## INTERNET

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### SITTING DAYS—2014

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## RADIO BROADCASTS

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SECOND PERIOD

Governor-General
Her Excellency the Hon. Quentin Bryce AC, CVO

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Parry
Temporary Chairs of Committees—Senators Cory Bernardi, Thomas Mark Bishop,
Suzanne Kay Boyce, Sean Edwards, David Julian Fawcett, Mark Lionel Furner,
Alexander McEachian Gallacher, Scott Ludlam, Gavin Mark Marshall,
Anne Sowerby Ruston, Dean Anthony Smith, Ursula Mary Stephens, Glenn Sterle and
Peter Stuart Whish-Wilson

Leader of the Government in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Government in the Senate—Senator Hon. George Henry Brandis QC
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator the Hon Stephen Conroy
Manager of Government Business in the Senate—Senator Hon. Mitchell Peter Fifield
Manager of Opposition Business in the Senate—Senator Claire Moore

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Australian Labor Party—Senator the Hon Penny Wong
Deputy Leader of the Australian Labor Party—Senator the Hon Stephen Conroy
Leader of the Australian Greens—Senator Christine Anne Milne
Chief Government Whip—Senator Helen Kroger
Deputy Government Whips—Senators Christopher John Back and David Christopher Bushby
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

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

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<th>Party</th>
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<td>Australian Capital Territory</td>
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</table>

(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the Constitution.

(2) Chosen by the Parliament of Western Australia to fill a casual vacancy (vice J. Adams, died in office 31.3.12), pursuant to section 15 of the Constitution.

(3) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. N. Sherry, resigned 1.6.12), pursuant to section 15 of the Constitution.

(4) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. B. Brown, resigned 15.6.12), pursuant to section 15 of the Constitution.

(5) Chosen by the Parliament of South Australia to fill a casual vacancy (vice M. J. Fisher, resigned 15.8.12), pursuant to section 15 of the Constitution.

(6) Chosen by the Parliament of Western Australia to fill a casual vacancy (vice C. Evans, resigned 12.4.13), pursuant to section 15 of the Constitution.

(7) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Joyce, resigned 8.8.13), pursuant to section 15 of the Constitution.

(8) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice M. Thistlethwaite, resigned 9.8.13), pursuant to section 15 of the Constitution.

(9) Chosen by the Parliament of Victoria to fill a casual vacancy (vice D. Feeney, resigned 12.8.13), pursuant to section 15 of the Constitution.

(10) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr, resigned 24.10.13), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
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<tr>
<td>Prime Minister</td>
<td>The Hon Tony Abbott MP</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Josh Frydenberg MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Alan Tudge MP</td>
</tr>
<tr>
<td>Minister for Infrastructure and Regional Development (Deputy Prime</td>
<td>The Hon Warren Truss MP</td>
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<tr>
<td>Minister)</td>
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<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>The Hon Jamie Briggs MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon Julie Bishop MP</td>
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<tr>
<td>Minister for Trade and Investment</td>
<td>The Hon Andrew Robb AO MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>Senator the Hon Brett Mason</td>
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<tr>
<td>Minister for Employment (Leader of the Government in the Senate)</td>
<td>Senator the Hon Eric Abetz</td>
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<tr>
<td>Assistant Minister for Employment (Deputy Leader of the House)</td>
<td>The Hon Luke Hartsuyker MP</td>
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<tr>
<td>Attorney-General</td>
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<tr>
<td>Minister for the Arts (Vice-President of the Executive Council)</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>Minister for Justice</td>
<td>The Hon Michael Keenan MP</td>
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<tr>
<td>Treasurer</td>
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<td>Minister for Small Business</td>
<td>The Hon Joe Hockey MP</td>
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<tr>
<td>Acting Assistant Treasurer</td>
<td>The Hon Bruce Billson MP</td>
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<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
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<td>Senator the Hon Richard Colbeck</td>
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<tr>
<td>Minister for Education (Leader of the House)</td>
<td>The Hon Christopher Pyne MP</td>
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<td>Parliamentary Secretary to the Minister for Education</td>
<td>Senator the Hon Scott Ryan</td>
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<tr>
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<tr>
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<td>The Hon Bob Baldwin MP</td>
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<tr>
<td>Minister for Social Services</td>
<td>The Hon Kevin Andrews MP</td>
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<tr>
<td>Assistant Minister for Social Services (Manager of Government Business</td>
<td>Senator the Hon Mitch Fifield</td>
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<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<td>The Hon Paul Fletcher MP</td>
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<tr>
<td><strong>Minister for Defence</strong></td>
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<tr>
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<td>Senator the Hon Michael Ronaldson</td>
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<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
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<tr>
<td>Assistant Minister for Defence</td>
<td>The Hon Stuart Robert MP</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Human Services in the Social Services portfolio and a Department of Veterans’ Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 09:30, read prayers and made an acknowledgement of country.

BILLS

Private Health Insurance Legislation Amendment Bill 2013

Second Reading

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

Senator MOORE (Queensland) (09:31): The opposition will be supporting the Private Health Insurance Legislation Amendment Bill 2013. I think people in the wider community know that Labor has always believed it is important to have a sustainable private health insurance industry in Australia. We know that over the last few years this has been a contested area. I am not sure, but I think several times in this place we have had private health insurance bills that have been debated quite robustly—I think that is the term we could use.

The indexation of the private health insurance rebate is something introduced by Labor. It is a budget initiative; it was introduced as a budget process. It is expected to raise about $700 million in savings over the forward estimates. The bill before us does not change that budget position. Basically, the bill looks at the way private health insurers make the calculation to apply the legislation that was previously put through. On that basis, I acknowledge the representations from insurers that the process we now have with the amendment will require less administration. But what is of even more importance is that the rights of policyholders are not undermined.

Consistently through our debates in this place we have been looking at the rights, the security and the engagement of the consumer. This industry in particular depends on people who make the personal choice to take up private health insurance, and I want to acknowledge the representations from the consumer organisations as well as from the insurers about this process. After all, it is a common goal that we make private health insurance work. The intent of this is that it will require less administration on the behalf of private health insurers and it will be easier to implement. The concepts and the arguments that have been put to us by private health insurers have made it clear that this is something they want. When Labor introduced the change last year there was a debate about whether the indexation should be calculated at the product level, as it was in the original process, at the industry level or at the individual insurer level. One of the principal concerns put by the then Department of Health and Ageing, currently the Department of Health, was that implementing the indexation at an industry level, as is proposed in this bill, would put smaller insurers at a competitive disadvantage. That was an argument that we took very seriously, and I think it is important to note that we have listened to people who have come forward with arguments. In the subsequent months smaller insurers, including the peak body, have put it to the opposition that this amendment will make it easier to implement and will require less administration.

The intent of Labor's proposed implementation model was that it would create greater competition and transparency for consumers. It is necessary, absolutely, for the government to demonstrate how this bill will increase transparency and competition. Labor will always
support measures that enhance competition, which is consistent with our position that there be a sustainable private health insurance sector in this country. We are the party that is capable of improving competition, but standing up always for consumers.

The government is about promoting competition but sometimes we believe the roll and the absolute importance of consumers can get lost in the argument. So far the government has approved—and it is important to note this, Mr Deputy President—the biggest increase to private health insurance premiums in almost a decade, and this raises concerns about affordability for consumers. The government supports a private health insurance industry having greater involvement in the delivery of health care in Australia, but it is really important that any arguments about further engagement of the private health industry are not about breaking up Australia's system of universal health care and creating a two-tier health system, which exist in places like the United States.

This is an ongoing discussion because there are great concerns about maintaining the integrity of Medicare and a universal health system. We need to maintain the argument, which is more than just yelling at each other or taking entrenched positions; we must ensure that we have the maturity to listen to the arguments carefully to achieve the best possible system. The commitment and the respect that the Labor Party has for Medicare is on record; and that will continue to be part of any future debate. One of the things that colours the discussion is the likely sale Medibank Private. As a consumer of Medibank Private, I always put on the record that I have a personal interest in what is happening to the scheme, which I first joined as a Commonwealth public servant when the old Health Insurance Commission morphed into what we now know as Medibank Private.

In previous debates there has been considerable criticism by the coalition in opposition that the changes the Labor government introduced would undermine the integrity and security of the private health insurance industry and affect the number of people making the personal choice—it is important to acknowledge that it is a personal choice—to take up private health insurance. We know that there are a number of issues surrounding the legislation that encourage that choice; indeed, the legislation states that if you do not take up private health insurance or if you do not take extra cover as you age, there will be taxation implications. Nonetheless, we are always talking about a market industry, and so private insurance agencies and firms need to convince individuals that they have a valuable product to offer and that real choice exists in the market to provide them the options they need in the health system. Private health insurance must always be a market exercise, and that private choice must always be important in anything we do.

We know that at the moment 47.7 per cent of Australians have private insurance for hospital cover and 55 per cent have general cover. We need to keep those figures in mind, and in any debate we need to know that private health schemes are transparent, accountable and inform people precisely of their coverage. It is not in anybody's interest to have skyrocketing private health premiums; and that is something that this parliament and the Community Affairs Legislation and References Committees will continue to watch very closely. We are supporting this bill and we acknowledge the range of people who have been involved—especially the public servants in the department who have provided many valuable briefings and documentation which manages to explain complex matters. Amidst the debate it is very comforting to know that there are people in the department who are always available to
provide information. Sometimes that will be at strange times of the night as, if I remember correctly, when working with the community affairs committee. Nonetheless, they provided the security that we had the information we needed. We welcome the fact that the private health insurers themselves have worked with both our government and the current government to put forward their case about how this indexation process will work. We support the legislation and we welcome it coming into place.

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (09:40): I rise to support the Private Health Insurance Legislation Amendment Bill 2013. Following Senator Moore, I remind the chamber and those who may be listening that more than 10 million Australians have some form of private health insurance. It is critically important to recall the fact that these people come from all socioeconomic levels in Australian society and from all age ranges. Especially they are young married couples, young families, who have the challenge ahead of them and those at the other end of the age spectrum who will always be needing health services. Therefore, anything that interferes with the integrity of the private health insurance system must be observed with some degree of fear and apprehension. That is why I support the legislation.

Indexing the private health insurance rebate is one of several measures introduced by the previous Labor government which adversely affected Australians taking responsibility for their health through private health insurance. This legislation should help to address that. While the Private Health Insurance Legislation Amendment Bill will make indexing the government rebate simpler for funds to administer, the reality is that providers have been opposed to indexing because it may lead to a change in decision making by members of funds. Their premiums will steadily increase as the rebate diminishes over time, and that is of concern. It may lead funds to downgrade the quality of service and the level and breadth of protection that members currently enjoy, or people may drop their private health cover altogether, which is inevitably going to adversely affect their own health outcomes and place more pressure on the already overloaded public system.

That brings me to the objective, which is to simplify the current implementation arrangements for indexing the government's contribution to the rebate by amending the Private Health Insurance Act 2007. This creates a single adjustment factor under a legislative instrument, and I am pleased to see that the Labor Party is supporting this thrust by the government. It will be adjusted uniformly across all insurance policies on 1 April each year by a factor to be determined in accordance with the Private Health Insurance (Incentives) Rules. This is an incredibly important feature for administrative purposes and, ultimately, for those who have premiums. The adjustment factor will be a ratio representing the proportion of the increase in the CPI compared to the average private health insurance premium increase. That should give some level of stability.

It is interesting that at the moment—and this is advice from industry—there are over 34,000 policies on the market. The burden placed on insurers to comply with the application of a unique rebate for each policy type is estimated to be in excess of $15 million in implementation costs alone, and those costs inevitably go back into premiums. That is what we want to see stopped. The industry has advised that, according to minister, the bill will result in administrative savings of around 80 per cent of the cost of implementing the previous
Labor government's Private Health Insurance Legislation Amendment (Base Premium) Act 2013.

All of these factors point to the need for Australians to remain in private health insurance funds and for them to be attracted to do so. Indexing private health insurance rebates has been the wrong way to proceed. This legislation at least improves the circumstance. It will simplify it, get it to a stage where there is a once-only annual change and, at the same time, it will encourage those who are already participating to remain in private health and encourage young people to come into the private health system.

I, like Senator Moore, hope that we will have a robust discussion about the future of our provision and delivery of health services in this country. I was in the United States during the three months of last year when the Obamacare issue was so hotly debated, and it all turned on young people signing up. As people unashamedly said, it is going to be the premiums paid by young people that will fund the system for Americans into the future. None of us want to see here the debacle that is currently going on in the United States.

I commend the amendment bill to the chamber.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (09:45): I would like to thank members who contributed to the debate on this bill. The Private Health Insurance Legislation Amendment Bill 2013 simplifies implementation arrangements of the previous government's base premium measure. The previous government's changes would have applied at a product level and would have effectively led to a different rebate for each policy type—cumbersome to administer and difficult for consumers to understand. This bill amends the Private Health Insurance Act 2007 to create a single adjustment factor under a legislative instrument. The rebate will be adjusted uniformly across all insurance policies each 1 April by a factor to be determined in accordance with the Private Health Insurance (Incentives) Rules. The adjustment factor will be a ratio representing the proportion of the increase in the consumer price index compared to the average private health insurance premium increase. Industry has advised that this bill will result in a significant administrative saving to the cost of implementing the previous government's base premium act. The bill is also making a minor amendment to clarify the definition of a 'restricted access group'.

In summary, this bill will reduce the complexity for consumers and alleviate a considerable administrative burden for insurers. The government recognises the importance of private health insurance as a pillar of our health system and respects the sacrifice made by many Australians to provide for their own health care.

Question agreed to.

Bill read a second time.

In Committee

Senator XENOPHON (South Australia) (09:47): I am sorry that I was not here during the second reading stage of the bill. I expected the speakers to speak longer than they actually did, but I will make some very brief comments in the context of an amendment that I would like to
move. I wonder whether it is appropriate to move that amendment at this stage and then speak to it.

The DEPUTY PRESIDENT: That would be fine, Senator Xenophon. The amendment you are moving is on sheet 7470.

Senator XENOPHON: I move amendment (1) on sheet 7470:

(1) Schedule 1, page 6 (after line 7), after Part 2, insert:

Part 2A—Annual report by Productivity Commission

Private Health Insurance Act 2007

12A Section 169-5 (heading)

Repeal the heading, substitute:

169-5 Information to be given annually to the Council and the Productivity Commission

12B After subsection 169-5(1)

Insert:

(1A) A private health insurer must, within 3 months after the end of each financial year, or within such further time as the Productivity Commission allows, give to the Productivity Commission such information (including financial accounts and statements) in respect of that year as the Productivity Commission requires to be given for use in preparing the report referred to in section 333-1A.

12C Subsection 169-5(2)

Omit "such accounts or statements", substitute "accounts or statements referred to in subsection (1) or (1A)".

12D Before section 333-1

Insert:

333-1A Annual report by Productivity Commission

(1) The Productivity Commission must, as soon as practicable after 30 September in each year, give the Minister a report, for presentation to the Parliament, relating to changes in the composition of the persons insured under insurance policies issued by each private health insurer during the financial year ending on 30 June in that year.

Note: See also section 34C of the Acts Interpretation Act 1901, which contains extra rules about periodic reports.

(2) The report must include:

(a) information about the number of persons who have ceased to be insured, and the number of persons who have downgraded their level of insurance, under insurance policies that *cover* hospital treatment during that financial year; and

(b) information about the number of persons who have ceased to be insured, and the number of persons who have downgraded their level of insurance, under insurance policies that cover *general* treatment during that financial year; and

(c) information about the age and income tax bracket of those persons who have ceased to be insured, or who have downgraded their level of insurance, under insurance policies that cover hospital treatment or general treatment during that financial year; and

(d) any recommendations from the Productivity Commission for addressing:

(i) reductions in the number of persons insured under insurance policies that cover hospital treatment or general treatment; and
(ii) people electing to downgrade their level of insurance under insurance policies that cover hospital treatment or general treatment.

(3) However, the report must not include any information that would enable an individual to be identified.

(4) The Minister must publish on the Department’s website the report, and a written response to the report, within 60 days after the first day on which the report is laid before a House of the Parliament in accordance with section 34C of the Acts Interpretation Act 1901.

By way of background, I support the measures in this bill. They are an important move in simplifying the new indexation measures and reducing red tape for private health insurers. I would have liked the government to have gone further and repeal the measures relating to the base premium altogether. I believe it is bad for consumers and bad for insurers, because our health care system does rely on that balance between the public and private sectors.

Part of keeping that balance is having detailed information of what kind of health cover people have and how they respond to changes in government policy and economic fluctuations, because without that information we cannot make informed policy decisions. In 2012, when parliament was debating the former government’s private health insurance reforms, I raised concerns that the measures in the bill would lead to consumers dropping their ancillary cover and only keeping the bare minimum required to avoid penalty. In my view, these ancillary services—such as optical, physio, occupational therapy, dental and so on—play a vital part in preventive health measures. If people drop their cover for these services and therefore do not seek treatment, we will be looking at a far bigger health bill down the track when a problem that could have been addressed through physiotherapy, for instance, now requires surgery.

It is worth repeating some of the comments from the Community Affairs Legislation Committee into the former government’s bill. It was estimated that the removal of the Lifetime Health Cover loading from the rebate would be a significant cost to consumers. The GMHBA estimated that the removal of the Lifetime Health Cover loading component of private health insurance premiums would result in a further one per cent to 18 per cent—an average of 10.6 per cent—price increase from 1 July 2003 for those with Lifetime Health Cover loadings. This would impact on approximately 17.9 per cent of GMHBA memberships—approximately 40,000 individuals. In simple terms, the removal of the rebate means a 42 per cent increase in the loading for these members. I think it is fair to say that that was a prediction, but there has been a significant increase in private health insurance premiums. But we do not know sufficiently what the level of ancillary cover drop-out has been. Further, Bupa expressed their concerns about the regulatory burden on providers relating to the base premium, saying:

Bupa is concerned that the Government has not considered the considerable regulatory burden that the proposed implementation of CPI indexation will have on industry. Annual rebate certificate audits will be progressively more complex and expensive, this alone will add significant cost for all insurers, which they have no control over.

They also made some other comments in relation to that.

This feedback is consistent with comments that I have had from other providers. I think it is vitally important that we have an ongoing picture of the changes and shifts between the public and private health systems so that we can have a proper understanding of the impact of
health policy. If somebody drops out of their optical cover or their dental cover and they need to go to the public system as a result of their dropping out of the ancillary cover, I think we need to know that, because that begs the question whether the public system needs more funding to deal with that situation.

This amendment that I have moved is similar to an amendment that was moved to the Fairer Private Health Insurance Incentives package of bills by the former government in 2012. This amendment would require the Productivity Commission to collect and report on information from the private health sector each year; to collate the information, including data about the number of people who have changed their coverage or opted in or out altogether; and present it and any recommendations to the minister. The minister must publish the report and a written response from the government on the Department of Health's website within a certain time frame.

When I originally moved this amendment in 2012 the coalition supported it. I am pleased to say that I have had representations from the minister's office and that they still do support the intent of the amendment, although they have some concerns about the specific clauses and wording. To be fair to the government, when they were in opposition they did not have the benefit of having advice from the department in relation to this amendment—which I called the 'Roberts amendment'—named after the ABC journalist, George Roberts, who bailed me up at the Senate doors one morning, asked me a series of questions and then gave me the idea for this amendment. So he is to blame—and I hope he did not have to flee the country to Indonesia as a result of my naming the amendment after him!

So I would like to hear from the government. I have had some constructive discussions with the minister's office in respect of this. I would like to hear from the government whether they still support the intent of this amendment and, if they consider it to be a good amendment in intent and in policy, what they say they will do to try to implement this, and we can progress this. If you want to have good public policy, particularly in an area as important as health, we need the information. Whatever side of the debate you are on—whether the private or public sector or somewhere in between—having that information would be very valuable in framing the public policy debate. So I hope I can get the sort of undertaking that the minister can provide in terms of Mr Dutton's office. If the Assistant Minister for Health can assist me in respect of that, it would be very useful. I think this is a necessary piece of information we need and the information must be obtained, collated and used.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (09:53): I thank Senator Xenophon for moving the amendment and, indeed, for his contribution. I do understand that we move through speeches with a little more alacrity than he might otherwise have thought. So I do thank you for the comments that you have made in the context of moving your amendment in the committee stage.

While we do not support the amendment as proposed today by Senator Xenophon, the government is supportive of the underlying concept proposed by Senator Xenophon through the amendment. We are supportive of the intent and we do appreciate the discussions that have taken place between the government and the senator. We believe that the increased understanding of the annual changes to the make-up of private health insurance membership is important, especially with regard to those who drop or downgrade their cover. Indeed, Senator Xenophon indicated that the coalition did support a similar set of amendments in
2012, and I do appreciate the comment from Senator Xenophon that, having moved into government, having the support of a significant department can bring out a range of measures that previously had not had the similar level of consideration. I do appreciate you saying that, Senator Xenophon.

The government has identified a number of technical issues regarding the implementation of the amendment, and it is for that reason that we are not supporting it in the current form. We have had preliminary discussions with Senator Xenophon, as he indicated, and I can certainly say to Senator Xenophon that we look forward to working with him and with the private health insurance industry to develop this proposal further in the period ahead.

Senator XENOPHON (South Australia) (09:55): I am afraid I cannot let the minister off that easily with respect to this. Firstly, I would like to know whether she can outline what the technical issues are. Secondly, what consultation will there be with both the private health insurers and the public systems in the various states? If there is a drop in some sorts of ancillary cover and it puts pressure on our public system, surely we should know that as well. Secondly, what sort of time frame is the government looking at to implement what it considers to be a reasonable and sensible amendment, or the intent of these amendments, to provide this further information so that we can actually have some better public policy in this space?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (09:56): There are a range of questions there, and, if I do miss some, Senator Xenophon, please feel free to come back to me again. The issues around the technicalities are predominantly around the tax bracket and definitional problems around the issue of downgrade. In those technical areas, I think we would need to have some clarity in relation to moving forward with this. As we have indicated, we support the intent of it, and I think we can work through those more technical issues as we go further through this process.

Of course it is always very important, as it is in this case, to ensure we have consultation with the sector. That will take a little time, so I cannot indicate to the senator a particular date by which the consideration may be completed, but I can certainly indicate to the senator that the government's intent is to have the consideration in a timely manner, again recognising the view of the senator and the fact that the intent of the matter is something that is agreed to by the government.

Senator XENOPHON (South Australia) (09:57): Can I get an indication of what timely means? Is timely in my lifetime or in someone else's lifetime? Is it in this parliament or another parliament? Is it six months, 12 months, two years or five years? Even a rough idea would be useful.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (09:57): I do understand the senator's desire to get more of a structured time frame, but it is actually difficult for me to give him that in so far as some of these definitional issues needing to be addressed, in particular downgrade across the industry, how different companies approach that and how they actually do the downgrading from company to company. If it is a simple answer that we get from the sector, we would imagine that it would happen in a reasonably short time frame.
So I am not obfuscating, Senator Xenophon, it is just the fact that within this environment we are going to need to talk to industry about how some of those things operate before we can give you any definite time. But when I say 'in a timely manner', I think you would understand, Senator Xenophon, that the intent of the government is to do this in the most efficacious way possible.

Senator XENOPHON (South Australia) (09:58): Finally, can I at least get an undertaking from the government that I will be able to get some updates or information on this on a fairly regular basis—every few months? Because I think there is a vacuum in policy information with respect to this.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (09:59): I can certainly indicate to the senator that that indeed would be the case. As I have said from the outset, the intent of the amendment is something that the government agrees with, and we would certainly be taking into account communication with you, Senator Xenophon, as we move through this process.

Senator MOORE (Queensland) (09:59): It is important to put on record the opposition's position on this amendment. At this time we are not supporting it. We see the intent and we thank Mr Robert and Senator Xenophon for their interest in this issue and for maintaining the discussion about how it can work. We are aware that there are technical issues because of what the department has done in previous discussions around this point. There are issues around privacy, and you are aware of that, Senator Xenophon—you have made an effort in your amendment to look at those issues—but we want to be convinced about them. It is an issue raised by consumers all the time and, dare I say, we are also a little concerned about the issues of red tape. How do we make the process efficient, effective and transparent? We are keen to be involved in any further discussions around this process. It is important we see that the intent of private health insurance is understood and transparent and everybody's rights are protected. So on that basis we are not supporting it at this stage.

The TEMPORARY CHAIRMAN (Senator Marshall): The question is that the amendment moved by Senator Xenophon be agreed to.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (10:01): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
Appropriation (Parliamentary Departments) Bill (No. 2) 2013-2014
Appropriation Bill (No. 3) 2013-2014
Appropriation Bill (No. 4) 2013-2014

Second Reading

Debate resumed on the motion:
That these bills be now read a second time.

Senator THORP (Tasmania) (10:02): I am appreciative of the opportunity to be able to speak in this debate on the appropriation bills because it allows me to talk about an issue quite dear to my heart—social equity. Senators would know that one of the determinants of success in life is the level of educational outcome that students throughout our country achieve. All the research shows there are several factors which mean that different students are unable to reach the level that their potential would indicate. Those issues tend to be around whether or not a student is living in a rural or remote area, whether or not English is the first language spoken at home, whether or not that person is of Aboriginal descent, whether or not that person lives with the disability, but most significantly, whether or not that person comes from a low socioeconomic background. This seems to be one of the strongest determinants about whether a student is able to reach a reasonable level of educational outcome.

There are many ways that this can be addressed, and one of the ways that it is being dealt with in my home state of Tasmania with a great degree of success is through the establishment of child and family centres. Child and family centres were the initiative of former Premier David Bartlett. Originally there were going to be 30 rolled out around the state, but to date, only 11 have been. It is my hope that they will be rolled out throughout the entire state in the years to come. There is a degree of expense involved. Where child and family centres have been established and are working well, the outcomes for those communities are quite considerable.

I want to give honourable senators an indication of how the child and family centres work. They have a physical building, usually placed close to existing community homes or primary schools, and they act as a community service hub in the area. The child and family centres are designed to be very welcoming places where people can go—young mums, for example—to receive assistance in a whole range of programs. The idea is to find a carrot to attract a young mother to go to the child and family centre. It may be for a cooking class or a sports class. It might be for a social gathering but, once that young mum has turned up at the child and family centre, usually with young children, they can then be introduced to a whole range of programs that can help.

There is an important role in this for the child health nurses, because quite often they are the first point of contact for a young mum with a new baby for the services that are available to help them. Traditionally, child health nurses have been there for physical purposes, to weigh babies, check their feeding habits et cetera—even things like measuring a baby's head and growth rates—but that role is developing into a much broader social role. There is also the opportunity for that child health nurse when they are visiting a home to check to see whether the house is warm, whether there is food in the fridge and whether or not that young mum needs a whole range of supports. By having that invitation and, hopefully, that attendance at
the child and family centre, quite a lot of the issues that can hamper a young family from being effective can be addressed.

We all know that those first years of life from birth to about four or five years are the biggest determinant of long-term outcomes for any given child, so it is really important that every opportunity is taken for early intervention, should there be any problems identified.

One effective program that has been used in Tasmania for some time is what is known as Launching into Learning. This program is run through existing schools, child and family centres and, in some instances, through community houses to introduce young parents—or parents of young children—to the different ways they can facilitate and help with their child's education and all-round growth.

I have had the opportunity to attend some of these courses, and it is really good to see 25 young children, all preschool age, often with young dads, learning constructive play and some of the activities such as prelearning for literacy, which can put a child in good stead for the future. Also, there are courses on nutrition, which is really important.

Even with all these good intentions, you cannot guarantee that every child is going to reach kindergarten and prep with all the skills that we would hope all of our young children would have. We cannot be absolutely sure that they are ready and have basic home based numeracy skills. We cannot be confident that attitudes have been instilled at home that encourage learning. Even with all the hard work done through the child and family centres and with good programs like Launching into Learning, there are still children turning up at school—not all in the same place—who are not quite ready, which is when we need to introduce programs that can address that deficit.

Another very effective program being used in Tasmania is known as Raising the Bar, Closing the Gap. As the name indicates, raising the bar is lifting the expectations, the standards, that we want for all our children when it comes to literacy and numeracy; and, as the second part of the program's name implies, closing the gap is making sure that all of the students reach that level.

These programs are mostly being rolled out in primary schools around the state in the low socioeconomic areas, because that is where the need is most obvious. This involves considerable funds being expended mostly through the additional employment of teachers to provide one-on-one learning, smaller class sizes and specific professional development for teachers to make sure that they have the best tool kit of skills when it comes to addressing any deficits in numeracy or literacy for those students. And the results are quite encouraging. Where there has been quite a large deficit in literacy and numeracy, in some of our grade 3, 5 and 7 testing, that deficit is being addressed and a lot of the young students in these areas are finding their literacy and numeracy levels rising.

Another important initiative to try and identify the deficit has been through the establishment of Gateway Services. Senators would be aware that there are a whole range of services that families can access, but sometimes that very act of accessing services can be quite daunting in itself; being able to find out what services are out there, how to contact them, how physically to get there. So the establishment of Gateway Services in Tasmania has been a very effective tool in addressing that problem.
Gateway Services is a physical presence in four regions of the state: either side of the city in Hobart; one in the north, and one in the north-west. They are literally a one-stop shop. Any person who feels that they need assistance can go into Gateway Services, where they will be interviewed. It can also happen over the phone; the people who answer the phone are very well trained and they go through a checklist, if you like, to find out exactly what the issue is and what problem the client needs addressing.

Sometimes those things may be around financial difficulty; they may be around accessing health services, counselling services or drug and alcohol services. Sometimes the problem with which someone presents is only scratching the surface. Someone might find, for example, that they need some emergency food vouchers. And they can ring up the Gateway Services. It might be simple; they might just be referred to one of the not-for-profits that are engaged in that area. They might be referred to a great program that is being run with the assistance of Anglicare in Tasmania around family budgeting. They might be directed to NILS, the No Interest Loan Scheme, which enables someone to get around $1,000, to purchase a fridge or washing machine, something that is vital for the family to function well.

About two years ago Gateway Services also took on the role of providing information on access to disability services, and that has been very effective. It is showing great synchronicity with the outcomes expected through the NDIS trial that is going on in Tasmania which is looking at the needs of those taking part in that particular trial—about 1,000 young people between the ages of 18 and 25 who have experienced difficulties in the past. Quite often people coming out of the education system have had a great deal of assistance as a person living with a disability, but often they have not had to seek out those services because they are physically available through the school or college that they attend. It becomes a bit of a maze after leaving school. You can understand that quite often people have difficulties working out where to go and what to do. But access to Gateway Services is certainly improving that. I know that there are similar programs in other jurisdictions.

It is good to see that we are targeting these issues through providing early family services, through places like the child and family centres; through providing an easy one-stop shop for people to be able to access services they need, like Gateway Services; through running programs in schools for preschoolers, like Launching into Learning; and then later when students are at school through programs like Raising the Bar, Closing the Gap and addressing literacy and numeracy deficits. It is good to see those happening, but inevitably there are those students who get through the school system and come out the other end without the level of skills we would hope for, without the level of qualification that enables them to gain gainful employment or go on to further study. Unfortunately, often it is those students who have fallen through the cracks—through primary school, through high school and into their teens—that are being identified and represented in our youth justice system.

Youth justice, I think, is one of the most difficult areas for any government in any jurisdiction in any colour or stripe to address. Usually it is not a large cohort of students and usually you would find if you spoke to the primary school teachers of Johnny Smith—a hypothetical student—they would say that this is the child who for different reasons missed a lot of school. Perhaps the family moved a lot. Perhaps the student did not have an environment at home that made it easy for homework to be done. It is the student who did not come to school with a good breakfast, the student whose family life is disturbed with family
violence or with drug and alcohol or poverty issues who are often the students who appear within our youth justice system.

In Tasmania, we have one institution that is actually a youth detention centre with a limited budget. My last reckoning of the budget for youth justice in Tasmania was less than $15 million per year—and about $11 million of that is taken up with the running of the Ashley Youth Detention Centre. It does not matter what the offence is, it does not matter whether it is a repeat offender or if it is a young person who has been incarcerated for having committed a very serious crime, all of those young people are in together. Primarily they are boys but usually no more than 19 or 20 at any given time are up at Ashley.

Because of the nature of it being a secure facility, Ashley absorbs $11 million of about $15 million for the whole year, so it makes it very hard for effective diversionary programs to be run—very difficult indeed. In fact it puts a terrible burden sometimes on our magistrates who, when they find a person before them having committed an offence—as I said it might be very serious one or it may be an offence where a 12-year-old boy has got into trouble—have nowhere for that young person to go. There is no responsible adult for the magistrate to refer that person to so the magistrate has no option but to send that young person to the youth detention centre.

People working in the youth justice sector have been crying out for options for a very long time, not just in Tasmania but all around the country. They want bail options. They want other accommodation options. One would hope that it will not be very long until we see a situation where youth justice will be sufficiently well funded, perhaps even by the closure of the Ashley Youth Detention Centre, to enable the redirection of those funds to enable the magistrate to be able to say, 'Is there a responsible family member for this young person to be put in the care of?' In the absence of that then that young person, rather than being sent to a youth detention centre on remand and becoming part of that culture which we so much want to avoid, can go to what is often called a bail house. The young person then is safe and they have access to counselling and other support services that could hopefully get them off that path to more serious crime.

It seems a tragedy to me that we can so very early on identify families that are at risk. You can identify children at risk before they have even gone through the school gates. We become aware of these difficulties right the way through school. The kids self-identify just by their behaviour or their absence from school. Then the police know who they are and then they start up in front of magistrates with escalating levels of offence. Yet we do not seem to be able to put a stop to it. I think probably one of our prime responsibilities as legislators is to make sure that we give the tools and resources to the experts in our community—the teachers, the social workers, the youth justice workers and our police—to make sure that they can all work collaboratively to save these young people from a wasted life, a life of crime, a life of poverty, a life often associated with alcohol and drug abuse. If we can do that, not only do we, on the sheer economics of the matter, save hundreds of thousands of dollars from the costs of having people in jail—with the negative impact on the community when crimes are committed, because break-ins, muggings, car theft and all of these issues have a terrible impact on the victims of those crimes—but we also get to exercise and use the social capital of those people. It is my firm and fervent belief that there is truly inherent value in every single citizen of this country and we cannot afford to waste any of them.
I hope that, when we are talking about issues such as appropriation, at the front of our minds at all times is the fact that we can make our first priority our citizens—most particularly our most vulnerable citizens. Thank you.

**Senator FIERRAVANTI-WELLS** (New South Wales—Parliamentary Secretary to the Minister for Social Services) (10:20): I rise to bring the debate on Appropriation (Parliamentary Departments) Bill (No. 2) 2013-2014, Appropriation Bill (No. 3) 2013-2014 and Appropriation Bill (No. 4) 2013-2014 to a close. I wish to thank those senators who have made a contribution to this debate. These additional estimates appropriation bills seek authority from the parliament for the additional expenditure of money from the consolidated revenue fund. I would like to highlight three areas relating to the delivery of the government's commitments that are supported by these bills.

First, over $8.8 billion is proposed for the Treasury primarily to make a one-off payment to the Reserve Bank of Australia to help ensure adequate resourcing for the bank to conduct its monetary policy and foreign exchange operations. Second, over $2.5 billion is proposed for the Department of Foreign Affairs and Trade primarily for it to administer official development assistance programs that moved last November to that department from the former agency AusAID. Third, over $1.1 billion is proposed for the Department of Immigration and Border Protection. This includes over $620 million in relation to illegal maritime arrivals issues as well as almost $400 million for offshore asylum seeker management. The total of the appropriations being sought through these three appropriation bills is just over $14.8 billion.

Question agreed to.

Bills read a second time.

**Third Reading**

**The ACTING DEPUTY PRESIDENT** (Senator Marshall) (10:22): As no amendments to the appropriation bills have been circulated, I shall call the minister to move the third reading pursuant to standing order 115.

**Senator FIERRAVANTI-WELLS** (New South Wales—Parliamentary Secretary to the Minister for Social Services) (10:22): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

**BUDGET**

**Advance to the Finance Minister**

**In Committee**

**Senator FIERRAVANTI-WELLS** (New South Wales—Parliamentary Secretary to the Minister for Social Services) (10:23): I move:

That the committee approve the advances provided under the annual Appropriations Acts as a final charge for the year ended 30 June 2013.

Question agreed to.

Resolution reported; report adopted.
BUSINESS

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:24): I move:
That intervening business be postponed till after consideration of the government business order of the day relating to the Qantas Sale Act Amendment Bill 2014.
Question agreed to.

Consideration of Legislation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:25): I seek leave to move a motion relating to the consideration of legislation.

Senator McEwen: To assist the chamber, could Senator Fifield please indicate the content of the motion.

Senator FIFIELD: Certainly. This is a motion to seek to exempt the Qantas Sale Act Amendment Bill from the cut-off.
Leave not granted.

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:27): I move:
That intervening business be postponed till after consideration of the government business order of the day relating to the Export Market Development Grants Amendment Bill 2014.
Question agreed to.

Consideration of Legislation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:28): I seek leave to move a motion relating to the consideration of legislation.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:28): Leave is not granted until we understand the motion. I understood the EMDG bill was just called on. I am here to speak on that bill. I understand Senator Xenophon has amendments. Is the government proceeding with the bill that has been called on or not?

Senator Fifield interjecting—

Senator WONG: If you just indicate what you are moving, that is fine.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (10:28): A moment or two ago I did say that intervening business be postponed until after consideration of the government business order of the day relating to the Export Market Development Grants Amendment Bill 2014.

Senator Wong interjecting—

Senator FIFIELD: That is right. I moved that motion. I am now moving to the one in relation to the cut-off.
SENATE

Wednesday, 26 March 2014

The ACTING DEPUTY PRESIDENT (Senator Marshall): Is leave granted for Senator Fifield to move the motion that he has indicated he seeks to move?

Leave granted.

Senator FIFIELD: I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Export Market Development Grants Amendment Bill 2014, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have this statement incorporated in Hansard.

Leave granted.

The statement read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2014 AUTUMN SITTINGS

EXPORT MARKET DEVELOPMENT GRANTS AMENDMENT BILL

Purpose of the Bill

The bill implements the Government's Election commitment to provide additional funding for the EMDG scheme.

Amendments to the Export Market Development Grants Act 1997 will align scheme parameters with the increased funding by increasing the number of grants payable from 7 to 8 and reducing the minimum expenses threshold amount from $20,000 to $15,000, set the amount of scheme administration funds via Ministerial determination, and make minor policy and technical amendments to improve the scheme administration arrangements.

Reasons for Urgency

The bill implements an election commitment to provide additional funding for the EMDG scheme. The measures must be in place to enable the amendment to operate for the 2013-14 grant year.

Two legislative instruments must be made immediately following the passage of the Bill, namely a 'not fit and proper person' instrument for EMDG consultants and an 'administration expenses' threshold instrument. The 'administration expenses' instrument, must be in place by 1 June 2014 following the passage of this bill.

Question agreed to.

BILLS

Export Market Development Grants Amendment Bill 2014

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (10:30): I thank Senator Xenophon for his courtesy. I just want to place on record the Labor opposition's attitude to the Export Market Development Grants Amendment Bill 2014. The chamber may or may not be aware that this is legislation that was first enacted a very long time ago in 1974 and established what has become a well-regarded and successful scheme to support Australian small- and medium-sized businesses exporting to the rest of the world. It is obviously a scheme predicated on Labor's strong view that Australia's current and future prosperity requires a strong trading sector, and it is our strong view that it is important that small- and
medium-sized businesses in this country are assisted and facilitated in their capacity to export to the rest of the world. As I said, it was a 1974 initiative of the Whitlam government which established the original grants scheme, which demonstrates Labor's longstanding view of the importance of trade and our longstanding view of the importance of supporting our SMEs in their ability to export to the rest of the world.

We do support the passage of this bill. Some of the amendments contained in it are amendments which were, in fact, proposed by the former Labor government. Our support for this bill does also reflect the economic circumstances of the time. We are in a period of economic transition, as others have noted. We are in a period where our export industries will continue to grow in their importance to our economy. It is critical we continue to open up export opportunities, both for new and for existing export businesses, as part of this transition.

The bill before the chamber does a number of things. It aligns the EMDG scheme rules to a revised level of scheme funding. It also implements some technical changes and some simplification changes. These include a reduction in the minimum expenses threshold required to be incurred by an applicant from $20,000 to $15,000, a change to the current deduction for the provisional grant amount from $5,000 to $2,500. The bill prevents the payment of grants to applicants engaging an EMDG consultant who is assessed to be not a fit and proper person—I will come back to that shortly—and increases the number of grants able to be received by an applicant from seven to eight.

In relation to the fit and proper person provisions, we note that these provisions largely adopt the provisions previously put forward by the Labor government in the lapsed amendment bill. We note that Senator Xenophon has put forward an amendment to this chamber. I have not had the opportunity to have a discussion with him about the rationale for that, but I do indicate at this point in the debate that Labor is not inclined to support Senator Xenophon's amendment. We think it is not unreasonable for there to be a fit and proper person test, although I am happy to listen to what he has to say on this. My understanding is that there are accompanying guidelines to the fit and proper person test which would enable consultants to understand what the test means for their conduct, and I also understand—and the minister can perhaps confirm this—that any decision of the Austrade CEO in relation to the fit and proper person test would be subject to administrative review.

Although Labor does support the bill, there are some aspects of the reform proposed by the government with which we are disappointed, and I want to come to the broader context of this legislation, to which I referred in my opening statement. We have long recognised on this side of the chamber that Australia's future prosperity will be underpinned by engagement with our region. It is not a new proposition for the Labor Party. Last night I watched something on YouTube which is being tweeted in response to the very modern announcement by the Prime Minister about the return of knights and dames to Australia. He describes it as adding a grace note to our community. I think it is a retrograde note. There was a very good—

An opposition senator: Dame Penny!

Senator WONG: I would never want to be known as that, and I place on record that that is not something I would ever aspire to. I am a person who was born in Malaysia. I have experienced what it is to live in a society where some of the vestiges of imperial hierarchies remain, and I think it is an absolutely retrograde step for this country to be returning to those sorts of outdated notions. But I will leave that to one side.
What I was trying to comment on was the fact that I watched with interest one of the YouTube clips which was tweeted. It had former Prime Minister Keating talking about the cultural cringe of the then opposition and their yearning for the mother country, which is, in many ways, demonstrated by the return of knights and dames. One of the things that Prime Minister Keating spoke about in that speech, but also more generally, was the engagement with Asia. I recall, as a much younger person in Australia, how important that was to public debate and also to our sense of self and our identity. Labor has been talking about opening up to our region and engagement with our region for a very long time. Of course, most recently in government, Labor commissioned the Australia and the Asian century white paper, which was an extraordinarily important contribution to public debate. It laid a framework not just for domestic economic policy but also for how we should think about wide-ranging matters from foreign policy to our education system and our sense of identity. It is a great pity that this government, in an act of petty partisanship, has sought to remove the white paper from government websites. It is also not wanting to talk about it. It demonstrates that it puts tribalism and partisanship ahead of national interests. It always has and always will. That is the hallmark of this government.

It is such an important aspect of who we are now and such an important part of Australia's future to understand that engagement with our region is critical to our economic prosperity but also critical to our ongoing security and identity. A confident Australia in its region—confident in its openness, confident in engaging with not only our immediate region but also the broader region—is the path to a secure, strong Australia and a prosperous Australia in the decades to come.

One of the aspects of the bill that Labor introduced in government, in the last parliament, was to include the realignment of this grant scheme to those priorities. In realigning this scheme to support small business exporting to emerging markets and to our region, it is disappointing that the Abbott government has walked away from these changes. I would have thought that, regardless of partisan views, there is real merit in leveraging public investment, which is supported in export market development grants, to further our strategic objective as a nation to more deeply engage with our region.

There was a capacity to ensure that these taxpayers' dollars were allocated in a way that leveraged that objective, which Labor believes is critical to Australia's current and future prosperity. The Abbott government's failure to embrace Australia in the Asian century and all that this implies says much about its lack of understanding of the tremendous opportunities that present themselves to this nation and about how important it is for us to fully engage and to ensure that this understanding is very much present not only in our public debate but also in all areas of our policy development and implementation.

I could talk at great length about the approach on trade agreements, but we have indicated support for passage of this legislation, so I will leave that debate for another time and simply indicate that the opposition supports passage of the bill.

Senator XENOPHON (South Australia) (10:40): I will confine my remarks on the Export Market Development Grants Amendment Bill 2014 to the fit-and-proper-persons test because I have been contacted by a number of good people in this industry who advocate for and prepare export market development grants applications and they cannot see the benefit of such a test. They cannot see that it will be dealt with equitably. They are concerned that it is
simply too vague, and they worry about its effectiveness. They worry about it being abused and that it will be a retrograde step.

I want to outline that briefly in the course of this contribution, and I have a number of questions to ask the government in relation to this. If the government is about reducing red tape, I cannot see the underlying rationale for this particular test in relation to fit and proper persons. Of course, we expect that anyone dealing with export grants does so with probity and ethics, and there are a number of other sanctions under criminal law that will provide protection to the scheme for those seeking grants. But I cannot see the benefit of what is being proposed here, and I am worried that it will be abused in the way that it has been set out.

I broadly support what is proposed in this bill, apart from the fit-and-proper-persons test. I am concerned that the small exporters, those that are emerging as exporters, will be disadvantaged by what is being proposed. Clause 3.6 of the Export Market Development Grants (Associate and Fit and Proper Person) Guidelines 2004 requires that Austrade, when making a determination as to who is not fit and proper:

... have regard to any matter, not mentioned in section 3.2, 3.3, 3.4 or 3.5, that it considers relevant to the personal, commercial, financial or professional character, status or reputation of the person or associate.

My question to the government is: how on earth will you develop it, how on earth will that be dealt with and what are the criteria in respect of that? There are some regulations I am seeking to disallow, which I am concerned are simply too vague and imprecise and will cause a lot of concern amongst those who have to work on very small margins in this industry when advocating for those seeking a grant.

What has been put to me by those who work in the industry is that this is quite different from other areas where a fit-and-proper-person test is appropriately required. If you are a customs agent, for instance, you have a certain amount of trust placed in you for the clearance of material goods coming into this country, and it is important that you pass a fit-and-proper-persons test so that you are not allowing narcotics or other prohibited substances or goods into the country. If you are a tax agent, you get certain privileges from the tax office with respect to the late lodgement of returns and the like. There is an element of trust placed in you by the tax office by virtue of your being a tax agent, so I can understand the need for a fit-and-proper-person test with respect to that. But in relation to an export grants scheme, where these people act as agents, prepare applications and submit the applications, there does not seem to be any privileges attached as there is for a tax agent or a customs agent.

The explanatory memorandum to the Export Market Development Grants Amendment Bill 2004—this bill—states that consultants must be excluded for 'behaviour considered inconsistent with accepted community standards'. What does that mean? It may appear on the surface to be reasonable; it has the potential to become unreasonable when applied to the ministerial determination that will accompany the legislation.

Procedural fairness may not be achieved if what constitutes unacceptable action is not sufficiently defined or if external review provisions are manifestly inadequate. The requirement that administrators observe natural justice is protected at a federal level. In relation to that we need to refer to the Administrative Decisions Review Act, but it is my view that the necessary safeguards for that to be achieved are not present in this legislation. Where are the safeguards?
The coalition says it is about reducing red tape and making it easier for businesses to get on with their legitimate work but there are many landmines—so many pitfalls—in this particular test, which is something that the previous government put up. I am surprised that this government is embracing what I think is a bad element of this legislation. How do you determine behaviour considered ‘inconsistent with accepted community standards’? Where is the procedural fairness?

My fear is that somebody may be subject to a capricious action under the scheme: ‘We don’t think you’re a fit and proper person; we will therefore make that ruling.’ That person could end up losing their livelihood for the next two or three years pending a judicial review. We know what it costs to run a judicial review. Access to justice in this country is a sad joke. When you consider how much money it costs to bring an application in the Federal Court, to retain a solicitor and to obtain counsel to argue the case, you could be looking, at the very least, at tens of thousands of dollars for a simple judicial review application. And that will take a considerable period of time. If there is an appeal to the Federal Court it would cost tens of thousands of dollars more.

The concern is that these export grant agents are not making a killing. They are making a pretty modest living and some of them are eking out a living—particularly in relation to the small exporters that they advocate for. So, I do not understand why the government would embrace this test when there appears to be a vagueness that accompanies it and where there appears to be a potential of abuse of power in relation to its use.

In the explanatory memorandum to the bill in respect of the ‘consultants not fit and proper persons’ provisions it is stated that this will ‘provide the CEO of Austrade a mechanism to deal responsively to the variety and diversity of yet unknown circumstances and behaviours that may arise’. What on earth does that mean? What does it mean to talk about the ‘yet unknown and circumstances and behaviours that may arise’? It seems incredibly vague and dangerous to me to be putting that in a piece of legislation or in a legislative instrument.

These undefined obligations may place Austrade in an untenable position. Our system of justice puts the onus on the accuser to establish its case. Under the ministerial determination, however, once an allegation has been made Austrade are obliged to accept the allegation as material and allow the litigation to run its course. The defendant must be presumed guilty until proven innocent. How is that fair in terms of procedural fairness? How is that fair in terms of natural justice? How is that fair to these agents who act for small exporters—the future of this economy when you consider the importance of encouraging small exporters to become medium and bigger exporters and the enormous benefit exports have to our nation?

Those are, in essence, my concerns. My understanding is that under the ‘fit and proper person’ provisions of this bill once any allegation of impropriety is made against an agent, in the press or otherwise, Austrade must apply to ‘fit and proper person’ provisions. In the case of a consultant the effect on their livelihood and on their clients would be dramatic. If an applicant has a grant payment denied or delayed this is bad enough; a consultant, on the other hand, may lose everything. For instance, if a start-up company successfully launches a new patented lure for catching large game fish such as marlin, then demonstrates the attributes of the lure and shows that it qualifies for support under the export grant scheme, it would budget accordingly. If an allegation is made that the agent is in some way not a fit and proper person—any allegation can be made—that company can be held up in terms of their grant.
That is the sort of thing that I am concerned about. There are other examples that I could give. For instance, what happens with an EMDG application if someone is charged with something unrelated to fraud or dishonesty—if they are charged with an assault, for instance? Does that mean that they would be held over, under the 'fit and proper person' test? I think that is unfair. You are punishing a person two or three times as a result of that.

There are other examples that have been put to me. I do not want to raise those examples for fear of identifying any of the people that have come forward to me to express their genuine concerns. My appeal to the government is to put this on hold with respect to the 'fit and proper persons' test. I think it has been ill-considered. If you look at the fine details of the test as it is intended to apply and the circumstances in which it is intended to apply and the whole background of what these agents do, compared to what a customs agent or a tax agent does—in fact they would be better referred to as 'consultants' rather than 'agents'—then you would find that it is very dangerous.

To rely on insufficiently defined administrative powers will cause enormous damage to this sector, particularly to small and medium exporters. I think the cost of consultants will go up. Fewer consultants will want to be involved in this and a lot of consultants will say, 'That's hanging over our head—that we can lose our livelihood overnight with an allegation that cannot be sufficiently dealt with or will have to go through the courts.' That is dangerous as well. I would like to hear from the government in relation to why it is proceeding with this ill-considered part of the legislation in terms of the fit and proper person test, which is so ill-defined and so open to administrative abuse.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (10:53): I thank Senators Wong and Xenophon for their contributions to the debate on the Export Market Development Grants Amendment Bill 2014. The Export Market Development Grants scheme has had a very long and important history in Australia. Our government is very committed to ensuring that it plays a key role in the future in opening Australia further to the world and in supporting our exporters and industries to continue to grow their businesses and the wealth and opportunities for all Australians. The EMDG scheme has been in place since 1974-75, with first grants paid in 1975-76. So it has a very long history. Over the last 14 years, the EMDG scheme has helped support SME exports worth more than $60 billion. On average, those exporters have employed some 97,000 employees each year. So it has a proud history; it is a history of creating exports and, in doing that, creating jobs. For every one dollar of cost to the taxpayer, estimates indicate a benefit is received to the nation of some $5.38. It is a significant benefit in return.

Our government is committed to boosting funding for the EMDG scheme—a $50 million boost over four years, starting in 2013-14. This is the longest sustained increase in funding for the scheme in the last 10 years. The long-term nature and certainty of that funding is important because it provides confidence to businesses who want to invest in export marketing in knowing that grants will be available to them. We are proud of those changes as well as other changes that are being pursued which will increase the number of grants able to be received by an applicant from seven to eight. We believe that allowing experienced exporters to claim an additional grant will assist many of the previously successful EMDG recipients to further develop their existing markets, re-enter markets that are now commercially viable again due to reductions in the exchange rate, and diversify into new
markets. The overwhelming majority of these mature, successful exporters export to multiple markets, often spanning both the developed markets like the US and Europe and the fast-growing markets like China and South-East Asia. Based on the profile of previous years' applicants, it is estimated that 138 additional exporters will be able to claim each year as a result of this change.

We also supporting changes that reduce the minimum expenses threshold required to be incurred by an applicant from $20,000 to $15,000 per annum. Reducing the minimum expenses threshold reduces the amount of money that small exporters need to spend on their export marketing before they can claim an EMDG. This is particularly important for small specialised services companies and early-stage high-tech companies who are often born globals, with their primary markets being international rather than domestic, and are seeking to sell intellectual property or develop their first market. Through the reduction in the minimum expenses threshold, approximately 143 additional exporters are projected to be able to claim each year.

Further, the government supports changes that reduce the current $5,000 deduction from the applicant's provisional grant amount to $2,500. We recognise that, in the current difficult international trading conditions where exporters have faced several years of pressure on their marketing budget from higher exchange rates and weaker international markets, the ability to have even a modest increase in marketing funds is expected to be very welcome. Research into the EMDG scheme shows that increasing grants increases the export marketing expenditure by more than the grant amount as exporters contribute their own funds to support these activities. This increase in grant funds is particularly relevant now with many small and medium enterprises increasingly eyeing the potential for increased international sales as exchange rates ease and international markets recover. Almost all grant recipients will receive an extra $2,500 per grant due to this change. The number of grant recipients receiving such a benefit ranges from between 2,600 to more than 4,500 exporters each year. We have a very strong commitment to this scheme and a very strong intention to make sure that it is delivering continued growth and benefit to exporters into the future.

Senator Xenophon raised some particular concerns about this legislation, which introduces a fit and proper person test for EMDG consultants. They are people who assist exporters with the preparation and lodgement of their grant application. As Senator Xenophon highlighted in some of his remarks, fit and proper person tests are quite common in Commonwealth legislation. They apply across a range of different roles or activities that people undertake where they interact with the Commonwealth or receive certain responsibilities, powers or funding from the Commonwealth and, of course, are designed to protect the integrity and public perception of the management of programs by the Commonwealth.

EMDG applicants—that is, the exporters applying for the grant—have had fit and proper person provisions in place for more than a decade. These provisions have been widely recognised and the benefits of them have been widely acknowledged. It is not something new or unusual in this case to have a fit and proper person test in place in relation to the operation of the EMDG scheme. It is just that, until now, that has only applied to the applicants. This legislation seeks to extend that application so that it also applies to consultants who make application on behalf of particular applicants.
Austrade, which, of course, is the arm of government that administers the EMDG scheme, has developed significant experience in administering the fit and proper person provisions that apply to EMDG applicants. So I am a little bit surprised at some of Senator Xenophon's concerns in that regard. Given the longstanding history Austrade has in applying these provisions to EMDG applicants, there is no great leap in terms of applying them to the consultants who act on behalf of those applicants as well. Austrade advise that EMDG consultants have not raised any concerns about Austrade's management of the current fit and proper person provisions that apply to applicants. So in relation to some of Senator Xenophon specific concerns about how this will be administered, certainly the history of Austrade's activities demonstrates that, where they have administered these types of provisions in relation to applicants to date, neither applicants nor consultants have raised any particular concerns.

It is important to understand, in terms of why this action is being undertaken, that EMDG consultants do overwhelmingly work on a success fee basis. Our understanding is that, essentially, EMDG consultants in general receive a 10 per cent commission on grants obtained for their clients. Around 60 per cent of applicants work through a consultant. So we do have very significant uptake of consultants in this regard as people pursue grants under the scheme. Around 60 per cent of the time they are using consultants who do receive a significant financial benefit at the end of it. Consultants do have considerable financial interest in the process and they can of course potentially benefit from any unprotected overclaiming of grants. So it is important to ensure the integrity is there, not just in the applicants themselves but in those acting on behalf of the applicants.

The total amount payable to EMDG grant recipients under the scheme is capped. Therefore, any grant that is paid on the basis of false information reduces the amount available to other honest applicants. So it is important to understand that the integrity of this scheme is vital not just for government probity reasons but because maintaining that integrity can stretch the dollars as far as possible. The amounts spent on monitoring and investigating claims reduces the overall amount available, which again is a good reason for ensuring that we have standards of the highest order for the people participating in the scheme in the first instance to minimise the need to investigate, monitor or undertake actions that are simply in the nature of a rectification. Prevention is of course better than the cure in this regard.

It is not feasible for Austrade to fully verify every single application. So on that basis a degree of trust is required in this process, and much of that trust is therefore vested in the consultants who are presenting those applications to Austrade. It is also important that the public perceive the scheme to be operating in an honest and proper manner and that public funds are provided only to fit and proper recipients. That would be something all in this chamber would accept; this is simply a case of how that is achieved. The public perception of EMDG consultants reflects significantly on the scheme as a whole and the government's management of the scheme. Therefore, to ensure we continue to maintain high public support for a scheme that delivers significant benefit it is appropriate that, just as applicants are required to be fit and proper people to receive a grant, the consultants acting on their behalf should meet a similar standard.

Such a provision in the act will also provide a further incentive for consultants not to make false claims and an incidental incentive for applicants not to use consultants with a poor
record for financial probity. The proposed provision would assist in protecting taxpayers' funds from fraudulent or excessive claims, ensure the proper operation of the scheme and, importantly, ensure public confidence in the scheme.

Senator Wong asked questions in relation to whether there were rights to administrative appeal. It is important to note that the Austrade CEO making a finding under these amendments that a consultant is not a fit and proper person is significant and appropriate, and therefore such a finding will be subject to the normal rules of administrative law and natural justice. Consultants will have access to merits review by the Administrative Appeals Tribunal. In addition, consultants will be entitled to judicial review under the Administrative Decisions (Judicial Review) Act 1977 as well as potential proceedings under common law.

The proposed fit and proper person provisions are very similar to provisions in the EMDG amendment bill 2013, which, due to the calling of the election, was not passed. The fit and proper person provisions in the 2013 bill were considered in quite some detail by the Foreign Affairs, Defence and Trade Legislation Committee. I note that, at the committee's hearing on 7 June 2013, the Export Consultants Group, which represents the majority of EMDG consultants in Australia, indicated its support for a fit and proper person test for EMDG consultants broadly in line with the test for EMDG clients or applicants that has been in existence since 2004. So those who speak on behalf of the industry in relation to this matter and those who speak on behalf of the broad majority of consultants did indicate last year their support for provisions along these lines.

The Foreign Affairs, Defence and Trade Legislation Committee supported the passage of the 2013 bill, which enjoyed bipartisan support from the then government and the then opposition for the inclusion of these provisions. They were, of course, at the time also considered by the Parliamentary Joint Committee on Human Rights, which found that the proposed fit and proper person provisions raised no concerns in terms of the right of people to do their business with the government.

Austrade provided the Export Consultants Group with the proposed operational details of the fit and proper person test in November last year. This was building upon a significant period of consultation conducted in relation to the earlier 2013 bill, including those two reviews by the parliamentary committees. So there has been an extensive range of consultation with those involved in acting as consultants to EMDG applicants, and that has yielded positive responses from those who support these changes and support a reasonable level of standards for their industry. Austrade has indicated that it is open to further consultation if need be. It will of course continue to work with consultants on the detail of the test to be applied, which will be contained in a ministerial instrument under the act.

The government obviously urges support for this bill, especially the fit and proper person provisions but also the provisions which increase the eligibility of SME exporters for a grant. The current difficult international trading conditions and the ability to qualify for a grant or an increased grant make a significant difference to many hundreds of small exporters. The EMDG scheme is a reimbursement scheme. Exporters need to spend money on marketing to qualify for a grant for reimbursement of up to 50 per cent of that marketing expenditure. Delaying this bill will prevent those exporters from having the opportunity to increase their budget this year and to seek partial reimbursement from 1 July this year. We do commend the bill to the house. We appreciate Senator Xenophon's concerns in relation to unnecessary red
taped but do not believe that, in this instance, that is the case. I look forward to, if possible, assisting the senator with any questions in the committee stage.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator XENOPHON (South Australia) (11:08): I have a number of questions further to Senator Birmingham's contribution. I am grateful for his outlining of the position of both the government and the department. Of course I want there to be the highest standards of probity when we deal with these grants; it is taxpayers' money that is at stake. But I am concerned that there are insufficient safeguards in place in relation to what is proposed for the fit and proper person test and that it could be subject to abuse. I want to get a handle on the existing fit and proper person test that applies to applicants for grants. How many fit and proper person determinations have there been since it has been in place?

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (11:10): I regret that I cannot give an exact number. However, I am advised that it is a very small number over the 10-year-period in which that provision has been in place for applicants. As I indicated in my remarks, no concerns have been raised during that time by consultants about the way in which that test on applicants is applied. In relation to your specific question, I am advised that it is a very small number. I take that to mean only a handful, but we can try to get a quick answer back from the department. The officials present do not have that exact number to hand.

Senator XENOPHON (South Australia) (11:10): That is entirely unsatisfactory. My amendment, which seeks to knock out this particular clause because of the concerns I have outlined, has been tabled. The department are on notice; they are aware of it. How can they not give us such basic information, because it is supposed to be a continuation, if you like, or an additional feature of the legislation, given the fit and proper person test that has been in place for applicants? If there has only been a handful, isn't that something the department can tell us fairly easily? I would be very grateful if, in the course of this committee stage, we could get that information. I would have thought it was something that the department ought to have been aware of in order to advise Senator Birmingham. I am not being critical of Senator Birmingham, but it seems to me that the department should have been able to provide that information to the government.

Can I continue, pending that information. At the moment, if a consultant becomes subject to a 'not a fit and proper person test' inquiry, what happens to the files of his clients?

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (11:12): I am advised that normal government provisions in relation to confidentiality would apply there and that a client's file would be sealed and not available for any other purposes—if that is the nature of the information you are seeking. Obviously, an applicant working through a consultant would, I am sure, have the opportunity if their consultant were deemed not to be a fit and proper person to then work through another consultant if they so choose or to pursue an application themselves. The fact that a consultant may be deemed not to be a fit and proper person would not necessarily impinge on a
company's capacity to pursue an application, unless of course under the already existing terms of the act that applicant were themselves deemed to also not be a fit and proper person.

Senator XENOPHON (South Australia) (11:13): I have raised this issue and have put up this amendment because of concerns that have been put to me by a number of people, whom I consider to be quite reasonable. I am constrained in giving specific, identifiable examples because they are concerned for a number of reasons in terms of client confidence and the potential ramifications for them if such a broad test is incorporated. My understanding is that, currently, if an applicant—the client, if you like, of consultants—is the subject of a 'not a fit and proper person' inquiry, then the files basically go into limbo or the abyss. I have to be a bit careful here not to identify the parties, but I understand that some of these 'not a fit and proper person' investigations can take a number of years and keep applications in limbo. If that information is wrong, I would be very pleased to hear that from the minister, and to hear what the department can tell us. That is one question.

The other question is that I would have thought the department could tell us—ought to tell us, given what is involved here—how many applications there have been under the fit and proper person test by the department, and how long those applications have taken. It is only a handful; surely they can tell us: how long do these applications actually take to be dealt with one way or the other?

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (11:15): Thank you, Senator Xenophon; I have asked to get the exact number you have requested. I am advised it is a small number of negative determinations in relation to the fit and proper person test, but we will try to get you the specific details. The process, under the existing terms in relation to applicants and as it is proposed in this bill in relation to consultants, is that if there are concerns the Austrade CEO may seek information from the applicant or, under this bill, from the consultant. The historical information I have been provided with is that the length of time it takes to make a final determination, where there is some question or examination of these issues, ranges from weeks to months; that there are not instances of that being a matter that goes on for years; and, in this regard, that the length of time it takes for an applicant to provide information when requested also has some impact—so, clearly, it is not just a case of how long it takes Austrade to fulfil its end of the bargain. If Austrade requests information from an applicant as a result of a query about their status as a fit and proper person, then of course it is up to that applicant as to how long it takes them to provide that information. But, in the relatively small number of instances where this provision has come into play in relation to applicants, I am advised that it is a matter of weeks or months.

I understand your constraints in relation to examples or information being provided to you on a confidential basis, Senator Xenophon, but I think it is important to acknowledge that, if somebody has been found under the existing arrangements not to be a fit and proper person as an applicant for a grant, then obviously their application would be put on hold. That is the nature of these provisions. So when you ask what happens to a file or whether a file is active or otherwise, clearly, if somebody is found not to be a fit and proper person, it is the very intent of these provisions that that person then does not receive a grant under the scheme. If the person continued to dispute that over a long period of time, I can see how some matters might continue over a longer period of time. Of course, they have the administrative and
judicial appeals processes that I outlined available to them to seek recourse and rectification if
they believe that the Austrade CEO has made a wrongful determination.

**Senator XENOPHON** (South Australia) (11:18): I would just like to make it clear that the
Exports Consultants Group have brought this to my attention. They have given me a fair bit of
information. They want the scheme to work. They say they are subject to criminal laws, like
everyone else, so that, if someone is involved in a fraudulent grant or other behaviour that
could easily be addressed within the criminal code, then these matters can be dealt with in that
way.

I have been told that there is a 'not a fit and proper person' investigation, in relation to a
2009-10 application, which is now into its fourth year. I do not know whether the department
can confirm that. I do not think that would breach any confidentiality. But the issue is that if
the chief executive of Austrade says, 'We don't think you are a fit and proper person,' then in
order to deal with that you have to make an application for judicial review in the Federal
Court. These guys—and I say that generically; these people—just do not have the funds to do
that, by and large. They do not have tens of thousands of dollars to do that. I am concerned as
to how it will operate.

The guidelines say that Austrade must 'have regard to any matter that it considers relevant
to the personal, commercial, financial or professional character, status or reputation of the
person or associate'. What happens if you are a consultant, and you have a black sheep in the
family who has been convicted of some serious offences, relating to fraud or organised crime,
for instance? Does that mean you would be caught up in and be responsible for the sins of
someone else in your family, or someone that you know, even though you have no
commercial relationship with them—or no relationship at all with them? It has been put to me
that what is being proposed here imposes an obligation which is unduly dependent on
insufficiently defined administrative powers. That is my real concern.

**Senator BIRMINGHAM** (South Australia—Parliamentary Secretary to the Minister for
the Environment) (11:21): Senator Xenophon, in relation to some of the concerns you are
expressing here, I think a level of faith needs to be had in the public officials who are
empowered to make sure that they are applying the spirit as well as the intent of the
legislation. Clearly, the idea that just because there is a black sheep in the family somebody
might be excluded is something that I cannot imagine occurring under any circumstances. The
word 'associate' obviously has certain understood meanings in that regard.

One would expect that, for somebody to be deemed not a fit and proper person based on an
associate, that would relate to somebody who was directly involved in their business activities
and dealings and that that association had an impact on the direct trustworthiness of dealing
with that consultant or business. I refer you to the explanatory memorandum, which states in
relation to item 6 that:

In applying the assessment criteria to be set out in the Guidelines, it is expected that the CEO of
Austrade would only form an opinion that a consultant was not a fit and proper person where there was
a concern with that person’s capacity or trustworthiness to act as a consultant in the best interests of
both their applicant client and the public funds from which EMDG grants are paid.

The EM is making relatively clear there the narrowing of some of the broader scope of
possible applications of this that you have expressed concerns about. The only basis on which
you would expect the CEO of Austrade to deem somebody not a fit and proper person via the
guidelines is where that person's capacity or trustworthiness to act as a consultant in the best interests of both their client and the taxpayer was in some question. That is where we bring the detail back to in this regard.

I am advised that the department and Austrade are not aware of an unsettled or outstanding claim that dates back to 2009, as you have indicated. As I said, it is of course possible that somebody from 2009 who was at some point along the way deemed not a fit and proper person may still be aggrieved or dissatisfied by that. They may have chosen not to go with the options of appeal that are available to them. But I am advised that there has not been an outstanding matter of determination since 2009.

You highlighted that you have been provided with some information by the Export Consultants Group. I appreciate that. The government and Austrade would obviously welcome hearing their concerns in relation to any of the particular guidelines in play. But, as I noted in my concluding remarks in the second reading debate, they provided evidence to the Senate Foreign Affairs, Defence and Trade Legislation Committee on 7 June last year and indicated their broad support for a 'fit and proper person' test for consultants that aligned broadly with the test that has been in place for clients and applicants since 2004. Certainly it is our understanding that their support for the broad nature of these provisions is not in doubt. But if they have concerns about the detail of how the provisions will operate then we would be happy to work through those concerns sensibly as those provisions are finalised.

I have been given some information about the number of determinations from the department. I am advised that there have been 11 in the 10-year period since 2004-05. In that 10-year period there have been 11. That is noting that there are somewhere between 3,000 and 5,000 applications for grants per annum. So 11 businesses or individuals have been deemed not to be fit and proper persons in recent times. There was one determination in this financial year, four in 2012-13 and none, I believe, in 2011-12. In total, there have been just 11 in the 10 years of the operation of that test for applicants.

Senator XENOPHON (South Australia) (11:26): I am grateful to Senator Birmingham for providing further information, but can he advise how long some of those matters have taken to be dealt with? How many of those matters took more than 12 months to determine, for instance? Whatever support there may have been previously for the general principle of a 'fit and proper person' test, the concern is the way that it has been set out. The way that it has been set out under the regulations raises real concerns about administrative and procedural fairness. If I could get some further information from Senator Birmingham in relation to that, I would be grateful.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (11:27): As I flagged before, I am told that the general time line is weeks or months, not years. On the specific case you highlighted before with the suggestion that there was someone outstanding since 2009, that is not the understanding of the department. I do not believe there is a problem here of delayed justice being denied justice, as such. I equally do not believe that there is a problem of excessive use of these powers or provisions in relation to how they have applied historically. Obviously the data I gave before indicates that they have been used very discreetly by officials.

You indicated in earlier remarks that, 'If people do the wrong thing, the government has the recourse of legal proceedings that would apply to people who might be defrauding the
Commonwealth.' That is true. But what we seek to do with provisions like this is prevent those problems happening in the first place and thereby eliminate the costs that would accrue to government in having to investigate, pursue, recover and prosecute for misdeeds or wrongdoing.

Ultimately, we need to remember that we are talking about a government grants scheme. It is a scheme that provides people with financial assistance to market their export activities overseas. It is a gift from the taxpayer to certain businesses and individuals, because there is a general acceptance that that gift provides overall economic benefits to the entire country. But it is important that, where the taxpayers' funds are being given, we have confidence that it is occurring with the highest standard and nature.

As I highlighted in my earlier remarks, in a sense it is not possible for Austrade to go through extensive scrutiny of every single application in terms of its complete compliance. Obviously, they do an outstanding job and are doing the best they can in ensuring that everything is above board and compliant. But it is important that we have faith that the records and applications are sound. It has been a 10-year accepted principle that Austrade should have the right to make determinations on the nature of an applicant and whether they are a fit and proper person. With around 60 per cent of applicants utilising the services of a contractor to act on their behalf, it does seem inherently logical to extend that same test with similar provisions to those contractors.

You indicated that support for the principle that I have just enunciated is strong. I am pleased with that and I welcome that. If there are particular concerns about the way provisions as outlined and drafted will be applied then I would be happy to do my best, based on the advice of officials, to work through those concerns and see if we can provide satisfactory comfort to those with concerns to make sure that the application of this test will meet the intention of the government, which is that it not be used as an impediment to consultants.

We recognise the value of the consultants' work in assisting applicants. We recognise that they have developed skills in ensuring the compliance of applicants with the scheme and making it easier for applicants to access it. So we want to make sure they have continued involvement in supporting as many small businesses and medium-sized enterprises as possible to access this scheme. We need to make sure that it works properly. If there are particular provisions that they have concerns about, which we can try to provide some comfort on during this debate, then I would be happy to deal with them.

Senator XENOPHON (South Australia) (11:32): I understand where the numbers are on this. Both the government and the opposition do not support my opposition to the fit and proper person test in the following terms:

(1) Schedule 1, item 6, page 3 (line 16) to page 5 (line 31), to be opposed.
(2) Schedule 1, item 8, page 6 (lines 5 to 8), to be opposed.
(3) Schedule 1, item 9, page 6 (lines 9 to 13), to be opposed.
(4) Schedule 1, item 10, page 6 (lines 24 to 28), to be opposed.

I would be grateful if Senator Birmingham could give an undertaking to provide details of the current not a fit and proper person test applications that have been made by the department. What was the average time of resolution, how have they been resolved and were they
appealed against or what actually became of those. I get the feeling that a lot of export consultants will think, 'We cannot afford this, so we may as well do something else for a living,' even if that creates a stain on their reputation. In order to clear their reputation, they are going to have to mortgage their homes in many cases.

I wonder why the government did not consider some form of independent adjudicator? This is not a criticism of the CEO of Austrade in any way, but why would Austrade not have not independent adjudicator to look at these matters, rather than having to be a judge, jury and executioner on these sorts of things? I just wanted to raise these issues so that we can wrap this up.

The concerns that have been expressed to me are that the time frame for assessment of the fit and proper person test can be measured in years; that applicants have complained to ministers in the past about their treatment at the hands of Austrade; that there are unrealistic demands for information under section 72, in terms of those provisions; and that there is no right of review in relation to section 72, so that if the CEO of Austrade asks the applicant for further information which they cannot reasonably obtain because it is not within their purview, within their knowledge or within their power to obtain that then that could prejudice that person. These are some of the issues that have been raised.

I understand that my amendment will not be successful. I am grateful for the broad support of Senator Whish-Wilson of the Australian Greens. I know that Senator John Madigan from the DLP has also expressed concerns about these provisions. They are the issues that I raise. I do it genuinely, with a real concern that this may have a number of unintended consequences. My concern is that if a demand for information under section 72—in the context of a not a fit and proper person test matter—is made, it is not subject to any appeal. If you cannot provide that information for whatever reason, even though you may have a good reason, you are pretty well stuffed—to put it colloquially. The applicant may be unable to provide or the consultant may not be able to provide information because they simply cannot access that information. It is not within their purview to do so. So they are the broad concerns; I think I have raised them sufficiently.

I advise the government that I will continue to advocate on behalf of these people, who I think want to do the right thing but are concerned that they could be tied up in administrative actions which could destroy their livelihood unfairly and that there are not sufficient safeguards in the regulations, as they exist. That is why I am seeking to strike out this test in its current form in this bill.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (11:36): Senator Xenophon, I appreciate the genuine concerns you bring to the chamber and the way in which you have put them in this debate. I will be happy to ask Austrade, through the minister for trade, to provide some information to you in relation to the history of determinations that applicants are not fit and proper persons. There are, of course, only 11 such instances, as we have discussed during this debate. I do not know that we will be able to provide a detailed history for all 11, given that they go back a decade. I will be very happy to make sure that information is made available to you in relation to those decisions taken over the last few years—the one in the 2013-14 financial year and the four in the 2012-13 financial year—as well as any other information that Austrade are able to provide about the time line for those determinations.
I would also ask, if you wish, that a private briefing with Austrade be facilitated for you. Obviously, it would seem that you have an aggrieved constituent or two in relation to some matters. Within proper handling of matters of confidentiality that go to people's business dealings and the like I would be more than happy to encourage Austrade to provide you with a private briefing and discussion in which you might be able to get to the bottom of some of those individual instances and concerns that you have raised during this debate.

In relation to the issue you have raised of whether information that may be requested by the CEO of Austrade under proposed section 79A(2) regarding information requested that an applicant could not reasonably be expected to provide, one would expect that the applicant would be able to make that clear to the CEO of Austrade and make clear the reasons why such information could not be provided. I would trust that the CEO of Austrade would take into consideration in their final determination that, clearly, it is unreasonable to expect somebody to provide something that cannot be provided if it is held by other government agencies, for example, or subject to other matters that require it to be kept private or confidential for some legal or other reason. I would, again, want to provide assurance that it is certainly the government's intention in relation to this legislation before us that the CEO would not be using that provision as a capacity to block people from participating and working as consultants by virtue of the CEO making unreasonable requests or demands for information that, obviously, people would be unable to provide.

It is important to note in the legislation that, yes, the CEO can take into consideration a failure to provide information in making a determination that somebody is not a fit and proper person, but the simple failure to provide information does not automatically result in somebody's determination as a fit and proper person. So, were a request made, and for legitimate and reasonable grounds the person came back and said, 'I can't provide this information, but I can provide other information that might address this,' then there would be no reason why that could not lead to a satisfactory resolution of any complaint within the matter.

As I flagged before we will attempt to come back to you in relation to your request for a more detailed breakdown on the history of determinations that have been made in relation to applicants and the timelines, in particular, for resolution of those matters, whether there have been any appeals and whether there are any that are pending or outstanding. Indeed, we are happy to make sure that that information is provided to you. As well, the offer is there, if you wish, for us to facilitate a personal briefing where you can raise, direct with Austrade, any confidential grievances that individuals may have.

**The TEMPORARY CHAIRMAN (Senator Sterle):** Senator Xenophon, you are opposing various items in the bill. I shall put the question in the form that the items stand as printed. To oppose the items you would vote no when I put the question. The question is that items 6, 8, 9 and 10 of schedule 1 stand as printed.

Question agreed to.

Bill agreed to.

Bill reported without amendment; report adopted.
Third Reading

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (11:43): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

GOVERNOR-GENERAL'S SPEECH

Address-in-Reply

Debate resumed on the motion:

That the following address-in-reply be agreed to:

To Her Excellency the Governor-General

MAY IT PLEASE YOUR EXCELLENCY—

We, the Senate of the Commonwealth of Australia in Parliament assembled, desire to express our loyalty to our Most Gracious Sovereign and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

Senator WHISH-WILSON (Tasmania) (11:44): I am very privileged to be able to reply to the Governor-General's speech. I am especially fortunate to be doing it nearly six months after I started—I am in continuation. Back then, in the first few minutes of my speech, I reflected on what Al Gore had said on The 7.30 Report about climate change and the Abbott government's attempts to repeal the carbon package. He very clearly said that our democracy has been hijacked by vested interests, special interests. An incredulous Annabel Crabb said, 'Surely you are not putting forward some sort of conspiracy theory here?' He said, 'No, this is how it works in politics.'

Looking back on it now, my feeling while listening to the Governor-General's speech was that it did not have any vision and was all about tearing down existing legislation, legislation which my party feels is good public policy. Interestingly, I was sitting next to Kevin Rudd during the Governor-General's speech. He said the same thing. He asked, 'Where is the vision?' I do not know if anyone else was listening, but I certainly was—because I felt the same thing.

Looking at what has transpired over the last six months in this chamber and in this parliament, I would have to say that my comments at the beginning of my speech have turned out to be correct. What Mr Gore was referring to is commonly called the 'special interest effect'. It is well studied, understood and accepted by economists, sociologists and students of political science, but we seldom hear much about it. The effect explains why vested interests—usually big, powerful, profit-seeking corporations—often get their own way in politics. They have a very simple but persuasive strategy. Because they are well-resourced they lobby hard, often through front groups and lobby groups, and are effective.

According to the theory, special interests can concentrate the benefits and costs to decision makers, such as politicians, on issues like the mining tax—or, I should say, the tax on the superprofits of miners—the price on carbon and financial services reform. The costs and benefits to the politicians are made very clear. On the benefit side, there are often political donations or other carrots. The costs are such things as legal challenges or the threat of high-
profile advertising and political campaigns against MPs and governments. Do you remember the advertising campaign on the superprofits tax that helped unseat Mr Rudd? I am sure he is very aware of the special interest effect in this country.

But the reasons for the success of powerful industry lobby groups go much deeper than this. There is another side to the ledger. Any decision maker on an issue of importance faces a trade-off: face the big powerful corporations on one hand or face a potential backlash from the people, the voters, on the other. Sadly, both experience and theory tell us that in this trade-off it is usually in a politician's self-interest to back the powerful vested interests instead of the public interest. Why is this the case? It is because of what economists term the 'rational ignorance' of voters. The costs of devoting significant time and resources to fully understand the issues are too high for voters, especially if those issues are not accurately reflected in the media—and especially when those voters are busy putting food on the table and getting on with their busy lives. On the other hand, what is the benefit to them if they do invest the time and effort to gain an understanding of these issues? Often the costs or benefits of a policy change to an individual are not acute, are indirect, or are spread out over large numbers of people or long periods of time. Sometimes they are even transferred to future generations. This is often the case when the policy involves the issue of sustainability.

So, from a simple cost-benefit point of view, it is often rational for an individual voter to remain ignorant—to a point at least. Throw in the fact that there are a multitude of things that are important to individual voters and it becomes unlikely that one thing will significantly influence their vote. So a pollie can often assume they are safe from voter backlash on any single issue. This special interest effect is a longstanding political and economic theory. In addition, many of these issues are complex—and it is in the interests of the vested interests to make them complicated and to put out misinformation to muddy the waters. I have heard a lot of that misinformation here in this chamber in debates on the sorts of issues I have been talking about.

One issue that I feel very strongly about and campaigned on for years before I came into the Senate is getting a recycling refund in place for single-use plastics, especially plastic bottles—what is often called 'cash for containers'. The power of the Food and Grocery Council has always been really obvious to me. They have an impact on decision makers. I have seen the way Coca-Cola and other beverage companies have behaved when legislation has been proposed to give this country a refund for recycling bottles. Their power is no surprise to me, but it was a surprise to me that a lobbyist on behalf of the Beverages Council was actually an adviser to the minister. It just you how entrenched lobbyists and special interests are in our political system.

This same theory explains why it is such rubbish that the Liberal and National parties claim a mandate on just about every issue that it suits them to. The world is a lot more complex than that. There is no science that explains exactly how people vote when they go to the polling booth.

Al Gore was right. Our democracy has been undermined. It is undermined when special interests do not have any regard for the public good and are only looking after the interests of their members. Advocacy groups are exactly the same. Who was most vocal in supporting the carbon tax repeal legislation that has just passed through the Senate? Yes, you guessed it—the big end of town. The cheer squad included the Australian Chamber of Commerce and
Industry, the Australian Industry Group, the Business Council of Australia and the Minerals Council of Australia. ‘Industry calls for swift repeal of carbon tax’—that is one of the headlines I picked out from the newspapers. Of course they would; it is in the interests of their members to call for the repeal of a price on carbon.

But our job is to look at the much bigger issues here and at the public good, not just the good of a few large businesses. This is especially so given that only 0.01 per cent of Australian businesses are liable to pay the carbon price and that four companies alone pay nearly 50 per cent of Australia’s carbon liability. It is concentrated in a very small number of industries. This demonstrates how effective the big polluters in this country have been in influencing the Liberal-National government and, sadly, in attempting to change our legislation. We have already been through the minerals resource rent tax in detail in the last week. Only 10 to 20 companies are being impacted by it—out of the 300 originally touted. We have seen attempts to change EPBC laws and hand back powers to the states, because the same big business cheer squad are asking for it. We have seen changes to New South Wales environmental laws that put the economy above the environment in that state.

Another area of interest to me is the so-called free trade deals that we are negotiating, which are being pushed almost entirely by vested interests—we are talking about not just the self-interest and vested interests of Australian companies but those of significant global multinational corporations domiciled in other countries, including US corporations—and how that may impact Australian sovereignty in terms of how we legislate in the public interest. That is all on the table with Trojan Horse clauses called ‘investor-state dispute settlement’.

It is no secret that my party, the Greens, feel that the government has a very important role to play in standing up to vested interests, balancing the equation and making sure all interests are represented, not just some. It is about restoring balance to this government’s extreme agenda, which is putting the interests and profits of corporations ahead of the people. Nowhere is this more important than in tackling climate change. The role of government is in correcting market failures, and the biggest market failure of all time is climate change. There should be no more of this rubbish about the cost of living; we should be discussing the costs of living with climate change.

I do not want to give the impression that I am antibusiness, because I am not. I worked for big and small business for many years before coming into this role in the Senate, and I have spent years chasing a buck. I lived for my bonus at the end of the year. But I have also had a different life in the past decade in Tasmania, and I have genuinely glimpsed an alternative reality. We do not need as much as we think to be happy. The community, the environment and nature should be central to our thinking and our decision making. In this regard, tackling global warming, as the biggest threat facing my generation and the generation of the children watching me as I speak, is an issue we have to take seriously, and it is more important than the short-term costs to the profits of the big polluters in this country.

Six months ago I was happy to go into a lot of detail, which we have already seen in this chamber, about climate change, but clearly food security, the loss of crops and effects on drinking water are not just environmental issues but also anthropogenic issues and economy issues. They are economic costs to future generations which if the forecasts are right—and we have seen even more in recent weeks—will lead to trillions of dollars worth of damage and costs to our global economy. We have already seen billions of dollars in costs from individual
weather events. Who knows what it will stack up into in the future? We need to mitigate and we need to take action against this now.

I remember going to Agfest in Tassie last year, and I saw the Liberal Party tent. They must have spent a lot of money; they certainly were very impressive in their display. They had a picture of a Holden ute—a big pull-up ute—and it said, ‘The carbon tax will cost you a Ute every year.’ I remember Christine Milne saying, ‘Climate change will cost you your farm if you don’t get behind taking effective action.’ That is really the debate in this chamber that we need to try to find balance in.

I will look at Tasmania in the few minutes that I have left. Tasmania has been a beneficiary of a price on carbon, because we produce clean energy and we export that clean energy. The dividends range between $70 million and $200 million a year to Hydro Tasmania because of a price on carbon. We were never going to get that back if these repeal bills were passed. The dividends are very important to my state. They account for 12½ per cent of Tasmania’s non-Canberra revenues. I notice Senator Smith, who is certainly one of the champions in this chamber of taking GST money away from Tasmania. Have a think about how you are going to give us that money back, Senator Smith, not to mention the fact that the mining boom has put significant upward pressure on the exchange rate, which has been one of the negative impacts on my economy. It is called Dutch disease, and everybody knows about it. It is never discussed in here—the impact on manufacturing and the agricultural community of a high Australian dollar. So let us be fair and reasonable about how we share out the pie in this country and not claim that my state, which has had 70 years of sucking on the teat, suddenly wants to take money off other states.

We have also seen a change in Tasmania in recent weeks. People in Tasmania have voted for a new government, but there are significant areas that we need to have tripartisan support on in Tasmania: the importance of our scientific community and the money that they need for research, the importance of the University of Tasmania, and the importance of finding a truly sustainable forestry industry and a way forward to look after our natural assets, which are so important to Tasmania’s economy. It is what we have a competitive advantage on. Every other state would love to have our forests and wild areas. In fact, most people in the world would give their left leg to have them. They are what brings people to my state, and they are one of the biggest generators of employment and income. We need to look after them and we need to put them first.

One of my famous quotes is from Hernan Cortes, the most famous of the Spanish conquistadors. He said, ‘My men and I suffer from a disease of the heart that can only be cured by gold.’ The tale of the conquistadors is a sad tale of the consequences of greed, of always wanting more and of enough never being enough. It is not too different in our modern society, where corporate greed and a never-ending search for increasing profits can undermine our democracy. I do not want to see, in the next three years of this Liberal-National government, the heart of this big nation further infected by an incurable disease—the never-ending, never-satiated, profit-seeking behaviour of a few big, powerful corporations. Politics is the art of the possible, and it is about showing leadership. I strongly believe it is possible to do our bit to stop climate change, to care for people, to be good international citizens, to be real and not phoney, and to do something real. I would not be here today if I did not believe this. But this is going to require standing up to special interests and breaking the nexus that so
often hijacks our democracy. It is about making the Australian people truly understand these arguments and getting action in this chamber.

Senator SMITH (Western Australia) (11:59): I look forward to a future opportunity to share my views about the Federation and about GST reform with Senator Whish-Wilson and other senators in this place. But today, it is with great pleasure that I rise to make my contribution to this address-in-reply. It is with particular pleasure that I do so as a government senator, following the strong support the coalition received from the people of Australia on 7 September. Of course, by virtue of circumstance, the people of Western Australia will again be heading to the polls on Saturday week to elect six senators. I will not dwell on that at length today, as I have already done so in other contributions in the Senate. Suffice to say that the actions of Labor and the Greens in this place over the past fortnight in preventing the repeal of carbon and mining taxes—both are taxes that hurt Western Australia and that Western Australians want gone—speak volumes about those two parties’ total ignorance of the needs and aspirations of electors in Western Australia. Many of my coalition colleagues have already made contributions in this debate that have reflected on the significance of that day when Australians made a significant decision to elect an Abbott coalition government and put an end to the years of chaos and dysfunction under Labor.

Today I would like to spend a few moments reflecting more broadly on some of those traditions that drive the continuing stability of Australia's parliamentary system. The address-in-reply is a significant tradition in a parliamentary system that is itself a construct of traditions, customs and conventions. It is the unwritten rule that underpins so many aspects of Australia's parliamentary democracy. For example, were you to ask most Australians which is the most significant political office in our country, I have no doubt the overwhelming majority of them would say that it is the office of the Prime Minister. Yet most of them would be astounded to learn that there is no mention of that office in our Constitution. More than anything, I think that that demonstrates the centrality of tradition and constitutional convention in our system of government.

Despite the fact that the most significant political office in our nation is not specifically mentioned in our Constitution, we have nonetheless been a remarkably stable democracy for over 113 years now. Why? It is because, putting the day-to-day vagaries of politics and our own views of the character of individual prime ministers aside, those entrusted with that office have sought to preserve it and have worked in their own way to protect its dignity. Likewise, the office of Governor-General holds a sacred place in the heart of our democratic system. The Governor-General in Australia is a symbol of the continuity and permanence of the Crown, and long may that remain the case. That continuity is reinforced through many of the official duties that a governor-general performs, not just here in Canberra but around our country and, indeed, around the globe. This address-in-reply debate comes because the Governor-General, as the representative of Her Majesty the Queen, comes to the Senate chamber and officially opens parliament after each election. That in itself is a powerful symbol of the Crown being above bipartisan politics. Many of our governors-general, our current one included, have presided over official openings of parliament that have occurred under governments of different political persuasions. That is a powerful symbol of the unity and permanence of the Crown that is at the heart of our democratic system.
I am pleased to be making my contribution to this debate this week where the focus has been so much on the office of Governor-General, culminating in official ceremonies yesterday and today to farewell Her Excellency Dame Quentin Bryce. On Friday we will welcome General Peter Cosgrove, soon to be Sir Peter Cosgrove, as Australia's next Governor-General when he is officially sworn in in this chamber. As Australia's first female Governor-General, Dame Quentin Bryce's appointment to that office was, indeed, historic. Many of those in the community who would describe themselves as constitutional conservatives would be of the view that her conduct in the office of Governor-General has been, for the most part, exemplary. Professor David Flint, head of Australians for Constitutional Monarchy, has publicly stated his view that our present Governor-General has enjoyed a successful tenure. He said:

She was elegant and charming. She was attentive to her duties. I have only praise for her for all of that. I think that is a sentiment with which many Australians would concur. Our present Governor-General has performed with grace. I think all Australians will particularly recall the way in which she reached out to communities suffering as a result of national disasters such as Black Saturday in 2009 or the horrific Queensland floods in early 2011. On top of this there has been her committed work as the patron of numerous charities around Australia. Her Excellency's deep-felt and genuine devotion to the less privileged is a shining example for all Australians, most especially in encouraging young Australians to commit to community service.

On the day of his appointment, General Cosgrove made a statement which neatly encapsulates the theme of much of what I have said this morning. He said:

… I think your responsibility is to shine light but not to generate heat. You've got to listen a lot and take in everything that you see but you're not a participant in the political process.

That neatly encapsulates the view that many of us in this place, particularly constitutional conservatives, would take in relation to the role of the Governor-General. I am looking forward to General Cosgrove's efforts in the years ahead to shine light on issues that should be of concern and interest to all Australians. I am confident that he will do so in a very thoughtful and dignified way.

In the time remaining to me, I would like to turn to two particular issues that are not perhaps headlines at present, but are nonetheless significant for the nation and of personal interest to me. The first of these relates to the issue of mental health. It has been reported that 45 per cent of Australians will experience a mental health illness in their lifetime. The most prevalent mental illnesses include depression, anxiety, drug and alcohol abuse, schizophrenia and bipolar disorder. The World Health Organization predicts that by 2030 depression will be the leading cause of disease burden, generally, in our community. It is the highest burden of disease in Australia and the No. 1 cause of non-fatal disability. A recent analysis by the World Economic Forum estimated the cumulative global impact of mental disorders, in terms of lost economic output, will amount to $US16 trillion over the next 20 years.

The social and economic consequences of mental illness include homelessness, crime and incarceration, lack of educational and income generation opportunities, severe mental illnesses associated with the highest rates of unemployment—up to 90 per cent in some cases—unhygienic and inhumane living conditions, and physical and sexual abuse. In a 2013 report on mental health, the World Health Organization stated that:
Mental health or psychological well-being makes up an integral part of an individual's capacity to lead a fulfilling life, including the ability to form and maintain relationships, to study, work or pursue leisure interests, and to make day-to-day decisions about educational, employment, housing or other choices. Disturbances to an individual's mental well-being can adversely compromise these capacities and choices, leading not only to diminished functioning at the individual level but also broader welfare losses at the household and societal level.

One notable phenomenon is that of self-medication. Those impacted by mental illness turn to alcohol and drugs in an attempt to deal with their situation. The 2007 National Survey of Mental Health and Wellbeing, conducted by the Australian Bureau of Statistics, concluded that of those with anxiety disorder with symptoms in the 12 months prior to interview, 13.7 per cent drank each day and almost 40 per cent misused drugs. In the case of those with an effective disorder with symptoms in the 12 months prior to interview, 37.9 per cent drank each day and 30.9 per cent misused drugs.

Actor Stephen Fry openly acknowledged that he turned to cocaine and alcohol to dampen the mood swings caused by bipolar disorder. Substance abuse is obviously dangerous, worsening the situation of those affected. Once again, this comes at a cost to their families, friends and the community as a whole. Once diagnosed, many mental illnesses can be successfully treated. Reducing the impact of mental illness is clearly of benefit to those affected, their families and our community as a whole. This is about changing and saving lives. It follows that access to treatment is crucial to achieving this objective. Many Australians fail to seek diagnosis and treatment; further, other individuals face financial and other impediments to treatment. The result is a loss of potential years of life due to death, states of poor health and disability.

A prominent example is the treatment of bipolar disorder. Approximately six per cent of Australians experience this disorder during their lifetimes. The disorder consists of prolonged episodes of mania or hypomania and depression. Those living with the disorder are more likely to be on government benefits, have comorbid anxiety disorders or substance abuse and spend more days disabled. A key to treatment of bipolar disorder is the use of mood stabilisers. These are designed to reduce the duration and severity of such episodes. A number of mood stabilisers are approved by the PBS for the treatment of bipolar disorder. The most prominent is lithium. The problem is that lithium, along with other approved treatments, has significant side effects. This leads to practitioners turning to other mood stabilisers with fewer side effects.

One of these is the anticonvulsant medication lamotrigine. Lamotrigine is commonly used as a mood stabiliser, with minimal side effects. It is particularly effective in combating bipolar depression, one of the most debilitating aspects of this disorder. However, it has not been PBS approved for the treatment of bipolar disorder. As Dr Elvera Stow stated in correspondence to the PBAC, the lack of PBS approval means patients suffering from this severe mental illness have to pay between $80 and $200 a month for this treatment. The treatment is therefore out of reach of many individuals. Even low-income individuals with a health-care card do not receive a concession for this medication. The PBAC responded by stating that it had not been provided with the necessary evidence to show cost-effectiveness of the drug for the treatment of bipolarity.

This example highlights the key tension in the treatment of mental illness in Australia. Those most likely to be affected by mental illness are least able to seek help. High out-of-
pocket expenses prevent those on low incomes from receiving the necessary health care. This extends to costs of medication. This is particularly the case in those affected by debilitating depression, whether this is unipolar or bipolar depression.

We have a medication capable of treating bipolar disorder and giving individuals an opportunity to live successful lives free from unemployment, poverty and other consequences of mental illness. However, the failure to obtain PBS approval for this life-saving medication means it is unavailable to those who need it most. This comes at a cost to the individual, their family and society as a whole. It is clear to me that Australians who find themselves in this type of situation deserve our support and compassion. Fundamentally, this is a debate about priorities and values.

The PBS forms part of the government's National Medicines Policy. This policy was developed to:

… meet medication and related service needs, so that both optimal health outcomes and economic objectives are achieved.

Given the overwhelming economic cost of untreated mental illness and the central objective of the National Medicines Policy to provide timely access to medicines that Australians need, at a cost that individuals and the community can afford, I believe it is fundamentally important that government revisit PBS approval for this life-saving medication. We cannot afford not to.

I will briefly touch on another issue, that of promoting international commercial arbitration in Australia. As we know, the Prime Minister has declared Australia 'open for business' and in the House of Representatives today it is 'repeal day'. Disputes are an inevitable part of commerce. Their efficient resolution has been an essential underpinning of our commerce. Where this is compromised, it has the capacity to generate damaging commercial uncertainty. International commercial arbitration is a form of dispute settlement where commercial parties to a transnational contract agree to refer disputes arising out of that contract to a tribunal, as opposed to a court. They can nominate the juridical seat of the arbitral tribunal, its place, governing law and procedural laws.

Arbitration is not new. For centuries, traders have turned to impartial tribunals, independent from government, to resolve their disputes. Arbitration is regarded as offering a number of benefits over traditional, judicial dispute resolutions. In 2010 Patrick Keane, now Justice of the High Court, said:

At the practical level, there can be no doubt as to the importance of international arbitration to global commerce. Arbitration as a method of dispute resolution is seen to offer the major benefits of enforceability, neutrality, speed and expertise over court based determinations; and, because arbitration is quicker and more expert, it is likely to be cheaper than the lengthier and more elaborate proceedings in court. It is a private proceeding which may be held in private. And international arbitration offers traders a mode of dispute resolution which is not skewed by local policies, peculiarities or prejudices. The use of international commercial arbitration can mitigate the uncertainty involved in international contracts that can span multiple jurisdictions and legal systems.

Successive Commonwealth and state governments continue to express their support for international commercial arbitration. In a media release dated 26 April 2007, then Commonwealth Attorney-General the Hon. Phillip Ruddock stated:
Given the expertise in Australia, there is no reason why more arbitrations should not take place in Australia. In fact parties will now have a cheaper and more efficient avenue for the resolution of such disputes.

These comments were echoed by Mr Ruddock's successor, the Hon. Robert McClelland in 2008, when he said:

Australia is well placed to meet the growing demand for first-rate, cost-effective arbitration services in the Asia-Pacific. Australian arbitration practitioners are among the world's best.

Central to arbitration is the exercise of freedom of contract by sophisticated commercial parties in agreeing to submit disputes to arbitration; however, the success of arbitration as a dispute resolution mechanism requires that domestic legal systems respect and uphold that choice. As Professor Adrian Briggs of Oxford University states, a principal objective of international commercial arbitration is to 'keep the resolution of disputes as far away from the court as practicable'.

Australia's reputation has suffered in this regard. Our judicial system has been perceived as interventionist. The primary problem has been the application of protectionism and parochial public policy—firstly, in displacing the commercial parties' nominated choice of law; secondly, in depriving an arbitral tribunal of jurisdiction to hear a dispute in favour of curial dispute resolution; and, thirdly, in the failure of courts to recognise and enforce awards of foreign arbitral tribunals.

Our parliament and policy makers must be conscious of laws that may have this effect. Legislation like the Australian Consumer Law Act—formerly the Trade Practices Act—the Insurance Contracts Act and the Carriage of Goods by Sea Act pose threats to Australia's objective to be seen as a pro-arbitration jurisdiction. For example, a court may regard the prohibition of misleading and deceptive conduct contained in the Australian Consumer Law as a mandatory law that must be applied regardless of the choice of sophisticated commercial parties in nominating a particular legal system to govern their contract.

Australia is a party to both the New York Arbitration Convention and the UNCITRAL Model Law on International Commercial Arbitration. These two key conventions are designed to facilitate certainty for commercial parties to international agreements where they have 'by their own bargain, chosen arbitration as their agreed method of dispute resolution'. Both conventions are given force of law in Australia by the International Arbitration Act 1974.

In a recent submission, the Australian Centre for International Commercial Arbitration stated:

It is therefore of critical importance that Australia is both seen to have, and does in fact have, a modern and consistently applied international arbitration law and system which at least meets world's best practice in the international arbitration community and embraces, and is underpinned by, the most current international conventions and instruments.

As Justice Patrick Keane notes, the embrace of international arbitration by Australia's principal competitors, Hong Kong and Singapore, has been 'energetic and unequivocal'. He said:

In Australia, however, our attitude may perhaps be described as two steps, forward and one step back.
Australia should embrace international commercial arbitration, as our Asia Pacific neighbours Singapore and Hong Kong have done.

Commercial parties to an international agreement should be free to nominate how they would like disputes to be resolved. Parties must have confidence that their commercial agreements will be respected by our courts. While Australia's reputation is improving in this area, we must not be complacent. More work must be done. This is a significant aspect of our trade and economic policy.

The pressure is on Australia to become a team player in international commerce. We need to be mindful of parochial legislative policy, which can fragment the efficient resolution of commercial disputes. It is critical that our legal system facilitates commercial certainty, instead of impairing it. The freedom of parties to choose both the law governing their contractual arrangements and the way in which disputes will be resolved provides commercial certainty necessary for those involved in international commerce.

Australia is well placed to become an attractive centre for international commercial arbitration and provide first-class legal services to the rest of the commercial world, particularly in our region.

Senator MADIGAN (Victoria) (12:19): In reflecting on, and responding to, the Governor-General's speech I want to start by borrowing some insights from Tim Colebatch, which occurred in Melbourne's The Age newspaper some time ago. In an article entitled, 'We simply can't have our cake and eat it too,' Mr Colebatch observed:

... events are moving far more rapidly than public opinion. And rather than use their positions of influence to persuade the public to catch up with reality, as Paul Keating did, the politicians are lining up with public opinion as if to defy it. That makes short-term sense, but also makes it impossible for them to tackle the long-term challenges.

I do not agree with everything Mr Colebatch wrote in his article but I intend to agree with that.

The policy and legislative program of the new government, as outlined in the Governor-General's speech, resonated with politicians lining up with public opinion as if to defy it. There was much in the speech that sounded as if it would make people happy. However, sounding as if you are doing something good can be very different from doing the things that are actually needed to make this country and our people more prosperous.

I start by asking: how will fast-tracking free trade agreements with South Korea, Japan, China, Indonesia and India make more Australians prosperous and happy? There is no level playing field when it comes to global trade, yet successive Australian governments defy that fact. On the altar of free trade we have exposed our economy and our manufacturing industries to be slaughtered by those countries who subsidise their industries, who dump goods here or who use low-paid and even slave labour. We expose our industries to countries that are damaging their environments.

On the altar of free trade we are killing off our manufacturing industries by failing to provide them with non-tariff protections and supports. I say we need to be much smarter about industry policy. Politicians need to stop mouthing the words they think will make people happy and start providing leadership and intelligent solutions. Here is one example. Countries we share free trade agreements with have economic trade zones. These zones
provide non-tariff support and assistance to their manufacturers. Australia does not have one economic trade zone on our shores, yet collectively our trade partners use hundreds of trade zones to support their manufacturers.

The whole of Australia's car and component manufacturing industry could have operated within Australian based economic trade zones and enjoyed an advantage equal to that enjoyed by their overseas competitors. Overseas car and component companies operate within economic trade zones established by their governments, giving them a significant cost advantage. Why didn't the Australian government accord the Australian car industry this cost advantage? This is not about giving handouts; it is about producing and enacting effective policy settings that will create lasting improvements to assist and sustain our industries, grow jobs and create wealth. Why doesn't the new government embrace the effectiveness of economic trade zones and establish some right here in Australia to assist our manufacturers? This approach would be consistent with the new government's approach to reducing regulation and red tape. Economic trade zones epitomise reducing red tape and removing unnecessary cost imposts from productive, wealth-producing industries.

I am not a big fan of the catchcry evoked in the new government's policy program that decries so-called red and green tape. I advocate economic trade zones because they would reduce unnecessary cost imposts on our productive industries and help put us on an equal footing with our competitors. However, I also support robust regulation of industry, particularly when it comes to preventing the environmental and social harms that unregulated or under-regulated industries can cause. Politicians should not line up to encourage the public to support weakened and lax regulation in such important areas. The new government's so-called state based one-stop shop approach to regulation is a recipe for weakened regulatory arrangements.

I would like to provide my fellow senators with some real-life examples of the failures of the state based one-stop shop approach to environmental and planning regulation. This approach has been in place between Victoria and the Commonwealth for the last four years. Throughout much of that time, I have been trying to assist communities invaded by large industrial wind-energy facilities. The state based one-stop shop approach has accorded the Victorian planning minister the power to veto Victorian environment and planning laws and Commonwealth renewable energy law. In the case of ACCIONA's Waubra wind farm, since 2010 Minister Matthew Guy has been repeatedly advised by his department and the EPA that the Waubra wind farm is breaching the conditions of its planning permits regarding noise nuisance for local residents, yet he has repeatedly refused to make the call and formalise this non-compliance by calling it what it is and enforcing the conditions of the planning permits.

In the state based one-stop shop approach, state based ministers, departments and authorities can sit on vital information. They can withhold decisions and render Commonwealth laws impotent. Non-compliant wind farms are racking up multiple millions of dollars in renewable energy certificates paid for by energy consumers. They are being financed by our banking and superannuation industries. They are receiving public grants and subsidies. All of this is creating a huge financial risk in our financial sectors. These power stations are not eligible for any forms of financial assistance until such time as they can show compliance with their planning permit conditions of approval. All of that risk is developing because of the state based one-stop shop approach to under-regulation. This is not an example
of federalism working well; quite the opposite. This approach eats away at a balance of powers between state and Commonwealth governments—a balance that exists to ensure accountability between governments and protections to taxpayers, the Australian community and our environment.

I am reminded of important information on bird habitats and other species disappearing off the public databases of the Victorian Department of Environment and Sustainability. This is happening in the locations earmarked for wind farm development. The disappearance of this information is important when it comes to the referral process under the Commonwealth Environment Protection Act and the way it interacts with the Victorian environmental effects statement process. For example, information about brolga nesting sites, growling grass frogs, southern bent wing bats or golden sun moths either disappears or is ignored at a state level. That is most convenient when it comes to considering the impact of the Mount Gellibrand wind farm proposed for south-western Victoria. The site is surrounded by Ramsar listed wetlands and is home to a whole variety of critically endangered and nationally important species. There was no environmental effects statement or EES prepared for this site at a Victorian state level. Instead, the Commonwealth and the Victorian governments conspired to allow a huge industrial facility in the midst of a high-value conservation site without any conditions of approval.

In my experience, a state based one-stop shop approach to environmental regulation means no regulation. It means government acting as a facilitator that allows industry to do what it wants, regardless of the environmental or social consequences. When the new government says that Australia is open for business, that should not mean we do business at any price, regardless of the cost to our people, their communities and their environment. On those terms, such business is bad business.

I am alerted to a further example of this in the Governor-General's speech about the new government's focus on the resources sector. Australia is now facing a gas crisis. This crisis is not because we do not have enough gas or because we are running out of gas. This crisis is the creation of bad government policies accruing over the last 20 or so years. Australia is facing escalating gas prices that might see our domestic price for gas quadruple over the next few years. The flow-on effects for households and industry will be devastating. The reason for this is the amount of gas we are exporting. Governments have overreached the amount of gas available for export and have not protected Australia's domestic interests. At the same time, high electricity prices are driving people to use gas, and environmental considerations are encouraging people to prefer gas as a lower emission fuel. At a time when our gas reserves are of high strategic importance, governments are allowing them to be sold off as fast as they can be exported.

What is the answer to this problem? Both state and federal levels of government are saying we should open up more of Australia to coal seam gas development, or 'fracking'. I do not agree. I think we need a lot more information before we can even begin to consider going down that path. If governments want to resolve the problem of overcommitting Australia's gas resources for sale and export, then we need to change that policy. It will not be solved by opening up a whole new set of problems associated with fracking.

We also need to be more efficient and smarter with our use of gas. On that note, I want to conclude with an example of a clever Australian company. Ceramic Fuel Cells Pty Ltd has
just sold 45 BlueGen micro combined heat and power units into the largest virtual power station project in Europe that will support a region in the Netherlands to achieve zero carbon dioxide emissions by 2020. The same company has just sold 10 BlueGen units to a UK social housing organisation to help alleviate the fuel poverty of low-income households. In November last year, it sold another 1,000 Blue Gen units into the Baltic region, its single biggest order.

Coming out of research and development by the CSIRO, this micro combined heat and power technology is the most efficient small heat and power generator on the planet, operating at 85 per cent energy efficiency. A BlueGen reduces household electricity and gas bills from about $2,000 per year to about $200 per year, a 90 per cent saving on energy bills. Operating 24 hours a day, it can produce enough electricity for two homes and create heat as a by-product that is enough to meet the hot water needs of a family home. It does all this with about one-ninth of the gas used by an instant gas hot water heater.

This technology does not burn gas and it does not create emissions. It splits gas into its various parts and runs it through an electro-chemical process to create electricity and heat. This clean, efficient and socially responsible technology is an example of Australian ingenuity at its very best. When Ceramic Fuel Cells is doing exactly what we want our Australian manufacturing companies to do, why aren't Australian governments supporting the uptake of this technology here in Australia? Why isn't BlueGen attracting a feed-in tariff? I suggest there is far too much ideology in Australia's energy and manufacturing policies and too little common sense and scientific and technical understanding. We are making poor decisions as a country about the energy technologies we will and will not use, the manufacturing industries we do and do not support, the ways we are exploiting our precious resources and the communities and families we are leaving behind in our two-speed economy.

We should be implementing a strategic policy to support our innovative technologies industry and its manufacturers at a time when we are losing thousands of manufacturing jobs and our electricity prices are skyrocketing. We should be introducing economic trade zones to support our manufacturing industries. We should be supporting sensible exploitation of our resources in our interest, in Australia's interest. We should be maintaining and bolstering our regulatory systems to protect our communities and our environment. Our role in this chamber and in the other place is to provide leadership that persuades the public to catch up with the reality. We can only deal with the challenges that confront us by telling the truth, by being smart and by caring for ordinary Australians. That is the sort of business I am open to.

Senator EDWARDS (South Australia) (12:35): It is with great pleasure that I rise to speak today in the address-in-reply debate and it was with great pride that I watched the Governor-General outline the policies and priorities of the new coalition government. I look forward to working with my colleagues as we continue to deliver a stronger, more prosperous Australia. It is timely that we resume this debate today as the Governor-General carries out her final actions in that role. She has this morning laid a wreath at the Tomb of the Unknown Australian Soldier and, as I speak, she is on her way to her Brisbane home. We wish her well.

Last night I had the privilege of attending the official farewell for the now Dame Quentin Bryce here in the Great Hall of Parliament House. Heads of missions, ambassadors, leaders of our defence forces, our country’s leading legal identities, leaders of our nation’s migrant communities and business leaders from around the country, to name but a few, were gathered...
there to recognise the contribution made by the Governor-General over the last six years. As
Prime Minister Abbott said yesterday, Dame Quentin Bryce has served our country in an
extraordinary and pre-eminent way and has been a very elegant and dignified Governor-
General. I thank her for her unyielding service to our nation and wish her the very best in her
future endeavours. I particularly pay tribute to Dame Quentin Bryce for carrying out her role
as the first female Governor-General seamlessly, selflessly and with great honour.

On Friday we will be welcoming a new Governor-General, General Sir Peter Cosgrove.
The term is still a bit new to me. I wish him well in his new role.

In contributing today to this address and in making the contribution I want to make I wish
to take us back to last September, 2013, when we achieved a Liberal-National Party victory at
the federal election. It was a positive result for all Australians who had become tired of the
chaotic Rudd-Gillard-Rudd era. Working with an Abbott-led Liberal-National Party
government gives Australians an opportunity to get our nation going again, to allow business
to flourish and to allow everyone across the country to reap the benefits of a stronger, more
prosperous economy. The Liberal Party and the people of South Australia delivered a stunning
blow, by taking the seat of Hindmarsh and significantly reducing Labor's margin in the seat of
Wakefield and in other strongly held Labor seats.

It is notable and quite fitting that you are sitting in the chair, Mr Acting Deputy President
Fawcett, because Wakefield was your former seat when you were in the other place. But now
I am patron for that seat.

The campaign success resulted in a 7.13 per cent swing towards the Liberal Party. Unfortunately, it was not enough to wrest it from Labor's hands. However, it was a major
revolt against the sitting member, Mr Nick Champion, who, despite writing to everybody in
his electorate, telling a blatant mistruth about him having saved General Motors Holden until
2022, suffered a major backlash and will continue to serve his time in parliament on the
opposition back bench. The member for Wakefield will now be a little-heard voice in that
place. The member for Wakefield's comment about securing Holden until 2022 proved to be
farical when, on 11 December last year, Holden management announced they would close
the Elizabeth factory by the end of 2017. What a cruel hoax the member for Wakefield's
empty promise turned out to be. But I digress.

I congratulate all South Australian House of Representatives Liberal candidates on their
honest and engaging campaigns throughout that period. I also congratulate my Liberal South
Australian lower house colleagues who were successful in being re-elected and welcome Mr
Matt Williams, our new federal member for Hindmarsh.

Congratulations also to my South Australian Senate colleagues who were re-elected and
hearty congratulations to Senator Birmingham, who has subsequently been appointed as
Parliamentary Secretary to the Minister for the Environment. This is a well-deserved
promotion for my colleague, who has done a lot of work around the Murray-Darling Basin
through supporting regional communities and championing the environment and its economic
balance. It is such an important issue, certainly in our home state of South Australia.

The challenges facing the South Australian community are significant but certainly not
insurmountable. The Abbott coalition government is taking a strong, mature and informed
approach, which is being welcomed in South Australia as a genuine opportunity to help get
my home state and indeed our nation back in the realms of fiscal responsibility. We can only hope that the series of events which led to the Labor Party taking a minority government in South Australia this week will mean a change of tone from the premier towards his colleagues here in Canberra. Also, that we can actually get on and start ridding that state of the millstone which is the $14 billion worth of structural debt in the budget and the further $14 billion worth of unfunded liabilities, which also remain somewhat quiet in the Labor Party's plan for a bright and vibrant economic future for South Australia.

Because of 12 years of mismanagement by Labor in South Australia we now have the unenvied economic ranking of all mainland states in Australia. Whilst South Australians believe that the Liberals won 53 per cent of the vote, which is quite right, and received over 90,000 more votes, out of 1.142 million votes—a very high percentage indeed—the Liberal Party was unable to form government. But there were some fantastic success stories in that state election.

Mr Corey Wingard, who has been a very prominent part of the political scene over the last 18 months on the federal side of things, will now take up a role in state parliament. He won the seat of Mitchell in Adelaide's south, David Speirs won the neighbouring seat of Bright and Mr Vincent Tarzia won the seat of Hartley in Adelaide's east. I congratulate these men.

We also welcome to the parliament in South Australia, Mr Stephan Knoll of the Liberal Party, who took over the seat of Schubert from the long-serving Mr Ivan Venning. Troy Bell took out the seat of Mount Gambier and obviously won a prize for the Liberal Party there, because it had been in the hands of Independents for some time. Well done, Troy! We also see the addition of a great brain and also great wit in Andrew McLachlan joining the legislative council.

The now re-elected Premier of South Australia, Mr Weatherill, and indeed the member for Wakefield, Mr Champion, know how bad youth unemployment is in the northern suburbs of Adelaide. It has steadily grown since Mr Champion took over as the member, and it has now risen to be one of the highest rates in the country—it is pushing 45 per cent. After nearly 12 years and six years in government, respectively, they have no capacity to arrest this dysfunction.

Debate interrupted.

**MATTERS OF PUBLIC INTEREST**

**The ACTING DEPUTY PRESIDENT (Senator Fawcett)** (12:45): Order! It being 12.45 pm, I call on matters of public interest.

**Cattle Industry**

**Senator BOSWELL** (Queensland) (12:45): I rise today to issue this warning to the owners of Australia's 77,000 cattle properties: examine very closely the international campaign to make you prove you are environmentally sustainable.

Last week, on Monday, 17 March, a document was released that will potentially shape how Australian cattle producers are allowed to operate in years to come. It is a document written overseas, in Holland and the United States apparently, but one that is designed to oblige cattle producers around the world to prove they are environmentally sustainable. I believe it has been initiated and shaped principally by environmental activists. That makes me very
suspicious. It is a document which cattle producers throughout Australia should scrutinise very closely. The document is called the DRAFT Principles and criteria for global sustainable beef. It has been produced by the Global Roundtable for Sustainable Beef.

The global roundtable was initiated by the World Wildlife Fund, based in Switzerland, and the US-based McDonald's hamburger chain. Another prime mover in the roundtable is an environment-related group, called Solidaridad, based in Holland. Producer bodies on the roundtable include the Canadian Cattlemen's Association, the US National Cattlemen's Beef Association, and the Cattle Council of Australia. Other members include processors, retailers, restaurants and environmental groups. The organisation was established by the following bodies: McDonald's; WWF; Solidaridad; beef processors and commodity traders Cargill and JBS; pharmaceutical companies Merck and Elanco; and the giant retail chain Walmart. Australia's Woolworths has also since joined.

The draft document on principles and criteria for global sustainable beef anticipates having national or regional standards that must be met by cattle producers. Who is going to verify that those standards are being met? And how much will Australian cattle producers be charged for the privilege? All the attention right now is on establishing a definition for sustainable beef. No-one has an exact definition, and that is the focus of the recently released discussion paper. However, Australian cattle producers should be told not just what sustainability means but also the process for proving it—and the price tag.

The schedule for progressing the current principles and criteria document is as follows. It is available for public comment until May 16. There will be a final review in July. The members of the roundtable are then scheduled to ratify the principles and criteria, later this year. Organisations like this roundtable are really run by the secretariat, the people working full time writing up the agenda papers for meetings, publishing the newsletters, et cetera. The executive director of the Global Roundtable for Sustainable Beef is a guy called Ruaraidh Petre. He is based in Holland, and came to the roundtable after working for eight years for Solidaridad—remember, Mr Acting Deputy President, Solidaridad was one of the original members of the roundtable, along with McDonald's and WWF. Solidaridad has certification schemes in its DNA. According to its website under 'What we do', Solidaridad says it works on 'creating sustainable supply chains from the producer to the consumer'. It does this by helping agricultural producer organisations and industrial producer companies to qualify for social and environmental certification standards. That is where the CEO of the beef roundtable comes from.

As I said, WWF was also a prime mover in the process to establish the Global Roundtable on Sustainable Beef. Imagine WWF sitting down and determining the environmental conditions that our producers are obliged to meet before they can market their cattle! This is the same WWF that waged a campaign against the land- and regrowth-clearing practices of Queensland farmers. It is the same WWF that, less than two years ago, made submissions to Queensland parliamentary inquiries, savagely denigrating the cattle industry's sustainability record. WWF also argued that compulsory standards must be implemented. WWF are no friends of the Australian cattle industry. With the excuse of having to meet so-called international sustainability principles, WWF in Australia would have even greater leverage to continue trying to force our cattle producers down the path of more and more restricted on-farm practices and compulsory standards.
Let us look at the costs associated with sustainability certification for producers. At this stage, we can only get a rough idea of what the costs might be. That is why I say Australian farmers should be told up-front what they might be charged to gain sustainability certification. However, we can gain some indication of costs. One of the other Australian members of the global roundtable is the Australian Land Management Group, a business that already offers what it calls a certified land management plan. Its website says that, to become certified, you begin by listing all your property activities, the aspects of those activities that might have environmental impacts, and what those impacts are. You then do a risk analysis and assign priority rankings to the impacts you have identified. After this, you develop a management plan to address the causes of those impacts. There is also an animal welfare component. To achieve certification, you need to implement your plan, which is then reviewed by an auditor. That review examines how the plan has been implemented and whether the outcomes are being monitored. If there are no problems, the auditor will recommend certification. After this, you enter into an annual review and audit cycle. The website says that the cost of delivery varies.

As a guide, in the first year landholders usually work as part of a group doing a start-up workshop and a review workshop. Each of the two workshops has an indicative cost of $800 per family farm or managed business. So that is $1,600 in the first year for a family owned farm. After this, there is a minimum certification fee of $150 and an annual business fee of $300. Based on 77,000 properties paying $1,750 for the two workshops and certification, that adds up to almost $135 million to be paid out by Australian farming families in one year.

In January this year, McDonald's headquarters in the USA announced its stores across the globe would buy verifiably sustainable beef from 2016. I wrote to McDonald's in Australia and asked a simple question: 'Can you provide me with a written assurance that Australian cattle producers will face no extra costs because of McDonald's future purchasing policy relating to "verifiably sustainable beef"?' The two-page response from McDonald's included the following paragraph: 'We understand that there is a concern of increased costs and whether McDonald's will pay increased prices for sustainable beef. It is too early to predict if or how beef prices will be impacted in the future but we are committed to working collaboratively with suppliers throughout the entire process and understand the existing pressures producers already face in the production of these animals.' Producers can reach their own conclusions as to what that means. I am sure McDonald's care about the planet. However, their ultimate responsibility is not to the planet but to their shareholders. They examine issues based on the view of improving value and returns to shareholders. Much of what they do is about marketing and money.

I know someone who cares passionately about the environment and livestock—and that is the average Australian farming family. I do not want to see them burdened with more cost, more paperwork and more unnecessary environmental obligations to keep WWF in business and provide a marketing point of difference for the likes of McDonald's.

I have had informal discussions with the Cattle Council president, Andrew Ogilvie, on this issue and I look forward to talking to him again. He is caught between a rock and a hard place. I am sure he is well intentioned and has what he perceives as the best interests of Australian cattle producers at heart. However, he needs to be informed by the widest possible range of views from cattle producers across the country before he goes back overseas to
negotiate on these sustainability principles. I appeal to Australian cattle producers: do not take this issue lightly. Do not think it is just bulldust and that, if you ignore the issue, it will somehow go away and not affect you. Speak up now and have your say.

Finally, there is another question—a vital question—that I want answered. What happens if Australian cattle producers do not sign up to the sustainability principles determined through the global roundtable process? If Australian cattle producers do not allow a third party to certify or verify their sustainability, will McDonald's refuse to purchase beef locally? Will environmental activists like WWF campaign to ban the sale of Australian beef in overseas markets? We already see environmental activists campaigning to prevent the sale in overseas markets of Australian timber that was not produced from the sources they sanction. This is referred to as 'green blackmail' or simply 'green mail', something I have warned about in the past.

The apparent growing power of environmental non-government organisations and corporations raises fundamental questions about the future role of government, science and rational resource management in Australian primary production. This goes to the very essence of not simply who is running the Australian beef industry but who is running the country. Who determines how our primary industries are managed and administered? Who decides how our resources are utilised and where they are marketed? Who determines the prosperity of our communities, our industries and our nation? Those are the questions we must have answered.

I believe this issue should be referred to the Senate Rural and Regional Affairs and Transport References Committee. Before I do that, I will discuss this further with my colleague the Minister for Agriculture, Barnaby Joyce. I believe it requires forensic examination in a Senate inquiry. We can call witnesses to the inquiry from the main players. We can thoroughly examine who will bear the cost of this sustainability scheme and who will enjoy the benefits. We can investigate what the implications are for rural and regional communities that depend on cattle and other primary production and for Australia's trade sovereignty and its ability to freely trade in primary products we already know to be sustainable.

International Year of Solidarity with the Palestinian People

Senator URQUHART (Tasmania—Deputy Opposition Whip in the Senate) (12:57): I rise to make a small contribution in this the International Year of Solidarity with the Palestinian People. It was designated by the United Nations late last year as a year to promote solidarity with the Palestinian people and to contribute to international awareness of the core themes regarding the question of Palestine after the resumption of peace talks in July last year and ahead of the first deadline of 30 April this year.

Today I add my name to those of many other Australian federal politicians from all persuasions and many other politicians from around the world in recognising that 2014 is a critical year for the peace talks between Israel and Palestine. As a middle power with a position on the United Nations Security Council, Australia has a responsibility to foster this debate, to highlight issues of concern and to independently support the ongoing peace talks.

The international year seeks to highlight the core obstacles to the ongoing peace process, including: the illegal settlements in the occupied territories; the question of Jerusalem; the
blockade of Gaza; and the humanitarian situation in the occupied Palestinian territories. A recognition of the difficulties is vital in the process of reaching a two-state solution and securing an independent, viable and sovereign Palestine living in peace and security with the state of Israel where each recognises the other's legitimate rights. We must mobilise our nation as a part of the global action towards the achievement of a comprehensive, just and lasting solution to the question of Palestine.

In doing so, we must have regard for the almost 70 years of United Nations history and for the centuries of history before that. In launching the international year on 16 January this year, the Secretary-General of the United Nations, Mr Ban-Ki Moon, issued a clear statement that this year of solidarity is critical in the resolution of the aforementioned issues, critical in the formation of a state of Palestine, critical in the continuation of the state of Israel and critical in our world's journey to ongoing peace in the Middle East. I quote: Today marks the launch of the International Year of Solidarity with the Palestinian People. This will be a critical year for achieving the two-State solution, bringing an end to the occupation that started in 1967, and securing an independent, viable and sovereign State of Palestine living in peace and security with the State of Israel where each recognizes the other’s legitimate rights.

The Secretary-General stressed that the international community must work together and that the leadership of both Palestine and Israel must both display immense political will and live up to their commitment to a negotiated two-state solution. I quote: I call on all members of the international community and, in particular, Israelis and Palestinians, to work together for justice and a durable peace. Israel and Palestine need to live up to their commitment to a negotiated two-State solution and resolve all permanent status issues, in accordance with Security Council resolutions, the Madrid principles, the Road Map, the 2002 Arab Peace initiative and existing agreements between the parties.

The leaders of Israel and Palestine will need political will, a sense of historic responsibility and a clear vision for a better future for this and future generations. I pledge to do my utmost in support of their efforts.

The Secretary-General's statement highlights that this international year is not partisan. It places significant emphasis on the security of both the Israeli and the Palestinian populations and the importance of leadership from both sides. What would be tragic for our country—for Australia, as a home to many Israelis and many Palestinians—would be for little or no progress to be made over this year of solidarity.

For our government to adopt a position would be out of step with other nations on the United Nations Security Council, out of step with other nations in the Western European and Others Group and out of step with the Australian community. Our opportunity to contribute to these peace talks, by fostering debate and recognising the serious wrongs committed by both sides, would be lost. It would be lost not through an articulation of our clear position on the matter, but lost through our silence. It would be lost through our government adopting an approach of making a decision, but not taking the time to explain this to this parliament and not taking the time to explain it to the people of Australia.

We need to view the Year of Solidarity as an opportunity for us as a parliament and for us as a nation to look at how we can assist this process for the benefit of both Israeli and Palestinian communities both here and in the Middle East. That is to not dismiss it as an
attack on the Israeli people, but to use the opportunity to look at how Australia can effect a fair and balanced approach on this very important matter.

I was pleased to attend the Australian launch of the International Year of Solidarity with the Palestinian People on Monday afternoon here at Parliament House. The launch was organised by the member for Calwell, the member for Reid and the member for Fremantle under the auspices of the Parliamentary Friends of Palestine group and the United Nations Parliamentary Group. The launch was attended by over 70 people, including members of parliament and senators from all parties, ambassadors, DFAT officers, members of the local Palestinian community and advocacy groups, as well as representatives from the international Australian charity the Global Gardens of Peace.

Speakers included Ambassador Izzat Abdulhadi, the head of the General Delegation of Palestine to Australia, New Zealand and the Pacific; Mr Christopher Woodthorpe, the director of the United Nations Information Centre for Australia, New Zealand and the South Pacific; and Bishop George Browning, the president of the Australia Palestine Advocacy Network. Every speaker made a valuable contribution to the event.

But I want to highlight Bishop Browning’s response to a question about political will on the question of Palestine in Australia. Bishop Browning was emphatic that Australian politicians are out of step with the views of the vast majority of our community and the vast majority of the leadership of like-minded countries. He was emphatic that there was a clear majority of Australians who supported a two-state solution, who supported an end to the conflict and who supported ongoing peace.

On that, I point to the work of the Australia Palestine Advocacy Network. It is a multi-faith, non-political organisation headed by a small secretariat. Many of us have met with APAN on a number of occasions. I encourage others who have not to log on to their website, to give them a call and to have a discussion with its members who comprise Australians of Jewish, Islamic and Christian faiths, as well as non-religious Australians, as they go about their tremendous advocacy work.

Sadly, when the matter of the designation of the international year came before the United Nations, Australia was one of just seven nations to vote against the motion. While 110 countries supported the motion and 57 abstained, Australia moved to seek a defeat of the motion. On the question of settlements, instead of continuing to condemn this illegal occupation as Australia had done under the Labor government, the government joined only eight countries in abstaining from the vote to defy the 158 countries, including many conservative, Western governments.

The government was one of just five countries to abstain and six to vote against the motion that Israel, as an occupying power, should be forced to comply with the Geneva Conventions of 1949. One hundred and sixty nations supported ordering Israel to comply scrupulously with the conventions. A section of the Geneva Conventions, which this government has moved to no longer support in regard to Israel and Palestine, states:
The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.
The changing of our vote on Israeli settlements in Palestine by this government does nothing to help that process.
What concerns me deeply is why we are changing our vote. Why are we backing away from taking a bold, independent stance? So far, I do not believe the government has outlined its case to change Australia's position, especially at such a crucial time in the peace negotiations and at a time when Israel continues to expand its settlement activity in the occupied Palestinian territories. It is settlement activity that the United Nations condemns as against international law and settlement activity that must cease for peace to occur. Australia, under this government, is changing its position and condoning these moves.

Members of this government use this chamber as an opportunity to make divisive, aggressive comments about the question of Palestine. Last week, Senator Seselja used some terrible logic in seeking to criticise members of this place who support a Palestinian state. I quote:

When you look at the treatment of gays and lesbians, and women, in Israel in comparison to other parts of the region, you see they get support from those who claim to be strong supporters of gay and lesbian rights and of women's rights.

After the senator's speech, Ms Samah Sabawi, an Australian-Palestinian writer, wrote an open letter in response, of which I would like to share a part. She said:

Sir, you also fall into the trap of mentioning women's rights and gay rights in Israel. You ignore the countless women under Israeli occupation who are forced to have their babies at checkpoints, you turn a blind eye to the thousands of children who are arrested, some as young as five, by Israeli soldiers and tried in military courts, you ignore the dearth of human rights abuses committed by Israel every single day, and let me tell you being gay is not some super power that allows Palestinians to fly over checkpoints ...

Ms Sabawi's words clearly rebut Senator Seselja's assertions, and I thank her for her efforts. As a country we need to be better than casting those types of aspersions and we need to be better than stringing together false logic to slander one side or the other. That is why it is wonderful to conclude this speech with a positive story, a story of hope, a story of the Australian spirit at its best.

Yesterday was the parliamentary launch for the Global Gardens of Peace, an initiative of Moira Kelly AO, who is famous for her work in assisting impoverished children in developing or war-torn countries to gain access to First World medical care. In 2004 Ms Kelly was on a trip to Gaza and visited the Commonwealth war cemetery. During her meeting with the Palestinian authority she remarked that the cemetery was the only beautiful space in the area and that Australia would build the children and families a garden. Three years later Ms Kelly was visited by a Palestinian representative who gave her a title to a small parcel of land in a former settlement. At the time her priority was caring for the conjoined twins that had captured so many of our hearts, Trishna and Krishna, as they underwent their operation, and the garden project was put on hold.

In 2012 Ms Kelly began recruiting a team of experts, and by the middle of last year 20,000 square metres of land was secured in Khan Younis, a board was appointed and workshops were underway with the local community to identify their exact wants and needs. The staff at the Royal Botanic Gardens Melbourne have been tremendous leaders in this project with Mr Andrew Laidlaw, the chief landscape architect, and his team designing the garden as a replica...
of the children's garden at Melbourne with appropriate alterations as requested through consultation.

Ms Kelly and the committee are determined that this garden be a gift from the Australian people to the people of Gaza. The fundraising task is large—$5 million is required—and I would encourage all Australians to give generously. It is a tangible project that epitomises the good in Australians and, in a small way, the international year. This humanitarian project is breaking barriers between people and breaking barriers between borders and, so far, the Israeli government have provided no impediment to the movement of supplies into Gaza for the garden. While debate ensues between politicians, the work on this garden is giving children and families in that region some peace.

I thank all who are working towards a peaceful solution in the region. I call on our government and I call on the Israeli and Palestinian governments to do everything they can to continue the negotiations and to find a resolution—a resolution particularly in this year, the International Year of Solidarity with the Palestinian People.

Whaling

Senator WHISH-WILSON (Tasmania) (13:11): Over 12 months ago I got to give a speech in the matters of public interest discussion and I talked about the problem of plastics in our oceans. Since I made that speech billions of tonnes of garbage has made its way into our oceans and hundreds of millions of tonnes of plastic has made its way all through our ecosystems. We still have a long way to go. We have made some progress in the last 12 months, including a plastic bag ban in my home state of Tasmania, but we still need to look at market based schemes to try to stop plastic bottles getting into our oceans.

Today I rise to speak about another issue of marine conservation—whaling in the Southern Ocean. This is a matter of long-running interest to all Australians and to all parties in this chamber. Australia once had a whaling industry; we no longer do. We have ended that chapter in our history, but it was an important part of our story.

Over Christmas I was visited by a Chinese cable television station. They came to Tasmania to interview me about what was going on in the Southern Ocean with the Japanese whaling fleet. I asked them to visit Bicheno on the east coast of Tasmania, because that is where I was staying, and they came. The reason I wanted them to visit Bicheno was that it was a whaling town. I took them to the whaling lookout and showed them where the old-timers used to stand and spot the whales. We went to where the whales were slaughtered and processed, and I showed them the beaches where the carcasses were laid out in the sun.

My message was very clear: whaling was part of our heritage. It no longer is and we no longer use it as a justification for slaughtering whales. The narrative that whaling is a tradition lies in the past, not in the present nor the future. Australia's role in whaling is now simple—we study them, we conserve them and we fight on the international stage to prevent their slaughter. I am pleased to say that there is tripartisan support in this parliament for those three objectives. What is in dispute is how much fight is needed to actually, physically prevent the barbaric slaughter of whales.

I am briefly going to quote some excerpts from an article by Terry Barnes, who probably puts it more eloquently than I could. It is worth noting that he is a former Howard government adviser and is considered a conservative commentator in this country. Sometimes the most
biting and honest criticisms come from your own political brethren. Terry Barnes's criticism of Greg Hunt and the Abbott government's efforts to prevent any action on whaling deserves a wide audience for this reason alone. Earlier this year, incensed by Hunt's abandonment of the Liberal-National government's whaling election promise to send the ACV Ocean Protector, Barnes was inspired to write the following for The Age:

Four months ago, I looked into the eyes of a huge yet gentle humpback whale.

We were in Tonga, on a photographic trip, snorkelling near a mother humpback and her playful calf. I detached myself from my group to return to our boat but, to my amazement, mum followed me.

Gently, slowly, she eased her way through the water until we were nose to nose, leaving no more than a couple of metres between us. Just as I thought we'd collide, she suddenly stopped.

Her eyes searched mine, and we looked intently at each other for what seemed an age.

... ... ...

Having been looked in the eye by a humpback, it's impossible to stand by idly as the latest Southern Ocean whaling season begins. If they are there now, my mother and calf may encounter humans who are not harmless tourists: the Japanese whalers bent on killing them, ostensibly in the name of science, while upholding spurious national honour in the face of global condemnation.

... ... ...

In these pages in October, I praised Hunt for his passionate anti-whaling stand. To his great credit, he treats whale conservation as a mainstream political matter, and fought for his election promise to be honoured fully. But I worried then that not all Hunt's colleagues share his vision: sadly, I was right.

If the government has gambled that this will upset only hard-core greenies who would never vote Coalition, it's seriously mistaken. The anti-whaling message resonates strongly in middle Australia, too.

... ... ...

Hunt's promise-breaking colleagues should remember that, while whales don't vote, millions of Australians who want them conserved do.

It is my experience in life that most people who become conservationists, greenies or green-tinged have been touched by something bigger than themselves.

I think of my own experience last year at my colleague Senator Siewert's wedding in Western Australia. Senator Di Natale and I went surfing together at a point break near Yallingup. There were only two of us out in the water. After about 15 minutes, a large humpback breached about five times about 100 metres from us. A couple of minutes later, as if on cue, a pod of dolphins appeared. As it turned out, I caught a wave in and left Senator Di Natale out in the ocean on his own. He very quickly followed me, having seen a shadow go underneath him—which I told him later was probably a dolphin. Nevertheless, it is those sorts of encounters with nature that can change your life and make you rethink your priorities.

Australians want their government to take strong action to prevent the slaughter of whales in our waters. I know this, Terry Barnes knows this and Greg Hunt knows this. But Greg Hunt and the Liberal-National government have failed the whales and failed the Australian people. Year after year, then opposition spokesperson Greg Hunt would pop up every summer calling on the Labor government to do more about whaling. There were press releases, media conferences, questions in parliament and speeches. He gave the impression that he cared, that in government he would act.
I will just read through some of the headings of Greg Hunt's media releases as spokesperson on whaling: 'Letter to Garrett—the time has come for action on whaling', 'Free Peter to deliver on his whaling promises', 'Garrett loses passion for whaling campaign', 'PM jets out for sushi and sake—but no real action against whaling', 'Will Peter Garrett finally announce his whaling envoy on National Whale Day?' and 'A cracker record and a broken promise on whaling, Garrett scraps plans for whaling surveillance'. All in all there were dozens of these media releases. They were often highly personal and aimed directly at Peter Garrett. No wonder, when Greg Hunt broke his promise—and this government's promise—to send the ACV Ocean Protector to the Southern Ocean to monitor whaling this year, that Peter Garrett tweeted: 'No surprise as Liberals break promise to send vessel to whale hunt. This after Hunt grandstanding every Christmas and January for years.'

Other things that Greg Hunt has said are also worth reviewing if you are interested in the subject—and I know most Australians are. We have heard rhetoric such as:

We've got blood in the water and a blind eye in Canberra, it's completely unacceptable.

There was also:

Sea Shepherd have had to do the Australian Government's work and that in part has contributed to this conflict.

On another occasion, he said:

Mr Hunt indicated the Coalition would make defending Australia's Southern Ocean interests an election issue, promising to restore regular patrols and also to deploy a Customs vessel to monitor Japanese whaling.

Just before the election, we were told:

Should the whaling season continue, the Coalition commits to sending a Customs vessel to the Southern Ocean. It is important that Australia has a Southern Ocean presence given the ongoing risk of confrontation between whalers and protestors.

He could not have been more clear than that. Mr Hunt was so strong in his language and so clear about what he would do and why he would do it.

Did he lie to the Australian people? Was he just using whaling for political gain when he had no intention of acting? Was he just fundamentally incompetent and did he fail to understand how he could use his portfolio to protect whales? Was he rolled by his cabinet colleagues? Minister Morrison commandeered the ACV Ocean Protector for Operation Sovereign Borders. Minister Robb went on the record saying trade deals are more important than whales—signalling to the Japanese that, whatever they wanted to do with whales, the Australian government would roll over. Most likely it was a combination of those things: a weak minister and a dishonest government—an unprincipled government willing to promise something in opposition, and in an election campaign, that it was never going to deliver.

It became apparent it was starting to unravel for Mr Hunt when his language shifted to:

We remain committed to surveillance in the Southern Ocean.

He was no longer committed to sending the Ocean Protector, now he was just 'committed to surveillance'. Apparently, in Hunt's mind, this met the promise. Then we had the farce of him being questioned about the Ocean Protector on the doors. 'Just give me 10 more days to give you an answer,' he begged. Finally there was an announcement just before Christmas that he
was supporting sending a chartered Airbus instead of a vessel—and that this was meeting his promise. He said, in fact, that it was better than his promise.

It beggars belief that he thought the public would buy that a passenger plane could play the role of, in his words, 'a cop on the beat' better than a $150 million vessel purpose-built to protect Australia's interests in the Southern Ocean. This is the sort of cynical spin that is responsible for the public losing faith in this government so quickly. The first flight, a flight which cost the Australian taxpayer $93,000, saw the whaling fleet for no more than eight minutes and then flew home. There were a few aerial photo shots which we never got to see—more secrecy.

The final straw for Greg Hunt's cynical attempt to cover up his broken promise was in Senate estimates. I asked the chiefs of the defence forces what they thought of the surveillance capacity of an Airbus A319 for the Southern Ocean. This is how the Chief of Air Force replied: The A319 is not suitable for that task.

The word surveillance can mean many things—surveillance out of a passenger aeroplane is a pretty limited operation.

There you have it: the last vestiges of credibility of the coalition's approach to whaling were torn down by our Chief of Air Force.

This summer, as over previous summers, the organisation Sea Shepherd has succeeded where our government has failed. After one of the longest and toughest Southern Ocean campaigns, Sea Shepherd has claimed it has reduced the whale slaughter by 75 per cent, and we will find out in coming weeks just how many whales have been slaughtered this season. Greg Hunt once claimed that Sea Shepherd was doing the government's job. I agree.

I hope, like all Australians, that this summer just gone will be the last whaling season ever in the Southern Ocean. The case brought forward by the former Labor government against the Japanese whalers in the International Court of Justice has, or at least had, tripartisan support. In that respect, I thank Labor and acknowledge the work that it has done to get this to the international court, and I acknowledge the support that the Liberal-National government have also given and the resources that have been provided. This court case looks at whether the Japanese whaling program breaches the International Convention for the Regulation of Whaling. Australia has argued for a long time that the Japanese are undertaking commercial whaling, that their program is not scientific and that the program breaches the Convention on International Trade in Endangered Species.

I hope, as many do in this country, that we will have a decisive finding handed down in Australia's favour next week, on 31 March. I hope that the International Court of Justice will find that the whaling can no longer continue. I hope that Japan pledges to abide by this decision. I am optimistic. I look on the bright side. But I know that this result may not happen. In fact, there is a strong chance of a middle-ground decision being issued. The Australian government needs to be ready to think on its feet. What happens if the court legitimises Antarctic whaling? What happens if Japan refuses to accept the verdict? What happens if Japan threatens to leave the whaling convention and continue its slaughter of whales unabated? I hope that somewhere in the environment minister's office, in the foreign affairs
In the minister's office, in the Attorney-General's office or in the Prime Minister's office a brief outlining all of Australia's options in light of this court case is being thoroughly examined. I hope there are high-level meetings occurring between agencies as we speak. We need to be prepared for any eventuality.

This is what I think should happen. Australia needs to appoint a special envoy on whaling to Japan. We cannot let this issue spiral out of control, and ongoing dialogue with Japan is vital. The government needs to urgently establish a ministerial task force featuring the Attorney-General, the environment minister and the Minister for Foreign Affairs. There needs to be whole-of-government coordination on this matter. The left hand must know what the right hand is doing. This task force should be supported by an interagency working group from the relevant agencies.

Australia should never accept that Japan should be allowed to continue the slaughter of whales. Allowing the slaughter of non-endangered minke whales but not endangered species of whales is not a compromise that we should accept. This is a moral question that I and the Greens and most Australians will take a stand on. Whales being harpooned and allowed to drown in their own blood is simply unacceptable.

If the court fails to find in our favour, there are so many other legal, political and diplomatic paths we can follow to end whaling. We must exhaust all of these and not simply roll over. Whatever the verdict, next summer Australia must send the Ocean Protector to the Southern Ocean to be the 'cop on the beat' that this government promised. Whether to enforce a positive court verdict or to monitor the efforts of a continuing so-called scientific or commercial whaling, we need to be there. As Mr Barnes said in the passage I quoted in the beginning of this speech, we cannot stand idly by and watch these amazing creatures get slaughtered. We are better than that. This should not happen on our watch. Sadly, it is happening with sharks in Western Australia. We are seeing turtles and birds entangled with plastic. We have polluted, hunted or crowded out so many species on this planet. Enough is enough. Let us call a spade a spade and stand up for our whales.

Wind Farms

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (13:26): I rise to express deep concern at the approval of an application for an industrial wind turbine development in New South Wales, the actions of the proponents and, indeed, the actions of the New South Wales Department of Planning. If the evidence that has been provided to me is accurate then it needs to be addressed urgently both by the proponent and particularly by the state department. If there is a failure to do so, I intend to proceed further.

I refer to an application which was approved on 14 March 2014 for the $200 million Flyers Creek wind farm just south of Orange, an application originally made by Babcock & Brown, subsequently renamed Infigen in April 2009. A number of potential host farmers have expressed their outrage, as evidenced in the media, about the development application to the Planning Assessment Commission on 12 February and the fact that the approval was given only one month later.

I go to the major application process for the project, which was made by Babcock & Brown under the name of an Adrian Rizza on 16 December 2008. The application form says:
Persons lodging applications are required to declare reportable political donations (including donations of or more than $1,000) made in the previous two years.

I notice that in that application, over the signature of Mr Rizza, exactly the same question was asked:

Persons lodging applications are required to declare reportable political donations … Have you attached a disclosure statement to this application?

The documents record the answer: 'No.' In this case, over the signature of Mr Rizza, no disclosure statement was made.

I then go to the figures of the donor annual return for the financial year 2006-07 submitted to the Australian Electoral Commission by a Christina Shi, a senior financial accountant with the company Babcock & Brown Australia. I notice that, in the space for donations totalling $10,300 or more for the period July 2006 to June 2007, the total sum is $43,000. The statement made by the proponent Rizza was that there was no disclosure to be made. I then go to the following year—remember, this is a two-year statement period. For the financial year 2007-08—again, this is a return from Babcock & Brown to the Australian Electoral Commission, and it is over the name Susanne Newhouse—there were donations totalling $108,800 to political parties. Of course, this causes me to ask the question: if donations of $108,800 and $43,000, totalling $151,800, were made to political parties, where is the validity in an application going back to 2008 in which the proponent stated there was no disclosure of payments to political parties?

The New South Wales Department of Planning declared, in Disclosure of political donations and gifts: guideline, dated October 2008:

A person is guilty of an offence under section 125 of the … act … in connection with the obligations under section 147 … if the person fails to make a disclosure of a political donation or gift in accordance with section 147 …

Furthermore:

Section 124A of the Environmental Planning and Assessment Act 1979 (Special provision where development consent tainted by corruption) deals with a decision of a consent authority to grant or modify development consent where the decision is tainted by corrupt conduct. In these circumstances … the Minister or the Court may suspend the decision pending the institution and determination of proceedings in respect of the decision. The Minister is to give the consent authority and the applicant for the grant or modification of the development consent written notice of the suspension as soon as practicable …

If the documents I am quoting from are accurate, and I have no reason to believe they are not—they are in the public arena—then it seems to me that we are looking at potential corruption occasioning the acceptance and approval of this project. To me, that is very, very serious matter and one that needs to be addressed in the public interest as well as in the interest of those affected by it. As I said, I will be inviting the department, the commissioner, the minister and the company to advise us where the anomaly may have occurred.

This whole issue of industrial wind turbines is not settled. On 24 February this year, the NHMRC released its long-awaited systematic literature review of the health effects of wind farms—a topic which I have a very keen interest in. The NHMRC did not say there were no health issues. They stated there was consistent but poor quality evidence that proximity to
wind farms is associated with annoyance and, less consistently, sleep disturbance and poorer quality of life.

I draw attention to the names of three people who were on that review panel. I have no reason to believe they are not eminent, ethical and honest people, but I ask what they were doing on the review and whether they declared an interest. One of the people is Dr Norm Broner, the only acoustician on the panel. As I understand it, he is a paid consultant for SKM, which is a large multinational company with significant commercial interest within the global wind industry. He has performed work for wind developers, which was not publicly disclosed during the review process, as far as I understand it. During the time of the wind farms and human health review, Dr Broner authored or approved a report titled *Flyers Creek Wind Farm—technical review of supporting documentation*, dated 12 July 2013, containing influential advice which, it is reasonable to argue, the New South Wales department relied upon in making its decision to approve this particular project.

Another key person on the panel providing advice to the New South Wales Planning Assessment Commission was Professor Wayne Smith, Director of the Environmental Health Branch at New South Wales Health. His advice to the New South Wales Planning Assessment Commission that there was no evidence of adverse health effects is absolutely untrue and at variance with the report of the NHMRC review.

Also on the panel was Dr Elizabeth Hanna, President of the Climate and Health Alliance. This alliance assisted a major international wind turbine product manufacturer, Vestas, to launch their global denial of any adverse effects from turbines, in Melbourne in June 2013, whilst, I understand, Dr Hanna was a member of the review panel. This was despite a Vestas engineer admitting at an Australian Wind Energy Association conference in 2004 that wind turbine noise caused annoyance symptoms and needed adequate buffers.

We have a circumstance here, regrettably, where I believe the independence and, therefore, the veracity of the report of the NHMRC is very open to question. If some authors of that review have in some way had an influence on the decision of the New South Wales department in approving this particular project, I believe it must be the subject of much further scrutiny.

I now turn to a recent statement of the Australian Medical Association. On 18 March the AMA released a position statement on wind farms and health without any listed authors, with no references and containing information that had nothing to do with health research and everything to do with supporting wind farm development applications. It reflects wind farm industry promotional spin and it is a statement that essentially implied that health symptoms are not caused by wind turbine noise, rather by anxiety.

If the Australian Veterinary Association, the body representing my profession, were to come out with such a poorly structured document as this—not authored, not defended and not referred—I would be going to the association and saying, 'Hide your heads in shame.' But it does not matter what I would do as an old vet. It is more important to learn what members of the profession have said and done throughout the world.

There has been an outcry to the AMA from across the world, and quite rightly so, including from professors from the United States and Ontario, Canada. Dr Gary Hopkins from South Australia strongly condemned this statement and demanded the AMA revoke it and amend
their position to support epidemiological research. Dr Hopkins is a man with 36 years experience in South Australia as a physician. He has been a lecturer at the University of South Australia in Adelaide, lecturing to undergraduate and postgraduate students, including students in the Postgraduate Diploma in Occupational and Environmental Health. He is one person who I thought might actually know something about the topic. I quote from a letter Dr Hopkins wrote to the AMA:

I am rendered speechless by your irresponsible, ill researched, ill advised and reckless statement that those who might suffer physical effects from the presence of turbines are suffering a psychological condition (anxiety). Indeed, your very statement itself causes anxiety in those likely to be effected ("who will believe me when I tell them I feel sick").

He went on to make the obvious point that any medical person makes to a student, and that is: first do no harm. He concludes the letter by saying:

Was this the attitude of your forbears to those of the London plague just before they died until a connection was made to the transmission of the disease by rats?

The AMA position statement should immediately be withdrawn.

The concern now reflecting on the Australian Medical Association is what role have they played in supporting the industrial wind turbine industry in coming up with this ridiculous statement, even after the NHMRC themselves continue to cast doubt and continue to agree with the position which we have taken for so long—and that is that there needs to be strong and independent research undertaken.

It is well known that I have been promoting for a long time to my colleagues in the coalition—and indeed with the strong support of Senators Madigan and Xenophon—the view that there needs to be independent research into the health effects of wind farms. I do not know whether or not these concerns are real, and neither does anybody else, but there is a growing body of medical opinion around the world that in fact these do have a profound effect—blind studies that have been done et cetera. What I have promoted to the parliament at different times is that the NHMRC be required to cause research to be conducted into the possible effect of wind farms on human health. Indeed if the CEO advises the Minister for Health that the NHMRC does not have the resources or expertise to conduct the research—and it may well be that they do not—then the health minister and the energy minister should jointly appoint an appropriate person or panel to undertake for the first time in the world properly and independently analysed studies.

I went on to say that any research undertaken, whether by the NHMRC or an independent panel, must include full spectrum acoustic monitoring, epidemiological and laboratory studies; seek the views of industry and the community generally; identify the range of interests and concerns of those whose views are sought—and I come back to my comments of a few moments ago with regard to the panel that did the latest so-called review; and include, but not be limited to, the research into audible noise, low-frequency noise, infrasound, electromagnetic radiation and vibration arising from or associated with wind farms, including wind, turbines, transmission lines et cetera.

In the few minutes that I have available to me, I want to return to the approval that was given by the department to Infigen on 14 March 2014, and there are, quite rightly, a number of conditions pertaining to and contingent on that eventual support. I remind you the original application was made back in 2008. There was a five-year period in which the proponents had
to act, and they did not. There was a circumstance in which the New South Wales department was requiring further information. The company itself, not the department, failed to fulfil the terms of the approval and that was to meet the requirements within the five-year period. We are now in the circumstance, I understand, close to some six years later, that we are at the very point of an approval being given but I say this to you: 'the project approval does not operate until the following deferred commencement conditions are complied with, and these relate to all land within the project area being identified within the document reference'. I say again: it is incumbent on the department and the proponent to come clean and tell us where the truth lies. *(Time expired)*

**Inter-Parliamentary Union Delegation**

**Senator THORP** (Tasmania) (13:41): Last week I had the privilege of being a member of the Australian delegation to the Inter-Parliamentary Union in Geneva. Delegations from 141 countries met to discuss and craft resolutions on a number of issues important to Australia and to parliaments around the globe.

I took a particular interest in the work of the Standing Committee on Democracy and Human Rights. At the conclusion of the conference, all member countries voted to support a resolution on the role of parliaments in protecting the rights of children, in particular unaccompanied migrant children, and in preventing their exploitation in situations of war and conflict—a subject with particular resonance for us here in Australia, grappling with the fair, humane treatment of people coming to our shores.

The 130th Assembly of the Inter-Parliamentary Union considered the arguments, debated them and came to the following resolution. I will summarise its content: the conference reiterated that Article 1 of the Convention on the Rights of the Child defines a child as 'every human being below the age of 18 years'. It acknowledged that efforts have been made globally to promote the protection of and respect for the human rights of unaccompanied migrant children, separated children and children involved in armed conflicts pursuant to the provisions of the Convention on the Rights of the Child.

The conference recognised that the fundamental principles and rights that must be guaranteed to all children, especially unaccompanied or separated children, boys and girls, in accordance with the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and states other obligations under international law. This includes: the best interests of the child; nondiscrimination; nonpunishment; non-refoulement; family unity; the right to physical and legal protection; the right to an identity; the right to life, survival and development; the right to be heard and to participate in decisions that affect them; the right to be protected from violence; the right to education; the right to due process guarantees; and the right to health care and psychological support, reintegration assistance and legal aid.

The resolution noted that paragraph 7 of General Comment No. 6 (2005) on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, issued by the Committee on the Rights of Child, defines 'unaccompanied children' as those who have been 'separated from both parents and are not being cared for by an adult who by law or custom has responsibility to do so'; while paragraph 8 defines 'separated children' as 'those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from their relatives'. It went on to restate that paragraph 13 of General Comment
No. 13 (2011) on the right of the child to freedom from all forms of violence, issued by the Committee on the Rights of Child, states:

Addressing and eliminating the widespread prevalence and incidence of violence against children is an obligation of States parties under the Convention. Securing and promoting children’s fundamental rights to respect for their human dignity and physical and psychological integrity, through the prevention of all forms of violence, is essential for promoting the full set of child rights in the Convention.

It is important to remember that in accordance with articles 26 and 27 of the Vienna Convention on the Law of Treaties from 1996 any state party to the Convention on the Rights of the Child must ensure that the rights and principles enshrined in the convention are fully reflected and given legal effect in relevant domestic legislation. Importantly for our parliament, the resolution recognised that parliaments have a crucial role to play in ratifying international legal instruments on the protection of children and accordingly in implementing domestic legislation. It affirmed that parliaments like our own have a role in protecting the rights of children, in particular unaccompanied migrant children and children in situations of armed conflict or affected by organised crime, that they must be in line with international law and based on the best interests of the child. The resolution also acknowledged that we must consider that policies criminalising migrant children have a negative impact on children's access to basic rights. The resolution encouraged parliaments of states which have not yet signed the three optional protocols to the Convention on the Rights of the Child to urge their governments to proceed with their signature and full accession.

All countries need to design efficient legislative tools for the legal protection of minors, thus establishing a legal framework effectively guaranteeing the rights of children, and to enact legislation aimed at establishing comprehensive and effective protection systems with adequate resources and coordinated by high-ranking government officials in order to ensure the best interests of the child. This is vital. Further, the resolution encouraged parliaments to enact legislation aimed at addressing the special needs of separated and unaccompanied children and children involved in armed conflicts which, as a minimum, should provide for specific procedures in keeping with the rule of law. Importantly, parliaments are encouraged to underscore the importance of working together with United Nations bodies, non-governmental organisations and other entities in order to collect accurate and reliable data on the number of separated or unaccompanied migrant children and children involved in armed and internal conflicts and situations of organised crime in their respective countries. They are also encouraged to respect, protect and fulfil the rights of children, children involved in demonstrations and political rallies, including their right to protection from violence and freedom of association and expression.

We called on parliaments to share best practices on the protection of children from the perspective of restorative justice with the governments, parliaments and human rights organisations of countries where armed conflict and situations involving organised crime are developing; to ensure compliance with international standards for the protection of separated or unaccompanied migrant children, including the principles of non-discrimination and non-punishment; prohibition of inappropriate detention of the child; the best interests of the child; the right of the child to life and development; and the right of children to participate in decisions that affect them. One significant suggestion is to, in partnership with UNICEF and in consultation with Interpol, promote the establishment of a comprehensive international and
up-to-date register of foreign separated or unaccompanied minors as an efficient tool for safeguarding the rights of such children, and to entrust the responsibility for coordinating such data to a single national authority.

The resolution urges parliaments to hold governments to account for their humanitarian duty to provide children, especially separated or unaccompanied migrant children and children in situations of armed conflict, with the necessary services in order to guarantee basic human rights such as education, medical treatment, counselling, rehabilitation and reintegration, child care, accommodation and legal assistance, bearing in mind the special needs of girls. It also urges parliaments to support the establishment of national referral mechanisms to this end. It was recognised that it is very important to support initiatives aimed at training, education and continuously building the capacities of child protection professionals, specifically offering training in international human rights law to all members of the armed forces, law enforcement and immigration officials, border guards and other individuals and agencies involved in protecting the rights of children, especially separated or unaccompanied migrant children.

It also asked individual parliaments to promote action to prevent the migration of separated or unaccompanied minors from their countries of origin by strengthening cooperation and promoting bilateral conventions with countries of origin. A simple but vital strategy was that of taking appropriate measures to ensure than an effective birth registration system is in place for all children, including separated or unaccompanied migrant children. It was clear that we need to raise awareness of children's rights in receiving communities like our own and to work actively for the most efficient coordination between agencies responsible for receiving unaccompanied children, in recognition of the high incidence of post-traumatic stress among unaccompanied children and in order to take every measure to help them—a considerable challenge for our own parliament.

Parliaments and governments must open borders based firmly on values such as the rule of law, democracy, respect for human rights and international conventions, especially when so many victims are children, and to find a way to combine respect for border protection and the right to seek asylum. So the resolution urges parliaments and governments to incorporate the perspective of minors and to place greater emphasis on children in legislation, budgets and policymaking, with a view to ensuring that the voices of young people and children are better heard. All parliaments and governments need to enact all provisions of the Convention on the Rights of the Child in national legislation in order to guarantee equal rights to all children.

It was a privilege to be among legislators from around the globe who were as one when it came to protecting our children. I look forward to the day when Australia can hold its head high and state proudly that we as a country live up to the standards that this resolution embodies.

The international legal framework dealing with children and transnational organised crime includes instruments such as the Convention Against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Protocol Against the Smuggling of Migrants by Land, Sea and Air, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and this must be adhered to.
Parliaments are also urged to prohibit all forms of violence and discrimination against children and to pass enabling domestic legislation in order to give full effect to the Convention on the Rights of the Child. It also calls on parliaments to ensure that adequate resources are allocated from national budgets to enforce laws, implement policies and improve practices related to the protection of children; and invites parliaments to hold hearings and consultations so as to assess the effectiveness of our existing laws, policies and practices on protecting children, especially separated or unaccompanied migrant children.

It also invited parliaments to support awareness-raising efforts, especially by working with the media to address xenophobia and violations of the rights of children. It is noted that Universal Children's Day, 20 November, provides a favourable framework for mobilising and sensitising public opinion to the protection of minors. The resolution calls for a review of international law and international humanitarian law conventions with a view to harmonising the provisions on special guardianship for minors under 18 years of age; and also calls on parliaments to ensure that adequate resources are allocated from national budgets to enforce laws, implement policies and improve practices related to the protection of children, especially separated or unaccompanied migrant children.

The resolution calls on parliaments to find ways to ensure the humane and safe return of those who must return after receiving a final rejection of their asylum application, so that no minor returns home without a safe and appropriate reception, acknowledging that an important step in the process is to make sure that minors are reunited with their parents, bearing the child's perspective in mind in every case and ensuring the rights of each individual child. The resolution invites parliaments and other institutions to share with the IPU their best practices in the protection of children's rights, in particular the rights of separated or unaccompanied migrant children.

I commend the website to senators; have a look at details of the dealings of the last week's work by the IPU. It was a privilege to be there with my colleagues from the Senate and from the other place, particularly under the very effective leadership of Jeanette Radcliffe.

Inter-Parliamentary Union Delegation

Senator STEPHENS (New South Wales) (13:55): I rise to make some brief remarks supporting the previous description of the work of the IPU. As a member of the delegation I can say that it was indeed a privilege to be there in Geneva last week. It was in fact my seventh IPU Assembly. This was a huge opportunity to reflect on the way the Inter-Parliamentary Union Assemblies have developed over the last few years and how the agenda has started to be very focused.

This assembly was focused on the rights of unaccompanied minors. I was able to accompany Senator Thorp to visit the facility for children aged 12 to 18 in Lausanne and to learn about a very different approach that is underpinned by the EU directive on the care of unaccompanied minors. I think it is something we definitely have to start reflecting on more here in Australia when we think about the way we are looking after unaccompanied minors and refugees in our detention centres and in the community. I remind everyone here that there are almost 600 children still on Christmas Island, and we need to thinking about how those international obligations are being met or not being addressed.

The other really important standing committee in which I participated was formalising the standing committee on the United Nations; the purpose of which is to draw much stronger
links between the Inter-Parliamentary Union Assemblies and the work of the United Nations and aligning some of the key policy agendas across the world.

We talked most significantly about two things in that standing committee. The first was food security—when you see what is happening in the African subcontinent—and the tragedy that is playing out there in terms of food security. The second issue was how countries are going to tackle the agenda of the post Millennium Development Goals, post 2015. It is important to look at how that whole agenda is going to be shaped, how parliaments across the world can connect with the United Nations agenda and ensure that we have strong benchmarks and strong targets. Most critically, it is important that governments around the world that make commitments to funding the post Millennium Development Goals—which will be called the Sustainable Development Goals—will honour those commitments.

We have discovered some firm promises from countries have not been met, and that in fact is the reason some Millennium Development Goals have not been achieved. Specifically some goals around infant mortality and maternal health in some countries are disappointingly below the achievements that we were seeking. So the critical issue now is that, if people do promise to make contributions to the post Millennium Development Goals program, they honour their promises regardless of financial situations in the world.

The Inter-Parliamentary Union Assemblies play a key role in soft diplomacy—parliamentarians to parliamentarians meeting to discuss these issues. Sometimes they create the opportunity for more formalised diplomatic relations in the future. It was definitely worthwhile and I appreciate the privilege.

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): by leave—I inform the Senate that Senator Cash, the Minister Assisting the Prime Minister for Women and the Assistant Minister for Immigration and Border Protection, will be absent from the Senate today and tomorrow to deliver a keynote address at the Indian Ocean Naval Symposium and to meet key stakeholders, if not ill. For the purposes of question time, Senator Brandis will represent the Assistant Minister for Immigration and Border Protection, and Senator the Hon. Marise Payne will represent the Minister Assisting the Prime Minister for Women.

DISTINGUISHED VISITORS

The PRESIDENT (14:00): I draw to the attention of honourable senators the presence in the President's gallery of an APEC delegation from the Philippines. On behalf of all senators, welcome to the Senate. We wish you all the best.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Future of Financial Advice

Senator MARK BISHOP (Western Australia) (14:01): My question is to the Acting Assistant Treasurer, Senator Cormann. I refer the minister to comments from the Council on Ageing that abolishing the requirement for financial advisers to act in the best interests of their clients simply weakens protections and the recourse for consumers against dodgy
advisers'. Why is the government putting Australia's retirees and their incomes at risk by proceeding with these retrograde changes?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:01): I thank Senator Bishop for that question. If I may say so, I do not accept the premise of the question. Senator Bishop is perpetuating an absolute falsehood. The government is not proposing to get rid of the best interest duty. The government is not proposing to remove the requirement for financial advisers to act in the best interests of their clients. In fact, that requirement is now and will continue to be in section 691B(1) of the relevant future of financial advice laws. In the second part of that particular section, there is a checklist of the things that an adviser has to comply with in order to satisfy that particular best interest duty. It involves making sure that you are across the subject matter, that you are identifying all of the relevant facts such as the objectives of the client, the financial situation of the client and the relevant circumstances. The adviser has to make a judgement on whether or not they are qualified to provide the advice, they have to decline to provide the advice if they are not qualified to do so—and so on. All of those requirements will remain.

What we have said is that the additional catch-all, open-ended requirement that Labor had added at the bottom of the list—that the adviser would be required to do anything else, take any other reasonable step in order to fulfil the best interest duty—was too open-ended; it provided too much uncertainty for consumers and for financial advisers about how this particular best interest duty would operate. Too much uncertainty means too much additional cost, which means that seniors across Australia would have to pay more for advice than they otherwise would have to, and we want seniors to have access to affordable, high-quality advice they can trust.

**Senator MARK BISHOP** (Western Australia) (14:03): Mr President, I ask a supplementary question. I refer to Mr Kohler's summary of the minister's position on the future of financial advice changes. He said: 'He is committed to the commitment of not committing the previous commitment of removing the general best-interest duties and sales commissions on general advice.' Minister, isn't Mr Kohler correct?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:04): No.

**Senator Mark Bishop**: Methinks someone has commitment problems over there.

**The PRESIDENT**: Senator Bishop, a question.

**Senator MARK BISHOP** (Western Australia) (14:04): Mr President, I ask a further supplementary question. I refer the minister to his statement earlier this week when he promised to consult in good faith with stakeholders on the government's financial advice retrograde changes whilst remaining committed to implementing them. Minister, why are you now acting in bad faith?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:05): I hesitate to do this, but let me say: I reject the premise of the question. This government remains committed to improving the financial advice laws in Australia in order to ensure that we restore the right balance between appropriate levels of consumer protection and ensuring that access to high-quality advice that people can trust remains affordable.

There has been a lot of misinformation and a lot of confusion created by people with a vested interest to create that confusion. We want to ensure that people understand what we are
actually proposing to do rather than what people perceive we are doing. Of course, the misrepresentations that Senator Bishop has used as a foundation for his questions is just another example of that.

If there are ways that we can better achieve the policy objectives that we stated in the lead-up to the last election by ensuring more precise language in the regulations, of course we will take those propositions on board. That is the usual process. (Time expired)

**Budget**

**Senator BOYCE** (Queensland) (14:06): My question is to the Minister for Finance, Senator Cormann. Can the minister inform the Senate of whether the government has received any recent unsolicited advice about fiscal controls that would assist the government in bringing the budget back to surplus?

**Senator CORMANN** (Western Australia—Minister for Finance) (14:06): Yes, I can confirm that the government did receive some unsolicited advice on how we could repair the budget mess that we have inherited from our predecessors. This morning, we had the shadow Treasurer, Mr Bowen, out there, followed up by the Leader of the Opposition in his Press Club speech today, suggesting that the best way to fix the budget mess that Labor left behind was to follow Labor's fiscal rules. If only we did what Labor said we should do, the budget would magically get back into surplus! We would magically reduce debt! I see that Senator Boswell looks a bit confused, and I guess it is true: it is very confusing to listen to a Labor shadow Treasurer saying, 'Do as we say and everything will be fine,' when their track record was such that, when we came into government, we inherited $123 billion of projected deficits. We inherited a budget with government debt heading for $667 billion.

Over their six budgets, they committed $314 billion more in spending than they collected or thought they would collect in revenue. Of course, they say: 'Stick to our fiscal rules. Make a surplus over the medium term.' Well, we know what that means under the Labor Party. The Labor Party have not delivered a surplus budget since the late eighties. Of course, they say, 'Let's keep spending growth to below two per cent in real terms per year.' Well, guess what? In the first two years of Labor, there was 17 per cent growth in spending in real terms. That was the GFC, we are told, but that was of course the new base that they worked from, from there on in.

And then what? All this additional spending. In year 5, the first year beyond the forward estimates that Labor had blocked in, there was a six per cent increase in spending in 2017-18—real growth in spending compared to 2016-17. That is what Labor left behind. If we followed Labor's trajectory, it would be a recipe for more debt and more deficit. (Time expired)

**Honourable senators interjecting—**

**The PRESIDENT:** When there is silence, I will give Senator Boyce the call. The time to debate the issue is after three o'clock. Order on both sides! I am waiting to give Senator Boyce the call.

**Senator BOYCE** (Queensland) (14:09): Mr President, I have a supplementary question. Could the minister inform the Senate if fiscal controls established in recent budgets have been effective and also explain the reasons for the projected budget deterioration?
Senator CORMANN (Western Australia—Minister for Finance) (14:09): The former finance minister, Senator Wong, was furiously interjecting there as I was answering the previous question, accusing us of spending cuts. Well, do you know what? Senator Wong and the Labor Party cannot have it both ways. They cannot say: ‘Limit yourself to two per cent growth in real spending. Lock in spending growth of six per cent in real terms, including 3.5 per cent growth in real terms in education spending, 4.2 per cent growth in real terms in health spending, 13 per cent growth in real terms in defence spending, 66 per cent growth in real terms in overseas aid spending and 125 per cent growth in real terms in spending on disability services, hidden in the period beyond the forward estimates.’ Either you say that you should stick to your fiscal rules, as the shadow Treasurer and the Leader of the Opposition said earlier today, which would mean limiting all of these spending increases to two per cent, contrary to what you put into the budget trajectory, or you do not mean it. (Time expired)

Senator BOYCE (Queensland) (14:10): Mr President, I have a further supplementary question. Can the minister explain to the Senate why repairing the budget is important for all Australians?

Senator CORMANN (Western Australia—Minister for Finance) (14:10): I thank Senator Boyce for that supplementary question and for her previous questions. Repairing Labor's budget mess is so important to build a stronger economy, to create more jobs, to restore confidence, to restore investment growth and to actually ensure that, over the medium to long term, we can fund the important services of government in a sustainable way. What Labor did, cruelly, was to create all sorts of expectations and make all sorts of promises to all sorts of people right across Australia, 'We're going to spend some more money here; we're going to spend some more money there,' and never provide the funding for it. They were always chasing their tail, coming up with yet another additional tax—another tax here, another tax there. If you do not live within your means, if you do not actually raise the revenue for the spending that you commit yourself to, inevitably you have to come up with more new taxes. We have to bring our spending back under control so that we can keep our taxes at a competitive level so that we can grow the economy more strongly and fund services sustainably. (Time expired)

Racial Discrimination Act 1975

Senator SINGH (Tasmania) (14:11): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's decision to weaken the Racial Discrimination Act. Can the Attorney-General confirm that representatives of the Institute of Public Affairs provided a briefing to coalition members prior to the Attorney-General's announcement yesterday? And can the Attorney-General also confirm that the IPA gave the government's draft legislation a glowing review, while the Prime Minister is yet to name a single ethnic or community organisation which supports it?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:12): Thank you very much, Senator Singh, for your question. Might I remind you, Senator Singh, that there is a fundamental difference between those on your side of the chamber and those on my side of the chamber.

Opposition senators interjecting—
Senator BRANDIS: Come in spinner! And those on my—

Honourable senators interjecting—

The PRESIDENT: When there is silence, I will call Senator Brandis. I need to hear Senator Brandis's answer.

Senator BRANDIS: Thank you, Mr President. There is a fundamental difference in approach between those on your side of the chamber, Senator Singh, and those on my side of the chamber when it comes to this issue, because, Senator Singh, you are the party of political censorship and we are the party of tolerance. We are the party of tolerance.

Opposition senators interjecting—

The PRESIDENT: When there is silence on my left, we will proceed.

Senator BRANDIS: And might I say, Mr President, something that those on Senator Singh's side of the chamber never seem to be able to grasp: if you are the party of tolerance, if you believe in tolerance, you have to tolerate listening to the views of those whose views you may find offensive or disgusting, but you do not politically censor them. Now, Senator—

Honourable senators interjecting—

The PRESIDENT: Order on both sides! When there is silence on both sides, I will call Senator Brandis. He is entitled to be heard in silence from both sides.

Senator BRANDIS: I come now to Senator Singh's more immediate question about the Institute of Public Affairs. I can tell you, Senator Singh, that I had a cup of tea with the Chairman of the Institute of Public Affairs, the very distinguished emeritus senator Rod Kemp, in my chambers only an hour ago. I am pleased to tell you that Senator Kemp is in very good form.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Brandis, just resume your seat. Those interjections are completely disorderly. On my left, when there is silence, we will proceed.

Senator BRANDIS: Those who remember him fondly, as I know Senator Conroy does, will be pleased to know that Senator Kemp is in rude good health. But I can also tell you—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Brandis, resume your seat, as Senator Moore has risen to her feet.

Senator Moore: Mr President, I rise on a point of order on relevance. I am really pleased to hear that Senator Kemp is in good health, but, in terms of process, the question is about a briefing to the coalition members from the IPA and issues of response. We have not got to that question yet.

The PRESIDENT: I believe that the minister needs to come back to the question and address it. The minister still has 15 seconds remaining.

Senator BRANDIS: I am aware that officers of the IPA did have a briefing with the government backbench committee on Monday evening. I did not attend that briefing. In fact, I had no meetings with the IPA prior to Tuesday when the matter went to the cabinet— (Time expired)

Senator SINGH (Tasmania) (14:16): Mr President, I ask a supplementary question. I refer to the Attorney-General's proposed get-out clause for his new racial vilification and
intimidation provisions. Is Chris Berg from the Institute of Public Affairs correct when he says:
The new exemption makes clear the fundamental importance of free discussion on any matter of public interest, no matter how extreme that discussion is.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:17): I have not actually read Mr Berg's remarks, but I do know Mr Berg. I know him to be a person—like those of us on this side of the chamber—who understands that, in a free country, the way to deal with social problems is not through political censorship. Senator Singh, I accept your good faith on this issue. I understand that you are as profoundly committed to opposing racism as every other member of this chamber. But the best way to deal with a social problem is to focus on the core vice—that is, racial vilification—which our amendments do, for the first time, and not try to deal with it through political censorship, which is the way section 18C has operated hitherto.

Senator SINGH (Tasmania) (14:18): Mr President, I ask a further supplementary question. Why is the Attorney-General taking advice from conservative think tanks instead of listening to more than 150 ethnic and community organisations who all oppose the repeal of section 18C? Is it because he would rather be the first law officer for vested interests instead of the first law officer for Australia?

Honourable senators interjecting—

The PRESIDENT: Order! When there is silence on my left we will proceed.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:19): Senator Singh, you can do better than that—you really can do better than that. In fact, as I said in answer to the primary—

Senator Fifield interjecting—

Senator BRANDIS: Yes, she can, Senator Fifield. Don't be so unkind! You are being unchivalrous. As I said in my answer to the primary question, in fact I had no meetings with anyone from the IPA or, for that matter, with representatives of any conservative think tank from the start of the consultation process, shortly after the federal election, until I took a submission to cabinet on Monday evening. I did, however, have numerous meetings with a variety of representatives from different ethnic community groups who have been good enough to acknowledge the exhaustiveness of the process of consultation which I undertook. That process of consultation continues, with the publication of an exposure draft to which all members of the community—including you, Senator Singh—are welcome to contribute. (Time expired)

Renewable Energy

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:20): My question is to the Minister representing the Minister for the Environment, Senator Cormann. Notwithstanding the government's review of the Renewable Energy Target, will the government commit to retaining both the Large-scale Renewable Energy Target and the Small-scale Renewable Energy Scheme, and will the government commit to keeping them separate and not rolling them together?
Senator CORMANN (Western Australia—Minister for Finance) (14:20): The whole point of having a review is to have a review. The last thing I would want to do here today is pre-empt what the review might come back with in terms of its findings, its conclusions and its recommendations. That is really all I can do to help you in response to that question.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:21): Mr President, I ask a supplementary question. That level of uncertainty will be noted in the community, of course. Will the minister now say whether the government will rule out decreasing the Large-scale Renewable Energy Target from 41 gigawatt hours in 2020? Yes or no.

Senator CORMANN (Western Australia—Minister for Finance) (14:21): I do not really have anything to add to my first answer.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:21): Mr President, I ask a further supplementary question. Will the government rule out decreasing, diminishing, capping or abolishing the Small-scale Renewable Energy Scheme?

Senator CORMANN (Western Australia—Minister for Finance) (14:22): I refer Senator Milne, respectfully, to my first answer.

Western Australia: Infrastructure

Senator EGGLESTON (Western Australia) (14:22): My question is to the Minister representing the Minister for Infrastructure and Regional Development, Senator Johnston. Can the minister inform the Senate how the government is building the infrastructure Western Australia needs to bolster the state's productivity and its economic and employment growth into the future?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:22): I thank the senator for his question and for his longstanding interest and commitment to the state of Western Australia. The infrastructure issues in Western Australia will soon be very clear to this chamber—that is, the coalition is committed to delivering world-class infrastructure to Western Australia without a mining tax.

Senator Sterle: Funded by the previous Labor government.

Opposition senators interjecting—

Senator JOHNSTON: I hear some interjections across the chamber.

The PRESIDENT: Order! Interjections are disorderly. You should ignore the interjections and address your comments to the chair.

Senator JOHNSTON: Senator Pratt, of course, adores and loves the mining tax—a senator from Western Australia. Senator Lines is enamoured with the mining tax.

Senator Sterle: Don't leave me out of it! There should be more—

Senator JOHNSTON: Senator Sterle is enamoured with the mining tax and the carbon tax. Labor continually claim that projects, including the—

Senator Cormann: Mr President, on a point of order: I just want to make sure that Hansard has recorded that Senator Sterle said there should be more mining tax, not less.

Honourable senators interjecting—

The PRESIDENT: Order! There is no point of order. On my left and my right, Senator Johnston is entitled to be heard in silence.
Senator JOHNSTON: The Labor Party, in government, continually claimed that the Gateway project, a billion dollar project; the Northern Highway project, $307 million, Muchea to Wubin, stage 2; the North West Coastal Highway, $150 million; and the Swan Valley Bypass, $480 million, would be fully funded. Of course, they tied all of those programs to the mining tax. What a poisoned chalice for the people of Western Australia—a tax which, in fact, raised no money. Mr President, a coalition government will deliver the Perth Airport Gateway project for the people of Hasluck and greater Perth. It will also deliver the Greater Northern Highway, stage 2; the North West Coastal Highway; the Swan Valley Bypass; and a whole host of other black-spot programs. But the important thing is that the $3.8 billion funding for those programs comes without a mining tax—(Time expired)

Senator EGGLESTON (Western Australia) (14:25): Mr President, I have a supplementary question. How will the repeal of the carbon tax help build infrastructure and promote regional development and therefore more jobs in Western Australia?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:25): This tax, if not removed, continues to be a major drag, a major source of damage, to the Western Australian economy. Indeed, Western Australian taxpayers paid $627 million last year in carbon taxes. Under Labor’s plan, on-road transport was going to be hit with a 6c a litre carbon tax. Of course, Senator Sterle loves that, as a former truck driver.

Senator Sterle: I missed that!

Senator JOHNSTON: He loves to see remote towns, remote communities in Western Australia—literally thousands of kilometres from ports and from fuel infrastructure—paying massive amounts of carbon tax. The Australian Trucking Association estimated that a carbon tax on the trucking sector will cost $510 million in 2014-15 alone.

Senator Sterle: You’re stumping up for them as well, are you?

Senator JOHNSTON: Senator Sterle loves to hear these numbers. He is completely anti-Western Australia. (Time expired)

Senator EGGLESTON (Western Australia) (14:26): Mr President, I have a further supplementary question. Will the minister update the Senate on recent developments of the Gateway WA project and tell the Senate what effect the repeal of the mining tax would have on this important infrastructure project as well as other projects around Western Australia?

Opposition senators interjecting—

The PRESIDENT: Order! No, Senator Johnston, I will not give you the call. You are entitled to be heard in silence. When there is silence.

Senator JOHNSTON (Western Australia—Minister for Defence) (14:27): I thank the senator for his question. In Perth, the $1 billion Gateway project will provide a critical link for Perth’s freight and logistics industries—may I say, without a mining tax. This vital infrastructure will improve access to the airport, reduce congestion and cut travel time for commuters, whilst also making it easier for people-access. We know that freight and container traffic in the area will double by 2030, so we need to act now to ensure Perth has the infrastructure to cope with this increase in demand. It will also be essential for getting agricultural, mining and other resources to the port more efficiently. The coalition is strengthening Australia’s economy by investing $3.8 billion into this critical piece of transport
infrastructure, all without the pain and suffering and the purely Western Australian tax on mining. (Time expired)

**Racial Discrimination Act 1975**

Senator PERIS (Northern Territory) (14:28): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's decision to weaken the Racial Discrimination Act. I also refer to the comments made by the executive director of the Australia/Israel & Jewish Affairs Council, Dr Colin Rubenstein, that to pass the amendments as they stand would risk ‘emboldening racists’. I ask the Attorney-General why he is emboldening racists?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:29): Senator Peris, you are going to have to stop basing your questions on false premises, because we are not weakening the Racial Discrimination Act. We are strengthening the Racial Discrimination Act by focusing it on the central vice of racism—that is, racial vilification. Might I remind you, Senator Peris—I did tell you this yesterday, but you seem to have forgotten—that today there is no law of the Commonwealth of Australia that prohibits racial vilification. Not one. This is a tremendous gap at the heart of the Racial Discrimination Act. Rather, the Racial Discrimination Act uses the inappropriate mechanism of political censorship to stop people expressing opinions.

We do not think that is the way to deal with the problem of racism, Senator Peris. We think that the way to deal with the problem of racism is to identify the two great issues that characterise the worse form of racist conduct—that is, vilification, which is not currently dealt with; and intimidation, which is currently not adequately dealt with—and focus the operation of the act upon them.

I am asked about Dr Rubenstein—

The PRESIDENT: Order! Senator Brandis, resume your seat. I believe Senator Moore wishes to raise a point of order.

Senator Moore: I was going to raise a point of order but I believe Senator Brandis is now getting to the question.

The PRESIDENT: I was doing what was proper, as Senator Moore had risen to her feet. She has resumed her seat, so I will give you the call, Senator Brandis.

Senator BRANDIS: I was addressing the first part of Senator Peris's question. I had finished doing that. Now I am going on to address Dr Rubenstein, which was the second part of Senator Peris's question. Dr Rubenstein is a friend of mine, as he is a friend of many on this side of the chamber. Dr Rubenstein was one of the many Australians with whom I consulted during the course of developing these reforms to the Racial Discrimination Act. I acknowledge—as others on the other side of the chamber seem to be unable to acknowledge—that there is a variety of views in the community, which is why we have released an exposure draft.

Senator PERIS (Northern Territory) (14:31): Mr President, I have a supplementary question. I refer to the comments from the President of the Human Rights Commission, Gillian Triggs, who said, 'It is not clear why intimidation should not include psychological and emotional damage that can be caused by racial abuse.' Why is the Attorney-General so...
eager to defend the rights of bigots and not those Australians who suffer psychologically and emotionally from racial abuse?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:31): I am concerned to defend the rights of everyone. I am concerned to defend the rights of everyone, because every citizen of this land, whether you like their views or not, has human rights, Senator Peris. Do you dispute that everyone in this land has human rights, everyone enjoys fundamental freedoms—

Honourable senators interjecting—

The PRESIDENT: Senator Brandis, you are entitled to be heard in silence. Order! If you wish to debate this you can debate it after three o'clock this afternoon.

Senator BRANDIS: I will take Senator Conroy's interjection about the right not to be vilified. In the government's view there is a right not to be vilified, but that right is not recognised in the Racial Discrimination Act, now. It was not recognised when the Labor government before last inserted these provisions into the Racial Discrimination Act in 1995 but that right, Senator Conroy, of which you speak—the right not to be vilified—will be recognised by these reforms.

Senator PERIS (Northern Territory) (14:33): Mr President, I have a further supplementary question. Why won't the Attorney-General recognise the profound harm caused by hate speech that offends, insults and humiliates on the basis of race?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:33): What we are concerned with is inserting into the Racial Discrimination Act an explicit prohibition of hate speech by, for the first time, prohibiting racial vilification and defining racial vilification as 'conduct, including words, which incite hatred'. Senator Peris, unless words have lost their meaning, 'to prohibit conduct that incites racial hatred' is a prohibition on hate speech. But we choose to attack what you, Senator Peris, by your question, seem to acknowledge is at the heart of racism, rather than—as the previous Labor government's amendments to the Racial Discrimination Act did—try to close down community discussion and delegitimise those with different points of view.

Industrial Relations

Senator BOSWELL (Queensland) (14:34): Mr President, my question is to the Minister for Employment, Senator Abetz. I refer the minister to comments made by the Boral chief executive—

Honourable senators interjecting—

Senator Abetz: I need to hear the question.

The PRESIDENT: I need to hear the question. Senator Boswell, I will give you the call when you are entitled to it, and that will be when there is silence.

Senator BOSWELL: I refer the minister to comments made by Boral chief executive Mike Kane in relation to the thuggery and unlawful activity engaged in by the Construction, Forestry, Mining and Energy Union. Can the minister advise the Senate what steps the government is taking to restore the rule of law in the building and construction industry?
Honourable senators interjecting—

The PRESIDENT: Senator Abetz is not going to start at this stage because he is being interrupted by both sides. Senator Abetz is entitled to be heard in silence.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:35): The statement by Boral chief executive Mike Kane that the thuggery and unlawful activity of the CFMEU is costing them between $10 million and $12 million a year confirms the correctness of the coalition commitment to re-establish the Australian Building and Construction Commission. According to Mr Kane, 'The government needs to step in and clean out the unlawful activity.'

Senator Boswell, we agree with him. And that is exactly what we are seeking to do. We have already introduced legislation to re-establish the Australian Building and Construction Commission. It will see a return of a tough cop on the beat to protect workers and contractors, improve productivity and restore the rule of law in an industry that Commissioner Cole and Justice Wilcox found was wrecked with a culture of lawlessness. Under the ABCC workers were protected, productivity was higher, fewer days were lost to industrial action and the rule of law was respected.

The Green-Labor government deliberately dismantled this successful reform to help their CFMEU mates. Commissioner Cole's findings are as true today as they were in 2001. Senator Wong and Senator Lundy, both former officials of the CFMEU, need to explain why, in the words of Mr Cain, the CFMEU gets a pass on this type of behaviour, but if the company did it they would be prosecuted.

Can I invite those opposite to listen to their own former ACTU president and minister, Martin Ferguson, who said:

Rather than seeing the ABCC as a tool that allows one side to get an upper hand … it should be seen for what it was: a mechanism that holds both sides to account—

(Time expired)

Senator BOSWELL (Queensland) (14:38): Mr President, I ask a supplementary question about this disgraceful behaviour. Can the minister advise the Senate how the previous government's weakening of industrial laws has revived a culture of lawlessness in the building and construction industry?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:38): In an attempt to satisfy their union paymasters, the Green-Labor government abolished the ABCC. It stripped the new regulator of its powers, took a meat axe to its funding, cutting it by 30 per cent, and cut penalties that could be imposed by two-thirds. The bad old days were back. In the first full year of Labor's toothless mouse, working days lost to industrial action in the building and construction sector tripled. Under Labor the Australian public have now witnessed the ugly public displays of industrial violence and union thuggery at Baiada Poultry, Brisbane Children's Hospital, Myer Emporium, Little Creatures and City West Water. The government has a mandate to remove Labor's unconscionable protection racket and restore the rule of law on construction sites across the country. With your— (Time expired)
Senator BOSWELL (Queensland) (14:39): Mr President, I ask a further supplementary question. Thank you for your very fulsome answer. Can the minister inform the Senate of any impediments to restoring the rule of law in the building and construction industry?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:39): The greatest impediment is sitting opposite us on the other side. It is quite clear that the Green-Labor senators in this place are adopting the CFMEU tactic of a deliberate go-slow in relation to the legislation—blocking, delaying and sending the legislation to two committees; doing anything but dealing with it appropriately. It is clear that in the last financial year the CFMEU has donated over $600,000 to the ALP. It is clear that the CFMEU has two groups of enforcers that it pays to protect its interests. No. 1 is outlaw motorcycle gangs, and the second lot are those senators sitting opposite: the Green-Labor senators.

Wind Farms

Senator MADIGAN (Victoria) (14:40): My question is to the Minister representing the Minister for Health, Senator Nash. In light of the still unactioned research recommended by the inquiry into the social and economic impacts of rural wind farms in June 2011 and in light of the Prime Minister’s own call for research, I refer to last week’s unresearched position publication by the Australian Medical Association on the matter of wind farms affecting human health. Will the government request the immediate repeal of the AMA’s misinformation until epidemiological research has been completed under Australian conditions? If not, why not?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:41): I thank the senator for his question and for some advance notice of it. I can assure the senator that the coalition is committed to ensuring that the Australian public can be well informed with high-quality research on this issue. The NHMRC intends to announce a targeted call for research in this area once NHMRC’s information paper has been finalised. The NHMRC is aware that some literature has not been captured in this systematic review as it was published after the search time frame. Public consultation will ensure all relevant evidence is identified and considered. It would be useful for senators to note comments from Professor Anderson from the NHMRC, as stated in Senate estimates:

Our position paper was put out in 2010. We will update our position paper after we have completed the feedback from the community on the information paper, looked at the evidence that has occurred since then, as we have said on our website, and then finalised the information paper. Then we will consider what extra research needs to be done. Since the research so far is poor quality, it is almost certain that there is research that needs to be done.

Senator MADIGAN (Victoria) (14:42): Mr President, I ask a supplementary question. Last week my office became aware of the actions of energy company AGL, which wrote letters to doctors practising in the vicinity of the Macarthur wind farm advising doctors there were no health impacts for people living near wind turbines. Does the government condemn AGL’s improper influence over the formal medical diagnostic process and recognise the importance of Australian independent research on the topic?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:43): The lack of reliable, independent evidence can
Sometimes allow vested interests on either side of the debate to promulgate questionable information to support their respective cases. This is why the government is committed to ensuring Australians have high access to high-quality research on the issue.

Senator MADIGAN (Victoria) (14:43): Mr President, I ask a further supplementary question. The Howard Liberal government initiated a national department of health review of the health effects of noise in 2004. This report was shelved by successive ALP governments. Does the Abbott government still plan on conducting research into audible and inaudible environmental noise as flagged in that report?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:44): I can reiterate for the senator the government’s commitment to develop an independent research program to investigate the potential health effects of wind farms and we are committed to high-quality research on this issue. Public consultation will ensure all relevant evidence is identified and considered. The current work that the NHMRC is conducting is an NHMRC commissioned independent review to examine the possible impacts of wind farm emissions on human health, including audible and inaudible noise, electromagnetic radiation and shadow flicker. The independent systematic review report identified 3,000 references, including public submissions, but only 11 publications describing seven studies were suitable for analysis. The NHMRC’s systematic review is essential to identifying gaps in the current evidence base and directing areas for targeted research.

National Science Week

Senator KIM CARR (Victoria) (14:44): My question is to the Minister representing the Minister for Industry, Senator Ronaldson. I note that applications for grants for National Science Week 2014 closed on 24 October 2013, and I refer the minister to the notice on the Department of Industry's website saying the successful recipients will be announced in early 2014. Given that applications closed more than five months ago, can the minister advise when the government will get around to announcing these grants?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:45): I will take that on notice. I am a bit surprised that you would use question time for that, frankly. I would have thought that, if you had any sense, you would have picked up the phone to call the minister's office. Anyway, I am happy to talk about this government's view of the importance of science. But before that I owe Senator Carr an apology. I have over the last month accused him of being the science minister for all of six years. That is actually incorrect and I hope the he will accept my apology. It has come to my attention that Senator Carr was not the science minister for six years. Indeed, in the space of three months last year there were four Labor ministers responsible for science. So regretfully—

Senator Moore: Mr President, on relevance: the specific question was about the grants and when they will be announced. The minister has taken the question on notice. We do not need a history of the process.

The PRESIDENT: I draw the minister's attention to the question. The minister has 50 seconds remaining to address the question.
Senator RONALDSON: It is a pretty tough school when you give an apology and you get a point of order taken on you! To finish off my answer: Chris Evans was the minister responsible, then there was Chris Bowen, then there was Craig Emerson, and then no less than Senator Farrell had some responsibility.

Senator Moore: Mr President, again on relevance: you have drawn the attention of the minister to the question and it seems to me he has not got back to it.

The PRESIDENT: I did draw the minister's attention to the question and asked the minister to address the question. The minister still has 20 seconds remaining.

Senator RONALDSON: I said to Senator Carr that I would take that specific question on notice. He did ask me about science and I was attempting to answer. I note in relation to this government's commitment to science and research that the minister announced recently the latest round of funding—(Time expired)

Senator KIM CARR (Victoria) (14:49): Mr President, I ask a supplementary question. It is true that the government has much to apologise for when it comes to its approach to science—but no science minister. I note that the department registered only one 2014 National Science Week grant, totalling $4,400, for a children's science project—and that has been provided to date. Where is the remaining $495,600 in grants and why is the government delaying its announcement?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:50): I have already indicated to the honourable senator that I will take his specific question on notice. Talking about funding, I do note that a number of budget decisions taken by the previous government which will result in savings across the science, innovation and research sector are yet to be reflected in the budget tables. They will be reflected in the next release of the budget tables due after the 2014-15 budget. Remarkably, based on the 2013-14 budget papers, funding in 2012-13 fell by $140.5 million compared to the previous financial year.

Senator Abetz: Who was minister?

Senator RONALDSON: Evans, Bowen, Emerson, Farrell—and Carr was one of them. In 2013-14, funding fell—(Time expired)

Senator KIM CARR (Victoria) (14:51): Mr President, I ask a further supplementary question. Following the delay in announcing the Cooperative Research Centres 16th round recipients, this is now the second science grants program in as many months to be significantly held up by this government. Is this yet another example of the failure of this government to have a serious and credible science policy?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:52): In 2013-14, funding fell by $329.3 million compared to the previous financial year. I find it remarkable that a former science minister has the gall to stand up here and talk about budgets and funding.

Through you, Mr President: Senator Carr, you are undoubtedly the worst science minister this nation has ever had. You have overseen a dramatic reduction in funding for science and, quite frankly, we have no intention of getting lectured by you in relation to these matters.
**Broadband**

**Senator WILLIAMS** (New South Wales) (14:52): My question is to the Minister representing the Minister for Communications, Senator Fifield. Can the minister inform the Senate of any new information about the management of the National Broadband Network?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:53): Through you, Mr President, Senator Williams might be interested to know that, by September 2013, almost $7 billion had been spent on the NBN but it had reached only three per cent of homes and businesses in Australia.

*Senator Conroy interjecting—*

**The PRESIDENT:** Order! Senator Conroy, if you wish to debate the issue, you have an opportunity after three o'clock.

**Senator FIFIELD:** Senator Johnston, Senator Cormann and Senator Smith may be interested to know that, in Western Australia, only 74 premises in established towns and suburbs had been connected to the NBN fibre network by September last year—only 74. I know the view of my Western Australian colleagues is that Labor was not building—

*Honourable senators interjecting—*

**The PRESIDENT:** Senator Fifield, you deserve to be heard in silence. Those on my right and left should cease interjecting on your answer.

**Senator FIFIELD:** I know that my Western Australian colleagues believe that the former government were building not a National Broadband Network but rather an Eastern States broadband network.

A key reason for NBN Co's dismal progress was Labor's contempt for expert advice. They refused to hire executives with relevant experience, they refused to listen when industry experts warned the project was in peril and yesterday we learnt that they even refused to listen to their hand-picked board of directors.

At an *Australian Financial Review* lunch yesterday, former NBN deputy chair Diane Smith-Gander exposed the truth. According to the *AFR*:

… she has "no regrets" about her time overseeing the construction of the national broadband network, but suggested the federal government ignored advice of the board.

When asked whether the board had urged Senator Conroy to conduct a cost-benefit analysis of the NBN, Ms Smith-Gander said:

Think about the notion of suggesting anything to Minister Conroy.

There you have it. The previous government disregarded all and— *(Time expired)*

**Senator WILLIAMS** (New South Wales) (14:56): Mr President, I ask a supplementary question. Can the minister advise the Senate what has recently been learnt about the construction model used by NBN Co?

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:56): One of Labor's mistakes was to fail to grasp that the NBN project was not about technology, it was not about marketing and it was not about spin; it was, in essence, a giant construction project. Again, NBN Co's former deputy
chair let the cat out of the bag. She said that NBN Co's model of layer upon layer upon layer of subcontractors—the Sarah Lee approach, perhaps!—was wrong.

We know that it certainly did not work well in Western Australia, South Australia or the Northern Territory. Let me quote Ms Smith-Gander again:

You had to go four up the chain until you actually got to one of the head contractors. I don't think that's the right way to have relationships with the people who work for you.

There were too many layers of management and not enough efficient execution. It was obvious to the board, the construction firms and the coalition that the previous government were not focused enough on execution. And the only person who could not see that was Senator Conroy. (Time expired)

Senator WILLIAMS (New South Wales) (14:57): Mr President, I ask a further supplementary question. Can the minister provide an update on the government's efforts to discover the truth about the NBN?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:58): Ms Smith-Gander's remarks remind us of how important it is to learn why the NBN failed under the previous government. We are ensuring that the truth is told and that lessons are learnt. We asked NBN Co's new leadership to review the project. This work revealed the truth about Labor's plan: that it would cost $73 billion and take a decade to finish. We have asked KordaMentha to audit NBN Co's governance. That work is almost complete and we look forward to receiving it. We have also asked Mr Bill Scales AO, former chairman of the Productivity Commission, to audit the policy process which resulted in the NBN. It will be fascinating to learn what due diligence Senator Conroy and his colleagues undertook, it will be fascinating to hear from where they obtained their advice and it will be fascinating to learn the basis for Senator Conroy's promise that taxpayers would earn a return of 7.1 per cent on invested capital.

South Australia State Election

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (14:59): My question is to the Minister for Defence. The minister has now had more than a week to find out how a South Australian Liberal party banner was used as a backdrop for a press conference on RAAF Base Edinburgh in Adelaide by the Prime Minister and the South Australian Liberal leader on 13 March—two days before the South Australian election. Minister, who authorised the use of this banner?

Senator JOHNSTON (Western Australia—Minister for Defence) (14:59): Mr President, I am astounded; in the face of so many defence issues of importance. We have 60 young Australians 2½ thousand kilometres from Perth, looking for an aircraft at the moment. We have a whole host of things happening in Defence. We have had—

Senator Moore: Mr President, I rise on a point of order. Again, it is on direct relevance—this is a specific question about the authorisation of a banner—and it is also about the astounding way in which the minister has tried to dismiss this question by putting other issues on the agenda. It is quite distressing.

Honourable senators interjecting—

The PRESIDENT: Order! The minister has one minute and thirty-three seconds remaining to answer the question, and I do draw the minister's attention to the question.
Senator JOHNSTON: Mr President, I have no idea who authorised the use of any banner, anywhere, because I have many, many more important things to be concerned with, may I say.

Opposition senators interjecting—

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (15:02): Mr President, I have a supplementary question: can the minister inform the Senate what role the Prime Minister’s office played in putting up this Liberal party banner on RAAF Base Edinburgh? Does the minister accept the reasoning put out by the Prime Minister’s office that it was okay for the Prime Minister to stand in front of the Liberal Party banner because, ‘no military personnel took part nor were invited’. Minister, you have had a week to get to the bottom of this. You have a question. You have got a letter from me. When will you give us an answer?

Senator JOHNSTON (Western Australia—Minister for Defence) (15:02): Whilst I of course accept everything the Prime Minister would say about such a matter, I was in the United Kingdom when it occurred. I cannot assist the senator further.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (15:03): Mr President, I have a further supplementary question. Can the minister inform us if this is now the standard that he intends to enforce when it comes to using party political banners on Australian Defence Force bases? Or has the minister issued instructions to ensure that this never happens again? Minister, have you issued an instruction?

Senator JOHNSTON (Western Australia—Minister for Defence) (15:03): If this is the standard of questioning I am to expect from the opposition, I am very thankful that they are sitting over there and not having anything to do with the management of the Defence portfolio.

Senator Moore: Mr President, I rise on a point of order. I was on my feet before the minister had sat down.

The PRESIDENT: Yes, I have recognised that.

Senator Moore: The point of order is about direct relevance: there was a question about a direction being issued.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Moore has taken a point of order. I have an indication from the minister that the minister’s answer has been completed.

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

ANSWERS TO QUESTIONS ON NOTICE

Questions Nos 223, 224, 225, 226, 227 and 234

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:04): Mr President, under the 30-day rule contained in standing order 74(5), I seek an explanation from the Assistant Minister for Health for her failure to answer questions on notice Nos 223, 224, 225, 226, 227 and 234, asked on 20 February 2014, relating to the conflict of interest at the heart of her office, and related matters.
Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (15:05): In response to Senator Wong: due to the large number of questions which have been received by my office, I can advise Senator Wong that my office and my department are working hard to finalise these answers and that they will be with her as soon as possible.

I would also take this opportunity to point out that the majority of the questions on notice which were submitted by Senator Wong prior to Senate estimates I have subsequently answered and responded to, both in Senate estimates and in the chamber.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:05): I move:

That the Senate take note of the explanation.

The minister has come into this place and provided an unacceptable explanation for her failure to answer these questions. These are legitimate questions about how she dealt with a conflict of interest that was at the heart of her office—and I am not surprised that she is leaving the chamber, because it is consistent with the way in which this minister has dealt with this chamber on this issue of the conflict of interest at the heart of her office; and it is consistent with the misleading of this chamber on more than one occasion—from a government that was supposedly going to be transparent and accountable we see, in practice, that this is a government which stonewalls, which obfuscates, which refuses to be up-front and which refuses to be transparent.

The conflict of interest in the minister's office has cast a shadow over the ethical standards of this government. The response of the assistant minister to public concerns has been arrogant stonewalling. Her refusal to account for her actions has made a mockery of the Abbott government's claims that it would be an accountable government. The series of questions on notice to which I referred today were put on notice on 20 February. They ask for simple, straightforward, factual information; information about how the minister complies with the government's ministerial standards and information about how she ensures her staff comply with the government's standards for ministerial staff.

It is simply not acceptable and certainly a little unbelievable that the minister has failed to answer these questions after 30 days. We know that this assistant minister can move very quickly when she wants to. Look how quickly she moved when the Australian Food and Grocery Council asked for the health star rating website to be taken down. One phone call from the food industry lobby and the website was down within hours. There was a flurry of phone calls from her office to the department to get the website down. When it comes to responding to lobby groups' concerns, she is all action. But when it comes to responding to concerns about her conduct, there is no action at all. Everything grinds to a halt. The shutters come down. The lights go out. No-one is at home. This is the opposite of accountability in government. This is a minister who has already been censured by this Senate for refusing to comply with an order to produce documents. Now she is compounding that refusal by refusing to answer questions on notice. It is obstructionist behaviour. It is evasive behaviour. I will submit that it is untrustworthy behaviour. It shows contempt for the Senate and for the public.

What are these questions that the assistant minister finds so hard to answer? Why is she so stumped by them? These are questions for which the answers would be readily available in
any government that was functioning properly and that was committed to accountability. The first question on notice, No. 223, seeks details about the process the minister followed in appointing her chief of staff. When did she seek the Prime Minister's approval? Did she advise the Prime Minister of Mr Furnival's interests? On what date did Mr Furnival commence as her chief of staff? Are we in this chamber to believe that the assistant minister's records are in such disarray that she cannot even say on what date Mr Furnival started working for her?

Question on notice 224 asked about the statement of interest required from staff. I asked whether or not the minister required her staff to do what is required under the statement of ministerial staff standards, and that is to submit a statement of interests. I asked when Mr Furnival submitted his statement and what that statement disclosed. One would have thought that she would be able to answer a question about whether or not her staff in fact complied with the standards the Prime Minister has set. It is not complex. It does not require the scouring of hundreds of pages of records or delving back into ancient history. The obvious answer—and I am still waiting for the minister to answer the question—that one could draw is that the minister is simply refusing to answer the question because the answer is, no, she has not ensured that her staff have complied with the statement of standards.

Question on notice 225 asked about the Legislative and Governance Forum on Food Regulation in December 2013. These were simple questions about one day and one meeting. These were simple questions about who attended the meeting and why there was a failure to declare the interest in a lobbying firm. The assistant minister chaired this meeting. It appears she is not able to recall which staff were there. She is not able to find her records about one meeting and respond on that point.

Question on notice 226 asked whether or not Mr Furnival, as the assistant minister's chief of staff, received hospitality gifts or sponsored travel in relation to his employment and also asked questions about the assistant minister's current staff receiving such things. These are matters that the government's statement of standards for ministerial staff requires staff to declare. So what I am asking is: under the declaration that her staff have to engage with, can she please tell us what has been declared? One would not have thought that was a difficult proposition. A government complying with its own standards would have no trouble in answering this question.

Question on notice 227 asked whether or not any of the minister's current or former staff have a direct or family interest in the food, tobacco or alcohol industries. Again, that is something that would have to be disclosed in the statement of interests required under the government standards for ministerial staff. I would have thought that, if the minister is properly managing her staff and her office and ensuring that there are no conflicts of interest in this role, she would have had no trouble in answering this question.

Question on notice 234 is a question as to whether or not the assistant minister has agreed to any of her staff maintaining outside employment or involvement in a business or retaining a directorship. It goes on to ask a number of other questions. These are straightforward, factual questions about management of conflicts of interest within the minister's office. A conclusion that can be drawn from the minister's failure to answer is the one which I think is demonstrated by her answers today—that she simply failed to manage the conflict of interest in her office.
I would also make the point that there has been a rejected freedom of information request from me and also a journalist which has been reported. That freedom of information request relates to a letter that the minister gave evidence about at Senate estimates. Let's recall that, in all of the debate, dispute and discussion about this minister's behaviour, her single item of defence has been that she required her chief of staff to give undertakings about how he would address the conflict of interest. She told Senate estimates that these undertakings were set out in a letter from her chief of staff outlining the measures that would be taken to avoid conflicts of interest between his business affairs and his ministerial staff role. This is a letter that is central to the defence that this minister has put to this chamber. It is central to the defence about how she ensured that the statement of standards applicable to ministers and staff was complied with. One of the reasons she was censured was her failure to produce this letter.

I can now inform the Senate, as I flagged, that the minister's department or office have refused to provide access to the letter under the Freedom of Information Act. In a letter to me, the department said: 'The document requested is neither an official document of the minister nor a document of an agency.' So the letter that the minister says sets out arrangements to avoid a conflict of interest at the heart of her office is not an official document. This is the letter that is at the core of the assistant minister's defence. She claims it proves she was managing the conflict of interest in her office, but she refused to produce it and now her own department says that it is not an official document of a minister.

This freedom of information refusal simply casts further doubts on the minister's claims. This is a letter which her chief of staff provided as part of his employment to ensure there was no conflict of interest and to ensure she was complying with the Prime Minister's code of conduct. Now we are told it has no official status. It is apparently in some grey zone, perhaps the same grey zone as all of this minister's other non-responses to questions and all of her misleading statements to the Senate. You have to ask, if it is not an official document, what is its status? Is it written on the back of a napkin? Is it scribbled on the back of a coaster? Why is the minister fighting tooth and nail against producing it?

Senator Bilyk: Does it exist?

Senator Wong: I will take that interjection. Maybe it does not exist at all and that is why it cannot be produced. The Prime Minister promised before the election that he would lead a government that would be accountable and transparent and he is not delivering on that promise. The Assistant Minister for Health's failure to answer these questions is just the latest example of how this is a government that is not doing what it said it would do. It is a secretive government and it is an arrogant government. It is a government that refuses to be accountable to the public for its actions.

We have had the Assistant Minister for Health, with a conflict of interest in her office, misleading the Senate and refusing to answer questions. We have had Senator Sinodinos refusing to explain his involvement in Australian Water Holdings. And we have had the Prime Minister refusing to be upfront about what he knew in both of these matters. One minister has gone, another has been censured and a chief of staff has quit over a conflict of interest. We now have absurdities like the letter which the Assistant Minister for Health claims shows how she was managing a conflict of interest, but which her department says is not an official document.
We have absurdities like the acting Assistant Treasurer, who is also the Minister for Finance, put on hold changes which are the responsibility of the Assistant Treasurer and where the Assistant Treasurer stood aside yet he is still the Assistant Treasurer even though his job is being done by the acting Assistant Treasurer. The Prime Minister is leading a secretive, slipshod and arrogant government.

Senator IAN MACDONALD (Queensland) (15:17): I would like to contribute to the debate to pay tribute to Senator Nash, the way she has handled the portfolio and the way she has answered questions. It is so different to the previous government; we are still waiting for answers about Copenhagen and what happened at the climate change conference there. I am still waiting for a number of questions that I put on notice to the previous government. Yet the hypocrisy of the Labor Party shows through and here is a motion moved 30 days after.

I think the record will show that Senator Nash, in responding to the inquiry by the Leader of the Opposition—who I might say read every part of her speech, and I would suggest to the Leader of the Opposition that she get a new speech writer—explained to anyone who wanted to listen that her office was very busy. I heard her say that they were actually working on the answers to those questions. I also heard her say that most of the questions were asked by Senator Wong at estimates and were either answered there or taken on notice there. Since that time, there have been other questions.

I wanted to put just a modicum of fact into that bile filled speech from the previous speaker about someone who I think is doing a magnificent job as a minister. I have to say as well, it is refreshing how open the Abbott government has been and how accountable it has been in all of the very important and serious matters that it has been involved in. I have been here for a long while now—some say too long. I have sat through the Hawke and Keating governments, I have sat through the Howard government and I have sat through the Rudd-Gillard-Rudd government. There is a pattern that I have noticed over those years with Labor: how they run the union movement, how they run the Labor Party in New South Wales, how they looked after Mr Thompson and how they looked after Mr Williamson. These two icons of the Labor Party are now facing criminal charges and jail, but they looked after them and kept everything secret even from members of the HSU, the union that was paying for Mr Thompson's theft. Unions and the Labor Party itself were hiding Mr Williamson.

I have noticed over the years that Labor governments follow the New South Wales Labor dictum of keeping everything secret. That way, you never get into trouble. Unfortunately, things do come out, as we have heard. Senator Dastyari will know, because he was around in part of the cover-up, and my namesake—I am embarrassed to say that he is my namesake—will know how the Labor Party looked after these people, covered up for them and were never accountable, not even to their own members and not even to the union members who were paying them.

I have seen this over many years. It is the Labor way to cover-up, obfuscate and never answer a question. We think question time these days is a bit rowdy when you hear the opposition catcalling, but at least at question time now senators are getting answers to questions. I well remember when this matter was first raised with Senator Nash. I thought to myself, having been around for a while, 'Do not say anything, take it on notice, go and look at it.' But immediately Senator Nash got up and gave an explanation on the very first day. I
thought, 'That is the sign of a very, very good minister.' A good minister is someone who is across the portfolio and able to deal with all of these issues.

I might say that in the substantive part of her portfolio she is doing excellent work, such as in rural and regional Australia and I guess elsewhere as well. I just want to answer Senator Wong's accusation of 'an arrogant stonewall'. Well, that Labor leader using 'an arrogant stonewall' as a description just fades away to stupidity when you actually hear what the answer was. The department has been very busy. They have had an enormous number of questions through estimates, not about this issue but about real issues in the portfolio, and they are, obviously, giving attention to them. Senator Nash did say that they were working on the answers, so they are going to come, unlike the answers to the questions on Copenhagen which we are still waiting on. As the minister said, she had already answered many of the questions at estimates. I wanted to make sure that anyone who might be listening to this debate is not confused by the tirade that we just heard from the Leader of the Opposition in the Senate.

Question agreed to.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Racial Discrimination Act 1975

Senator SINGH (Tasmania) (15:23): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Senators Singh and Peris today relating to proposed changes to the Racial Discrimination Act 1975.

It has been made clear today that the Attorney-General is more interested in defending the rights of those he refers to as 'bigots' than in defending the rights of minorities. In order to protect what Senator Brandis described in this place as the fundamental right to be a bigot he has released plans to narrow protections under the Racial Discrimination Act and then exempt almost everyone from this law. What is the point of having a law if you are then going to have umpteen exemptions from it? That just outlines the dishonesty that is being put forward in this draft exposure that Senator Brandis provided to the public yesterday.

By the Attorney-General's own admission vilification and hate speech should never be a feature of intellectual debate. So, if that is the case, why does the Abbott government want to introduce such broad exemptions to the law? Under these exemptions even people vilifying ethnic and racial groups in bad faith are protected as long as they can claim it was related to any political, social, cultural, religious, artistic, academic or scientific matter. It is difficult, within that huge list, to think of any public statement that would not be covered by those exemptions, which shows the dishonesty in the proposed changes that Senator Brandis has put forward.

Let us think about what the changes might actually mean. They will mean comments on an online blog or article. They would include a sign threatening a Jewish group at a neo-Nazi rally against immigration. It is hard to imagine any conduct that falls outside these exemptions, which is an observation that was made by Chris Berg from the Institute of Public Affairs who clearly said:

The new exemption makes clear the fundamental importance of free discussion on any matter of public interest, no matter how extreme that discussion is.
Is that really the kind of Australian society we want to live in? What is the point of having Senator Brandis bringing forward these changes of freedom of speech at any cost, bringing forward changes that he claims put forward laws for racial vilification and hate speech, but then exempts just about every kind of activity from them?

Let us take the case of Fredrick Toben—which is a case very familiar, I am sure, to Senator Brandis—who has been found time and time again to have unlawfully produced and published material that denies the Holocaust. He has accused Jews of exaggerating the scale of the murder of Jewish people during World War II and he has dismissed people, who were offended by or disagreed with such outrageous claims, as being of limited intelligence. Is this the kind of display of racial vilification that we want to allow in our community without any recourse? Because, under that huge list that Senator Brandis outlined in section 4, it would be allowed. This is absolutely absurd and is not supported by some 150 community and ethnic groups across the country—some of which Senator Brandis claims he has met but which, clearly, he has also chosen to ignore.

We have been enlightened today by the way Senator Brandis has appeased the IPA. Through his cups of tea and through the IPA's briefing to the coalition it has been made very clear that the IPA are very happy with these proposed changes, as will be Andrew Bolt, because they go very much to the heart of doing exactly what the IPA, I am sure, briefed the coalition on. People in positions of privilege—people in positions of power—like Andrew Bolt have a platform to be racist. They are public commentators. They are journalists. It is not a level playing field. The victims, though, of racial abuses do not have that position of privilege or power—(Time expired)

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (15:28): In her contribution Senator Singh demonstrates, as occurred all through question time today when Senator Brandis was answering questions in relation to the exposure draft of the amendments to the Racial Discrimination Act, that the opposition is not even prepared to listen. We have put in place a process, and at least Senator Singh did acknowledge that Senator Brandis's answers during question time were that he has had extensive—in fact I think the term he used was 'exhaustive'—consultation with minority groups throughout the development of the exposure draft.

It is important to note that this is part of a process. Senator Brandis has also said that he wants to have a conversation with the Australian community about the shape of these laws, which is why they have been released as an exposure draft—so that the community and members of parliament can comment on the exposure draft that has been released. Rather than just howling from the sidelines and spending all of question time interjecting and screaming at Senator Brandis across the chamber, it might be very useful if those members opposite—who obviously do not want to listen to any opinion other than their own—were to engage with the process.

Senator Brandis has released an exposure draft of this legislation for public comment—for the community to engage, for the community to comment—prior to bringing a final piece of legislation to the parliament. I think that is good process. In fact members of our party who had expressed concern—as part of the public commentary about our proposals to modify the act that was taking place prior to this process—have expressed their appreciation since Senator Brandis brought the exposure draft to the party room. They appreciate that it gives
them the opportunity to participate in the public debate and to consult with their communities with that exposure draft in their hand.

But the Labor Party just do not want to listen. They are not interested in what Senator Brandis has to say.

Senator Tillem: You're right.

Senator COLBECK: 'You're right,' says Senator Tillem. You should be ashamed of that. They are just demonstrating their intolerance. It is surprising how many people who claim to be tolerant show the least tolerance when it comes to public debate.

Senator Tillem: That's disingenuous.

Senator COLBECK: They try to howl people down, as Senator Tillem is trying to do at the moment. They try to howl people down. They are not prepared to listen to other perspectives in the debate.

Senator Dastyari interjecting—

Senator Tillem interjecting—

Senator COLBECK: And the chorus starts. They are not interested in what anyone else has to say. They are the ones who know best. They know better than anyone else. They are not tolerant of anyone else's opinion. It is interesting that in this debate, as Senator Brandis said a couple of days ago—

Senator Tillem: I am not interested in bigotry. I am not interested in racism.

Senator COLBECK: I will take your interjection, Senator Tillem, and I will put on the record that neither am I—and I do not think any member on this side of the chamber is.

What Senator Brandis said, Senator Tillem, was actually quite true. People have the right to be what they want to be.

Senator Dastyari: Do people have the right to be bigots?

Senator COLBECK: They do, Senator. They do have the right to be what they want to be—and the community has the right, and should have the right, to decry that. And they should decry that. I am happy to condemn that sort of speech as much as anyone on that side of the chamber. But we are about providing the opportunity for people to speak freely. That is an important part of any community. It is not up to us to tell people what to think or what to say. That is what the Labor Party seek to do. They seek to control what people might want to be, want to think or want to say. You cannot do that. Yes, put parameters around it—which is what the draft seeks to do.

Importantly, however, the exposure draft gives the community the opportunity to be part of the discussion. As I have said, members of my party who have had concerns about where this might go have expressed their appreciation of the process that Senator Brandis has put in place. (Time expired)

Senator MOORE (Queensland) (15:33): I want to applaud Senator Colbeck's statements about the behaviour in this place and I am looking forward to hearing silence from the other side of the chamber during debates from now on.

One of the problems with having a consultation is that you may hear things you do not want to hear. A second problem is that it is particularly difficult to consult when you have
already gone out publicly and committed yourself to making the change—and not just committed yourself to making the change but celebrated the fact that, in the opinion of the decision maker, that change will permit behaviours that many people are quite concerned about.

We now have a process in place and I am pleased that we also now have an exposure draft. That will encourage more people to come forward to put their views. The exposure draft in itself raises some issues, however. Senator Singh has already pointed out that the definitions in the exposure draft are very narrow and that the parameters for what constitutes a breach have been considerably tightened. That is a major concern. The proposal has very much reduced the range of behaviours considered to be inappropriate under the vilification process.

The implication of this proposal is that our community thinks it would be completely okay for words and actions to ‘offend, insult, humiliate or intimidate’. Those are the current words in the legislation. They are the current words the minister has committed to changing. That is clearly on the record. I am sure that there will be a range of organisations, community groups and individuals who will take up the opportunity through the consultation process to remind the minister, the department and the government that we live in a society which has, for many years, operated with the understanding that words or actions that humiliate, insult, intimidate or offend are not appropriate.

On one side of the argument you have an acceptance that such behaviour is not something that makes people feel safe or secure. It is not something that allows them to feel as though they are respected in our community. After all, that is the intent of the legislation—to ensure that every person in our community is safe, is secure and is respected. On one side you have that. On the other side there is an absolute commitment to free speech.

I think this is an important opportunity for us to weigh up, as a community, what we want Australia to be like. So far, I am pleased to say, everybody in this debate appears to be falling over themselves to openly commit that they are completely opposed to racism in our community. That is a good thing. It has given us a chance to reaffirm that. But the second point is: where in our community and where in each of us individually do we see the balance between our right to free speech—to say whatever we want to say about whomever we want—and the absolute, intrinsic right of people to feel safe, respected and secure?

One of the clear intents of the current legislation is to raise awareness in our wider community and to show everybody in our country and internationally that we have a society that values human beings and that human beings cannot be discriminated against while they are living in Australia. We pride ourselves on that. In fact, we go overseas and tell other countries about how they should operate in this way. What we are saying by opening this debate—by the exposure draft and the consultation in a process where the minister has already made a public commitment that he will make a change—is that, in that area, we are opening up the doors for people to question just how strongly we value these commitments that we have made over many years.

I think it is incredibly important that the whole issue of vilification be understood and that we have a debate about what that means. I also think that we should really see whether we want to limit any kind of threat of people being physically afraid. We have so much evidence, and in so much work we do here in the Senate we find out about the damage that is inflicted on other people in our community. It is not just physical. (Time expired)
Senator BOYCE (Queensland) (15:38): I seek to take note of answers by ministers, particularly those by the Minister for Finance, Senator Cormann.

The DEPUTY PRESIDENT: Senator Boyce, we have a motion before the chair, and that is to take note of the answers by Senator Brandis to Senators Singh and Peris. Were you seeking to move a different motion?

Senator BOYCE: I was seeking to address the answers, but particularly those of Senator Cormann.

The DEPUTY PRESIDENT: You will have to move a different motion for that. In that case, if you intend to move a different motion, I will call any other speakers who wish to speak to this motion first. Is that your intention, Senator Boyce?

Senator BOYCE: That is my intention.

Senator DASTYARI (New South Wales) (15:39): I rise to take note of the answers given by Senator Brandis to questions without notice. I rise to ask the question that everyone is asking, and that is: why? Why now, days from a by-election that could alter the government's capacity to pass legislation? Why now, weeks away from a budget in which the government has been sincerely promising since September to make deep and lasting cuts to our social services, to put a blunt axe to foreign aid, to slice the budgets of our public broadcasters and to undermine the assistance that we extend to pensioners, single parents and low-income earners? Why does the senator think now is the time for Australians to be considering the degree of bloviating racism permissible in our public discourse? Why is this the pressing issue of our time? Why, when we have tried so hard to earn a reputation as a country that welcomes people of all races, does the first law officer of the Crown think that, among all the issues requiring urgent attention, the right to offend, to insult and to humiliate someone is worth rising up to defend? Why has the Attorney-General, with heavy heart and after careful consideration, determined that—of all the pressing matters, all the legislation weighing so heavily on the minister's mind and all the freedoms to protect and cherish—the freedom to humiliate someone based on the colour of their skin warrants this?

I would like to assert that, quite frankly, the reason this matter has come to the floor of this chamber is not the careful consideration of the Attorney-General, it is not that it meets the strategic objectives of the government's legislative agenda and it is not that the Racial Discrimination Act in its current form is so outrageously unjust. Of course not. The fact that this is a matter of urgency is simply due to the astonishing conceit, breathtaking arrogance and unbridled contempt that was so evident in Senator Brandis's response in this chamber on Monday. It is not just what the senator from Queensland said but the way he said it that has elevated this issue to a matter of pressing public concern. Senator Brandis's response to Senator Peris's question was delivered in a manner that made no effort to disguise his contempt and disdain for either the question or the questioner. Ladies and gentlemen, we were all here to witness it, but for the Hansard record I will repeat the minister's words:

People do have a right to be bigots, you know.

For the Hansard record, I want to be clear and to use the two other words Senator Brandis proposes to omit from the act: his response was delivered in a manner that was both offensive and insulting. Whether it was a sound bite or a headline, Senator Brandis's response was
reprehensible, cringeworthy and ultimately untenable. He left himself with no choice but to try to undo the self-inflicted damage.

So I ask again: why is the right to humiliate someone because of their race a matter of such urgency? The senator can continue to pretend that this is an issue solely about free speech, but it is not. It is more than that. It goes to the heart of this country. It goes to the heart of a multicultural nation. Frankly, the responses that have been given by Senator Brandis are both offensive and insulting in themselves. The unmasked contempt in his response to Senator Peris was simply astonishing. Senator Brandis is not simply defending the rights of the likes of Andrew Bolt. No, he has gone beyond that now. Senator Brandis, through his contempt, has been forced to use this issue to defend himself.

Senator BOYCE (Queensland) (15:44): I rise to take note of answers given by Senator Brandis to questions without notice. I was not aware of the initial motion when I stood to speak earlier. I am concerned by the level of contribution that has been put into this topic by a number of people. I was pleased to hear Senator Moore's comment that it is good that everyone has the opportunity to say that they abhor racism and that they will do what they can to stop it. But to suggest that to change a poorly drafted piece of Labor legislation is somehow to behave in a racist way is not acceptable. It is not about freedom of speech. It is not about anything that, in my view, should be happening in Australia or within Australian values. It is not reasonable. Senator Brandis has put out an exposure draft which will be available for a month for people to comment on, if they wish. If you do not like the way it is currently drafted—which Senator Singh certainly appears to believe—you are perfectly free to comment to Senator Brandis on the way it is currently drafted and to suggest new drafting. There is no way that there is not the ability for Australia to have legislation that both opposes racial vilification and allows freedom of speech. But it is not going to happen with the sort of nannying behaviour that we have had in the past from the former Labor government.

I do not believe that anybody could possibly see the outcome of the Andrew Bolt case as acceptable in Australia. It is not acceptable in Australia. I certainly share very few of Mr Bolt's views. But I will fight to the death—as would anybody, I would hope, in this place—for his right to express those views. Whether he expressed them accurately or not is not a matter for legislation around racial vilification. One would think that that sort of a problem could be taken to the Press Council if there were inaccuracies in the reporting. That is the body that deals with inaccuracies in media commentary or reporting. That is the body to talk to. To suggest that, because his report contained inaccuracies, it somehow becomes racial vilification is not reasonable in any way, shape or form. I did not like the views expressed in the article that was the subject of the court case involving Mr Bolt, but he has the right, in Australia, to have those views.

Whilst others might suggest that this is a very minor point to be using as the basis for changing legislation, it has the potential to be an extremely important point. I would think that anybody in this place would thoroughly respect and acknowledge that Attorney-General Brandis is someone who has the utmost regard and the utmost respect for law and for a liberal, with a small 'l', interpretation of law and the rights of the individual under the law in Australia. So I cannot believe that this opposition wants to attack this legislation. Well, I can, I am afraid, believe it. Certainly, if there were any penalties for inaccurate statements about legislation within this parliament the entire opposition—the entire non-government side—
would stand condemned for the way they have misinterpreted and misrepresented this legislation.

I am a member of a very privileged group within Australia: a white Anglo-Saxon. I cannot begin to know what it is personally like to experience racial hatred or racial vilification. Nevertheless, I would not want to see that happen to anyone in Australia. I certainly have very strong views on disability discrimination. I do not want to see people attacked for their race in the same way I do not want to see people attacked because of a disability or because they are different in any way from anybody else. The opposition have a month to comment calmly and succinctly on this legislation. They should take it. *(Time expired)*

Question agreed to.

**Renewable Energy**

**Senator WHISH-WILSON** (Tasmania) (15:49): 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 the Leader of the Australian Greens (Senator Milne) today relating to the Mandatory Renewable Energy Target.

Senator Milne's questions in the chamber today were important. They were about green jobs and green investment in this country. Unfortunately, Senator Cormann's responses were all about risk: sovereign risk and that which has been built in this country being put at risk in terms of what that has delivered in investment and jobs. We know that the renewable energy target is important. It gives businesses certainty. It gives the installers of household solar systems certainty, and it gives investors in large renewable energy projects in this country certainty. There has never been a clearer case of sovereign risk that I have seen than what the Liberal-National government are doing to the renewable energy sector in this country. It is fine if you want to put the renewable energy target up for review. But when you do put it up for review, I think that review is going to say that if you abolish the renewable energy target—and Senator Cormann would not go on record today to say whether he would abolish the renewable energy target or whether he would combine the Large-scale Renewable Energy Target with the Small-scale Renewable Energy Scheme—you will put at risk 6,750 photovoltaic jobs just in the area of installing solar panels and solar systems in this country. It is estimated that 1,200 of those jobs are in Western Australia. You will also put at risk 700 megawatts of new electricity generation and 7,000 new construction jobs in this exciting sector by 2020. The review will also tell you, Senator Cormann, the benefits of the renewable energy target: wholesale prices of electricity reduced to $10 a megawatt hour. It will also tell you that it will add 14 gigawatts of clean energy to this country's future and create more than 30,000 jobs, reduce emissions and reduce reliance on expensive gas. More than a million households around the country now have gone down the path of reducing their power bills, reducing their electricity bills, by installing household PV, photovoltaics.

If it is left unchanged, I am very confident the review will show—if it is not a sham; if it is not run by people who have an agenda against the renewable energy industry in this country—an additional $18.7 billion in new investment in an exciting and innovative industry. It is one of the few we have in this country where we have had transition from old industries to industries that have technology where there is a lot of interest in investment, and which has broad community support. One million household solar panels across this
country—that the Liberal-National government are going to have to do a lot of explaining about, if they start playing around with the incentives put in place by Senator Milne and the Greens, with support from Labor, to transition this country to a renewal energy future.

One exciting example of the type of project we would like to see more of is Carnegie Wave Energy in Western Australia. I know one senator on the other side—I won't break confidences—who is very excited about this project in his home state, and he happens to be a minister in this government. That type of project, partly funded by the Clean Energy Finance Corporation, is reliant on incentives in the clean energy package. It is the sort of thing that Western Australia can point to and be very proud of—a local, home-grown innovative technology using the power of waves in our ocean. They are potentially untapped unlimited energy sources for the future that do not pollute the planet and do not put the future of our environment and our communities at risk.

So who is putting those at risk? It is Senator Cormann, by today refusing to provide the certainty that the renewable energy industry needs, by refusing to provide the certainty that the million household owners of photovoltaic energy in this country need and by refusing to provide the certainty and reduce the sovereign risk that big investors need to invest in renewable energy in this country.

Question agreed to.

NOTICES

Presentation

Senator Fifield to move:
That the hours of meeting for Tuesday, 13 May 2014 be from 12.30 pm to 6.30 pm and 8 pm to adjournment, and for Thursday, 15 May 2014 be from 9.30 am to 6 pm and 8 pm to adjournment, and that:
(a) the routine of business from 8 pm on Tuesday, 13 May 2014 shall be:
   (i) Budget statement and documents 2014-15, and
   (ii) adjournment; and
(b) the routine of business from 8 pm on Thursday, 15 May 2014 shall be:
   (i) Budget statement and documents—party leaders and independent senators to make responses to the statement and documents for not more than 30 minutes each, and
   (ii) adjournment.

Senator Sterle to move:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on public transport be extended to 4 December 2014.

Senator Collins to move:
That the time for the presentation of the report of the Select Committee on School Funding be extended to 26 June 2014.

Senator Di Natale to move:
That the resolution of appointment of the Select Committee into the Abbott Government’s Commission of Audit be amended, as follows:
   After subparagraph (3)(b), insert:
(c) a participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if three members of the committee are not present.

Senator Johnston to move:
That the following bill be introduced: A Bill for an Act to amend legislation relating to defence, and for related purposes. Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014.

Senator Smith to move:
That the Senate—

(a) notes:
(i) the visit to Australia by their Royal Highnesses the Duke and Duchess of Cambridge from Wednesday, 16 April 2014, to Friday, 25 April 2014,
(ii) that the Duke and Duchess of Cambridge will visit Sydney, the Blue Mountains, Brisbane, Uluru, Adelaide and Canberra, and
(iii) that 2014 marks the 60th anniversary of the first visit to Australia by Her Majesty Queen Elizabeth II and that this visit included Canberra, Sydney and 10 towns in New South Wales, Hobart and six towns in Tasmania, Melbourne and 17 towns in Victoria, Adelaide and five towns in South Australia, Brisbane and six towns in Queensland, and Perth and six towns in Western Australia; and
(b) extends a warm welcome to Australia to their Royal Highnesses the Duke and Duchess of Cambridge on their first royal visit to Australia.

Senator Rhiannon to move:
That the Senate—

(a) notes:
(i) that the Barton Highway, connecting Canberra to Yass, is a single carriageway throughout New South Wales except for a 6 km section near the Yass Bypass, and up to 10,000 motorists and truck drivers travel the Barton Highway each day,
(ii) in 2007 the Barton Highway was noted as the worst highway on the AusLink network in New South Wales, and in 2011 a New South Wales Government report found that the highway had a high accident rate, and
(iii) in the lead-up to the 2007 election the Howard Government pledged $264 million for the duplication of the Barton Highway and the incoming Rudd Government agreed to also allocate this level of funding; and
(b) calls on the Federal Government to:
(i) work with the New South Wales Government to reduce fatalities and casualties on the Barton Highway by extending the dual carriageway and by undertaking other required improvements to reduce car and truck crashes, and
(ii) fund the upgrade of the Barton Highway under the National Projects Program in the coming May 2014 budget.

Senators Rhiannon and Moore to move:
That the Senate—

(a) notes that:
(i) the World Health Organization (WHO) South-East Asia region has maintained its polio-free status for the past 3 years,
(ii) on 27 March 2014 the South-East Asia Region will receive polio-free certification, and
(iii) with this certification the proportion of the world’s people living polio-free will increase from 52 per cent to nearly 80 per cent;

(b) acknowledges that:

(i) the partnership between the Indian Government, Rotary International, UNICEF [United Nations Children’s Fund], WHO, the Gates Foundation and donor countries, including Australia, contributed to the result, and

(ii) the WHO has estimated that with continued support from the global community the world can be free of polio by 2018; and

(c) calls on the Australian Government to continue to contribute to the global polio eradication efforts through to 2018.

Senator Rhiannon to move:


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

Senator Milne to move:

That the Senate calls on the Government to:

(a) respect research as fundamental to our country’s health and prosperity;
(b) maintain public funding for all areas of research in the May 2014 budget;
(c) lift Australia’s total spending on research and development to 3 per cent of gross domestic product, a target also set by the United States;
(d) stop the ‘brain drain’ and back our researchers, scientists and educators by providing secure career pathways, more certain funding arrangements and the national infrastructure that equips people to make discoveries;
(e) respect academic independence as well as the process of peer-review and expert recommendations; and
(f) secure our future by ensuring that children get a better understanding of science and research at school.

Senators Madigan and Xenophon to move:

That the Senate calls on the Government to alter Commonwealth procurement policy in order to require all government departments to only use Australian made products where possible, and, in particular, paper products.

Senator Xenophon to move:

That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 28 August 2014:

With reference to the committee’s earlier report into the review of allegations of sexual and other abuse in Defence, the accessibility and adequacy of current mechanisms and processes to provide support to victims of sexual and other abuse in Defence, taking into account:

(a) the Defence Abuse Response Taskforce (DART) process to date;
(b) Defence’s response to the DLA Piper Review and the work of DART;
(c) successive governments’ responses to the DLA Piper Review and the work of DART;
(d) the desirability of releasing a true reflection of volume two of the DLA Piper report in a redacted form or by way of a summary; and

(e) any related matters.

Senator Carr to move:

That the Senate—

(a) notes the failure of the Minister for Employment (Senator Abetz) to comply with the order of the Senate of 25 March 2014 for the production of documents relating to draft labour market growth rate projections;

(b) orders the Minister to comply with the order by 2 pm on Thursday, 27 March 2014 or make a claim of public interest immunity which is in accordance with those accepted by the Senate; and

(c) in the event that the Minister fails to meet the requirements of paragraph (b), a senator may immediately move, without notice, a motion in relation to the Minister’s failure to either comply or provide an acceptable claim of public interest immunity.

Senator Di Natale to move:

That the following bill be introduced: A Bill for an Act to amend the Private Health Insurance Act 2007, and for related purposes. Private Health Insurance Amendment (GP Services) Bill 2014.

Senator Wong to move:

(1) That the proposed Korea-Australia Free Trade Agreement be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report, with particular reference to the impact of the agreement on Australia’s economy and trade, investment, social, cultural and environmental policies.

(2) That in conducting the inquiry the committee shall:

(a) review the agreement to ensure it is in Australia’s national interest, and

(b) have regard to the report of the Joint Standing Committee on Treaties on the proposed agreement.

(3) That the committee report within one month of the tabling of the report of the Joint Standing Committee on Treaties on the proposed agreement.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:55): 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:

Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014

Marriage Amendment (Celebrant Administration and Fees) Bill 2014

Marriage (Celebrant Registration Charge) Bill 2014.

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

Leave granted.

The statement read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2014 AUTUMN SITTINGS

DEFENCE FORCE RETIREMENT BENEFITS LEGISLATION AMENDMENT (FAIR INDEXATION) BILL
Purpose of the Bill


Reasons for Urgency

Introduction and passage in the 2014 Autumn sittings will ensure that the necessary authority is in place to develop changes to extant systems in order to enable the changed indexation arrangements to apply to retirement pay on the first pay day on or after 1 July 2014. For this to happen, ComSuper, the administrator of the military superannuation schemes (and the Government's schemes for its civilian employees), will need to engage external information technology resources to build, test and deploy new system arrangements to enable it to use a different indexation methodology for a particular cohort of its client base. In this regard, there are approximately 211,000 military pensioners, of which approximately 56,000 may be impacted by changed indexation arrangements. In addition to system changes, ComSuper will also need to put in place internal arrangements to enable customer service staff to address the impacts of the change and update member communication products. It is expected that developing and putting in place the above systems and processes will require significant lead time.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE

IN THE 2014 AUTUMN SITTINGS

Marriage (Celebrant Registration Charge) Bill

Marriage Amendment (Celebrant Administration and Fees) Bill

Purpose of the Bills

The bills introduce cost recovery arrangements for the Commonwealth Marriage Celebrants Program from the commencement of the 2014-15 financial year, including:

• the introduction of an annual celebrant registration charge (cost recovery levy) for Commonwealth-registered marriage celebrants;
• the introduction of a registration application fee for aspiring marriage celebrants;
• the introduction of an exemption application processing fee for processing requests for exemptions from the annual celebrant registration charge, the registration application fee and for applications for exemptions from ongoing professional development; and
• revise and update provisions of the Marriage Act to increase the efficiency of the Marriage Celebrants Program

The Program is administered by my department. The arrangements will recover the costs of my department's administration of the Program. Cost recovery was delayed as a result of the bills not passing the previous Parliament before it was prorogued. Legislation to implement the reforms was introduced into Parliament during the 2013 Winter sitting period. The bills were passed by the House of Representatives and the Senate Standing Committee for Legal and Constitutional Affairs recommended passage of the bills without amendment. However, the Senate did not consider the Bills prior to Parliament being prorogued. These bills are the same as those previously considered by the Senate Committee except to update commencement provisions and make amendments to enable the Attorney-General to approve a number of administrative marriage related forms rather than having them prescribed in the Marriage Regulations 1963.

Reasons for Urgency
To implement cost recovery at the beginning of the 2014-15 financial year, these bills will need to be introduced and passed during the 2014 Autumn sitting period. This will enable corresponding amendments to the Marriage Regulations 1963 to be made in time for implementation.

Withdrawal

Senator EDWARDS (South Australia) (15:56): On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, at the giving of notices on the next day of sitting, I shall withdraw business of the Senate notice of motion No. 1 standing in my name for 11 sitting days after today for the disallowance of the declaration of corresponding state laws. I seek leave to make a short statement.

Leave granted.

Senator EDWARDS: On 19 March 2014 the Standing Committee on Regulations and Ordinances gave notice to disallow this instrument whilst it sought further information on the delay in registering this instrument. The committee has received a satisfactory response from the Minister for Health. The committee's concluding remarks were documented in Delegated Legislation Monitor No. 4 of 2014. Accordingly, the committee seeks to withdraw the notice of motion to disallow this instrument.

Postponement

The following item of business was postponed:

General business notice of motion no. 191 standing in the name of Senator Urquhart for today, relating to the International Year of Solidarity with the Palestinian People, postponed till 14 May 2014.

COMMITTEES

Community Affairs References Committee

Reference

Senator DI NATALE (Victoria) (15:57): I, and also on behalf of Senator Carol Brown, move:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by 16 July 2014:

The out-of-pocket costs in Australian healthcare, with particular reference to:

(a) the current and future trends in out-of-pocket expenditure by Australian health consumers;
(b) the impact of co-payments on:
   (i) consumers' ability to access health care, and
   (ii) health outcomes and costs;
(c) the effects of co-payments on other parts of the health system;
(d) the implications for the ongoing sustainability of the health system;
(e) key areas of expenditure, including pharmaceuticals, primary care visits, medical devices or supplies, and dental care;
(f) the role of private health insurance;
(g) the appropriateness and effectiveness of safety nets and other offsets;
(h) market drivers for costs in the Australian healthcare system; and
(i) any other related matter.

Question agreed to.
MOTIONS

Human Rights: Sri Lanka

Senator SINGH (Tasmania) (15:58): I, and also on behalf of Senator Milne, move:

That the Senate—

(a) notes:

(i) Australia's co-sponsorship of the:

(A) 2012 United Nations (UN) General Assembly Human Rights Council (HRC) resolution calling on the Sri Lankan Government to implement the recommendations of the Lessons Learnt and Reconciliation Commission of Sri Lanka and to take credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans, and

(B) 2013 UN General Assembly HRC resolution expressing concern at continuing reports of violations of human rights in Sri Lanka, and reiterating the call on the Government of Sri Lanka to implement the commission's recommendations and to fulfil its commitment to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law,

(ii) reports of continuing violations of human rights in Sri Lanka; intimidation of and reprisals against human rights defenders, members of civil society and journalists; threats to judicial independence and the rule of law; and a rapid rise in violence and discrimination on the basis of religion or belief in Sri Lanka, and

(iii) the High Commissioner for Human Rights' conclusion that national mechanisms have consistently failed to establish the truth and achieve justice in Sri Lanka, and her recommendation that the HRC establish an international inquiry mechanism to further investigate the alleged violations of human rights law and international humanitarian law and monitor any domestic accountability processes; and

(b) calls on the Australian Government to:

(i) maintain Australia's strong record of support for human rights at the 25th session of the HRC, and

(ii) join with the United Kingdom and the United States and other co-sponsoring nations and commit the Australian Government to the strongest possible support to the draft HRC resolution A/HRC/25/L.1.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:59): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: The Australian government takes all allegations of human rights abuses and international crime seriously. Australia consistently raises issues of human rights' accountability and reconciliation directly with the Sri Lankan government. We continue to urge the Sri Lankan government to give the highest priority to implementing the recommendations of its Lessons Learnt and Reconciliation Commission process.

The Australian government believes that engaging Sri Lanka, not isolating it, is the most effective way to encourage and advance progress on human rights and accountability and for promoting reconciliation. A decision on whether Australia will co-sponsor a US-led resolution on Sri Lanka will be made after due consideration of the final text and the balance of issues it raises.
**Senator MILNE** (Tasmania—Leader of the Australian Greens) (15:59): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

**Senator MILNE:** I note the government's response to this and say that it is completely disingenuous. The meeting in Geneva is taking place right now. The vote will be tonight. In the debate on this particular matter the United Kingdom, the European Union and the United States are moving for an international independent inquiry into Sri Lanka. Australia has sat on the sidelines and been silent, and has allowed China, Cuba, Venezuela and Iran to add the so-called balance that the Australian government wants, to give praise to the Rajapaksas, when any number of reports out there—*Island of impunity?* and *Can't flee; can't stay*—condemn the Sri Lankan government.

Appeasing the Rajapaksas is entirely the wrong way to go for your domestic 'stop the boats' policy. It is disgraceful foreign policy to have our view represented in that. *(Time expired)*

Question agreed to.

**COMMITTEES**  
**Corporations and Financial Services Committee**  
**Meeting**

**Senator McKENZIE** (Victoria—Nationals Whip in the Senate) (16:01): At the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Fawcett, I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 14 May 2014, from 5.30 pm.

Question agreed to.

**National Broadband Network Select Committee**  
**Meeting**

**Senator URQUHART** (Tasmania—Deputy Opposition Whip in the Senate) (16:02): At the request of the Chair of the Select Committee on the National Broadband Network, Senator Lundy, I move:

That the Select Committee on the National Broadband Network be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 27 March 2014.

Question agreed to.

**MOTIONS**  
**Education**

**Senator McKENZIE** (Victoria—Nationals Whip in the Senate) (16:02): I move:

That the Senate—

(i) agrees that every Australian student deserves a world-class education, specifically:

That the Senate—

(a) agrees that every Australian student deserves a world-class education, specifically:

(i) that all Australian students deserve quality teachers and quality teaching to ensure the highest standard of education, and
(ii) that excellence in teaching practice has a significant impact on student outcomes;
(b) notes that Australia's most recent PISA [Programme for International Student Assessment] results indicate a downward trend in Australia's student performance relative to other nations across the fields of mathematics since 2003, reading since 2000 and scientific literacy since 2006;
(c) recognises that the most successful education systems across the globe have a consistent approach to education policy that has a practical focus on learning, and develops a strong culture of teacher education, research, collaboration, mentoring, feedback and continued professional development;
(d) accepts that high quality education is critical to ensuring the Australian economy is equipped with the skills and knowledge to adapt to the challenges of this century; and
(e) supports measures that improve professional development, pedagogical approaches, and mentoring for teachers in order to promote quality teaching in Australia.

Question agreed to.

Senator WRIGHT (South Australia) (16:02): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator WRIGHT: I rise to express support for the motion but also to express surprise about which side of the chamber this motion has come from. Although I believe that Senator McKenzie does have the future of Australian schools at heart, we must remember that it is her government which has stood in the way of achieving everything Senator McKenzie proposes here.

The coalition government has undermined the recommendations of the Gonski review panel at every step of the way. The coalition education minister still maintains that there is no inequality in Australian schools. Australia's thousands of excellent teachers do have a huge impact on students all around the country, but the biggest determining factor for student outcomes in Australia remains family wealth. Until the coalition government acknowledges this and supports genuine needs based funding to give every child a world-class education we will not see the change we need. I urge Senator McKenzie to persuade the education minister to implement the original recommendations of the Gonski review panel in all Australian schools.

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (16:04): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator BACK: I rise to support Senator McKenzie in moving this motion and express a degree of surprise and reject the comments made by Senator Wright. We sit on enough committees so that we all know very well that there is a very strong support for education in this country. I remind Senator Wright—she is well aware—that the pillars are, firstly, parental engagement—the expectation of parents that will ensure that children go to school at the earliest age with the highest possible expectations; secondly, the quality of training of teachers; thirdly, the quality and mentoring and capacity of ongoing professional learning by teachers; and, lastly, special attention to the disadvantaged: those of Aboriginal background, disabled students, those from low socio-economic backgrounds and those from regional and remote areas. I strongly endorse Senator McKenzie's comments and I express disappointment at Senator Wright's.
Somphone, Mr Sombath

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:05): I move:

That the Senate—

(a) notes:
   (i) on 15 December 2012, prominent community development and youth education leader Mr Sombath Somphone disappeared in Vientiane, Laos, and
   (ii) his whereabouts remain unknown, and statements by the Laotian Government on this case have failed to address concerns of the international community, including those raised by the European Parliament, Amnesty International and successive Secretaries of State in the United States;

(b) expresses deep concern regarding the disappearance, safety and wellbeing of Mr Somphone; and

(c) calls on the Laotian Government to undertake an immediate and credible investigation of Mr Somphone's disappearance, and willingly cooperate with the international community, including the United Nations Working Group on Enforced or Involuntary Disappearances.

Question agreed to.

Cognitive Impairment

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:05): I move:

That the Senate—

(a) acknowledges:
   (i) there are people with a cognitive impairment all around the country being held in indefinite detention without trial or conviction,
   (ii) that it is unacceptable for people to be held in custody indefinitely without conviction,
   (iii) that, as of June 2013, there were 37 people being held without conviction in Western Australia, and
   (iv) an overwhelming number of people being held indefinitely who have a cognitive impairment are Aboriginal and Torres Strait Islanders;

(b) notes the failure of state and federal governments to provide suitable accommodation and support services for people with cognitive impairment that come in contact with the justice system; and

(c) calls on the Federal Government to take leadership and negotiate with state and territory governments to provide appropriate accommodation and support services for people with a cognitive impairment who have contact with the justice system.

Question agreed to.

DOCUMENTS

Asylum Seekers

Senator HANSON-YOUNG (South Australia) (16:06): I move:

That all video recordings, audio recordings and photographs taken during the interception and turn-back of an asylum seeker vessel named the Riski, that occurred between 1 January and 6 January 2014, be provided no later than 4 pm on Wednesday 2 April, 2014, by the Minister representing the Minister for Immigration and Border Protection to the President under standing order 166(2) for presentation to the Senate.
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (16:06): I see leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator BRANDIS: The government will not be supporting this motion. It is the policy and practice of the joint agency taskforce responsible for implementing Operation Sovereign Borders not to disseminate information relating to on-water operations. This is one of the reasons for the success of the government’s policies that are stopping boats. There are clear rules and guidelines to govern behaviour and use of proportionate force where appropriate in relation to the conduct of operations by Border Protection Command as part of Operation Sovereign Borders. Central to these guidelines is ensuring that operations are conducted safely for both our own officers and persons who are the subject of these operations. Our Navy and Customs and Border Protection officers working under Border Protection Command are well trained and act in accordance with that training and the guidelines and protocols established for these operations. The government rejects unsubstantiated allegations of inappropriate conduct made against our Navy and Customs and Border Protection personnel. They do an important job— (Time expired)

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

The Senate divided. [16:12]

(The Deputy President—Senator Parry)

Ayes ......................8
Noes ......................38
Majority.................30

AYES
Di Natale, R
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Rhiannon, L
Waters, LJ
Wright, PL

NOES
Back, CJ
Bilyk, CL
Boyce, SK
Brown, CL
Cameron, DN
Collins, JMA
Edwards, S
Farrell, D
 Fifield, MP
Gallacher, AM
Liny, S
Marshall, GM
Moore, CM
O’ Sullivan, B
Peris, N

Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC
Colbeck, R
Dastyari, S
Eggleston, A
Faulkner, J
Furner, ML
Kroger, H
Lundy, KA
McKenzie, B
O’Neill, DM
Parry, S
Polley, H

CHAMBER
Question negatived

**Commonwealth Land: Sydney Harbour**

**Senator RHIANNON** (New South Wales) (16:14): I move:

That the Senate—

(a) notes that:

(i) a controversial development application on Commonwealth heritage land at Sydney Harbour's Middle Head is currently being assessed by the Sydney Harbour Federation Trust,

(ii) Middle Head is the land of the Ku-Ring-Gai people and provides habitat for a wide range of native species,

(iii) the development application is unanimously opposed by the National Trust NSW and Mosman Council,

(iv) the Sydney Harbour Federation Trust has two more development sites in the Headland Park which are being marketed by NSW Trade and Investment in China,

(v) under federal heritage laws the proposed development in the Headland Park requires the approval of the Minister for the Environment, Mr Hunt, under the *Environment Protection and Biodiversity Conservation Act 1999*, and

(vi) the proposed development is in a bushfire prone area; and

(b) calls on:

(i) the Minister for the Environment and the Sydney Harbour Federation Trust to not approve the proposed development application and to not accept any new or amended application for development on the Ten Terminal site,

(ii) the Government to properly fund the Sydney Harbour Federation Trust so that it can fulfil its duties under the Act to preserve, conserve and interpret the heritage values of all Sydney Harbour Trust lands, and

(iii) the Sydney Harbour Federation Trust to fully consult with the public and the local community on:

(A) the most suitable way to welcome people to Headland Park, and how to re-use a suitable site for a visitors centre to interpret the natural and cultural values of the site, and

(B) alternative uses for Ten Terminal which interpret the heritage values of Middle Head.

**Senator BIRMINGHAM** (South Australia—Parliamentary Secretary to the Minister for the Environment) (16:15): I seek leave to make a short statement.

**The DEPUTY PRESIDENT:** Leave is granted for one minute.

**Senator BIRMINGHAM:** The government will be opposing this motion. Even by the usual standards of the Australian Greens this is an excessive and extreme anti-development motion. The motion describes a 'controversial development'. For the benefit of the chamber, that controversial development is a proposal to use some disused former Defence buildings as a potential aged care facility. This is obviously a potentially valuable piece of public
infrastructure for the local community. The motion is also erroneous in terms of calling for the government to properly fund the Sydney Harbour Federation Trust. The trust was established as a self-funding entity. It leases buildings out and, in return, reinvests those funds in providing enhanced public access. I assure the local community in this area that the government will make sure there is no net loss of public space from this development, that it does improve local amenity in the community and that we will undertake full and proper consultation in this consideration.

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

The Senate divided. [16:17]

(The Deputy President—Senator Parry)

Ayes ........................8
Noes ...........................38
Majority .................30

AYES
Di Natale, R
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

NOES
Back, CJ
Bernardi, C
Bilyk, CL
Brandis, GH
Brown, CL
Bushby, DC
Cameron, DN
Colbeck, R
Collins, JMA
Dastyari, S
Edwards, S
Eggleston, A
Farrell, D
Faulkner, J
 Fifield, MP
Furner, ML
Gallacher, AM
Kroger, H
Lines, S
Ludwig, JW
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
O’Neill, DM
O’Sullivan, B
Parry, S
Peris, N
Polley, H
Ruston, A
Singh, LM
Smith, D
Thorp, LE
Tillem, M
Urquhart, AE (teller)
Wong, P

Question negatived.

MATTERS OF PUBLIC IMPORTANCE
Racial Discrimination Act 1975

The DEPUTY PRESIDENT (16:19): A letter has been received from Senator Moore:
Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

The right of every Australian to be protected from hate speech including speech that offends, insults or humiliates on the basis of race.

Is the proposal supported?

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

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

Senator WONG (South Australia—Leader of the Opposition in the Senate) (16:20): I rise to speak on a matter that is indeed of great public importance. It is Labor’s belief that every Australian has the right to be protected from speech that offends, insults or humiliates on the basis of race. By contrast, the Abbott government believes in the rights of the bigots. The Abbott government wants to legitimise, encourage and empower bigotry. The Attorney-General’s stated rationale for the government’s proposed changes to the Racial Discrimination Act is to protect the rights of the bigots. As he told the Senate so famously already on Monday of this week, ‘people do have a right to be bigots’. Even for a government which seems to specialise in backward-looking policy, in aggressive and bullying politics, this was an extraordinary and retrograde step.

We in this country have built a remarkably tolerant, democratic and free multicultural Australia. But we all know that there are still the bigoted and the prejudiced amongst us. We all know that their conduct can humiliate, belittle, hurt and damage people. That is why, collectively, we have agreed to the protections contained in the Racial Discrimination Act and that is why those protections are needed. It is also why people in leadership positions have a responsibility to stand up to bigotry and prejudice, especially in this place. We in this place have a responsibility to denounce racial prejudice, not to defend it on specious grounds, not to encourage it by our actions or our silence and certainly not to legislate in its interests.

Yesterday, the Prime Minister proclaimed that reinstating the British honours would add a grace note to Australian society. On the same day, the government released legislation to allow Australians to be insulted and humiliated on the basis of their race. That is not a grace note. It is an ugly note—a jarring note of discord. It will encourage bullies and create division and intolerance. It will damage the fabric of our society and, most importantly, it will hurt real people, individuals who will experience real pain.

This week in the Senate, as I have said, we saw the first law officer of the land stand up, loudly and proudly defending the rights of bigots. This really revealed the ethical framework that lies behind this legislation. It reveals the philosophy which is driving this government to seek these changes—a philosophy which prioritises the rights of bigots to say what they will, ahead of the rights of individuals to be free from harassment. It puts the rights of bullies ahead of the rights of victims of bullying. It gives the professional loudmouths, the prejudiced and the ignorant a licence to trample all over the marginalised, the powerless and the vulnerable. This is a warped set of priorities and a walked philosophy. Professor Andrew Lynch, from the centre of public law at UNSW, said today:

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CHAMBER
Law is an instrument through which a community's values and rights may be given effect. In Monday's debate, Brandis came down firmly on the side of those who would give voice to racially motivated insult and offence, over those who are targeted by such comments.

I acknowledge that there are many good people in the Liberal Party who have taken a stand and who show leadership against racism and discrimination: people such as former Liberal Prime Minister Malcolm Fraser, and people inside the Abbott government who have spoken against changes to the act, such as Mr Wyatt and Mr Laundy. But the Prime Minister and this Attorney-General have, with this legislation, revealed that they are ideological throwbacks. They are prosecuting the agenda of the narrowest of sectional interests imaginable—the sectional interests of a single powerful columnist whose opinions are amplified daily by the resources of one of the world's biggest media corporations and who evidently wields considerable power over this government. His interests are to be put ahead of the interests of so many Australians—ahead of the interests of Indigenous Australians, immigrants and the children of immigrants. One person's agenda is being allowed to trump the interests of Australians who seek to live in a decent and tolerant society.

We have previously seen this failure of leadership on race from the most senior figures in the Liberal Party, because when the Attorney-General responds to criticism of this legislation by saying, 'People do have a right to be bigots, you know,' he is echoing someone we all remember. He is doing exactly as former Prime Minister John Howard did at the time when Pauline Hanson called for multiculturalism to be abolished and claimed Australia was being swamped by Asians. What was the response from the then Prime Minister? When he was asked whether Asian Australians should be protected from people like her, he said: Well, are you saying that somebody shouldn't be allowed to say what she said? I would say in a country such as Australia people should be allowed to say that.

He defended her right to speak freely, but who did he not defend? He did not defend the rights of those she attacked, to be free of vilification. When senior political figures in this country engage in this kind of manoeuvre it sends a bad message. It sends a message that it is acceptable to rail against those who look different, and that is a point I made in my first speech to this place in 2002.

I am distressed and angry that this is a point that still needs to be made today, because we always need leadership on issues of race. It is not about denying free speech; it is about asserting the harm done by racist speech. It is not just about laws and legal protection; it is about the message influential people send to the community. And the message our Attorney-General has sent is that those who are marginalised, victimised and harassed are not a priority for this government. So when he says to Senator Peris, 'People do have a right to be bigots, you know,' he is empathising with the bullies and showing callous disregard for the vulnerable. It is moral equivocation and dog-whistle politics, masquerading as support for free speech. This remark from our Attorney-General shows he does not appreciate the need for leadership in a society where people experience bigotry.

I have seen bigotry face on and it is not a pretty sight. Words have an impact. They hurt and do lasting damage—not only the words of bigots but also the words of those in leadership positions when they defend the rights of bigots and stand by silent.

As Australia's first law officer, the Attorney-General has a responsibility to show leadership on these issues. Instead, we have seen him fail the test of leadership by bringing
forward these retrograde proposals. We have seen him fail the test of leadership in choosing to defend the rights of bigots rather than standing up for victims. We also see him fail that test in the way he conducts himself in public debate, because he has a predilection for getting personal—a predilection for personal attack, denigration and denunciation. We all remember his disgraceful claim in this place about there being a criminal in the Lodge.

Then, this morning, when he was asked to respond to the shadow Attorney-General's argument that the exemptions in the government's proposed section 18D were so wide that you could drive a truck through them, he responded:

I doubt the Shadow Attorney-General could drive a truck through anything frankly. That is personal denigration rather than principled debate, abuse rather than analysis. And I will not even deign to respond to his accusation of me of bigotry. It is extraordinary and false. Frankly, Senator Brandis's predilection for going personal are the tactics of a bully stuck in the sandpit of student politics, not those of the Attorney-General of this country. What is the public benefit in removing legal protection against hate speech? There is no conceivable public benefit in enabling blatant racial attacks. How does it benefit our Australian community to make it easier for people to vilify others because of their race or ethnicity? How does it benefit our community to defend bigotry instead of tolerance? It does not benefit our community. In fact, it damages and divides our community. It is very clear that there are really two sides in this debate. We on this side—the Labor party—stand with the community, the ethnic groups, the Indigenous Australians, and the hardworking migrants who have come to Australia and who helped build this nation because it is a fair and free society. And on the other side of this debate, we have an Abbott government who stands with a powerful journalist, with libertarian ideologues, and with the defenders of bigotry. I have said before in this place: prejudice and distrust cannot build a community, but they can tear one apart.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (16:30): I have said before that I am a first amendment type of guy. I have long admired the American culture that values freedom of speech as a critical, non-negotiable and—I think even more importantly—virtually unconditional component of a free society. Senator Wong talks about people being attacked. I should probably declare at this point that I am a longstanding member and a former research fellow of the Institute of Public Affairs. What we have heard from the other side of this chamber—and from my good friend Senator Cameron, who has just left—over and over again is the vilification of people merely by virtue of the institute at which they work. There is a reason why the Greens and the ALP hate the Institute of Public Affairs—it is because it is not part of their public sector mentality. It challenges the precepts that they put up, and it cannot be bowed by the fact that it is not on the public sector drip, the way they wish all civil society was.

What we have just heard from Senator Wong and what we have heard constantly from those opposite, including the Greens, relies on a profound misunderstanding of what our society is. They seem to view our rights, particularly our right to speech and our right to discuss—our right to participate in democracy and in a free flow of ideas—as coming to us via a licence from politicians or judges. They seem to think that, somehow, the laws in this place determine what we are allowed and not allowed to say. That is a profound misrepresentation of our constitutional and legal history. It is only in recent times that there have been such limits on things like speech. This is a profound fissure in what we view as the
role of the state, and what we view as the role of the government and its relationship with the
citizens of this country. Senator Wong accused Senator Brandis of celebrating the rights of
bigots. What I will say is that I condemn the bigot, but I celebrate the rights of every citizen.
And that is important, because a commitment to freedom of speech only really counts when it
is tested. A commitment to freedom of speech only really counts when it comes to defending
something you profoundly and viscerally disagree with—and that is where my commitment to
free speech lies.

It is not about the public funding of artists. I do not have to fund someone to support their
right to say something. There is a profound difference between the allocation of taxpayers'
resources to give someone the right to do something, and the question of whether or not they
are allowed to say something. I will defend the right of someone to speak, but that does not
entail and should not be confused with the idea that I should resource them to speak.

We have heard the constant complaints of those opposite over the last 48 hours about
ethnic community leaders, multicultural community leaders, and their views on this particular
proposal. I said at the start that I was a first amendment type of person: I view the proposal
put up by the government and Senator Brandis in the exposure draft as a compromise. I accept
that my views are not typical of all those in this place, or indeed all those in this country, in
supporting a very strong and almost unlimited commitment to freedom of speech. The
problem I have is that those opposite seem to see us as a nation of tribes; as a nation where
self-declared leaders of communities—communities defined by race—should somehow have
a special place in the consideration of legislation that any other Australian citizen should not.
Every Australian's view has an equal standing in this place—every Australian's view, no
matter what community they declare themselves to be from; whether it be one or many; and
whether or not they declare themselves to be leaders of communities. The elected bodies in
this country are the elected representatives of the Australian people. We do not believe in a
corporatist society, or in one where there are a series of tribes where, somehow, some people
have more rights than others.

The ALP and the Greens seek to define this as a debate about racism when it is not. It is a
debate profoundly about speech, its limits, and the role of governments, politicians and judges
in limiting the rights of our fellow citizens to express ideas. How is it our role to empower
certain people in Australia, in this case judges under the current law, to determine whether
another opinion is arrived at or expressed in good faith? That is the current provision in
section 18D of the Racial Discrimination Act. What happened to Andrew Bolt was that a
court said that his opinion was not expressed in good faith. It did not just ban the expression
of that opinion; it banned its re-publication. It had to declare an Orwellian moment—that it
never happened. The point being that, of all those in this place, it was once the centre and the
left of Australian politics who campaigned against censorship, yet it is the left of Australian
politics who are now its greatest advocates.

Those opposite are confused between legality and licence. To not make activities illegal is
not to approve of them. The great problem with speech being banned is it denies people—
community leaders, as Senator Wong pointed out, and people like me, you, and others in this
chamber; it denies us the opportunity to repudiate. Some speech should be repudiated. Some
speech should be humiliated. Some speech should be ridiculed. But by banning it, it goes
underground. In this technological world, where we cannot control the sources of news, that threat is even greater than when these laws were first passed just under two decades ago.

Those opposite confuse this with defamation law. It is an attempt to fudge the point, because defamation law often deals with issues and imputations of fact, not opinion. But this law can ban opinion. They ask why we are concerned that one journalist who they say is powerful had their opinion banned. I say, the idea that a court said that an article had to be stripped from a major newspaper's website, and banned the expression of an opinion, is something we should all be concerned about. I remember the days when we would all have been concerned about that.

The most extreme left-wing activist lawyer in the United States's ACLU would not tolerate this legislation. It shows how far the Labor Party and the Greens have moved from respect for basic individual rights for this law to even be considered, to say nothing of the laws proposed by the former Attorney-General Nicola Roxon which were going to expand the grounds for legal action of one citizen against another to an almost limitless number. Again, she confused our role of setting the boundaries as to what is illegal with regulating and proscribing the expression of opinion and expression of ideas.

I am proud to say I know Andrew Bolt. I would not necessarily describe him as a friend, only because I do not know him that well. The vilification to which he has been subjected by the professional left in this country over the last two years and the use of the law to ban him from expressing his opinion has been unprecedented. It is unprecedented in Australia's past to ban people from expressing political opinions. I know Andrew, and he does not have a racist bone in his body. But those opposite who disagree seek to use the law to suppress his views.

More harm was done to the views of those who oppose racism by this case and the ruling by Justice Bromberg that a member of the victim group shall be the standard by which racism is measured. So there was no arbitrary test that any Australian could be certain of to know when their opinion would be legal and when it would not be legal. More damage was done by the professional left activists and the legal censors who think it is their right to regulate speech in Australia. While I have always opposed these laws, they were not on the public agenda until the laws that those opposite are supporting here today meant for the first time the court was going to ban the expression of opinion. We were going to censor newspapers—and we did, because republication of Andrew Bolt's views was banned.

I was invited a couple of years ago to give a speech to the Executive Council of Australian Jewry on this point. I know Colin Rubenstein and Jeremy Jones. I know their work against racism is profound. I know they have done a lot of good work, but I respectfully disagree with them on these laws. I cannot recount all of my reasons in the time available today, but one is that in places where these laws exist, particularly in the old world of Europe where there are speech codes, there are things such as, for example, the armoured personnel carriers that I saw outside the new synagogue in Berlin just over a decade ago. They are the places with all the racial problems. It is the new world—such as Canada, which has recently repealed some of these laws, Australia, New Zealand and the United States—which has provided a home, refuge and sanctuary for people from all around the world. In particular, the communities that have been oppressed in those countries of Europe have often found refuge in the country with the freest speech on earth—and that is the United States. I have faith in my fellow citizens
that we will debate this and come to the right resolution. Those opposite, sadly, do not. I do not know where it went.

**Senator WRIGHT** (South Australia) (16:40): Yesterday I was gobsmacked as I watched the Attorney-General unveil a proposal that he described as 'the strongest protections against racism that have ever appeared in any Commonwealth act'. I was gobsmacked because as I was listening to what he was proposing the reality of the proposal bore absolutely no resemblance to that claim. George Orwell would certainly recognise the doublespeak that we are hearing here: 'Weak is strong. Racism will set you free.'

These proposed changes from the Attorney-General will actually see a fundamental weakening of the laws which prevent racism in our society—and the Greens will have none of it. Firstly, the Attorney-General proposes to take away the current protections in the Racial Discrimination Act set out in section 18C which make it unlawful to 'offend, insult, humiliate or intimidate' a person on the basis of their race. Instead, he will substitute a much higher bar to be met before someone can claim protection from the law. He will require 'vilification', which is narrowly defined to mean only inciting hatred against a person or group of persons. It is about inciting hatred of others; it is not about the effect on the person being vilified. He will require 'intimidation', with that only meaning a fear of physical harm. Therefore, he is leaving out psychological and emotional abuse, which we know from people who experience these things is often much more damaging. In these so-called strongest protections in Commonwealth law such behaviour will not even be caught up as a criminal offence. It will remain a civil offence. So the bar will be higher but the penalties will be no tougher.

Finally, just in case someone may get caught up in this scheme, there will be extraordinarily broad exemptions which will make it virtually impossible to take action against anyone who does meet this high threshold anyway, because the section will not apply to:

... words, sounds, images or writing spoken, broadcast, published or otherwise communicated—

it is hard to imagine how you could communicate words that do not fit within those categories—

in the course of participating in the public discussion of any political, social, cultural, religious, artistic, academic or scientific matter.

I think the exemptions have left no stone unturned.

These exemptions are so broad it will be impossible to distinguish between legitimate debate and hate speech. There is no requirement for reasonableness or good faith. And there is no requirement to consider the effects of the vilification from the point of view of the person being vilified. Without any definition of public discussion, these exemptions could even include a water cooler debate at a workplace. Yet we have the Attorney-General's constantly repeated claim that he is offering the 'strongest protections against racism that have ever appeared in any Commonwealth act'.

The Human Rights Law Centre has said this claim is astonishing and not backed by any basic analysis. They say that 'these changes substantially weaken the existing protection'. That is what the community is also saying. That is why people are up in arms and so are organisations like the National Congress of Australia's First Peoples, along with representatives from Australia's Greek, Jewish, Chinese, Arab, Armenian and Korean
communities, to name just some of them. That is because they know the experience of racial abuse and discrimination on a daily basis. They know the consequences—eroding of sense of self, wellbeing and worth—in Australia.

Let us remember that Justice Bromberg, in the celebrated Eatock v Bolt case, said that it was significant that young Aboriginal persons or others with vulnerability in relation to their identity may be apprehensive to identify as Aboriginal or publicly identify as Aboriginal as a result of witnessing the ferocity of Mr Bolt’s attacks on the individuals dealt with in the articles.

This change would ensure that similar attacks will happen in Australia in the future and there will be many more of them, with devastating consequences for the people targeted. The Australian Greens are proud to stand up with multicultural groups to say no to these proposed repeals. We can reconcile freedom of speech with the freedom to participate fully and safely in our community without being racially abused. The Australian Greens will reject this shameful proposal.

Senator SINGH (Tasmania) (16:45): Last week, many members of parliament celebrated Harmony Day. But this week, this government has given a slap in the face to that day. It has given a slap in the face to multicultural Australia. Why is that? That is through the proposed changes that Senator Brandis has introduced into this place that give people in a position of privilege—people like Senator Brandis and people like Andrew Bolt—a platform to be racist.

Is that really the kind of society that we want to live in in Australia? After nearly six months, the first piece of legal reform that our Attorney-General in this country wants to bring into this parliament to become Australian law is the kind of law that will allow more racist activity and more bigotry in this nation, with little recourse for those who are being abused and vilified to have any resolve.

The victims of racial abuse do not have the same position of power or the same position of privilege that those like Senator Brandis and Mr Andrew Bolt have. They are not in that same position to defend themselves. This is not a level playing field. There is a clear power imbalance and that is why we have the Racial Discrimination Act providing some recourse for addressing that imbalance. The current laws in question, sections 18C and 18D, work perfectly fine. The majority of disputes brought before the Human Rights Commission are resolved through mediation. The law works. It is there working perfectly fine.

I understand that Senator Brandis knows the law all too well. I am sure that his understanding of the law is very fine. But while he may have an understanding of the law, I believe he would have little understanding of racism. If he did have an understanding of racism, he would know how these changes do not provide protection to people from racial abuse. He has narrowed these new racial discrimination amendment proposals so that they are so narrow that anyone being racially abused has little opportunity or recourse for what has occurred to them to be addressed. He has narrowed the laws so that the word ‘vilify’ only means to incite hatred against a person and that ‘intimidate’ is narrowed to causing fear or physical harm.

If that was not enough, he has then put a huge range of exceptions to all of that in section 4. Despite the outcry from various sections of the ethnic and broader community—some 150
organisations; some of which Senator Brandis has met himself—he has chosen to ignore them entirely and instead adopt what Andrew Bolt and the IPA have wanted all along.

I am all for freedom of speech but not at any cost, not at the cost of people being racially abused and not when it comes to issues of race. They are some of the views that have also been put forward by a number of those ethnic organisations. They are organisations including the Executive Council of Australian Jewry, Chinese organisations, Korean organisations, Arab organisations and the National Congress of Australia’s First Peoples.

These changes are before us. I encourage the community to put their views forward and their objections forward, because thus far I have seen no one standing up for any changes that Senator Brandis has put forward to our Racial Discrimination Act other than his mate Andrew Bolt.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for the Environment) (16:50): I start by agreeing with the remarks of Senator Singh that she made at the end. I encourage the Australian community to participate in the consultation process around these changes too. That is the entire reason that a consultation draft of legislative changes proposed by the government has been released, because it is a consultation draft, it is open for people to give feedback and it is open to improvement. I welcome the fact that is the process that the government has undertaken. I have confidence that through that process the views of the community will be heard and the right balance will ultimately be found in legislative changes that are brought to this place.

I abhor racism, I abhor homophobia and I abhor religious intolerance. I believe deeply that the vast majority, if not every single one, of the members and senators in this place shares those sentiments. This debate around the Racial Discrimination Act is not a debate about whether or not some views are offensive. It is not even a debate about whether or not we should speak out, as leaders of the Australian community, against some of those views that we find to be offensive. Of course we should speak out, of course we should argue against those views that we find offensive and of course we should take a leadership role in that regard.

This debate is about law. It is about the laws of this country and it is about when it is that someone should have recourse to legal proceedings because of what someone else has said, when it is that someone should be able to engage through legal action purely because of what someone else has said. Ultimately this is, of course, about drawing lines in the sand, and there will always be grey areas in an action like this on either side of those lines. We discovered a couple of years ago that, for much of the community, there was concern that the way the laws were currently structured inhibited political debate to too great an extent. As a nation that treasures its freedoms, we should be respecting the freedom of speech just as much as we respect the right to protect those minority groups, those Australians who may be subject to racism, to homophobia or to religious intolerance from activities that would bring harm to them.

As a believer of free speech, I am one who looks back on the quotes of some of those in the past and at the often misquoted, or misattributed, quote of Voltaire which said:
I disapprove of what you say, but I will defend to the death your right to say it.
As I said, that was a slightly misattributed quote and is, in fact, an interpretation of Voltaire's views. The accurate quote from 1770 is:

I detest what you write, but I will give my life to make it possible for you to continue to write.

In this day and age we recognise that some things cross the line, which are unacceptable to have published, that can indeed incite hatred and can indeed vilify individuals or groups of people. We should rightly draw a line around those issues, but we must make sure that in drawing that line, in providing those protections for individuals against racism—as we should seek to do—we do not do so at the expense of genuine political debate, at the expense of genuine free speech, and at the expense of genuine artistic freedom in this country.

These are matters that we should stand up for. When somebody says something that we, as leaders of Australia, find to be offensive we should speak out against it. We should, as leaders, take up the challenge, which Senator Singh highlighted, in relation to people who may not have the same power of voice and make sure that their voices are heard through this place and through the media, and that we take a strong stand against intolerance. Taking a strong stand against intolerance, setting the right example for the community and trying to drive a change in community attitudes does not necessarily mean that we must always outlaw an action. It does not necessarily mean that we must always provide recourse to the law to do so. Oftentimes we will achieve the cultural change that we seek. We will achieve the change in community attitudes through leadership, through better behaviour, through better arguments, and through a sound adoption of principles and principled arguments against those who may apply racist activities.

Much has been made in this debate about the word 'bigotry' and whether or not bigotry is acceptable. Just as laws are made of words, words have meanings and in law the meaning is exceptionally important. The Oxford Dictionary defines bigotry as:

Intolerance towards those who hold different opinions from oneself.

The Cambridge Dictionary defines bigotry as:

A person who has strong, unreasonable beliefs and who thinks that anyone who does not have the same belief is wrong.

One would be forgiven for thinking, on occasion, that there is much bigotry because people in this place hold very strong opinions and often think that the opinions of others, which are equally strongly held, are emphatically wrong. I think most of us in this place are tolerant towards each other's beliefs and opinions, even if we disagree with them vehemently. But, of course, bigotry itself, though not an admirable trait, is not something that the current laws make illegal nor something that the proposed laws would make illegal, and nor should it be. People should be free to hold views that are different from one another, even where those views may seem to be unreasonable to many others in the community.

We should not allow this debate to be sidetracked by the misinterpretation of a word like 'bigotry' or by misunderstanding of what a word like that may mean. We should be clear that this debate is about that extreme level of unacceptable conduct, behaviour and language that we decide is appropriate to write laws about, to draw that line around and say, 'That is too far for the Australian community to accept and for the parliament of Australia to accept.' In doing so we must ensure that we balance that against the free speech objectives that we should, as a nation, seek to stand by.
As I emphasised at the outset, the government has released for consultation draft changes to the Racial Discrimination Act. Those draft changes have what some in this debate should all be warmly welcoming. The changes have, for the first time, prescribed racial vilification as being inappropriate behaviour. The changes have singled that out as an activity that will never be acceptable in this country. We should welcome the fact that there will be, over the coming months, a proper debate about racial vilification, about how it is defined, about whether it is appropriately defined in current law or about whether it is appropriately defined in the proposed law. Of course, it is not defined at all in current law. It is not even mentioned in the current law. But it is mentioned and it is defined in the proposal that is being released for public commentary.

I hope that all members of the community with an interest in this topic do actively participate in this debate. I hope they do so by looking very precisely at the words in the proposed laws, at those laws themselves and at the effect they will have. I hope they do so under the guiding principle of ensuring that we are as tolerant a nation as possible—but with as much opportunity for free speech as possible. That is a line that will be drawn somewhere at the end of this debate. I hope we draw it successfully in a manner that meets those dual objectives and ensures we end up with a law that is more workable than the one we currently have has proven to be.

Senator DI NATALE (Victoria) (17:00): Before we pass any law in this place, we should ask ourselves a pretty basic question. I am sure my colleagues on the coalition side will be pleased to hear me put this proposition. The question is: what is the problem we are trying to solve? Let us not waste the parliament's time. Let us not pass more legislation—which is what is being proposed here—if we are not solving a serious problem.

I do not remember being bombarded with lots of correspondence about the need to get rid of section 18C from the Racial Discrimination Act. I do not recall, over the past 20 years, people protesting in the street because they felt their freedom of speech was being impinged upon. I do not remember seeing protests about this issue. Most people understand that it is not appropriate to hurl racist insults at people and that, if they do, there are consequences.

The only clamour for a change to this law is coming straight out of Holt Street, straight out of News Corp, whose version of free speech is, 'Anything I say is okay and we will be the arbiters of what is right and wrong in this area.' And News Corp's poster child is that right-wing wacko Andrew Bolt. That is where the clamour is coming from to change these laws.

We need to understand what these laws actually do. I listened to an esteemed presenter on the ABC this morning implying that people who express an extreme bigoted opinion should be sent to jail. That cannot occur under these laws. It is not a criminal offence to express such an opinion. I think people do not understand how this legislation actually works. If you use racist, hateful language that has an impact on another individual, they have the right to seek mediation. That is a good thing. Most of these cases are settled through mediation and someone learns a valuable lesson about the impact of hate speech on other people. Occasionally, as in the Bolt case, it can end up in court. What does the court do in those situations? They might order an apology, which is what happened in the Bolt case. He was issued with a court order to apologise, he was forced to retract his article and he was ordered not to publish it elsewhere. That is a small price to pay when you consider the impact of this behaviour on other people.
All of us in this place support freedom of speech. But what about the freedom of a young Muslim woman on a tram—being free to travel without having people hurl racist insults at her? What about the right of an Aboriginal man to be served at a venue without having racist insults hurled at him? What about the freedom of a young Asian boy in the classroom to get about his business without being the subject of racist taunts? That is what this legislation is about—nothing more, nothing less.

Senator Brandis talks about the 'chill effect' as though there are teams of writers and lawyers poring over work that cannot be published because—God forbid—there might be something in it that might be racist towards others. He says that without being able to cite any evidence of it occurring. If these laws give journalists pause to think that the impact of what they are writing may in fact cause harm to others, that is a good thing. If they are forced to apologise because they do cause harm to others, that is a good thing.

Far from having a chilling effect, this action by the government will have a heating effect. It will flush out the racists and the bigots and give them, to use the Prime Minister's words, the 'green light' to use their hate speech against others. There has been a lot of talk about green lights, amber lights and red lights, but this government is putting this sign up in flashing lights—'Racists and bigots, you are welcome in Australia'. Well, you are not. These laws exist because we as a government have a role in protecting people from hateful speech.

Senator PERIS (Northern Territory) (17:05): I rise to speak in support of this matter of public importance. This issue highlights the difference between Labor and the Liberals. Labor believes racial abuse and hate speech is never okay. The Liberals believe, as the Attorney-General said, that the rights of bigots need to be protected.

On Monday in this house I asked whether his changes to the Racial Discrimination Act would facilitate vilification by bigots. In response the Attorney-General, the chief law officer of Australia, said

People do have a right to be bigots, you know. In a free country, people do have rights to say things that other people find offensive, insulting or bigoted.

It was a disgraceful statement and it is disgusting. His statement is a green light to racism and hate speech. What message does this send to our young Australians at a time when we are trying to stop bullying? This is an admission from the Attorney-General that his changes to the Racial Discrimination Act will provide for bigotry.

For the record, I am not against free speech, not at all. What I am against is promoting hate speech. I am extremely disappointed that we are even having this debate. It upsets me that we are having a debate about whether the law of the Commonwealth of Australia makes it okay to be a bigot. We are having a debate about whether it is okay to attack someone based on their race or religion. I thought we had moved on. What happened to, 'In history's page, let every stage advance Australia fair'?

You do not have to be Aboriginal or from one of the many international cultures that make Australia so fantastic to be appalled by the Attorney-General's position. You do not have to have been personally subjected to racial abuse to oppose his views. You do not have to be a victim of hate to be offended by the changes proposed to the Racial Discrimination Act by the Abbott government. But I have been personally vilified by bigots. It is a horrible feeling, it is shattering and it hurts to the core of your existence. I played sport at the highest level and at
times I was exposed to a mentality that anything that happens on the field stays on the field. But I really thought we had moved on in society. But some of the language I have heard from the Attorney-General in his attempts to defend his position remind me of the attempts by some people 20 years ago to defend racism on the sporting field. In relation to this debate in this parliament, he said:

... we offend and, I dare say, we insult each other every day. That is part of the robustness of the discussion of public issues.

But we are not attacking or offending or insulting each other every day based on race, religion or ethnic background. The Attorney-General simply does not understand or get racial abuse. He does not understand how much it hurts. Racial vilification and political criticism are two completely different things. The Australian of the Year, Adam Goodes, an AFL champ, could not care less if people criticise or abuse him for the way he plays football, but we have all seen the devastating effect racial abuse has on people. They are not the same. During my sporting career, I did not care if people attacked or criticised me for my performance on the field, but I did care when I was attacked and criticised for the colour of my skin and called a 'nigger' by my own Aussie team mate, and I took action against it. Racism hurts.

The changes announced yesterday by the Attorney-General water down the Racial Discrimination Act. Pretty much anyone and everyone can say anything at any time. All they have to do is claim that it was part of public discussion. It is shameful. Darwin, my home town, is a wonderful multicultural city and I know many people will be appalled and personally hurt by these changes. Tony Abbott said he would be the Prime Minister for Aboriginal people. As an Aboriginal Australian, I urge him to listen to Aboriginal people and abandon his changes to the Racial Discrimination Act. Listen to Adam Goodes, our Australian of the Year. Listen to Warren Mundine, the man who heads up his council. Listen to the people in our community who are fearful that these changes mean that they will be subjected to more abuse, more insults and more humiliation.

The Prime Minister says he is opposed to racial vilification, but you cannot be opposed to racial vilification while supporting the right to bigotry. I condemn the comments of the Attorney-General, George Brandis; I condemn the changes to the Racial Discrimination Act; and I condemn those opposite who support the Attorney-General's comments and his backward legislation.

Senator SMITH (Western Australia) (17:10): This is an important debate. It goes to the heart of how far we think we have progressed as a democratic nation. It goes to the heart of how we balance those freedoms that set us apart from so many other citizens in our global community. It is clear from today's debate that there are a variety of views, and that is why the government's decision to have an exposure draft, to invite community opinion and to encourage community discussion on this is a good process. It would have been very disappointing—it would have been indefensible—if the government had come to a position and not provided an opportunity for the community and the parliament to debate it in a calm and measured way.

I do not doubt for a moment that the views of others that are different from mine are genuinely held, and I give them great generosity, because I understand that my lived experience will be very different from the lived experience so far of many others. I cannot comprehend the shattering hurt that people may have felt over their lived experience so far as
a result of racism. From my own personal experience, I know the shattering hurt that can come from homophobic thoughts and actions. But my lived experience means that I will be listening carefully to the views of many Australians—not just elected representatives but others across the community—on this sensitive issue.

But I start from the position of supporting freedom. I start from the position of trusting Australians. I start from the position of saying that bigotry, homophobia and religious intolerance should be pulled out of the darkness and put in a public place and that we should educate with speech and discussion to deter people from those ill-founded thoughts. Of course, in a nation as big as ours, we will not always be able to put hand on heart and know that 100 per cent of Australians are free from ignorant or ill-considered thoughts, but the debate that we are engaging in is one about whether or not we think the community can step up, the government can step back and, as a result of that, our democratic fabric can be strengthened over time and not weakened. I am sure I speak for many, many Western Australians who believe that racism is not tolerated in our country and should be combated, but many will argue that part of our democratic evolution is for government and laws to step back so that communities can step up to the challenge.

I believe that this matter of public importance is based on a false premise. If I understand the opposition's position correctly, it is that racism is festering and contagious throughout Australia and the only thing holding it back is section 18C of the Racial Discrimination Act.

Senator Cameron: That's a straw-man argument. Nobody said that.

Senator SMITH: I do not think that is true. Excuse me, Senator Cameron. You will have an opportunity to debate this.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Senator Smith, please address your comments to the chair.

Senator SMITH: To put it more bluntly, I believe that the coalition has a little more faith in the basic decency, not to mention the intelligence, of Australians than others in this place may do. I am confident that that faith is not misplaced. This MPI highlights the basic problem with those who are critical of the government's exposure draft. At their core, I do not believe they trust humanity; I do not believe they trust human progress.

Why is Australia a tolerant and open society today? I would argue it is because Australians are of themselves open and tolerant, are decent to their core, do not need to be told by bureaucrats or politicians that they need to introduce— (Time expired)

Senator TILLEM (Victoria) (17:15): I rise to address a pressing matter of public importance—that being the Liberal Party's determination to open the door to racial vilification in this country. I have a message for Senator Brandis: you should not be the cheerleader or the poster boy for racial vilification in this country, particularly under the unconvincing guise of freedom of speech. We have heard Senator Brandis claim this week that section 18C of the Racial Discrimination Act fails to protect individuals or groups from vilification on the basis of race. This is not true.

We have heard that he intends to demolish this section of the act and, perhaps most alarmingly, that everyone has the right to be a bigot. Our history is littered with moments we can look back on and wish had not happened. This is one of those moments. On an issue as vital as this, it is critical that the government show some leadership. Perhaps Senator Brandis's
comments were a slip of the tongue or a deliberate dog whistle to the ugly face of Australian society. Either way, Senator Brandis and his party have been exposed for what they are. They keep talking about an exposure draft, but they themselves have been exposed. They have been exposed as grotesque apologists for racial hatred and as defenders of racism under the thin and tiresome veneer of their misguided interpretation of free speech.

Senator Brandis's claims that the Racial Discrimination Act fails to protect people from racial vilification are false. Section 18C makes racial vilification unlawful. It provides those who need it a necessary recourse under the law. This is exactly what happened in the Federal Court case against Andrew Bolt a couple of years ago—he failed to take the opportunity to appeal that decision. Considering this, it is obvious that Senator Brandis has misled the Australian people. He has been condescending to senators who have asked legitimate questions about his intentions to dynamite section 18C, arrogantly acting as though anyone asking a question does not know what they are talking about. As the Attorney-General, Senator Brandis is the highest law officer in this country. He should not be fanning the flames of jingoistic nationalism and racism or offering platitudes to a handful of coalition sympathisers.

As someone from an ethnic background, from a minority and from a group that has been persecuted in this country, I know what racism is all about. Coming from Victoria, the most diverse state and place in the world, we know what it is like, but there are thousands upon thousands of success stories of multiculturalism which have undeniably enriched our community. The fabric they have woven throughout the community is strong and has endured. It is strong because it was woven through adversity. Language barriers, social exclusion and economic disadvantage were all mountains that people have overcome. Each fibre of this fabric is a testament to the challenges that these people have faced and overcome to make a better life for themselves. It is a story of determination. Theirs is a story of finding a piece of Australia through honest hard work and a can-do attitude, yet what Senator Brandis is proposing to do will unravel this.

Despite the shining success of Australia's multiculturalism and steps taken to reconcile our past with our first Australians, there are still disturbing elements of racial hatred in this country. It is incumbent upon this parliament—this Senate and those in the other place—to show leadership. That is not what has come from those opposite. Racial vilification is intellectually flawed, morally bankrupt and socially divisive. Australia deserves better from this government.

The ACTING DEPUTY PRESIDENT (Senator Gallacher): Order! The time for this discussion has expired.

COMMITTEES

Senators' Interests Committee

Report

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (17:21): I present report No. 1 of 2014 of the Senate Standing Committee of Senators' Interests, which is its annual report for 2013.

Ordered that the report be printed.
Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Regulations and Ordinances Committee

Delegated Legislation Monitor

Senator BUSHBY (Tasmania—Deputy Government Whip in the Senate) (17:21): On behalf of the Chair of the Senate Standing Committee on Regulations and Ordinances, Senator Edwards, I present Delegated Legislation Monitor No. 4 of 2014.

Publications Committee

Report


Ordered that the report be adopted.

National Broadband Network Select Committee

Report

Senator LUNDY (Australian Capital Territory) (17:23): I present the interim report of the Select Committee on the National Broadband Network.

Ordered that the report be printed.

Senator LUNDY: I move:

That the Senate take note of the report.

In doing so, I am very proud to present this report. The Senate Select Committee on the National Broadband Network has issued this interim report because it has significant concerns with the accuracy and reliability of the NBN strategic review. The committee considers that the assumptions and conclusions set out in the strategic review are unreliable in the case of all examined scenarios.

The committee has found that the revised outlook includes financial manipulations and other irregularities. These include the exclusion of approximately $4 billion in business-as-usual incremental architecture savings signed off by the previous NBN Co management. It also includes an assumption of a delay in the revised deployment schedule that is at odds with NBN Co's current run rate. It also includes assumptions on higher unit costs for the fibre build that assume an additional $14.4 billion in capital expenditure but are at odds with recent evidence from NBN Co and the Department of Finance, and are extrapolated out to 2024.
without a single efficiency saving for three years and only 2.5 per cent in two of the remaining seven years.

They also include the addition of a third satellite in the revised outlook, without direct explanation, with launch assumed at such a time, financial year 2021, to include costs but exclude revenues from scenario comparisons. It also includes overly pessimistic revenue assumptions that do not reflect existing strong demand for NBN services or the high-data usage patterns of Australians using the NBN. These overly pessimistic revenue assumptions also ignore demand for important elements of broadband quality, particularly reliability and upload speeds. They are also overly pessimistic about assumptions that remove revenue benefits from the superior product set available on fibre to the premise compared to other technologies with up to $3.2 billion in the steady state.

Finally, it also includes scenario comparisons that include costs and revenues for the multitechnology mix or MTM build at assumed completion and costs for the revised outlook out to 2024 but exclude revenues for the revised outlook beyond 2021.

The committee considers that, without the financial manipulations evident in revenue and other assumptions, the so-called radically redesigned FTTP scenario represents a better estimate of the cost of the fibre build than the revised outlook. This is because the productivity and architecture improvements included in scenario 2 had already been included in the September 2013 corporate plan and implemented by previous NBN Co management.

The committee has equally strong concerns about the reliability of assumptions underpinning the multitechnology mix, the recommended option of the strategic review. These include the fact that the financial model for the MTM was built using mostly international benchmarks and estimates, rather than field data of real-case scenarios here in Australia. They include operating expenditure for the MTM that is expected to be significantly higher than for a fibre network. The caretaker advice prepared by NBN Co points to the substantial costs associated with remediation and maintenance of the copper network.

The committee has heard similar evidence from witnesses representing the workforce in the field. Material operational costs are also expected from NBN Co managing at least two additional fixed-line networks, and the migration arrangements and IT systems that relate to them. However, the strategic review assumes that operating expenditure for the multitechnology mix will be similar to what is required for a new fibre build; and the limited speeds and product capabilities available on fibre to the node are expected to result in reduced revenues compared to a full fibre rollout in the fixed-line footprint.

Finally, the strategic review acknowledges that the MTM will need to be upgraded but provides no costs for these flagged upgrades. The full cost of the MTM will only be known once these upgrade costs are included in the model.

NBN Co's previous corporate plans have been developed over a period of many months and have been subject to independent oversight and verification. By contrast, the strategic review was the result of 'five weeks of intensive work on the part of lots and lots of people'—that was a quote—and was subject to no independent external oversight.

Further, the committee rejects strongly the rollout strategy advocated by the current government and reflected in the multitechnology mix. In particular, we reject the deployment
of higher quality broadband, fibre to the premises, to high-value suburbs and the deployment of inferior broadband, fibre to the node, to low-value suburbs as an inappropriate use of taxpayers' money. As a Government Business Enterprise, NBN Co should not have a rollout strategy that favours one suburb over another—and this was a principle that was demanded by the current government when they were in opposition.

The proposed fibre-on-demand product is expected to be too expensive for many residences and small businesses. This will create competitive disadvantages for individuals and small businesses outside the fibre footprint, and will entrench broadband inequality in Australia.

The committee considers these rollout strategies reflect a fundamental misunderstanding of broadband quality—particularly upload speeds—and demand for this quality and reliability in the residential and small business and home business markets. Failure to consider that broadband quality and capability goes beyond download speeds is systemic in the strategic review. The strategic review also fails to consider the value of widespread access to this infrastructure to the digital economy.

The committee concludes that the strategic review does not comprise a sufficient information base for the NBN Co board or the minister to adopt an alternative deployment path for the NBN. NBN Co should be directed to continue and accelerate the fibre-to-the-premises rollout while further analysis is undertaken by NBN Co, the departments and the minister. The committee notes that NBN Co is not able to progress the fibre-to-the-premises rollout at the maximum rate possible at present. This is because, under the interim statement of expectations, NBN Co is required to obtain approval to issue additional build instructions. This places the management of the current FTTP rollout under direct political control. The committee considers that, given the continuing review work and the fundamental problems with the strategic review, NBN Co should continue the current fibre-to-the-premises rollout at the maximum rate possible and free from political interference.

There are a number of other issues that have been raised through the course of the report, including that key appointments to the NBN Co board and management relevant to the strategic review reflect to a large extent personnel named in media reports before the election. There is also clear evidence that many of these key appointees have prior personal associations with the minister, and the committee considers that some of the processes of recruitment for the board and management of NBN Co have created the perception that these are political appointments for a political purpose. In reaching this conclusion, the committee is not making any judgements about the skills and experience of any of those individuals.

A key finding of KordaMentha was that 'no material issues exist within the accounts of NBN Co'. However, the strategic review draws radically different conclusions from the information contained in the previous corporate plan signed off by an independent board back in June 2013. It is not clear to the committee how the NBN Co board could have endorsed the strategic review, given its clear deficiencies. In the committee's view, this should be investigated to ascertain how and at what point the governance processes at NBN Co have failed under the current government. I commend the report to the Senate.

Senator RUSTON (South Australia) (17:32): Regrettably, I rise today unable to support the report that has been tabled in this place by the chair of the committee. In doing so it is of grave concern that I require to put on the record what I have seen as an extraordinary abuse of
parliamentary process and extraordinary abuse of the Senate processes, and particularly an abuse of our committee system for which this place is held in such extraordinarily high regard.

There are so many things I could point to that occurred during the course of the establishment of this select committee and the subsequent hearings and meetings and the conduct of the committee since it was first established. I will give a bit of background about the areas of my concern. This committee was originally supposed to be established as a joint committee between the House of Representatives and the Senate. My understanding is that there had been an agreement with the shadow minister for communications, Mr Clare, that the committee would be a joint committee, and for some strange reason at the eleventh hour we found that we had a select committee set up in the Senate, which gives the opportunity for the previous minister for communications to be able to prosecute the argument in relation to what I can only suggest is his defending the legacy that was left to this government of the NBN. I have to say I think it is almost defending the indefensible.

What we have ended up seeing is a series of different activities this committee has done which undermine the integrity of our committee system. There have been situations where right the way through all of the hearings we had three Labor members, three coalition members and one Green. During the allocation of time by the chair, time and time again the lion's share of the hearing time was allocated to Senator Conroy and a much smaller amount of time was allocated to the coalition. We had situations where witnesses were not called, we had some extraordinary examples when the opposition members were bullying witnesses. We saw a situation during the estimates committee when they were prosecuting this issue, where Senator Conroy actually called the general manager at the time or the chief executive, now the chairman of the board of NBN, a liar. The committee all the time insisted on constantly calling NBN officials at really short notice and the requirement for six, eight or 10 of them to be appearing time and time again so that we could keep prosecuting this issue about why the NBN was not proceeding in the manner in which Senator Conroy had originally decided that it would.

It just seemed to be that it was more of an argument about having to have fibre to the premises. There was no debate really in this whole exercise about the people of Australia during the committee hearings. Quite clearly I heard them——it is not reflected in the majority report but it is reflected in our report—time and time again saying they wanted high-speed, reliable and affordable access to the internet. But what we saw in the response in the report we got back is that if it is not fibre to the premises it is just no good. That is not what the people told us during the hearings; it is absolutely not what we were told during the hearings.

Back to the conduct of the committee, though. We had a situation where the terms of the establishment of the committee allowed only three senators to form a quorum. My understanding since I have been in this place is that it is usual practice with a quorum that you usually have one member from the government and one member from the opposition at least to make a quorum, and then possibly one other person to make up the numbers. But no, in the establishment of this committee we had a situation where three people could form the quorum, which meant the three Labor members could form the quorum. I draw to the Senate's attention to when the committee was first established and actually held hearings before the government even had the opportunity of being able to appoint members to the committee. So
two hearings, I believe, were held. It was just an extraordinary abuse of the powers of this chamber; that the opposition and the Greens can vote for anything, regardless of whether it maintains the integrity of the Senate and the committee system in this place. I think that was quite an extraordinary situation to find ourselves in.

The thing that is probably as disappointing as anything else is the extraordinarily difficult position that these actions have placed the secretariat in. The secretariats, as we all know are not partisan in any way, shape or form, but some of the requests that were put on the secretariat of the NBN select committee have really put these people, I would suggest, in a particularly conflicted and difficult position. I draw to the House's attention the way this interim report was finalised.

Last Friday night, at half past five, with no notice or communication—although much had been promised—I found the draft interim report on my email. Obviously, in good faith, I believed that was going to be pretty much a true reflection of what the final report was likely to be. So I, along with my coalition colleagues on the committee, spent the entire weekend writing a report in response to the document that we received on Friday night.

I contacted and spoke to the opposition members on Monday and pointed out to them the fact that they had no recommendations or findings. We were told that we would be getting the findings this morning and that the report was to be tabled tomorrow. So we thought we had at least 24 hours in which to respond to the recommendations and findings in the report—which we thought was the report we had. This morning, we found out—or late yesterday we found out—that the report and the findings were going to be tabled this morning and the report was going to be put into the chamber this afternoon, as it has been.

When we got to the meeting this morning, the report of the chair bore no resemblance whatsoever to the report we were given last Friday. So we had spent the whole weekend and much of the week, in good faith, developing our dissenting report in relation to what we had received on Friday, only to find that the report was actually three times as big, so we had three times as much information to go through. We had to go and find the bits and pieces in the report that had already been referred to on Friday, plus this myriad other information. And we were given the sum total of one hour to prepare a true dissenting report for the document we received this morning.

There was much good and interesting stuff that came out in these hearings, but I draw these matters to the House's attention because I believe that the operations of the Senate and the Senate committees have been totally abused to try to achieve a political outcome, to prosecute a political position, by those opposite. And I think it is extremely disappointing. The people of Australia, I genuinely believe, just want exactly what I said the people at the hearings told us. They want fast, reliable and affordable access to their internet.

It has been very disappointing to see the goings on and the damage that has been done—games have been played in the process of getting absolutely nowhere. All I can say about not being able to support the chair's report and in support of the dissenting report is that I really hope that in the next few months, as we continue to the final report for the NBN, that maybe we can use this time productively so that we can get some good outcomes for the people of Australia. The people in regional Australia, where I come from, need to get this NBN rolled out. Let's stop wasting the time of NBN Co and of everybody else, on a political witch-hunt.
Let's stop scaremongering and actually start doing what we are supposed to be doing here—that is, delivering a good NBN for all Australians.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (17:42): Mr Acting Deputy President Bernardi, you are one of the true supporters of fibre to the home in this chamber. We know Malcolm does not want to give you fibre to the home and we know why, but we will still get it to you one day.

I rise to make some remarks on the interim report of the Senate Select Committee on the National Broadband Network. The committee has done important work in analysing and scrutinising the coalition's plan for broadband. When the minister tabled the strategic review in the other chamber, he announced that he would be breaking his promise to provide all Australians with 25MB per second by 2016. That was broken promise No. 1. He broke his promise to even build fibre to the node to nine million homes and businesses; proposing instead to keep the pay TV cables for many of these. That was broken promise No. 2. The committee has scrutinised in detail, as much as it has been able to, the coalition's alternative proposal: to spend $40 billion to build a broadband network that is inadequate for Australia's needs.

I want to thank everyone who has contributed to the report, particularly those who gave evidence and took the time to provide submissions. I also want to put on the record my thanks to the committee secretariat, who have worked tirelessly and have been outrageously sledged in the minority report prepared by those opposite.

This interim report is an indictment of the coalition's plans for broadband in Australia. After six months in government, all the coalition has to show on broadband is their sham NBN strategic review. The committee reports that the strategic review resorts to financial fudges, fiddles and manipulations in a failed attempt to justify the broadband policies of the coalition and the Minister for Communications. The committee has chosen to issue an interim report because it is important to record that the strategic review is a totally inadequate basis for making any decisions about broadband in this country. My colleague Senator Lundy has extensively chronicled this already, but I want to go through the deficiencies that have been used to junk the future-proof fibre network to the home NBN and prop up Malcolm Turnbull's mess that will be his legacy—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! Senator Conroy—

Senator CONROY: Sorry—Mr Turnbull. My apologies. Mr Turnbull's mess, the multi-technology mix. The committee's interim report has identified seven major financial fiddles that the strategic review makes. The first point: it assumes a delay in the revised deployment schedule for a fibre build that is at odds with NBN Co's current run rate but is used to strip $11.6 billion out of NBN Co's revenues on their forecasts. It is used to strip out the revenues of $11 billion but it also, because of this effect, causes a $13 billion increase in peak funding. So we have the first significant dodgy decision. Let's just say it is going to take so long to roll out that it loses $11 billion. Oh! It loses $11 billion, therefore it is going to cost $13 billion extra to finance that. Wow. What geniuses we have. What genius we have in Mr Turnbull's mate—with whom he owns a boat and has for 15 years. He gets him in, he's been given the flick from Telstra, demoted three times, and he is brought in to do the financial fixing for Mr Turnbull to justify Mr Turnbull's position.
The second point: The review excludes approximately $4 billion in business-as-usual architecture savings, described by the chief technology officer as 'incremental changes' from the fibre build. But they were signed off by the previous NBN Co management. NBN Co management say, 'We recommend these changes, $4 billion worth of savings to NBN Co', and what does Mr Turnbull's mate say? 'No, we're not having them. Can't have them.'

The third point: The review assumes higher unit costs for the fibre build that add $14.4 billion in capital expenditure but are at odds with evidence from the NBN Co's chief financial officer—who was excluded from being part of the strategic review, was not allowed to participate, not part of the team, just putting together the strategic review—and the Department of Finance. Then, in a staggering admission, when asked, 'Did NBN Co, when you forecast into the future, Mr Rousselot, forecast into the future because you might learn something and make some efficiency savings?' The answer: virtually none. This has got to be the dumbest management in the country, on the planet, at the moment. It is going to enter an alleged 10-year build and it is barely going to make a single efficiency saving over the 10 years. That has got to be the dumbest bunch of managers I have ever encountered in my life.

The fourth point: Just because even all of those fiddles were not enough to be able to give a misleading report to the board and to the minister, it presumes overly pessimistic revenue assumptions for a fibre build. It does not reflect the existing strong demand for NBN services or the high data usage patterns of Australians using the NBN. There is a 50 per cent increase in data usage, just by being on the NBN. I know, Mr Acting Deputy President Bernardi, if you got hold of the real NBN you would have more than a 50 per cent increase in your usage. I have no doubt—for entirely appropriate reasons, can I say, Senator Bernardi. There is no suggestion there whatsoever. And it ignores demand for important elements of broadband quality, particularly reliability and upload speeds. Even those in this chamber—and you would be one of them, Senator Bernardi—would understand that you like uploading things. People might have thought I was suggesting you were downloading things before, but no. I know you like uploading things, and you have got so many websites that you would like to upload that would be of such benefit for the political discourse in this country that it would be staggering. But Mr Switkowski knows best. He sat in front of the committee the other day and he said, 'No Australians want 100 megabit per second speeds.' Twenty per cent of his existing customer base have taken 100 megabit per second speeds! And another five per cent have taken 50 megabit per second speeds. Twenty-five per cent of users of NBN want speeds faster than Ziggy Switkowski, Mr Turnbull or Mr Abbott have said. I will take a bet: If Senator Bernardi got a chance to sign up he'd be on the top package too. He'd want the fastest speeds and the biggest data caps. He would absolutely want it.

The fifth point: It adds a third satellite to Labor's NBN, without direct explanation. It just lumps it in—'We're going to buy a new satellite'. Here is the fiddle for this: We'll pay for it and have it launched in 2021, which means we count the cost of the satellite in NBN's cost base but the 100,000 customers that are projected to use the new satellite all happen after 2021—so we cannot include the revenues from the NBN's new satellite in the business plan. So you put a satellite cost in, charge it to the NBN for the whole future cost basis of this rort, but you are not allowed to include the revenue from the customers. Pathetic really, isn't it? Yes.
The sixth point: In scenario comparisons the strategic review includes costs and revenues for the multi-technology mix bill at assumed completion—but excludes the revenues, worth $50 billion, from the fibre build. That's right! They package it up to 2021 and then say, 'Because we have extended the deadline for the completion, we're going to rule out $15 billion worth of revenue that should be included, because we're just saying, no, you can't count it after 2021. We've got to compare the revenues at 2021 against our dodgy model at 2021.' (Time expired)

Senator SESELJA (Australian Capital Territory) (17:52): It is difficult to know where to start after that contribution from Senator Conroy. It continues the parallel universe that those of us on the Select Committee on the National Broadband Network experienced. If you were on that committee and you were to believe the lines being run by Senator Conroy and other non-government senators, you would think that it was the coalition who had presided over the debacle that has been the NBN Co under the leadership of the former government. You would think that it was our fault that there was a blow-out of over $30 billion in the NBN. Senator Conroy's performance here today really just continues the transparent attempt to defend his indefensible legacy when it comes to the NBN. Senator Conroy, of course, is no longer the communications minister and is in fact not the shadow communications minister, but he has spent a lot of time trying to protect his legacy. We saw that today, and we saw that in the committee.

On Senator Conroy's conspiracy theory when it comes to the Strategic Review of the National Broadband Network, I want to just add maybe some facts in and amongst the conspiracy theory that Senator Conroy has put forward. His claim is that the strategic review was all about making his broadband legacy look bad and making every alternative look better. That is the basic summary of what Senator Conroy had to say. But I will draw his attention—and I drew attention in the committee—to one of the assumptions that was made in the strategic review, which was overly generous, I would say, to Senator Conroy and his legacy. That was in relation to contingency. The contingency that was applied to Senator Conroy's ongoing NBN blow-out was 10 per cent, when the contingency applied to all of the other projects was 20 per cent—because that is a more reasonable contingency to apply. That meant that, in the estimation of Senator Conroy's plan, the business-as-usual-plan under the previous government, if we had applied the right contingency, the same contingency, it would have cost an extra $6 billion over and above the headline figure. So the conspiracy theory that he has put out there is ridiculous. This was an exercise in legacy defence, and it was a very poor one.

I endorse the comments of Senator Ruston. Senator Ruston has gone into detail on the lengths that opposition senators went to in order to try and get the result that they wanted, including bringing in their union mates to tell us all about how good fibre to the home would be and to bring us anecdotal evidence in relation to Telstra's copper network. Of course, when pushed on statistics, when pushed on facts, they were not able to provide anything. This was the way it was conducted.

I want to go to some of the facts—some of the facts that the majority report completely ignores and some of what government senators have sought to highlight. That includes that the NBN is yet to meet a single fibre rollout target. We know that, in the corporate plan in December 2010, total houses passed by fibre were to be 317,000 by June 2012 and 1.268
million by 30 June 2013. In the corporate plan of August 2012, the actual result, instead of the 317,000 for 2012, was 39,000. Instead of the 1.268 million for June 2013, the actual figure was revised to 371,000 houses. By 30 June, only 208,000 houses of the 1.26 million originally planned were passed by fibre.

Then we see houses with an active service on fibre, both greenfields and brownfields. The corporate plan of December 2012 proposed 137,000 by June 2012 and 511,000 by 30 June 2013, but by 30 June 2012 only 4,000 houses had an active service, instead of the 137,000 planned. And the 30 June 2013 target was revised down to 54,000, but even that was not met, with only 34,000 houses having an active NBN fibre service by 30 June 2013.

If you had listened to opposition senators during this inquiry, you would not know that any of this had happened. You would live in the parallel universe that Senator Conroy is hoping we will accept. We know that the original NBN target announced by Mr Rudd and Senator Conroy was completion by 2018 at a cost of $26 billion. That was revised to a 2021 completion, but at the time of the last election NBN Co had passed 258,000, around 2.1 per cent of the total. We know that in South Australia, Western Australia and the Northern Territory at the last election just 1,714 premises had active NBN fibre services despite a population exceeding four million people. Senator Conroy, as minister at the time, insisted that the project was on track, but it is clear that it was not and it was never the case.

I will quote from the dissenting report, where we quote Senator Conroy belatedly admitting that there were problems with the project, saying:

We clearly underestimated and … it's fair to say the construction model could be legitimately criticised … We wouldn't have been so aggressive if we'd known how tough it was for the company. So that was an area where we were overly-ambitious … I can understand and indeed empathise with those who are disappointed with the progress on the fibre roll-out.

That is true, but that does not fit very well with Senator Conroy's repeated declarations over many years that the rollout was on time and within budget, such as his claim:

The [corporate] plan being released today confirms the project is on track.

In fact, nothing could be further from the truth.

The chair's report stresses the importance of transparency in the NBN project, yet the previous Labor government were briefed before the election that delays had increased costs by $1.4 billion, and KPMG had warned the previous government that rollout targets were presenting significant risks to the project, yet the then minister, Anthony Albanese, told the ABC that KPMG had found that the time lines and costings were good. That is simply not true. The Labor cabinet was briefed by its own bankers, Lazard, that the project would have a negative net present value of $31 billion. They did not openly disclose that many houses being passed could not be serviced and, instead, leaked it to the media. They released bad news such as the revising down of the 30 June 2013 targets under the cover of the 21 March 2013 leadership challenge to minimise embarrassment.

By contrast, the coalition government have undertaken an independent review, giving the public a true insight into the costs of the project in time and dollars. The NBN Co is now publishing rollout progress and uptake week by week. NBN Co recently held a quarterly analyst briefing where NBN executives took questions from analysts and journalists. The chair of the committee was critical of some of the commercially sensitive information
redacted in the NBN strategic review, but it was the Labor government who attempted to force senators to pass crucial NBN legislation without seeing its corporate plan.

The chair's report is silent on the progress made by NBN Co in transitioning to the strategic report's recommendation of multi-technology mix. This approach is predicted to save taxpayers $32 billion and get the NBN finished four years sooner. This goes to the heart of the difference between the coalition and the Labor opposition on this issue. Senator Conroy, Senator Lundy and those opposite would have been happy, if they had stayed in government, to have continued to deliver a flawed model. They would have continued to deliver it behind schedule, and they would have continued to see the costs blow out not just to taxpayers to the tune of at least $32 billion in extra spend. Consumers would be paying for something that they did not need. This is the fundamental difference between the government and the opposition on this issue.

In summary, there was a moment where Senator Ruston talked about how Senator Conroy would ask a lot of the questions. But there were moments, in fact, where he was not content with asking all of the questions and he sought to actually try and answer all of the questions as well, as if he were still the minister. He was struggling to let go. That is what this is about. What we saw in that speech and what we see in the committee report—which is really Senator Conroy's report—is the struggle to let go. It is an attempt to rewrite the history books, when this was disastrously managed. It was concocted on a flight on the back of a beer coaster. Australians are paying the price, and the coalition is cleaning up the mess. (Time expired)

Question agreed to.

Treaties Committee

Report

Senator FAWCETT (South Australia) (18:02): On behalf of the chair of the Joint Standing Committee on Treaties, I present the 138th report of the Joint Standing Committee on Treaties, dealing with treaties tabled on 11 and 12 December 2013, 20 January 2014 and referred on 15 January 2014, together with the minutes of proceedings of the committee and the transcript of evidence.

Ordered that the report be printed.

Senator FAWCETT: I move:

That the Senate take note of the report.

This report contains the committee's views on the five proposed treaties: the Convention between Australia and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income and its associated Protocol; the Arms Trade Treaty, which I will come back to later and make some brief comments on; the Agreement between the Government of Australia and the Government of the Oriental Republic of Uruguay on the Exchange of Information with Respect to Taxes; the Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam; and the Exchange of notes constituting an agreement between the Government of the United States of America and the Government of Australia to amend the agreement concerning space vehicle tracking and communications facilities of 29 May 1980.
In particular, I would like to single out the Arms Trade Treaty, partly because of its importance to the community—not so much here in Australia but to the broader global community and many of the trouble spots we see—but also because of the leading role that Australia played in that. As I will come to, there are some flaws still with this treaty in terms of those who have signed up to it. But it is, to date, the first-ever binding international treaty governing the trade in conventional weapons. That trade is worth some $70 billion annually, and it presents a major barrier to peace and stability in many parts of our world. The treaty will establish common global standards that are aimed at lifting the degree of transparency around the trade in weapons, particularly to try and avoid those weapons disappearing into illicit markets.

Australia has been an active proponent of this for some time. Back in 2009, Australia co-authored and, in fact, co-sponsored the United Nations General Assembly Resolution 6448 which called for a conference to be convened to elaborate a legally binding document on the highest possible common international standards for the transfer of conventional arms. Australia was eventually elected as the vice-chair of the preparatory committee and Australia's Ambassador to the UN in Geneva was appointed the president of the conference convened in March 2013 to negotiate the final text. Each nation that is a signatory will be required to develop its own register and keep a national control list of weapons that will be covered by the regulatory mechanisms. Those weapons will be prohibited from being exported when the export would (a) breach a United Nations Security Council arms embargo or a similar measure or (b) breach an international treaty to which the exporting state is a signatory or where a party has acknowledged at the time of authorisation that the weapon would be used in the commission of genocide or crimes against humanity and certain war crimes.

As I mentioned, this is only the start of this process, because any nightly news that you watch you will see people in turbulent parts of the world carrying weapons, most commonly Kalashnikovs—AK-47s—which have their origins in Russia, or are copies from China. Neither of those nations have participated in developing the treaty nor have they signed it. The United States, the world's largest exporter of conventional weapons, has signed the treaty, although the committee is aware that domestically there is some pressure on the US government from internal industry and other concerns not to ratify it. We would certainly encourage them to continue and set the lead by actually ratifying that treaty. The treaty also has no enforcement provisions and, clearly, that can be an issue in terms of having weight from it. Nor does it include a fully comprehensive list of conventional weapons.

Despite these limitations, it is the first step the international community has taken in this direction of controlling conventional weapons. For that reason, the committee welcomes it as well as noting the critical role that Australia has played in getting us at least to this point. The committee recommends that binding treaty action should be taken and also recommends that binding treaty action should be taken in relation to the four other treaties examined in this report. On behalf of the committee, I commend the report to the Senate.

Question agreed to.
Economics References Committee
Report

Senator MARK BISHOP (Western Australia) (18:08): I present the report of the Economics References Committee on ticket scalping, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator MARK BISHOP: I move:

That the Senate take note of the report.

Ticket scalping is not new but the advent and growing importance of the internet, which facilitates the convenient online sale of tickets, has opened up access to a much wider secondary market. Online secondary ticket platforms, such as eBay, Gumtree and, more recently, viagogo, dominate this marketplace, providing a framework in which ticket resellers operate.

This onselling of event tickets helps consumers and suppliers by offering more access to tickets, easy transfers and improved ticket sales. Those with a genuine reason for reselling, as well as rent seekers chasing a profit, tend to use this online secondary market to resell their tickets—thus, this market opens up opportunities for unscrupulous ticket resellers to exploit consumers.

The committee found that, without doubt, the activities of ticket scalpers pose problems for event holders and their promoters but, more importantly, for consumers who may pay inflated prices for their tickets, have their tickets cancelled and be denied entry to the event or fall prey to a fraudster and not receive the tickets at all. A number of submitters were of the view there were practices in the primary market that undermined consumer confidence in the efficiency and fairness of the market. It also fostered conditions that encouraged ticket scalping or disadvantaged the consumer. These included practices such as: corporate and hospitality packages, where a consumer is forced into a position of having to buy a packaged deal that includes non-optional extras—usually overpriced—such as a breakfast, when they only want to purchase a ticket; pre-sale and sponsorship deals, where the number of tickets available to the general public are restricted because of priority agreements with partners; bulk purchases, where individuals or groups are able to purchase a large number of tickets and then onsell them in the secondary market, often at highly inflated prices; poor timing of ticket sales, a common practice where tickets are dumped on the market, usually at 9 am on a Monday morning, causing phone lines and internet sites to collapse under the pressure; and limited rights to refunds or transfers, where a consumer who is no longer able to attend the event has no legitimate avenue in which to receive a refund for the ticket.

Promoters and event holders were of the view that the problems identified in the primary market could or were being addressed, especially by imposing caps on the number of tickets allocated for sponsors and on individual purchasers. Even so, the committee was of the view that much more could be done in the primary market to deny scalpers the opportunity to resell tickets at inflated or exorbitant prices. Rather than problems in the primary market, some witnesses questioned the conduct of those operating in the secondary market which, in their view, caused significant problems for consumers.
As the most obvious and effective measure to tackle the problem of ticket scalping, the witnesses favoured action that would prohibit online market places, such as eBay, from allowing scalping. For example, one submitter wanted 'far greater controls in place to restrict the activities of scalpers'. They suggested that operators such as eBay cease allowing tickets to be scalped. Such action included withdrawing tickets with unreasonable write-ups—that is, cancelling scalpers' eBay account and/or their Ticketek or Ticketmaster account. However, evidence overwhelmingly recognised the legitimate need for having a resale market. It placed a heavy emphasis on the fact that this secondary market was safe, secure and reliable.

Both the ticketing agencies and the resellers indicated that they were putting in place measures to ensure the secondary market would protect consumers from dishonest or unfair practices. Indeed, event holders and promoters have entered or are intending to enter this market with the emphasis on providing not only a safe and secure place but also a lawful market.

Despite the efforts of those engaged in the primary and secondary markets to remove the incentive for ticket scalpers to profit from the expense of consumers, some state governments have responded to such concerns by introducing legislation within their own jurisdictions. Each state, however, has taken its own approach to stop people profiteering from the resale of tickets. In this regard, evidence highlighted the inconsistency in the approaches taken by the states as well as the difficulty enforcing legislation outside their respective jurisdictions. Some witnesses took the view that the legislation was generally futile and ineffective.

While unconvinced about the effectiveness of state based legislation in curbing ticket scalping, some witnesses saw an important role for the Commonwealth. They cited the Australian Consumer Law—a national, generic law—which covers consumer protection and fair trading nationally and in each state and territory. It should be noted the available statistics on ticket scalping show that, despite media accounts, reports of such activity in Australia remain quite low. The evidence clearly demonstrated that ticket scalping is not a significant problem in Australia. That was quite surprising to me, as chair of the committee. Thus, the committee did not see the need for more regulation of the ticketing industry, although it did identify scope for the states and the federal government to work together to achieve greater consistency and co-ordination in how they deal with ticket scalping.

Also, while there was no persuasive evidence that ticket scalping presents a significant problem outside a limited number of events, there was evidence that participants in both the primary and secondary markets could do more to ensure that consumers were not exposed to unscrupulous conduct by ticket scalpers. The committee made a number of recommendations designed to encourage these participants to continue in their endeavours by introducing measures that would deny ticket scalpers opportunities to exploit consumers.

The committee's recommendations also recognise that consumers should be better prepared to protect their interests against unprincipled practices. Indeed, the committee stressed the importance of improved consumer education and of consumers reporting any complaints. To this end, the committee supports promoters and ticketing agencies as well as ticket brokers and their agents developing industry codes of best practice—with consumer protection as a primary objective. The committee believes, however, that the effectiveness of self-regulation may be compromised if those who adopt the codes do not subscribe to improved transparency.
in the industry and, in particular, to greater openness about the allocation and distribution of
tickets.

Question agreed to.

National Broadband Network Select Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Bernardi): The President has received
a letter from a party leader seeking variation to the membership of a committee.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for
the Environment) (18:17): by leave—I move:

That Senator O’Neill replace Senator Thorp on the Select Committee on the National Broadband
Network on 5 May 2014, and Senator Thorp be appointed as a participating member.

Question agreed to.

BILLS

Classification (Publications, Films and Computer Games) Amendment
(Classification Tools and Other Measures) Bill 2014

Defence Force Retirement Benefits Legislation Amendment (Fair Indexation)
Bill 2014

First Reading

Bills received from the House of Representatives.

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for
the Environment) (18:18): These bills are being introduced together. After debate on the
motion for the second reading has been adjourned I shall move a motion to have the bills
listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator BIRMINGHAM (South Australia—Parliamentary Secretary to the Minister for
the Environment) (18:18): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT
(CLASSIFICATION TOOLS AND OTHER MEASURES) BILL 2014

The Classification regime in Australia is complex. The current National Classification Scheme has
been in place since 1996 and technology and the sheer volume of content have evolved considerably
since then. The current scheme is difficult for the community to understand and even more difficult for
industry to comply with. This Bill introduces changes which will provide consumers with more
classification information and simplify the scheme by removing complexity and reducing costs for business.

The National Classification Scheme (NCS) is a cooperative scheme under which the Classification Board classifies films, computer games and certain publications. The Scheme is designed to provide consumers with information about publications, films and computer games to allow them to make informed decisions about appropriate entertainment material. It is based on the principle that adults should be able to read, hear, see and play what they want while recognising that minors should be protected from material likely to harm them and that everyone should be protected from unsolicited offensive material.

Procedures for the classification of publications, films and computer games are set out in the Classification (Publications, Films and Computer Games) Act 1995 (Classification Act). States and Territories are responsible for the enforcement of classification decisions and provisions regulating the sale, demonstration and advertising of this material are contained in State and Territory legislation.

Apart from the introduction of an R 18+ classification for computer games, the National Classification Scheme has not had any significant changes made to it since it was established in 1996. Yet, since its introduction, classifiable content and the way in which it is delivered to consumers has changed dramatically. For example, consumers now have ready access to classifiable content on a variety of platforms, such as the delivery of computer games on mobile and other online devices.

Given these developments in technology, media convergence and the global availability of media content, the National Classification Scheme was reviewed by the Australian Law Reform Commission (ALRC) in 2011.

The ALRC handed down its report in March 2012 and made 57 recommendations for fundamental changes to the regulatory framework and structure of the Scheme.

Reform of the Scheme is being approached in stages, commencing with a "first tranche" of reforms that was agreed by Classification Ministers at a meeting of the Standing Council on Law and Justice.

The first phase of agreed reforms includes:

- broadening the scope of existing exempt film categories and streamlining exemption arrangements for festivals and cultural institutions;
- enabling certain content to be classified using classification tools (such as online questionnaires that deliver automated decisions);
- creating an explicit requirement in the Commonwealth Classification Act to display classification markings on all classified content;
- expanding the exceptions to the modification rules so that films and computer games which are subject to certain types of modifications do not require classification again; and
- enabling the Attorney-General's Department to notify law enforcement authorities of potential Refused Classification content without having the content classified first, to help expedite the removal of extremely offensive or illegal content from distribution.

These reforms will deliver benefits to industry including streamlining administrative processes and reducing the regulatory burden whilst ensuring that consumers continue to receive useful and accurate classification information.

Several of these reforms are particularly significant.

The first significant reform is the introduction of classification tools. Classification tools, such as online questionnaires, might be developed by Government, industry or other classification bodies overseas. These tools represent an effective and efficient way to classify the significant volume of unclassified online and mobile computer games that is available in the market today.
Currently, the Classification Board does not have the capacity to classify the vast amount of content that is available on mobile devices and online. As an example, last year the Classification Board made over 6,000 classification decisions across all forms of content. However, the digital market offers hundreds of thousands of computer games to consumers—which presents significant practical, logistical and compliance challenges for the current National Classification Scheme.

This reform will facilitate innovative and technology-based solutions for classification in line with initiatives being considered elsewhere by classification bodies that are dealing with the same classification difficulties.

Enabling the use of such instruments will support and complement the work of the Classification Board, provide certainty to industry and increase compliance with Australian classification laws. Most importantly, this reform will mean that the Australian public will have access to more classification information than is possible under the current system.

There are a number of safeguards built into this reform. For example, a classification tool can only be implemented following its approval by the Minister. In deciding whether to approve a particular tool, the Minister will consider a range of matters including whether it delivers decisions that are consistent with Australian classification requirements. The Bill also provides the Classification Board with the opportunity to classify content even after it has been classified by an approved tool, if it considers that the decision is problematic. As a final protection, if there are concerns about the effectiveness of a classification tool, its approval may be suspended or revoked at any time.

Another important "first tranche" reform involves changes to the current modification rules. This will reduce the regulatory and financial burden on industry, the theme of today's bills, by removing the need to have classified content classified again when certain modifications are made to the content, provided that the modification does not affect the original classification.

For example, currently the 2D and 3D versions of the same film must be classified separately (incurring two classification fees) because the format change is considered to be a modification. It will no longer be necessary for both 2D and 3D versions to be classified, where the only difference is the changed format. In these instances both films must carry the classification marking assigned to the original film classified by the Board. Existing safeguards, such as the Classification Board Director's power to call in content, will remain in place. This means that the Director may call in content to be classified by the Board where a modification has changed a product to the extent that it would likely change the classification, and the product is therefore unclassified.

The third key reform will expand the definition and scope of exempt film categories and streamline exemption arrangements for festivals, special event operators and cultural institutions.

Many of the existing exempt film categories currently state that a film must "wholly comprise" particular content in order to be exempt from classification requirements. These categories have been expanded to also include films that "mainly comprise" particular content—similar to the New Zealand exempt film categories. Two new exempt film categories have also been added. Broadening the scope of existing exempt film categories to better reflect contemporary film content will improve the utility of these exemptions by accommodating a range of documentary-style content that it is appropriate to exempt.

The reforms will also simplify exemption arrangements for festivals by establishing a consolidated set of rules in the Commonwealth Classification Act—replacing the convoluted and inconsistent provisions that are currently set out in each State and Territory's classification legislation. Most importantly, the reforms will rationalise the administrative and regulatory requirements for festivals and cultural institutions by removing the mandatory requirement to apply to the Director of the Classification Board for a formal exemption. Instead, exemptions will continue to be available to support the arts and cultural sector but on a self-assessed, deregulated basis.
Safeguards, similar to those currently in place for festivals, will ensure that the public is being protected—particularly children. For example, exemption conditions will include restrictions on the screening, exhibition or demonstration of unclassified content to particular age-groups if it is strong or high in impact; require that patrons be provided with warnings about the content that they are about to see and prohibit content likely to be X 18+ or Refused Classification. Training and registration facilities will be established to support Officers of the Classification Liaison Scheme who will monitor the operation of the reformed arrangements as part of their routine compliance and educational activities.

This Bill also makes a number of minor and technical amendments to the Classification Act to improve the clarity of certain provisions, address legislative anomalies and enhance the administrative efficiency of the National Classification Scheme.

For example, amendments will be made to the Classification Act to align the provisions relating to the Authorised Assessors Scheme for Computer Games with the provisions relating to: the Additional Content Assessor Scheme; the Authorised Television Assessor Scheme and the Authorised Advertising Assessor Scheme. These amendments will ensure that there is a consistent approach in the regulation of these assessor schemes.

In addition, the Bill makes several minor consequential amendments to the Broadcasting Services Act 1992.

These reforms represent the first step towards modernising the classification scheme and demonstrate the Government's commitment to a scheme that is better equipped to meet the needs of industry and consumers in the digital age. Consistent with the Government's broader deregulation agenda, these reforms will help to ensure that our classification system continues to be effective, efficient and relevant in the 21st century.

DEFENCE FORCE RETIREMENT BENEFITS LEGISLATION AMENDMENT (FAIR INDEXATION) BILL 2014

This Bill gives effect to this Government's election commitment to fairly index Defence Forces Retirement Benefits (DFRB) and Defence Force Retirement and Death Benefits (DFRDB) pensions for recipients aged 55 and over from 1 July 2014.


The Government's fair indexation commitment, as reflected in the Bill, addresses a long-standing grievance of the veteran and ex-service community about differing – and inequitable – indexation arrangements that apply to DFRB and DFRDB pensions compared to age and service pensions. The Bill recognises the Government's commitment to ensure that age and service pension indexation arrangements apply to members of the DFRB and DFRDB military superannuation schemes.

The Government recognises the unique nature of military service. The Government's commitment to address this long-standing grievance of the veteran and ex-service community is underpinned by this belief.

The Bill will also exempt DFRB and DFRDB members from the Division 293 tax for the one-off capitalised value of the benefit improvement relating to past service as at 1 July 2014. This will ensure members with significant past service, but modest superannuation pensions, will not incur a taxation liability resulting from the changes to indexation. However, superannuants on high annual incomes will not be excluded from an ongoing annual liability under this provision.

The new fairer pension indexation methodology is to apply to DFRB and DFRDB pensions from 1 July 2014. The measures extend fair indexation provisions to invalidity pensions, reversionary pensions and pensions for those associates in receipt of a pension as a result of a family law split, who are aged 55 and over on the current relevant indexation date.
Under the new fairer indexation methodology – which mirrors the two-step indexation process for age and service pensions – the first step would be to calculate the pension that would result if it were increased in line with the better of the Consumer Price Index (CPI) and the Pensioner and Beneficiary Living Cost Index (PBLCI). Then the second step would be to compare the resulting pension to the Male Total Average Weekly Earnings (MTAWE). If the calculated pension is greater than the specified floor percentage (27.7% of MTAWE for the single pension), then no further adjustment is made. If the resultant pension is less than the floor percentage of MTAWE, it is increased so that it equals the floor percentage of MTAWE.

It is important to note that the new fairer indexation methodology will not result in a DFRB or DFRDB pension that is currently less than the MTAWE floor percentage increasing to the floor percentage (and conversely, that a pension that is currently in excess of the floor percentage reducing to the floor percentage). The proposed changes will have an immediate impact on some 45,000 current DFRB and DFRDB pensioners where the originally entitled member was aged 55 or over at 1 July 2014.

This Bill gives effect to many years of advocacy by this Government for fair indexation of DFRB and DFRDB superannuants and their families. It delivers a key election commitment and addresses a long-standing grievance of the veteran and ex-service community.

This Bill recognises the unique nature of military service and ensures that recipients of DFRB and DFRDB pensions have their pensions indexed in the same way as age and service pension are indexed.

I commend the Bill.

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

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Environment and Communications References Committee

Report

Senator THORP (Tasmania) (18:19): Pursuant to order, I present the report of the Environment and Communications References Committee on the Direct Action Plan, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator THORP: by leave—I move:

That the Senate take note of the report.

I am grateful for the opportunity to speak today as the chair of the Environment and Communications Committee on the inquiry and report into the government's Direct Action Plan. This is an important report because it addresses what may be the single greatest environmental issue facing the planet today—climate change.

Climate change is an issue that will test the mettle of the human race and our ability to work together to find solutions to reduce carbon emissions and ensure we pass on a healthy planet to our children, our grandchildren and all the generations that will follow. While there is enormous value in individual and group efforts to effect change in local areas, the heavy burden of responsibility for solving this problem must lie with governments. There is absolutely no doubt that governments across the globe must act—and we must act now.
Over the past months the Environment and Communications References Committee has heard from experts across the country about the government's proposed climate policy, direct action. We did not hear just from environmentalists, but also from academics, investors, scientists, doctors, farmers, economists, think tanks, business groups, and climatologists. And almost to a person, they told us the same thing: direct action is expensive, inefficient, and, more than likely completely unable to address climate change in any meaningful way. In fact, not one witness was willing to support direct action as a credible stand-alone means of addressing the climate change crisis that may soon be on our doorstep.

Many told us that direct action is little more than a government gift to polluters and that it will do little, if anything, to reduce Australia's emissions. Others pointed out that direct action throws away the well-established legal and ethical principle of 'polluter pays' in favour of setting up a taxpayer funded slush fund for big emitters. This approach is particularly bizarre when you learn that environment minister Greg Hunt wrote an award-winning graduate thesis entitled *A Tax to make the polluter pay*, which championed this very cause. Pollution is a waste output of business just like any other. Just as we would not expect someone else to pay to dispose of the skip bins of rubbish that a construction company might generate, it is quite unfair to require the taxpayer pick up the tab for big business and their carbon outputs.

The committee also heard that Direct Action is riddled with design issues. Establishing baselines will be difficult and administratively onerous, not to mention the fact that it will be virtually impossible to determine if a project would happen anyway, potentially opening up the scheme to be gamed by companies who could charge the taxpayer for emission reduction projects they were going to undertake anyway. Perversely, companies that have acted early to invest in emissions reductions may be penalised because they will be starting from a lower baseline.

Also, many witnesses pointed out that soil carbon sequestration, which is the major abatement strategy in Direct Action, is highly inefficient. In a hearing in Canberra, the CSIRO confirmed that it is likely to take a land mass two-thirds the size of Australia to achieve the sort of abatement the government says it will get from soil carbon. Other witnesses pointed to the extremely short time horizons as a threat to business confidence and investor certainty. For these and many other reasons the report recommends that the centrepiece of Direct Action, the emissions reduction fund, is fundamentally flawed and, thus, should not proceed. Another overriding message we got from submissions to the inquiry was that Direct Action will be an expensive and unnecessary burden on the taxpayer.

To meet our commitment of reducing Australia's carbon output by five per cent by 2020, the government has allocated $1.55 billion over three years, but independent work done by SKM MMA and Monash University shows this falls $4 billion short, even using the most generous modelling parameters. The government has been very clear that there will be no more money in the bucket, so it is virtually a foregone conclusion that the government will fail, probably spectacularly, to meet our emissions reduction target. This is not surprising when you consider evidence from the Climate Institute that, if other countries were to follow the Abbott government's policy lead, the world would be on track for a catastrophic rise of up to 6.5 degrees Celsius by the end of the century. For Australia, this would mean a five-fold increase in droughts in southern Australia, the virtual destruction of the Great Barrier Reef, forced abandonment of many coastal communities, and a 90 per cent reduction in agricultural...
production from the Murray-Darling region. In fact, the government has virtually admitted failure already by removing the national cap on carbon emissions, because Mr Hunt and Mr Abbott both know that, if no goal is set, it cannot possibly fail to meet it. This is an outrageous omission and one which the committee strongly recommends be rectified immediately.

On the subject of targets, the committee was also convinced by the weight of evidence toward greater reductions, and supports the adoption of the targets recommended by the Climate Change Authority, namely that Australia's 2020 emissions target be set at 15 per cent below 2000 levels in addition to the four per cent carryover from the first commitment period of the Kyoto protocol. So it is clear that Direct Action is undeniably the wrong way to go about effecting meaningful carbon emission reduction.

What did the experts recommend as the most effective solution? What has been most notable about the inquiry is the consistency of evidence we have heard from witnesses in this regard. Again and again the committee heard that the single most effective and efficient means of achieving carbon abatement is to put a price on carbon. Carbon pricing provides a positive incentive for businesses and consumers to change their behaviour and embrace low-carbon alternatives. It provides a boost to renewable industries and encourages investment in low-carbon technologies. It also encourages business to invest in areas that will ultimately make them more efficient and profitable as energy costs grow in the future.

Of course, it is not just the witnesses and submitters to the inquiry who understand the importance of pricing carbon. There are currently more than 30 countries across the world and many subnational jurisdictions that already have a price on carbon. These schemes cover the enormous number of 880 million people. In fact, while countries across the globe are embracing market based mechanisms to address this global challenge, Australia stands alone as the only country in the process of dismantling carbon pricing. Not only that; the Abbott government is also systematically trying to abolish each and every tool Australia has to protect ourselves from the potentially devastating impacts of climate change. This irresponsible action is not supported by today's report. Instead, it unreservedly recommends that Labor's clean energy package remain and that Australia move to a fully-flexible carbon price under an emissions trading scheme on 1 July this year.

The report notes that Labor's package 'presented a comprehensive set of policy instruments to reduce Australia's carbon emissions, invest in renewable energy and provide assistance for businesses and households to transition to a clean energy economy'. It also recognises the 'significant time and effort' that was spent on 'ensuring that Australia adopted an effective and credible way to address climate change in the long-term'. The committee concurred with many witnesses that the institutions that sit under the clean energy package should be maintained. This includes the Climate Change Authority, which is a crucial means for the government to obtain independent and transparent advice on climate policy. The committee was also convinced by the arguments of witnesses that the profit-making Clean Energy Finance Corporation needs to stay. This organisation has clearly succeeded in its goals of encouraging private sector investment in the renewables sector and reducing carbon emissions while still returning a healthy multimillion-dollar profit to the Australian taxpayer.

Likewise, we need to retain funding for ARENA, and the Renewable Energy Target must be maintained in its current format. If the government persists in its perverse determination to
adopt an expensive, inefficient policy solution at the expense of the considered, effective and forward-thinking policy framework that we already had, it risks relegating Australia to become an environmental and economic backwater, unable to compete in the low-carbon global economy of the future. It also threatens not only our international credibility but our ability to take a leadership role in the global climate change response. This is an alternate future that we simply cannot risk and I urge the government to consider the findings of this inquiry very seriously.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Before I call you, Senator Ruston, I understand that informal arrangements have been made for you and Senator Milne to speak for five minutes to enable other committee reports to be tabled.

Senator RUSTON (South Australia) (18:30): I rise to speak on the Environment and Communications References Committee report into the Direct Action Plan. While we utterly reject the recommendations of the Labor Party and the Greens in this report, one of the things that has been most disappointing is that this inquiry was supposed to be into the Direct Action package. A precursor to the Direct Action package was the very loud and clear policy platform on which the coalition went to the last election, and that was that we were intending to abolish the carbon tax.

They may well have a majority report, but the greatest endorsement that any of us in this place can get is to have the majority support of the Australian people, and that is what we received in September last year at the election. The coalition was told very clearly by the electorate, as were the opposition and the Greens, that the electorate wanted the carbon tax abolished. Notwithstanding that, I think one of the most important issues that we need to put on the table right here and now is that this debate has actually been about climate change. It has not been about Direct Action; it has not been about the abolition of the carbon tax. It seems to have become a debate about climate change.

The fact of the matter is that the government differs from the opposition and the Greens in the way that it believes that climate change can best be tackled. Our view is that, instead of imposing a $7.6 billion economy-wide tax that hinders business and does nothing for the environment, there is an alternative way in which we can achieve the outcomes that all of us in this place seek to achieve—that is, to have a cleaner energy future, to have a low-carbon future and to make sure we deal with the obvious impacts which we all talk about and that could potentially occur because of climate change.

Turning specifically to the Senate inquiry, there were many, many submitters who represented hundreds of thousands of businesses and employees. I noted that in the majority report there was some suggestion that no-one supported Direct Action as a credible means to deal with climate change. I would beg to differ. I think there were a number of people who supported Direct Action and I also think it is very premature for us to be making comments about what Direct Action can achieve, how much it is going to cost and what it can deliver, because nobody has actually given it a chance. I think we need to put on the table that this is not a debate about climate change; it is a debate about how we are intending to address the issues and the consequences of climate change.

I put on the record some comments from the submitters who gave evidence during the Senate hearings. The Australian Industry Group said that they, 'Do not support any decision
on additional targets at this time.' The Association of Mining and Exploration Companies provided evidence saying:

The burden borne by Australian industry under the previous Governments Clean Energy package placed Australian mining and exploration industries at a significant disadvantage to our competitors. For the exploration and mining industry it was a financial penalty without any meaningful opportunities to contribute to Australia's response to climate change.

The National Farmers Federation said:

The NFF does not support the carbon tax due to the significant flow-on impacts to agriculture.

I have to put on the record some comments of Professor Ross Garnaut when he was responding to Senator Williams, who asked him about the implications of increasing the carbon tax to cover diesel fuel and the fact that diesel fuel would add an extra $515 million to the costs of road users. He asked Professor Garnaut if he supported that policy, and Professor Garnaut responded that he did. The truckies of Australia will be delighted to hear that!

In conclusion, we were very disappointed that the debate really did not focus on the potential positives and benefits that could be achieved by the direct action policy. I think that, if we had actually focused a lot more on trying to work our way through the potential benefits instead of focusing on the fact that we were having a debate about climate change, who believed in climate change and who was a climate denier, we may well have ended up with a report that we all possibly could have agreed with.

I would like to thank the secretariat for the huge amount of work that they put into this; it was a big hearing and a big inquiry. They had to do a lot of travel. I would also like to thank them for their outstanding work and their diligence during this inquiry. I would also like to say that the deputy chair of the committee, Senator Williams, endorses my comments in thanking them.

Senator MILNE (Tasmania—Leader of the Australian Greens) (18:35): I rise tonight to respond to the tabling of the committee report on direct action. Suffice to say, this report absolutely exposes direct action as simply a slogan. There is no substance to this policy, and that was revealed throughout the inquiry. In response to Senator Ruston's remarks about the so-called positive benefits not being discussed, the reason for that was that nobody through all the inquiries could put any facts on the table whatsoever about direct action. The fact of the matter is that the inquiry demonstrated that it is narrow, will not create any lasting transformation across the economy and is unfinanceable because the grants are so small, contracts are limited to five years, prices on offer are so low that they fall far short of being investment-grade and finance institutions and banks will not waste their time on direct action.

It is an optional—in other words, it is a voluntary scheme—so there is no incentive for polluters to participate. Therefore, it is very difficult to see who on earth is going to be part of this so-called emissions reduction fund. It is costly because it is going to require a huge bureaucracy to administer it, and the taxpayers are going to have to pay. In other words, so much for the slogan 'great big new tax'. In fact, communities are now going to be taxed to pay the polluters through this emission reduction fund, and there is going to be no absolute ability to determine whether there are any emission reductions additional to what companies would have done anyway. So additionality is a real issue. The assessment of the baselines is a real issue. No detail was provided and the department could not answer any of the questions. Remarkably, there is no detail about Direct Action whatsoever.
In fact, not a single economist who came before the committee supported Direct Action, because they rightly said that it is expensive and it is charging the taxpayer to pay the polluters for no guaranteed outcomes in achieving even five per cent, let alone the 40 per cent to 60 per cent emissions reduction trajectory that is going to be required by 2030. As well as statements of support from the Business Council of Australia, the Chamber of Commerce and Industry and so on, and their disgraceful efforts as a cheer squad for a policy which has no substance, we had Professor Garnaut and Ken Henry commenting in the media recently. We also had Bernie Fraser appear before the committee. All of them said that Direct Action demonstrates no real commitment to addressing the climate, no consistency with what the science requires for emissions reductions and, what is more, that the direct action policy had no substance. In fact, it will fall short of its five per cent emission reduction task and will cost a great deal of money. Billions of dollars will be required, on top of the existing $1.55 billion that is allocated.

As Direct Action unravels we are simply going to see a repeat of the failed Howard government program. It did not achieve emissions reductions and had to be abandoned because, essentially, it was a gift to companies that hung out to get the money to do what they otherwise intended to do. We need serious emissions reduction in Australia. The advantage of the emissions trading scheme that we currently have is that it can be scaled up to achieve that trajectory of 40 per cent to 60 per cent emissions reduction by 2030. That is the scale of the task. We are living in a climate emergency. You have to put in place a mechanism that will deliver.

It is recommended that the Climate Change Authority stay, and so it should, to do the assessment of the renewable energy target, not the shonky assessment that is currently underway. We need to maintain the Clean Energy Finance Corporation. That is an absolutely critical part of rolling out utility scale renewables in the time frame.

I thank the committee secretariat for the work they did and my colleagues on the committee. I thank Senator Lin Thorp, chair of the committee. I thank everybody involved, including all those who made submissions. The overwhelming majority of submissions were opposed to Direct Action. You could hardly find one there supporting it, to the point where some senators from the coalition side kept asking, ‘Why is everyone so negative?’ It is because there is no substance to the policy. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Community Affairs References Committee

Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:40): Pursuant to order, I present the report of the Community Affairs References Committee on the care and management of younger and older Australians living with dementia and behavioural and psychiatric symptoms of dementia, commonly known as BPSD, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT: by leave—I move:

That the Senate take note of the report.
This committee inquiry was particularly important. I would like to acknowledge the fact that Senator Lin Thorp made the initial referral. I would like to take the opportunity to thank all the submitters and witnesses who gave so much of their time and expertise and also the secretariat, who, once again, did a sterling job for us.

We made 18 recommendations. These recommendations are very important, if we are going to take seriously the issue of dementia in this country. Almost 1.5 million Australians are currently affected by dementia, if you include patients, family, friends and carers. Dementia in fact covers a wide range of symptoms, including impairment of brain function, language, memory, perception, personality and cognitive skills. The type and severity of symptoms varies extensively.

In particular, the committee looked at issues around behavioural and psychiatric symptoms or so-called complex behavioural issues around dementia. These can be caused by unmet need, physical or mental distress, illness, reactions to medication and other factors in a patient's environment. This is important and I will come back to those issues in a moment. This issue will become increasingly prevalent as our population ages, and we have heard much on that. So we need to be taking this issue seriously, as well as our recommendations. This is one of our most pressing health concerns and, if left unchecked, it will increasingly become a large problem for our community, residential care, aged care and community care. We need to get this right.

As a starting point, the committee has recommended that the Commonwealth create a new Medicare item number that allows longer consultations with patients, family members and carers to help them provide a more accurate dementia diagnosis. We heard that was a significant problem. Increasingly, more and more people will suffer from BPSD and will in fact be cared for in the community. Almost 70 per cent of people with dementia are already cared for in the community. We as a nation are not prepared to handle the increasing prevalence of dementia. We need to understand the issues around dementia so that we can better provide care and support for people who have it. This will require a change in our attitude to addressing dementia and the need to put care of the person first.

We have heard a number of significant concerns about the current treatment of people with dementia. But we have also heard of cases where there are very supportive and positive approaches to supporting people with dementia, that in fact address the perceived issues around dementia, in particular the area around complex behavioural needs. We were also given a much more detailed understanding of why some of these so-called violent behaviours happen. That is mainly due to issues such as prolonged or incorrect medication; people being in environments that do not suit their needs; and people then being restrained. This is an issue that caused some significant concern to the committee.

The committee was provided with evidence that seems to confirm that there is a significant overuse of psychotic medication for those in aged care and in community care, for the control of BPSD. The committee believes that this overuse must not be allowed to continue. We are concerned about the reliance on restraints to manage dementia and complex behaviours. We hold the view that this is an unacceptable model of care. We also heard evidence about physical restraints, and about people being locked into facilities. We have made a number of recommendations about the need to look at the issue of restraints, both through medication,
and physical restraints. Importantly, we saw some really good examples of how you can change people's environments. We need to recognise that people's perceptions and cognitive skills are affected, and we need to understand what is motivating the behaviours. If you look at those motivations and understand them; if you provide significant and much better training to staff; and if staff and carers understand why people are behaving the way they are, you in fact mitigate the use of restraints.

We went to Yarriambiack Lodge in Warracknabeal in Victoria and saw there, I would say, first-rate care. That care had significantly reduced the use of medications to almost nothing. They did not lock doors. They did not even have a nursing station; staff interacted with the patients, and it was much more like a family environment. They had just established beautiful gardens. In other words, we can do this. There is no need for the heavy reliance on restraints or the overuse of both medication and physical restraints. We need to get our act together in this country—to better support people with dementia, to understand what is causing these so-called complex behaviours, and to change our perceptions. We have made 18 recommendations around training, around better designed facilities, and around tracking and monitoring the use of medications in particular. I am conscious of the time, so I will curtail my contribution now to enable the deputy chair to also make a contribution.

Senator BOYCE (Queensland) (18:48): Mr Acting Deputy President, I feel sometimes a little bit like a broken record in this place when I say that so many situations remind me of the problems that were experienced in the disability sector so many years ago.

Thank you to Senator Lin Thorp for suggesting that we undertake this inquiry. While enjoyable is not a word one can use about it, it has certainly been very educative. I would hope that, through our work, there will be a big improvement for people with dementia and for the people who look after them, whether that be in the community, in their homes, or in institutions such as residential aged-care facilities. I guess that is my starting point. We do still have many of our aged people living in what look like 19th-century institutions—very large places; and often the funding that we provide actually encourages large buildings with lots of people congregating. This is not in any way useful to people with dementia. They need quiet, and they need spaces that they can understand. One person gave evidence that putting someone with dementia into some of these facilities was like putting someone in a wheelchair at the bottom of a set of stairs and saying, 'off you go, you sort it out yourself'.

There is much work that needs to be done in this area. As Senator Siewert said, we have made 18 recommendations. Many of them are around how community care could be better improved. The services that are now available in the community for people with dementia, particularly for those with behavioural and psychiatric symptoms, are not good. They do not meet the needs of the individuals themselves or of their families. Often they are required to go on a two-week respite break, whether they want it or not.

There is much work to do here. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
DOCUMENTS
Income Management
Tabling

Senator HANSON-YOUNG (South Australia) (18:50): I seek leave to table an open letter from a constituent group in my home state of South Australia.

Leave granted.

Senator HANSON-YOUNG: by leave—This open letter to the Australian government is from constituents in my home state of South Australia from the Stop Income Management in Playford group. It is in relation to the compulsory income management trials that are being conducted across the country, one of which is happening in Playford in South Australia. Many people are concerned about the long-term effects of this policy, and in my home state of South Australia almost 50 different organisations have come together, calling for the end of this failed experiment. Compulsory income management is discriminatory. It is a humiliating scheme that has failed to improve the living conditions of those who are subjected to it. Many of the people involved in this organisation feel very strongly about this, but the fact that they have written an open letter to the government is something that I think should be considered by other South Australian senators in this place today. That is why I table it in the parliament.

Thank you very much, Mr Acting Deputy President.

Consideration
The government document tabled earlier today was called on but no motion was moved.

ADJOURNMENT
The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson) (18:52): Order! I propose the question:

That the Senate do now adjourn.

Australian Broadcasting Corporation

Senator IAN MACDONALD (Queensland) (18:52): In December last year, following the release of MYEFO, the Treasurer said in his speech to the National Press Club that taxpayers' dollars should be better respected. Further, the Treasurer said that:

The days of just handing out cash, helicoptering money out, is just not possible.

With the budget fast approaching, I and many of my colleagues are taking a particular interest in the money churned through large taxpayer funded organisations.

One such organisation which might need a reminder about the ethics associated with being employed by the taxpayer is the ABC. Keep in mind that the public broadcaster receives over $1 billion a year from the taxpayer, where a reported $465 million of that is allotted to wages, super and entitlements alone. We should not forget that the $223 million 10-year contract for the Australia Network—which was twice recommended by bureaucrats be awarded to Sky News, only to be overruled by the Gillard and Rudd governments—was given instead to the ABC. So there is no shortage of money available to the public broadcaster.

Those on a good salary from the public purse should not have a problem with showing some transparency when taking it. I might add that the remunerations of senior Commonwealth public servants and, indeed, politicians are there for the world to see and any
additional money or income that we earn from forays into paid journalism also have to be disclosed to the public.

That is why I read with interest last week a report in *The Australian* which alleged that a number of high-profile ABC employees were not being transparent at all by not disclosing income made from commercial entities. On March 17, Lara Sinclair wrote:

THE ABC’s most senior journalists are failing to disclose payments of up to $15,000 from major corporations to speak at functions, despite legal requirements for the public broadcaster to be free from commercial influence.

Ms Sinclair went on:

Some of the ABC’s most high-profile talent—Tony Jones, Emma Alberici, Fran Kelly and Barrie Cassidy—are charging between $5000 and $15,000 to speak at private events run by big global and Australian corporations, industry groups and government departments.

Neither I nor the coalition have any problem at all with that; in fact, we encourage individuals to work hard for an income that is legitimately derived. Good luck to those ABC presenters who are able to command those sorts of salaries. Do not detect in my speech any envy that no-one has ever approached me with a $5,000 cheque to make a speech! Indeed, this does happen to people who have notoriety through their well-known existence courtesy of ABC programming across Australia. However, given the significant celebrity of these presenters—which, as I say, comes on the back of being employed by the taxpayer—I believe there should be some clarity about where any additional income comes from, particularly if it comes from commercial interests.

As *The Australian* reported:

Lateline host Emma Alberici was paid $15,000 to host a two-day Wesfarmers Insurance leaders conference in October 2012, which at the time was part of the Wesfarmers group, which includes Coles, Bunnings, Kmart and other high-profile companies.

Alberici has since interviewed Wesfarmers executives on Lateline, including chief executive Richard Goyder …

Then there is Q&A host and Lateline presenter Tony Jones. Ms Sinclair writes that:

Jones, who is already paid by the taxpayer to the tune of $355,789 a year, according to ABC salary data leaked last year, charges between $5000 and $10,000 for an appearance, according to the Ovations site.

That is a speakers bureau site. Platinum Speakers and Entertainers agency founder Helene Greenham told *The Australian* that:

Tony Jones is pretty popular …

“We might have had five or so jobs with Tony.

(He) is awesome at panel facilitation.

Some quick research also reveals that other notable ABC personalities not mentioned in the report are popular on the speaking circuit. *ABC News Breakfast* co-host Michael Rowland is listed by Saxton as having been used as a facilitator by a superfund. Annabel Crabb, ABC News Online's chief political writer and star of *The Drum*, is also used by speakers bureaus, including Claxton Speakers International. Then there is the darling of the left, columnist for *The Australian* and long-time presenter of Radio National's *Late Night Live* four nights a week, Phillip Adams. The Celebrity Speakers website lists numerous testimonials for Mr Adams, including from a finance group, a council and educational institutions. All of those
testimonials are very enthusiastic, I might say. Veteran ABC broadcaster Mark Colvin is also listed as a speaker on the Ovations website—but no fee is disclosed. Tony Eastley, formerly of AM but now on News 24, is listed by Claxton. ABC sports journalist Debbie Spillane features on the Celebrity Speakers website. It does seem that prominent ABC personalities are in great demand on the corporate speaking circuit.

Sinclair wrote in her report that:

The ABC says there is no need for its on-air talent to publicly disclose the payments, arguing all engagements are cleared with a journalist’s manager beforehand.

I wonder about the ethics of the ABC declaring itself commercial-interest-free if its star presenters are accepting these speakers fees and not subsequently declaring them.

Australians should be reassured of the impartiality of the ABC. Declaring such interests are part of that reassurance. After all, the taxpayer is forking out hundreds of thousands of dollars to pay annual salaries to some of these presenters, who, I might add, are building their profile and boosting their commercial speaker's fees that they no doubt demand courtesy of their national platforms across Australia. Do not forget, this is across the region, thanks to the multi-million dollar Australia Network deal.

I am not alone in seeking for the ABC to be more transparent. Friends of the ABC have raised concerns about the same issue. I would hope that the ABC can concede that a little clarity is needed. Perhaps the taxpayer should be demanding a bit more of their money's worth from our ABC presenters as well, given the time that they have to take up these commercial offers. I am told that some of these presenters do not even log a five day working week. Maybe someone like Tony Jones could be sent to some of our neighbours in the region—where the Australia Network no doubt rates through the roof—to speak to people smugglers, giving them the government's message that their game is up.

Either way, the ABC should be instigating a better process—one of transparency—when it comes to the commercial income that their impartial presenters receive. The public purse should be respected, especially at this time of a difficult budget. I want to make it clear that I am not against ABC presenters selling their balance, their expertise, their wit, their general all-round knowledge and their opinion. Good luck to them. I have no problem with that, provided that they do that in their own time and provided that it does not interfere with the work for which they are paid by the taxpayer.

I do say that everybody receiving the taxpayers' dollar, including ABC presenters, should be transparent and accountable in their roles. The monies that they receive from these private engagements should be made known to the public, as they are in the case of senior public servants and politicians who receive additional income over and above their taxpayer-funded salary.

**Glaucoma**

**Senator FAULKNER** (New South Wales) (19:02): On 9 March this year, World Glaucoma Week began. That was the sixth World Glaucoma Week, which is a joint initiative of the World Glaucoma Association and the World Glaucoma Patient Association. The theme for this year's campaign was BIG. BIG stands for 'beat invisible glaucoma'. The World's BIG Breakfast was held, in fact, around the world to raise awareness of this eye disease. I think
that it is safe to say that Glaucoma Australia, along with their friends and supporters, did make a big contribution to the World's BIG Breakfast.

Tonight, I want to again take the opportunity to highlight the work of Glaucoma Australia and the pressing need for education and early detection in the fight against this debilitating eye condition. Glaucoma is the name given to a group of eye diseases that cause progressive damage to the optic nerve. If left untreated, glaucoma can cause irreversible vision impairment and blindness. The gradual yet irreversible nature of vision loss has led to many to refer to glaucoma as the sneak thief of sight. Initially imperceptible, its damage—as I have said—is irreversible.

In fact, glaucoma is the world's leading cause of irreversible blindness. Nine million people around the world are blind as a result of glaucoma. This number is expected to increase as the world's population ages and grows. As of 2010, there were 44.7 million people in the world with open-angle glaucoma. By 2020, it is predicted to afflict 58.6 million people globally. It is also true that the impact of glaucoma falls disproportionately on the developing world. Ninety per cent of glaucoma goes undetected in those less developed parts of the world.

While these statistics are alarming, the impact of glaucoma in Australia is also considerable. Roughly 16 per cent of all blindness in Australia is caused by glaucoma. One in 200 people at the age of 40 have glaucoma, rising to one in eight at the age of 80. Geoff Pollard, national executive officer of Glaucoma Australia points out that:

About 11,000 Australians are blind from glaucoma at any one time—this is a tragedy that is largely preventable. Half of all people with glaucoma in Australia remain undiagnosed.

In Australia, the direct healthcare costs alone of glaucoma were estimated at $342 million in 2005. The total annual economic cost of glaucoma for same year was calculated to be $1.9 billion—an annual cost that is anticipated to increase to $4.3 billion by 2025. There are several types of glaucoma yet their cause remains largely unknown. The lack of a single definitive cause and the condition's irreversible impact means that early detection is key.

Glaucoma Australia recommends regular eye examinations, particularly for those in high-risk groups. Those at risk include people with a family history, are short-sighted, have an eye injury, have high eye pressure, have diabetes, suffer migraines, have high or low blood pressure, have a past or present prolonged use of cortisone drugs or steroids or, of course, are aged over 50. It is also important for people who are of Asian or African descent to have an optic nerve check from age 40. Regular eye examinations, the kind that would detect glaucoma, remain too infrequent. One in five Australians have their eyes tested less than once every two years or have never had their eyes tested. Over 300,000 Australians have glaucoma—I am certainly one of them and was diagnosed when I was 25 years of age—yet only half know about it. In my own case, if I had not been diagnosed with glaucoma—as I have said at functions on eye health around this building for many years—at that early age as a result of playing some very poor cricket shots I would be blind six times over. This is a preventable disease and is something that we all need to take into account.

As I said earlier in this contribution, during World Glaucoma Week, Glaucoma Australia promoted the BIG Breakfast—the Beat Invisible Glaucoma Breakfast—to bring attention to the fight against glaucoma at home and abroad. I am pleased to say that the funds raised
during these events are being spent on increasing awareness that regular optic nerve checks can preserve sight. The fight against glaucoma in Australia is only a part of a global battle against this condition. Last year in places as disparate as Switzerland, Brazil and India, World Glaucoma Week was marked by conferences, marches, lectures and mass screenings.

We should do everything in our power to ensure that education and early detection becomes best practice, not perhaps just a bitter afterthought in this country and around the world for those who find that they have glaucoma. I am pleased to say that World Glaucoma Week goes some way to achieving this goal. I commend the work of Glaucoma Australia and those many other organisations fighting to end avoidable blindness in this country and beyond our shores, and I hope that the World Glaucoma Week BIG Breakfast has brought more attention to the critical importance of fighting glaucoma.

**Human Rights: Sri Lanka**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (19:11): As I stand here in the Australian Senate tonight, at exactly the same time there are people standing in Geneva at the Human Rights Council debating a resolution which is a move by the international community to have an independent investigation into the human rights atrocities and abuses and war crimes that occurred at the end of the civil war in Sri Lanka. In fact the resolution says:

… to undertake a comprehensive independent investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka, during the period covered by the Lessons Learnt and Reconciliation Commission (LLRC), and establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures.

This is a critical motion before the Human Rights Council being debated as I stand here in the Senate. Yet the Australian government, disgracefully, has not signed on as a co-sponsor, and it is unclear whether Australia will even support this motion that has gone forward. Diplomats from Australia's key allies—the United States, the United Kingdom, the European Union and Canada—worked very hard to garner support for this motion. Hardly surprisingly, the Sri Lankan government, which opposes the resolution with its forces standing accused of the majority of deaths, does not want a proper investigation into these crimes. Sri Lanka is supported in its opposition by China, Venezuela, Cuba, Russia and Burma. Australia should be a constructive player at this critical moment for human rights in our region, but instead of that we are not. We are on the side of the appeasers, and that is a disgrace.

I stand here tonight thinking, as well, of the people in Sri Lanka who continue to be subjected to torture and disappearance. On the wall in my office I have a painting called *This is not a white van*. It is written in English, Sinhala and Tamil. It is there to show, very clearly, that people are disappearing in Sri Lanka because they stand up against the regime. Reports have come out from many investigations, including our own Public Interest Advocacy Centre in Australia, which brought out a report earlier this year entitled *Island of impunity? Investigation into international crimes in the final stages of the Sri Lankan civil war*. Just over the weekend, a video came out detailing Sri Lankan army torture of women. Sri Lanka's army has now admitted its soldiers have abused and tortured female recruits—a rare admission of guilt after years of allegations about the treatment of Tamil rebels during the uprising. There is horrific footage of torture.
Also over this last weekend, a report came out from the UK's Bar Human Rights Committee—and it is shocking in its coverage of the abuse of Tamils. It describes how they were beaten with pipes, burnt with cigarettes and branded with hot objects. It describes physical and sexual assaults in graphic detail, including the case of one woman who was sexually assaulted with a baton and endured seven gang rapes.

Yet Australia is working with the Sri Lankan government in trying to prevent people from fleeing torture in Sri Lanka. Australia is working with the Sri Lankan authorities to block the escape of asylum seekers. Australia provides intelligence, patrol boats and other financial resources to the Sri Lankan navy and police to help them intercept the boats. Sri Lankan authorities claim to have blocked 4,500 Sri Lankans attempting to leave. Not only that, those who do escape and arrive in Australia by boat are sent into offshore detention, declared to be economic refugees and sent back—which is against all principles of international law.

It is a disgrace that Australia, a country which used to have a proud human rights record, is putting its 'stop the boats' domestic policy ahead of behaving with any decency in international negotiations on human rights. The rest of the world at the UN Human Rights Council meeting in Geneva cannot believe that Australia is demonstrating such cowardice and such appeasement of the Rajapaksa regime. It is my view that the Rajapaksa regime is the closest thing to a totalitarian dictatorship masquerading as a democracy that we have in our region. Once the international investigation into war crimes takes place, the behaviour of the Australian government will be a matter of real shame.

A letter has been written to Tony Abbott, the Prime Minister, in recent days. It was signed by John Dowd, Chancellor of Southern Cross University and former Attorney-General of New South Wales; Gareth Evans, former Minister for Foreign Affairs; Malcolm Fraser, former Prime Minister of Australia; Owen Harries, former Australian Ambassador to UNESCO; Geoffrey Robertson, Master of the Bench; Gordon Weiss, an adjunct professor at Griffith University; Thomas Keneally, the Australian author; and Bob Brown, former Leader of the Australian Greens. These people have all written to the Prime Minister to say to him: 'For goodness sake, uphold international law. Let's have an investigation into some of the gravest crimes under international humanitarian law. Let's demand accountability.' That is the very least a civilised country, a democracy like Australia, should be demanding of the Rajapaksa regime.

But we are not doing that. We are actively sending people back to torture and we are preventing people against whom crimes are being committed from leaving Sri Lanka. You cannot say that people in the Australian parliament did not know. If they do not know then it is studied ignorance, because the reports are here—report after report demonstrating the level of abuse—and they are horrific.

I am devastated that my country has failed to stand up in the UN Human Rights Council debate on the Sri Lanka resolution. I hope that Australia will, at the last minute, be shamed into supporting the resolution being put forward. If we do not stand up and do that, I think this government is going to be judged very harshly in the future.

When the Sri Lankan government sought to have the credentials of its high commissioner—former Admiral Thisara Samarasinghe—recognised by the former Rudd government, I argued that his credentials should not be recognised. He is an alleged war criminal, having commanded Sri Lanka's navy in the northern and eastern zones where the
navy fired on unarmed civilians, killing many; fired on the hospital; and committed shocking atrocities. Yet Australia recognised his credentials—and they continue to be recognised by this government. Any international investigation into Sri Lankan war crimes will include an investigation into the Sri Lankan High Commissioner to Australia—and so it should.

There are no excuses for Australia's failure to stand up for human rights. I want to put on the record that the Australian Greens stand with those other countries—including the United States, the United Kingdom and Canada—in supporting the resolution for an international investigation into war crimes in Sri Lanka. I hope that investigation exposes the extent to which the Australian government has engaged in appeasement and has refused to face up to the war crimes of the Rajapaksa regime—war crimes that will shock us all when their full extent is revealed.

**World Down Syndrome Day**

*National Disability Insurance Scheme*

Senator BOYCE (Queensland) (19:21): Tonight I want to speak about two issues related to disability. Firstly, I want to talk about World Down Syndrome Day, which occurred on 21 March. The 21st day of the third month of the year was specifically chosen for Down Syndrome Day because Down syndrome is caused by having three copies of chromosome 21. Thank you to the people who helped here to support the development of it. For the third year in a row, a UN sponsored day was held and a conference was held at UN Headquarters in New York. The theme of the conference was 'Access and equality for all'.

I must admit I was delighted, looking through the material on the website for World Down Syndrome Day, at how far things have come. I remember attending a world Down syndrome conference in Singapore about 10 or 12 years ago and having parents in Singapore come up to us, being very grateful that we were simply walking the streets of Singapore with our children with Down syndrome, something that they did not feel that they could do. The stigma attached to having a child with an intellectual disability was still such in Singapore that children with Down syndrome were locked away in back rooms, not mentioned in the community or to the family. They took great strength from the fact that in other countries children with Down syndrome were simply treated like people.

So it was really refreshing to look at the litany of countries that were involved in World Down Syndrome Day this year. They included places such as Kosovo, which is certainly a place that, from our perspective, you do not think of as being able to have the sort of everyday celebrations that we might have. Indonesia had a great day. Oman was another country that I perhaps did not think would have celebrated World Down Syndrome Day. Lithuania was on the list, as was Costa Rica. I was quite interested to see, when looking at some of these countries, that there had even been suggestions that perhaps the day should not be held and that the community would not join in, yet in the end happy and successful comments were made on the website, saying: 'We shouldn't have worried. People did care. People did support us in doing this.'

As part of World Down Syndrome Day, Down Syndrome International made 13 awards to individuals and organisations for outstanding work. Among those 13 was an Australian organisation called e.motion21. It is a dance and fitness program run for children and adults between four and 40 at seven sites across Victoria. Currently the e.motion21 organisation...
supports 190 dancers. As we all know, dancing is a fantastic form of exercise and certainly
one that I know my own daughter and many of her friends enjoy. So it is great to see an
Australian organisation winning one of these 13 awards and developing very innovative
programs that can be brought across the world and rolled out everywhere.

I would like to finish on that topic by pointing out that Down syndrome occurs across all
genders, races and socioeconomic groups. It is a chromosomal abnormality. Worldwide it is
thought to affect one in 800 live births, although of course the statistics are not particularly
good in that, like Australia, many countries do not collect specific statistics on specific
disabilities. But the calculation is that there are currently about seven million people
worldwide who have Down syndrome and who, because of the actions of groups like Down
Syndrome International and millions of families all over the world, are now living productive,
quality lives just like everyone else.

The second topic I wanted to raise is not as happy. I must admit I have become extremely
disappointed, saddened and even angered by the attitude of the current shadow social services
minister, Ms Jenny Macklin, towards the government's work with the National Disability
Insurance Scheme. I cannot believe that she can stand with a straight face and continue to try
to undermine the work that this government is doing in the area by frightening people who are
involved in the NDIS by claiming at every turn that this government is not serious about the
NDIS, does not want to implement the NDIS and will not implement the NDIS. I do not know
what she is trying to achieve—well, I do know, but it is a very sad thing that she is trying to
achieve. It is not worthy of anybody in this place to behave as she has in recent months,
challenging every discussion about the NDIS by trying to suggest that somehow everything
that is ever said about the topic is this government trying not to do it.

She urges the government to stick to the deadline for full implementation. She says people
have waited their whole lives for the NDIS. She is quite right, and certainly in my view the
current opposition leader, Mr Bill Shorten, deserves credit for being the one to kick off the
development of the NDIS. But we need to remember that the Productivity Commission report
that was produced as a result of that suggested a quite different timetable to the one that was
implemented in the end by Ms Macklin for no reason other than political gain.

The Gillard government was not as patient as the Productivity Commission thought they
should be. They simply rolled it out. We now, of course, have a report that says that, because
of the shortened timetable set by the Gillard-Rudd government, under Ms Macklin, the way
the rollout occurred was so tight that, as the review says:
The Agency is like a plane that took off before it had been fully built and is being completed while it is
in the air.

Now, if you contrast that with the way the Gillard-Rudd government went about setting up
one of its other pet projects, the Australian Charities and Not-for-profits Commission, the
difference is very telling. The ACNC had a CEO before there was even legislation to establish
it. The ACNC was even advertising jobs before it was established. The National Disability
Insurance Agency, under the previous government, did not have that luxury. They were trying
to get premises, appoint staff, develop programs, set up an IT system and begin to service
people with disabilities as they went. It is no wonder that there have been some teething
problems.
But, whatever else, the government is committed to rolling out the NDIS. We will deal with the teething problems as they come up. Ms Macklin is attempting to use any problems that now develop—to have the cheek, the hide, the nerve—to try to scare people with disabilities and their families, when the problems that are developing right now are the result of her wanting to roll out the NDIS before an election. That was the only reason she wanted it out there in 2013, instead of in 2014, which was the schedule set by the Productivity Commission. (Time expired)

Senate adjourned at 19:31

DOCUMENTS

Tabling

The following document was tabled: