants to remove all that; they want to end that. That is what this Building Code is about.

The major cost will be the cost to productivity. This is where it gets extraordinary. You listen to the government bang on about productivity all the time. They vilify the Greens and have a go at Labor now and then, making out that we are damaging the economy, yet here they are coming forward with measures that will not improve productivity, as it states in the bill, but will set it back. The title of this bill is a real reminder that when governments come forward with a title that sounds pretty good, then your alarm bells should really ring. You should well and truly be alert that they are up to something—and, indeed, they are with this legislation. As I said, the major cost will be the cost to productivity from removing the conditions which have underpinned high productivity in construction, including the productivity and motivational effects of workers' perception of a fair day's pay for a fair day's work, respectful and trusting relationships with their employers and across worksites, and safe working hours and conditions.

The Building Code introduces unprecedented government intervention. It is extremely ugly; it is extremely wrong. We see intervention, auditing, compliance costs and liabilities to businesses—this is one of the great untold aspects of this story. Very few people who have written about it in the mainstream media have identified this, so, while there is an aspect of corporate Australia really driving the government to come forward and get this legislation passed as soon as possible, there are many businesses that just get on with their business, that work pretty well with their work force—they give them a pay rise now and then, negotiate with the union when they come forward. But now they are going to be hit with this auditing, the compliance costs and various liabilities. They are not happy with what the government is doing; they can see what is going on here.

There will be an operational cost of having to negotiate with employees on pay, conditions, job security and access to their representatives. These operational costs will be imposed if you go along with what the government is up to here. There are legal and operational resources to revive project planning, scheduling, re-contracting and monitoring of providers, and then there is complying with the code obligations on a daily basis. The compliance here is enormous—and remember, this is the party, the Liberals and Nationals, who bang on about red tape. They come forward with their various bureaus and task forces to remove red tape.
and say it is bad for business, but here they are becoming so extreme in how they plan to implement this Australian Building and Construction Commission, with the centrepiece being the Building Code. Their aim is to wind up unions, to make Australia union fee or to have them so compliant, like they are in some countries, that they lose the muscle that they need. Many times in this debate we have heard how unsafe workplaces have become when unions cannot get out there and organise. That is why we need the unions.

What we have here are a whole lot of measures that are going to make it harder for business, like compliance costs, the intervention, the auditing—all this has to be paid for; it all takes up time and they have to make provision for who is going to do it and when they are going to do it, and what happens if it is not done on time. This is red tape in an extreme form. But the government do not talk about that—they do not own up to the fact that that is part of what they are up to. Then there are the increased insurance costs to cover increased risks and liability. That is the cost and liability increase for commercial builders of having contractors or other suppliers banned by government. Remember, that is how this can play out. If you have not complied with the government, that is how it will play out. The Greens amendment certainly should be supported.

Senator ROBERTS (Queensland) (22:25): The core issue here, as far as Pauline Hanson's One Nation is concerned, is freedom versus control. That is the issue, the bottom line. Look at phoenixing, which Senator Cameron discussed a while ago. The key point in phoenixing is not to counteract it; the key point is to prevent it, and breaking the big business cartel that involves the CFMEU and major companies is the key to preventing that continuing. The key to phoenixing is preventing it, and that is what this bill does. This bill is not an attack on unions—this bill is about breaking the cartel in the building industry that is suppressing initiative, suppressing innovation and suppressing freedom in that industry.

The key point to phoenixing is breaking the cartel between big business bosses and CFMEU bosses. The key point to safety is breaking the cartel between big business bosses and CFMEU bosses. The key point to efficiency is breaking the cartel between big business bosses and CFMEU bosses. The key point to rewarding work for people in the construction industry and for honest everyday workers is breaking the cartel between big business bosses and CFMEU bosses. The key point to lower costs and to higher value for taxpayers while maintaining honest workers' wages is breaking the cartel between big business bosses and CFMEU bosses. The key point to safeguarding small business in this country, whether that is suppliers or whether that is subbies, is breaking the cartel between big business bosses and CFMEU bosses.

This is the house of review, not the house of repetition, which we have been subjected to by the other side this evening. The key part of the ABCC reform is the Building Code, and the key part in coming to our conclusion to support this bill is in listening to the people. We have heard stories from small businesses, from subbies, from labourers, about the large companies controlling this industry, pushing risk down to the lowest levels where there is no protection. Some of the amendments from the crossbenches have addressed those issues. The key point is that large companies are suppressing competition to remove competition from smaller companies and preventing them becoming larger companies. The key point is that the larger companies are maintaining a cartel. This is where the 30 per cent needless increase in costs is, meaning that large companies stand to make more money just by basing their work on a
commission. They do not hire many people, they do not employ many people—they hire subbies who take the risk and then they skim a commission off the top. If the bill overall is 30 per cent higher, they make more money for nothing.

Grace Collier, the journalist and industrial relations consultant, has talked about this at length—about the big companies controlling this cartel and being rampant thanks to support from the CFMEU bosses. We see the need for an IR carve-out to be restricted, because that is being abused in this industry in particular, where they are hiding behind the IR carve-out to force subbies to take on their own large-company employment agreements. We see thugs or bullies—100 or so—in front of the courts for intimidating people and other breaches of law. This bill is about restoring lawful behaviour to this vital industry—one of the largest industries in this country.

The unions themselves, at a very senior level in this industry, met with Pauline Hanson, me and some of our staff and admitted to us that they are no angels. They are no angels indeed! They admitted that they needed to clean up their act. They have had years to do that and they have never cleaned up their act. That is because they are incapable of it. They are incapable of it because they do not understand the issues and the consequences of their bullying behaviour. They do not have the incentive to fix up their act: they do not want to fix up their act, because they are in a very cosy position of having a monopoly—a cartel.

They have protested at our office simply because our leader now Senator Pauline Hanson said that she was in favour of accountability, open disclosure and integrity. So they bullied our office. They tried to break into our office. They graffitied our office. Then they insulted our staff and intimidated our staff.

Senator Hanson-Young: Who's they?

Senator ROBERTS: The CFMEU. The people who fund your party, to a large extent. No wonder you support them, Senator Hanson—Senator Hanson-Young, rather. How could I mistake the hair! Sorry, Senator Hanson. Small business, in terms of subbies—

Senator Hanson-Young: Can I take a point of order?

Senator ROBERTS: Up you get!

The TEMPORARY CHAIR (Senator Back): Senator Hanson-Young, on a serious point of order.

Senator Hanson-Young: I would like to remind Senator Roberts that it is nice to refer to people by their appropriate names in this place. I do not appreciate being referred to as Senator Hanson.

The TEMPORARY CHAIR: I have noted your point of order. Senator Roberts, please resume, and direct your remarks through the chair, if you would.

Senator ROBERTS: It is rare that I get to insult two people at once with just one comment, but there you go! I have just done it.

The TEMPORARY CHAIR: Or complimented them, Senator Roberts. Please continue.

Senator ROBERTS: Small businesses are a major loser here. I have honestly seen large muscly men afraid of nothing except the CFMEU. Because they have been afraid, they have told us that they cannot tell their stories without confidentiality and that we cannot identify them, their companies, their employees or their families, because they are afraid for their
employees and the families of their employees. This is Australia in 2016—almost 2017—and we have decent people, hardworking people and honest people living in fear. Surely, that is enough to get support for initiatives like this.

Then we have taxpayers—our bosses; the people we serve—paying 30 per cent above what they should for hospitals, for schools, for roads and for other infrastructure. That means that when we pay for three hospitals right now we could be getting a fourth for nothing; we could be getting a fourth road for nothing; we could be getting a fourth school for nothing. That is exactly why this bill has to be passed: we need to suppress the lawless behaviour on construction sites. That lawlessness goes to senior levels of major companies. Remember that that is the key to this bill. The key to this bill is breaking the backs of the cartels that are run by large companies in this country.

Those that are driving and controlling these cartels have tentacles throughout this parliament and throughout state governments—tentacles that reach to the Greens Party, the ALP and the Leader of the Opposition in the lower house. He is connected with GetUp!, being on the foundation board of directors. The CFMEU are funding GetUp! to the tune of $1.4 million. Then what does GetUp! do? GetUp then destroys the coal industry and is proud to do so, along with the Greens. The Greens are proud to destroy the coal industry.

What about honest union members paying their dues; turning up for work regularly; being bullied, intimidated and suppressed at work; and not being able to develop pride in their work; not being able to get a regular pay; not being able to improve safety; and not being able to improve security? Coming from the coal industry I know that we have progressed in the coal industry from the days when hundreds of men would get killed underground and the days when lungs would fill with coal dust, and people would suffocate and choke. We see the industry free from black lung thanks to regulations for safety, thanks to dramatic improvements in technology and thanks to dramatic improvements in management.

Honourable senators interjecting—

Senator ROBERTS: It still seems that in some parts of this chamber people think it is safety or productivity. It is quite clear, as I said earlier on today, that safety enables productivity. They are not mutually exclusive; they are mutually beneficial.

So black lung has now reappeared, very sadly, for a small number of people in our industry. Four of the eight levels of responsibility for workers' health are controlled or affected by the CFMEU directly—either union members, team supervisors, check inspectors or district check inspectors. They are funded by the industry, and yet all four of those levels have had to have been accomplices in ignoring safety procedures and good health procedures underground to see black lung come back. Then the CFMEU stands up, grandstands and blames everyone but the CFMEU.

Then we see, and I have experienced this, subtle intimidation at union meetings. I have stood up to those union bosses at those worksites and I have slowly been able to swing people around to common sense and to not being intimidated by union bosses. We see subtle intimidation, orchestration and making sure that people are coerced into backing union bosses' advice.

We talk about progress and the dramatic improvements in coalmine safety. They were made possible by the good work of many men and women and by invoking science, discipline
and good management as well as some regulation. But look around at the benefits of our modern technology. We want to reverse this in the building industry. There are eight keys, in my experience, to human progress. The first and most important is freedom—the freedom of people to come up with ideas, the freedom of people to exchange ideas and the freedom of people to build on ideas. This ABCC bill is about restoring freedom so that people can share, innovate and create. It is about the freedom to innovate.

The second of the eight keys of progress that I see as essential is rule of law. Rule of law is fundamental to protecting people, rule of law is being smashed on building sites in this country and rule of law needs to be restored. The third is making sure that we have good, constitutional governance, and that is what I see the government doing here—making sure it fulfils its responsibilities to the people of Australia and workers on construction sites. The fourth key to progress is secure property rights, so that money cannot be stolen and property cannot be stolen, and we see this here as part of the protection. The fifth one that I have seen is honest money. That is not affected here. The sixth is fair tax, the seventh is families and the eighth is cheap, reliable energy.

We can see that we cannot continue to have human progress while sacrificing rule of law, sacrificing freedom and sacrificing property rights. Then of course we get onto tax. That is a subject that I see as needing a lot of attention in this country.

What I have also seen and been very encouraged by is the teamwork from the crossbench senators. I want to acknowledge especially Rod Culleton, Senator Xenophon, Derryn Hinch, Jacqui Lambie and everyone who came together on this. Rather than just criticising the government for some of the shortfalls in their bill—and there always will be, because all we have on one side are narrow views—there has been a coming together of many people listening to their constituents and actually building an even better ABCC bill. I am not happy with every aspect of it. I am not happy with the two-year transition, but that, I understand, has been discussed with Senator Xenophon, Derryn Hinch and also—

The TEMPORARY CHAIR: Senator Roberts, would you use the correct title for each of our colleagues, please. Thank you.

Senator ROBERTS: Sorry—Senator Hinch. So it is the teamwork that I am very proud of amongst the crossbench senators, especially of my colleague Senator Culleton, who has been very busy in the last few weeks and has worked extremely hard on this.

I still see the need for other changes in industrial relations in this country. I have mentioned them before. The IR carve-out is a source of abuse right now. It needs to be narrowed. With that in mind, I wrote to the Minister for Employment some weeks ago and also to the Treasurer, Mr Morrison, and asked them to review the IR carve-out through the Australian Competition and Consumer Commission chairman, with a view to narrowing it to stop the abuse that is going on right now.

I also believe that, even though we are putting in place more federal legislation, once the industry is tightened up and brought back under rule of law, we need to get the federal government out of industrial relations, just like we need to get it out of health and education, and restore them to competitive federalism under sovereign states.
I really commend the government for having the initiative to bring this bill forward. I also commend the government for having the sense to listen to us expressing our constituents' views. I commend this bill to the Senate.

**Senator CAMERON** (New South Wales) (22:41): What can I say after that lot! I want to come back to what we were actually debating, and that was Senator Rhiannon's amendment on sheet 8003. I think that is where we were.

**The TEMPORARY CHAIR:** Correct.

**Senator CAMERON:** We have gone around the world in 80 days, looking at all sorts of nonsense and theories and rubbish from Senator Roberts.

I just want to indicate to Senator Rhiannon that, while we understand the sentiments behind your amendment on sheet 8003, we would draw your attention to the amendment on sheet 8015, which Labor will move later in the evening, which I think deals with the issues you are raising, but in a more comprehensive manner. I just want to draw your attention to that. So we will oppose this amendment, but only because we hope that you could support our amendment on 8015, because I think it would achieve what you are trying to achieve but in an even more comprehensive manner than your amendment on sheet 8003. That is where we were.

I also understand that there are another two amendments being circulated. One of them, I think, is Senator Xenophon's amendment on the AAT—I am not sure we have a number for that yet—

**Senator Xenophon:** Sheet 7954.

**Senator CAMERON:** on sheet 7954—and that is basically about restoring one of the key concerns that Labor have among the many fundamental concerns that we have about this bill, and that is oversight of what was then the Fair Work Building Commission and now, if this bill goes through, oversight of the ABCC. Senator Xenophon, I have not had a chance to look at that amendment, but you know that the oversight that was done by the Ombudsman was diminished oversight in relation to what the Fair Work Building Commission had, so this is a return, basically, to Fair Work Building Commission oversight, where the Administrative Appeals Tribunal would have oversight in relation to the operation of the Fair Work Building Commission—and, I assume, through your amendment—under the ABCC.

I understand there is another amendment, which is a Senator Hinch amendment, in terms of a two-year transition period. We will have a bit of a look at both those amendments right now. I am not sure if we have the two-year transition amendment yet. I think it is still in the system somewhere. Once we get a look at that, I do not think we would need to spend a lot of time considering supporting them. We would, I think, be inclined to support those two amendments. We just want to have a look at the details, so we would not be holding the process up on them. Certainly in relation to the area that we are discussing now—that is, amendment (1) on sheet number 8003—I would like to indicate that we will not support that. We will be looking to deal with these issues on sheet 8015. I might just leave my comments at that. We can then deal with the other amendments that are before the committee.

**Senator HANSON-YOUNG** (South Australia) (22:45): I just want to add some comments in relation to this amendment, as outlined by Senator Rhiannon. Ironically, this goes to one of the fundamental issues referenced by Senator Roberts. He spoke a lot about
freedom and a lot about the idea of workers being able to have protection and a safe environment for the work that they do in their workplace. I find it incredibly ironic to have a senator stand here in this place and spout support for fundamental aspects of workplace conditions, such as what we heard from Senator Roberts, when, in fact, this piece of legislation does anything but provide more protections for workers. In fact, this entire Building Code, which this amendment goes to, is going to create massive chaos within the building and construction industry. What we are going to see, undoubtedly, is a lowest common denominator response: lower safety standards and lower conditions for workers. Those workers who already have worked and fought long and hard for conditions that ensure that they can do their job safely and that their employers ensure that they are looked after—to make sure that their families, when they say goodbye to them at the beginning of the day, know that when they go off to work they are going to work in safe places with regulations that will protect them—will be starting from scratch because this Building Code is effectively going to tear those conditions up.

If anyone wants to come into this place and say that voting for the ABCC legislation is about protecting workers, they have got rocks in their head. It is anything but that. The mass chaos that is going to be created by this bill across the board, particularly in relation to this Building Code, will mean that conditions that have already been fought for and have already been in place are going to be revisited. This has nothing to do with freedom at all—in fact, it is the exact opposite. The government and the minister in charge will be able to stick his or her finger in every pie in relation to workplaces right across the country—mass chaos. So much for small government, Senator Roberts. This is going to create the biggest government intervention you have ever seen in this industry. It is not going to be pretty, and it will not only be workers who end up unhappy.

As we know, the rest of this legislation is an opportunity for the government to thump their chest about their desire and their obsession with union bashing. That is, of course, where Senator Roberts's real passion for this issue lies. He stood here in this chamber—Senator Abetz would be very proud of you, Senator Roberts. You and he see eye to eye when it comes to bashing unions. I can tell that already, and I have only been in here for about half an hour listening to your drivel. It is ridiculous to see an entire industry and all of its workers tarnished with the brush that you have given them. The union bashing that has gone on in this place for the last 24 hours, and last week when the previous bill was debated, is just astonishing. You would think there are no other issues going on in government right now. You would think that there were no other big issues facing the Australian people when you hear the government's obsession with beating up on union members and unions. These unions have fought long and hard for workers to be protected so that they have rights at work and so that they have safety standards to ensure that they do not die on the job.

I must say, Senator Roberts, I was extremely concerned with your continued obsession with big, muscly men. That line kept coming out over and over again, and I have heard it all night. You have an obsession with big, muscly men. I do not know what your problem is, Senator Roberts.

The TEMPORARY CHAIR: Through the chair, if you would, Senator Hanson-Young.

Senator HANSON-YOUNG: Well, Chair, I do not know what Senator Roberts's problem is with big, muscly men. The fact is it does not matter what your size is in this country; you
deserve rights to safety and protection at work, whatever your job is and whatever your physique may be. I know we are being broadcast, so you may not be able to see the stature of Senator Roberts, but I can understand why, perhaps, Senator Roberts is intimidated by people who may be a little bit larger and more muscly than him. But it is not an excuse to come into this place and demand that people, regardless of their stature, regardless of their size and regardless of what industry they work in, do not deserve rights to be protected at work or to be assured that those safety precautions are there.

This amendment goes directly to the element of retrospectivity. We do not want to see those protections, particularly in relation to safety and the basic welfare of workers, ripped up because this piece of legislation is pushed through tonight or in the early hours of tomorrow morning. We need to make sure that when people are working in dangerous environments and tough environments such as construction sites across this country—whether you are building the new hospital in Adelaide or whether you are on the building site of a housing development in Sydney or whether you are in a suburb in Brisbane—they know the rights that they have fought for, to have safe working conditions, are absolutely underpinned and insured. I am extremely concerned that the way this code has been drafted by the government will create massive chaos. People will have to renegotiate those very basic principles. It will create a situation where even employers will be scratching their heads, saying, 'We thought we went through all of this. Why do we have to do this all over again?'

In yesterday's the second reading debate I was particularly concerned with the welfare of young workers in this sector. There will be young electricians or labourers on worksites who, because of the intimidation that will be supercharged through this legislation, will not be able to stand up for themselves on these sites. They will not have the protection of a union which comes in to say, 'Hang on a minute. The safety requirements that should be there are just not there.' We are telling young Australians that they have to get into the workforce and that they need to get skilled up to go out and get a job—we keep hearing that from this government over and over again—but the government is kicking young people because they are unemployed and they do not have work. Here we are with a sector that desperately needs workers, particularly young workers, and we are about to say, 'Go on, go into this sector, go off into this industry,' where people will be intimidated to stand up for their own rights to be protected in the workplace.

We know that the last time the ABCC laws were in place deaths on worksites went up. That is the truth: the number of deaths on worksites went up the last time the ABCC legislation passed this parliament. People were intimidated to point out that something was not safe. Young people were not encouraged to look out for each other in case they were seen to be troublemakers on the construction site. For a number of senators in this place who sprout a whole lot about the rights of individual freedom, it astounds me that the ability for workers to defend themselves against the big bosses is being undermined. In fact, workers are going to be punished under this legislation. We do know that deaths on construction sites went up the last time the ABCC laws were in place. I do not want to see that happen again.

I remember talking to a number of workers after a young colleague of theirs died on the site of the new Adelaide hospital. It was a tragic circumstance where young person went to work. He had been told to stop bludging and go and get a job. So he got a job in one of the toughest environments and he died. He did not get home that day; he did not even get his
lunch that afternoon. That is not the type of circumstance that should be ignored as we debate this legislation. The protections that currently exist in people's employment arrangements—protections that have been fought for long and hard between employers, employees and their representative unions—must be maintained. Despite all of the government's spin and despite the idea that they want government out of people's lives, this bill does the exact opposite—it injects government into the lives of construction workers and their families.

It is not going to be pretty. We will see more dangerous worksites, people intimidated from standing up and speaking out about even basic things like the hours people have to work without a break. Why should it be that an employer and a group of employees in a particular company will have to go back and start from scratch when it comes to agreeing to how many hours those people must work? It is ridiculous and it has absolutely nothing to do with productivity—it is the exact opposite of what you would be doing if you wanted to promote productivity in the building and construction sector.

It is the damn shame that Senator Bob Day is not here because I would love to ask him questions about the productivity of his worksites and how he would respond if the government wanted to get its fingers into the arrangements that had already been worked out in his construction sites and projects. He would be saying, 'Get out of this. I've worked this out. My workers are happy; I am happy. You can bugger off. We don't have to review all of this.' But here we are with the government of the day pretending that they care about productivity and pretending that this is all about a small-government agenda when in fact it is all about being the big bogey man that comes in to intimidate workers and push them to the sidelines—while the government uses this as part of its propaganda against the union movement. It is pathetic; it is unnecessary. For any senator in this place to stand here and start sprouting that this is about freedom, you have rocks in your head. I commend the amendment to the chamber and I hope that my words of reason perhaps have had some impact on Senator Roberts.

**Senator LAMBIE** (Tasmania) (22:59): Minister, I would like to know if the imprisonment for six months for exercising the right to silence is a mandatory, minimum or maximum period. I do not recall hearing you answer that question.

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:00): It is a maximum sentence, Senator Lambie.

**Senator LAMBIE** (Tasmania) (23:00): With these new coercive powers with retrospective operation, is there an amendment to come in relation to that retrospective operation, or are we still on the same old stuff that the Law Council does not like? Has any change been made to that retrospective operation?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:00): The coercive powers are not retrospective.

**Senator LAMBIE** (Tasmania) (23:00): So the new coercive powers with retrospective operation—that was the Law Council's take on it, so is this because you are not reading the law right or the Law Council is not reading the law right. That is a bit of problem!
If Senator Cash is not going to answer the questions, I will keep moving on with them. The exclusion of judicial review without proper justification—has anything been done in that area to rectify that issue?

The TEMPORARY CHAIR: Senator Lambie, you have exhausted your speaking rights—would you resume your seat, please.

Senator SIEWERT (Western Australia—Australian Greens Whip) (23:02): I think Senator Lambie deserves answers to the questions that she was asking the minister. This is a repeat performance by ministers over recent committee of the whole experiences, when ministers have just flatly refused to answer questions. I can understand why she is greatly disappointed—hopefully you will get another go, Senator Lambie.

I share the concerns about the retrospectivity of the Building Code, and I think this amendment is a good amendment in that it deals with that. Here we have a government that claims that this is about generating security and increasing productivity. What could be less about generating security than going back and revisiting all those agreements. That will create chaos in the industry and the sector, and in fact there have been companies in this place recently, including this week, saying, ‘Why are you doing this? Why would you be revisiting all of these agreements?’ This amendment is about retrospectivity; it is about ensuring that if this disastrous legislation goes ahead it would apply only to new agreements, not existing agreements. We think that is fair. Why would you want to go back and open up all those agreements to potential change all over again? Can you imagine the chaos that would reign? How is that good industrial relations?

This is bad legislation, and my colleagues have been explaining our concerns about that for a great length of time. It does not seem to be getting through. During the Howard government—I am looking at Senator Moore, because she was one of the people who was here, as were Senator Sterle and Senator Wong—can you remember the nights—

The TEMPORARY CHAIR: Through the chair, if you would, Senator Siewert.

Senator SIEWERT: I am sure Senator Moore, Senator Wong and Senator Sterle remember the nights and the days that we spent in here debating Work Choices. Didn’t that turn out well for you, folks! It was a complete nightmare. Do you remember when the lights went out in this place—through you, chair, to Senator Sterle—just at the end of the debate on that legislation? For those of us who remember that occasion, it was a significant event, and I think it had something to say about the legislation. We certainly took it as that when we were debating it.

That legislation has been disastrous for the industry and particularly for workers. Subsequent to that bill passing and the ABCC being established at that time, I have spent a great deal of time talking in this chamber and to workers about the way they have been impacted by that legislation. It remains very vivid in my memory. I can imagine how this legislation will impact on workers into the future, and it will not be positive. You are seeking to impose on those workers the sort of punitive, punishing regime that demonises workers in the same way that you demonise people on income support. You demonise workers. You demonise unions. I cannot for the life of me work out why you would want to introduce this degree of potential chaos for the very people whom you claim this legislation is about helping. You claim this is about improving productivity. Imagine the hours of angst this is
going to cause if you open it up to retrospectively amend those agreements. You are starting to pick the eyes out of those agreements. People will want to take action. I certainly would want to if I had an agreement and then found that, subject to this building code, it was being made retrospective.

The approach the government is taking on this legislation is unfair, and that approach did not prove successful last time. I too have been listening very intently to workers and widows who have come to see me about the deaths that have occurred on building sites. I too have a relative who is working on a building site. I do not want to get a phone call one day about what might have happened to him. These experiences leave a mark on you when you hear about the accidents that have occurred. I talk to my relative about his experiences on building sites, and he has always got examples of lax safety procedures that happen basically every day on sites. He told me most recently of an accident that, fortunately, did not end up injuring people but it was more by good luck than by good management. As I said, he tells me regularly about lax practices on sites.

Not too long ago I was visited in my office by some union representatives and a widow. Like some of my colleagues who were sharing earlier, her husband went to work and he never came home. That is what is at stake here: literally, people's lives and safety are at stake. Not only do you want this appalling code to apply to new agreements; you want it to be retrospective. We say no. We say that is not appropriate. We will stand up for workers, we will stand up for safety and we will stand against this appalling back-to-the-future legislation that brings back the worst of demonising workers and demonising unions. We believe that this amendment should be supported and that it provides some extra protections if this legislation does get up. I, for one, hold onto that vague hope that the people that are supporting this legislation see the folly of it and oppose it. Never give up hope. If it does get up, this amendment will provide a small level of improvement to this particular legislation.

I do not want to have more visits in my office of widows and of workers that have been injured at work who have not received the protections they should have. I do not want to be walking along in more protests protesting this sort of legislation and the fact that more workers have ended up having their rights taken away, which is exactly what happened during the worst of the ABCC rule and worst impacts of Work Choices. I would get people just coming up to me while we were literally marching down the street and telling me of their experiences of being called into the star chamber. They were risking actually talking about those very issues. Temporary Chair, if you want to hear those stories, go back and read the *Hansard* from when I stood up in this place and told those accounts. I always use the word 'accounts' because they are accounts; they are not stories because they are not made up. These are experiences of people that were subject to these sorts of bullying behaviours—the very thing this government accuses unions, workers and union officials of—because they sought to take action to protect their safety, their rights, and the rights and safety of their fellow workers.

This is bad legislation. It will be overturned the same way Work Choices was overturned. It will be overturned, but in the meantime this will impact on Australian workers and unions who will lose their ability to protect workers and workers' rights.

I agree with my colleague Senator Hanson-Young when she was talking about the impact on young workers and the ability to support young workers. We see other legislation in this
place. The government keeps talking about other legislation in this place with which they want to rob young workers of the right to income support for five weeks. Again, they demonise young workers and think they do not want to work. If you look at the statistics you can see that for entry-level jobs—this is the last figure I heard—there were 13 applicants for each job. If you go to some of the other particular jobs there are six people applying for one job. It is not because people do not want to work; it is because the jobs are not there. Let's start generating those jobs, not demonising people on income support, people with disability, single parents, young workers, workers and unions. That is not the way we want to see a fairer, kinder and more compassionate Australia.

This is poor legislation and we will not be supporting it. It is completely inappropriate to be putting retrospective measures like this in place, leading to chaos and more disputes. In fact, companies do not want it. They do not want to be revisiting these particular enterprise agreements. If you are going to pass this revolting legislation, at least make it apply only to new agreements and not to existing ones. I commend this amendment to the chamber and look forward to seeing it pass.

Senator McKIM (Tasmania) (23:15): I rise to contribute to the debate on this motion. I would like to start by reflecting a little bit on this legislation as an overall piece of statute. Obviously, the first comment to make is that this is ideologically-driven legislation that has been brought in by the government. You can forgive them for thinking the entire raison d'etre of the coalition is in fact to bring in a commission that will no doubt over-rigorously apply this legislation to disenfranchise ordinary working Australians and to disempower and disenfranchise the union movement in this country. You can also be forgiven for thinking that this was the most important issue facing Australia at the moment. You could be forgiven for thinking that the need for more investment in productive infrastructure actually was a second-order issue when in fact it should be a top-order issue for any responsible government. You could be forgiven for thinking that responding to dangerous global warming is a second-order issue when in fact it should be a top-order issue for this government. You could be forgiven for thinking that putting in place a Commonwealth anticorruption authority was a second-order issue when in fact it should be a top-order issue for this government. You could even be forgiven for thinking that ensuring that the rule of law was adequately applied in this country was a second-order issue when it should in fact be a top-order issue for this government. And I could go on about issues that it appears this government is relegating below this particular piece of legislation, the Australian Building and Construction Industry (Improving Productivity) Bill 2013.

Clearly this government has a whole set of warped priorities going on. Of course, this bill was one of the triggers for the double dissolution election, with the extremely lengthy election campaign that we have all endured. And aren't we happy that the Prime Minister is reported now as saying that he would never go to an election with such a long campaign again? I would be happy and the Australian people would be happy if we did not have to suffer through a campaign that long again. The double dissolution blew up spectacularly in the Prime Minister's face. We heard nothing about this legislation during the campaign. It was the false trigger. The government, having pulled the trigger, tossed it away as a campaigning tool and instead the Prime Minister ran a spectacularly unsuccessful campaign based on pretty much the most boring and bland election slogan ever conceived in this country's history of
'jobs and growth'. Believe me, that is saying something, because there have been some fairly boring election campaigns in this country's history. The Australian people came within a whisker of evicting the Prime Minister and his colleagues from the treasury bench, and it was only by the skin of his teeth and a modicum of luck that he held on. And who can forget his speech on election night? I was sitting at home watching that speech. I have made a couple of election night speeches myself and there would be many others in this chamber who have made election night speeches—but boy, oh boy, that dummy came so far and so hard out of the Prime Minister's mouth on election night that it embedded itself in the wall opposite, and they are still digging for it. Of course, this legislation was the trigger for a double dissolution election. It was effectively ignored by the coalition during the campaign, and it was no surprise that it was ignored during the campaign, because it is a dog. That is what this bill is: it is a dog. And it is a dog for a range of reasons.

The first matter I want to speak about is the very fundamental right that every Australian worker has to be safe at work. Australians have a right to expect, when they arrive at work in the morning, that they can work all day—or all night if they are on shift—and get a fair return for a fair day's work and, most importantly, that they can go home safe and sound at the end of the day. They should know that everything that their employer can do to keep them safe and to provide them with an acceptable workplace is being done, because too many people in this country's history have kissed their family goodbye or waved their mates goodbye and gone to work and that was the last seen of them, because they have died at work.

The construction industry is a dangerous industry sector. We know that from the statistics. Anyone who has been on a construction site—and I have worked on one or two construction sites over my employment career—knows that they are dangerous. To a degree—because in many cases they are full of heavy machinery, moving objects and vehicles—there is inevitably a danger there. But when you get in your car and drive these days there is danger. What we have to do—and particularly what we as legislators have to do—is ensure that everything that can be done is being done to reduce those elements of danger.

The union movement has a proud history in this country of doing just that. When a union is working well, it engages with employers. It works with employers to deliver outcomes for the workers who work for those employers. In many, many industry sectors—in fact, you could argue in all industry sectors—it is pretty hard for a company to make a dollar if it does not have people working for it. A good company, an enlightened company, will value its workers. There are companies that I know in Tasmania—I am not going to embarrass the owners by referencing them in the debate tonight, because I have not asked their permission, but I know who they are and I have been on their worksites—who pay above award and treat their workers with respect. And you know what? The job gets done more efficiently. It should not come as any surprise to us here. If you treat workers with respect, you are going to get outcomes. Those outcomes will allow the employer to be successful in corporate or business terms, and it will also deliver them a more productive and more satisfied workforce.

Coercion and intimidation are no ways to run any organisation. It does not matter whether it is a union, a company, a business, a political party or a bowls club; it does not matter. Those values will not deliver. They are unproductive values. The best way to get outcomes is through engagement, working with other people and treating people with respect. We have concerns that, if the framework that this legislation seeks to establish is created, we will see
the development of a punitive culture. The motion that we are currently debating in regard to this legislation, which relates to the application of a building code, is one of those things.

It ought to be a foundation principle for all legislators that retrospectivity is something to be avoided at absolutely all costs. I have seen many pieces of retrospective legislation passed, and, as a fundamental principle, they ought to be avoided at all costs. I will put a caveat there and say there are times when it actually is in the public interest to allow retrospectivity to apply and to allow legislation or statute which is retrospective in effect or in partial effect to pass through a parliament. But those circumstances are very narrow, and a clear public interest argument must be mounted and assessed as reasonable for those retrospective statutes to pass. In the view of the Greens there are elements of retrospectivity for which the public interest argument has not been made.

I will speak a little bit about the context of the debate that we are having this week. The government has a piece of legislation that is designed to claw back from backpackers a tiny amount in the context of the Commonwealth budget. In doing so, it is placing many, many farmers and agriculturalists at risk. As someone who has worked picking a whole range of fruit, including apples, pears, grapes, oranges, stone fruits and many other fruits—I have picked a lot of fruit in Australia in my time; I have done it for piece rates and for wages—I know that the harvest season in this country is upon us. I know that in places like the Riverland in South Australia the harvest season is upon us. If they are not picking oranges already there will be picking them soon. There will be grapes and stone fruit over there. In my home state of Tasmania—my friend and colleague Senator Whish-Wilson has been mounting the argument very strongly on behalf of Tasmanian agriculturalists—the harvest season is not far away from us. We have cherries coming up and then later this year and early in the New Year—in late February, early March—we are looking at the apple season starting with golden delicious and on to the other varieties. That will run through to around late May.

We need to make sure we have some competitive advantages. The government's efforts around the backpacker tax are actually a textbook example of how not to do policy reform in this country. The reason I mention that in the context of the debate we are having tonight is to show the shambolic way that this government approaches its legislative task. I have already mounted my arguments why I think the Building and Construction Industry (Improving Productivity) Bill will not improve productivity, but I have to say that the bill is another example of the shambolic way that this government approaches its legislative task.

The Greens accept that the government does not have the numbers in this place. We are very glad of that, because the last time the conservative side of politics got the numbers in this place combined with the numbers in the House of Representatives Australian workers were delivered Work Choices, and we all know the draconian measures that were contained in Work Choices and the significantly negative outcomes that Work Choices had for Australian workers. So we are glad that they do not have the numbers, but, having said that, there is a way that is reasonable to approach attempting to legislate in this place. This sort of last-minute approach that we are seeing encapsulated in this legislation is shambolic, is chaotic and does not do the country any good. It is worth pointing out that, despite the legislation having being used as a double dissolution trigger, we have heard next to nothing about this legislation for many a long month after the election. It is only in far more recent times that this legislation has come up with a measure of urgency attached to it. Make no mistake, it is
not going to pass tonight, and we have two sitting days left. The government will get more
and more panicked. The people that the government are negotiating with are going to get
more and more panicked. And ultimately when you have the sorts of tight deadlines that the
government has created for itself on this legislation you end up with bad law, and when you
end up with bad law you end up with bad outcomes. This legislation has been a shambles
from go to whoa.

The Australian Greens will proudly oppose this legislation, not primarily because it has
been delivered to date through the parliament in a shambolic way but because it is profoundly
antiworker. It is profoundly antiworker for a range of reasons, but it is also profoundly union.
When you look at the history of the union movement in this country, and the range of
outcomes it has delivered for ordinary working Australians, you can see why the attack on the
union movement, and in particular, it has to be said, the CFMEU, that this legislation seeks to
carry out is a de facto attack on conditions of work and therefore on the chances of ordinary
working Australian people being safe at work, being able to do a fair day's work for a fair
day's pay and being able to feel valued and come home safely at the end of their working day.

Senator CAMERON (New South Wales) (23:30): We are still on sheet 8003, as I
understand it, which relates to the Building Code. I have made some contribution on the code
previously, but it is important to understand that the code is one of the worst aspects of this
bill. I did have some discussions with One Nation on the code; I did take them through how
this would prohibit unions seeking the employment of apprentices under an enterprise
agreement. I think I also said earlier that, in terms of my involvement as a union official, it
was always the unions who were out arguing for more apprentices to be employed. We argued
for more apprentices not to benefit the union but to make sure there was a supply of labour in
the industry for the longer term. For 27 years as a union official it was competent for me to go
out and argue with an employer to have apprentices engaged on the job. When we look at the apprenticeship figures, and you hear the
government complaining about the lack of apprentices, and you see the government handing
$2 million over to former senator Bob Day for one of his pet projects on apprentices, you
would think the better way to get more apprentices would be not to hand your $2 million to
former senator Bob Day's pet project—it would be to allow unions in the building and
construction industry to negotiate in good faith with their employer to engage apprentices on
the job. That is a fundamental approach that would increase apprenticeships around the
industry.

Remember, this is not a cottage industry—this is not some struggling little self-employed
builder out there building a residential house. These are some of the biggest companies in the
country with thousands of employees, with chief executives on multimillion dollar salaries,
making billions of dollars of profit over the years, and this government says the unions cannot
go and negotiate for an apprentice! The government's answer is to hand money over to the
their mates in return for votes in the Senate for some crazy proposition of student builder,
where the apprentices will not even get a trade certificate. That is the government's answer.
We say that this code should not be impinging upon a unions right and an employers right to negotiate, come to an agreement, about the employment of apprentices. How crazy is it?

The other issue—and we hear so much from One Nation on this issue—is the employment of temporary foreign workers. Why shouldn't a union be able to negotiate the employment of local workers with one of these multinational companies. What is wrong with that? What has this country come to when we have an opposition that tries to make it illegal to employ Australian workers through this code? It just beggars belief. This is about the ideology of this government; it is not about common sense in dealing with these issues. The other area is that, under this code, a union cannot go and negotiate the employment of mature aged workers. You can have a worker who has been employed in the building and construction industry for 20 or 30 years. Their back is starting to give in a bit but he or she has been a loyal worker. They have worked hard, but they have this crook back. Why can't a union and an employer agree to keep a mature aged worker on and work through how that would be done, what work that mature aged worker would do and how the productive performance of the company could be improved with the engagement of that mature aged worker? How crazy is it that Australian workers cannot get a job, that mature aged workers cannot get a job and our apprentices cannot get a job under this code? The Australian public need to understand how crazy this is.

This code applies restrictions on collective bargaining that apply in no other advanced country in the world. The union is not allowed—it is illegal—to argue for site levels that maintain safe staff levels. Again, as a union official for 27 years on many jobs, I negotiated the number of workers needed to carry out certain functions on the basis of making sure that safety is fundamentally supported. That is the issue here. To say that a union cannot negotiate with an employer for safe work practices and safe numbers beggars belief and demonstrates why this lot over here, why this rabble of a government, why this rudderless government, why this leaderless government goes in and hammers the trade union movement on the basis of safety and argues that the union movement is creating problems with safety but the union movement cannot negotiate on safety issues. It beggars belief.

One of the big problems that we have is with casual employment. We have actually seen it in this building in the last week or so with the catering staff in the members area, who are casual workers. Simply from a change of contract, those workers are not being re-engaged. Those workers have kept senators, members and dignitaries fed for years in this place. They are being ditched. A labour hire company comes in and those workers lose their job. I do not know what the conditions are for the new workers who are coming in. So it is absolutely important that a union can negotiate on casual employment and keep workers in a job that gives them some continuity of employment and the capacity to pay their mortgage, pay their bills and put food on the table.

They are also saying that it is illegal to negotiate any clause that says they cannot work unreasonable overtime. We are talking about workers here. We have heard here—not from that rabble over there who simply want to destroy the trade union movement—plenty of reports of incidents of workers being severely injured and workers being killed on building and construction sites. Part of the problem is that workers working unreasonably long hours on a building site become less safe for themselves and less safe for other workers. But this mob do not care as long as the brown paper bags of $10,000 are getting handed over in the backs of their Bentleys to fund the election campaigns of the Liberal Party. Do they care if
workers are being killed on building sites? My view is that they do not. Working unreasonable overtime means that workers are put in an unsafe situation. Other workers, if they are working beside the worker who has had to work unreasonable overtime, are placed in an unsafe situation. Again, this is a proposition for unreasonable working hours that a union cannot negotiate under this crazy code that is purely based on ideological attacks on the trade union movement. This is unacceptable. Again, it happens nowhere else in the world—only under the coalition who have Work Choices and antiworker rhetoric in their DNA.

A property owner building a construction on his own site cannot invite a union official on that site as they see fit. So the union has a good relationship with the builder and the builder says; 'You can come on any time you like. We've had productive relations with you for years.' One company I met the other day has not had an industrial dispute in a bargaining process for 15 years. You do not hear this rabble over there talking about that. They always want to point out the worst aspects; they never point out these good aspects of the building industry. So a property owner cannot even invite a union official onto the site because it is illegal under the code.

Another proposition that is illegal is to be able to negotiate on subcontractors. Again, all of these issues can be negotiated under the Fair Work Act for everyone else. Why can't a building worker have the same rights as every other worker in the country? You cannot even consult over the use of subcontractors. It is illegal under the code. Again, it just demonstrates the vindictiveness of this anti-union mob that masquerade as a government—an absolute rabble of a government. They are a leaderless government—leaderless in the Senate and leaderless in the House of Reps. They are too busy being consumed by the internal problems and the internal incompetence to actually worry about what is good for workers in this country. So you cannot even encourage consultation between a union and an employer about the use of subcontractors.

What they want to do is make it illegal to get some protections for workers' entitlements, so workers' entitlements would be cashed out every time they are on a job. We know what that means: the workers have got no long-term security of payments. This is another illegal part of the code.

The code is an absolute disgrace. I have heard somebody say, 'This is Work Choices by stealth.' This is not stealth. This is a full-on attack on the trade union movement. It is a full-on attack on working families in this country. We heard Senator Roberts babble on about how if you had three lanes you could build four if this bill comes in. We heard the minister say you could have two hospitals built instead of three because the master builders are out running this 30 per cent improvement. Nowhere is there any evidence that that is the case. There is no productivity case for this. There is no health and safety case for this. There is no case for this code. It is outrageous. One Nation and the crossbench should be saying that this code is unacceptable and they should stand up for Australian workers and Australian workers rights, because that rabble of a government will try and kill workers rights every chance they get.

The CHAIR: The question is that the amendment moved by Senator Rhiannon on sheet 8003 be agreed to.

The committee divided. [23:50]

(The Chair—Senator Lines)
Tuesday, 29 November 2016

SENATE

CHAMBER

Ayes ......................8
Noes ......................51
Majority ...............43

AYES

Di Natale, R
McKim, NJ
Rice, J
Waters, LJ

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

NOES

Abetz, E
Bilyk, CL
Brandis, GH
Burston, B
Cameron, DN
Carr, KJ
Cormann, M
Dodson, P
Farrell, D
Fierravanti-Wells, C
Gallacher, AM
Griff, S
Hinch, D
Kakoschke-Moore, S
Kitching, K
Leyonhjelm, DE
Marshall, GM
McCartby, M
McKenzie, B
Nash, F
Paterson, J
Reynolds, L
Ruston, A
Smith, D
Urquhart, AE
Xenophon, N

Back, CJ
Birmingham, SJ
Brown, CL
Bushby, DC
Canavan, MJ
Cash, MC
Culleton, RN
Duniam, J
Fawcett, DJ
Fifield, MP
Gallagher, KR
Hanson, P
Hume, J
Ketter, CR
Lambie, J
Macdonald, ID
McAllister, J (teller)
McGrath, J
Moore, CM
O'Sullivan, B
Pratt, LC
Roberts, M
Ryan, SM
Sterle, G
Williams, JR

Question negatived

Senator HINCH (Victoria) (23:54): I move amendment (1) on sheet 8026:
(1) Clause 34, page 29 (before line 20), before subsection (3), insert:
(2D) If a document issued under subsection (1) includes requirements in relation to the content of building enterprise agreements, a building industry participant may, before 29 November 2018, tender for building work funded (whether directly or indirectly) by the Commonwealth or a Commonwealth authority even if a building enterprise agreement, made before the document is issued, that covers the building industry participant does not comply with any one or more of the requirements.

Note: However, a building enterprise agreement, made after the document is issued, that covers a building industry participant must comply with the requirements if the building industry participant is to tender for building work.
I will point out that this is called the retrospectivity clause, in which it says:

If a document issued under subsection (1) includes requirements in relation to the content of building enterprise agreements, a building industry participant may, before 29 November 2018, tender for building work funded (whether directly or indirectly) by the Commonwealth or a Commonwealth authority even if a building enterprise agreement, made before the document is issued, that covers the building industry participant does not comply with any one or more of the requirements.

I liken this to the paid parental leave scheme. The government wanted to bring in a PPL from 1 January; I recommended they bring it in from 1 October next year. That would mean that anyone who is currently pregnant would not be affected by the PPL laws that come in. In the same way in respect of retrospectivity, any company or union that signs an EBA after April 2014—if that EBA expires in 2015, 2016 or 2017—will be okay. If they do it in 2015, expiring by 2017-18, they will be okay. Some people will get caught when the shut-off comes at the end of November 2018, but I think it is a fair compromise and I think it can work.

Senator CAMERON (New South Wales) (22:09): I understand what Senator Hinch is trying to achieve here, but can I also indicate Labor's principle on this, that the Building Code treats workers in the building industry differently from those in any other industry. In our view the specific proposition that Senator Hinch is putting up here does not do what I think Senator Hinch is trying to achieve. Saying you can tender for building work does not cover what happens after the tendering period. That is an important part as well—are you caught when you actually want to do the building? In our view, this does not provide sufficient protection on that very issue.

We will be looking at this overnight. We will be coming back with amendments on this tomorrow. We understand where Senator Hinch is trying to go, but certainly our amendment on sheet 8015 goes much further—it deals with all the problems in the code that I have outlined. This is, in your own words, Senator Hinch, a compromise. We do not think you should compromise with workers' safety. We do not think you should compromise with workers' rights to bargain. We do not think you should compromise with workers' rights and unions' rights to negotiate for apprentices on the job. We do not think you should compromise with Australian jobs. We have broader problems with this, but we will look at some amendments and also we will be coming back with our 8015 amendment that goes much wider.

This is a real problem. This is the problem, after the government has moved on a range of areas. This is the problem for workers in the building and construction industry. This is the area where workers' wages and conditions will be peeled back because there are restrictions on bargaining in the building and construction industry that occur nowhere else in the country. Why should there be restrictions in the building and construction industry, separate rules for the building and construction industry, separate laws for the building and construction industry, when the case has not been made out for it? All the arguments we have heard about productivity are just that—arguments. They have not been thought through—they are ideological attacks on the trade union movement. We are very clear that this is a fundamental part of this bill designed to minimise workers' rights to have a union represent them and collectively bargain.

We understand the issue Senator Hinch is raising about being able to tender for building work, but tendering is only one aspect—there are other aspects to building work. We know
why the government probably would have agreed to this—because the government would be moving against anybody building so workers would not have had access to the benefits he is trying to put in, the compromise he is trying to put forward. I would be urging you, Senator Hinch, and I would be urging the other crossbenchers, to have a look at what is in 8015, because that fixes the problem for all workers and looks after Australian jobs.

Progress reported.

**Senate adjourned at midnight**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk pursuant to statute:

[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

* Commissioner of Taxation—Public Rulings—
  * Class Rulings—
    * Addendum—CR 2013/78.
    * CR 2016/89 and CR 2016/90.
* Superannuation Guarantee Determination—Notice of Withdrawal—SGD 94/3.
* Taxation Determinations—
  * Addendum—TD 93/3.
  * TD 2016/18.
* Criminal Code Act 1995—
  * Criminal Code (Terrorist Organisation—Islamic State in Libya) Regulation 2016 [F2016L01813].
* Environment Protection and Biodiversity Conservation Act 1999—

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CHAMBER

Amendment to List of CITES Species (23 November 2016) [F2016L01824].


Fisheries Levy Act 1984—Fisheries Levy (Torres Strait Prawn Fishery) Regulation 2016 [F2016L01802].


Norfolk Island Act 1979—Norfolk Island Applied Laws Amendment (Suspension) Ordinance 2016 [F2016L01814].

Primary Industries (Customs) Charges Act 1999—Primary Industries (Customs) Charges Amendment (Melons) Regulation 2016 [F2016L01821].

Primary Industries (Excise) Levies Act 1999—

Primary Industries (Excise) Levies Amendment (Melons) Regulation 2016 [F2016L01819].

Primary Industries (Excise) Levies Amendment (Red Meat Slaughter) Regulation 2016 [F2016L01820].


Public Works Committee Act 1969—Public Works Committee Regulation 2016 [F2016L01808].


Tabling

The following documents were tabled pursuant to standing order 61(1) (b):


Cotton Research and Development Corporation (CRDC)—Report for 2015-16.


Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 2015.

Fisheries Research and Development Corporation (FRDC)—Report for 2015-16.


Law and justice—Bell Group litigation—Answer to question—Letter to the President of the Senate from the Minister for Finance (Senator Cormann), dated 28 November 2016, providing additional information concerning a question without notice asked by Senator McCarthy on 28 November 2016.