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SITTING DAYS—2016

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FORTY-FIFTH PARLIAMENT
FIRST SESSION—FIRST PERIOD

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

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

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

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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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</table>

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

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

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Secretary, Department of Parliamentary Services—R Stefanic
Parliamentary Budget Officer—P Bowen
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<tr>
<td><strong>Prime Minister</strong></td>
<td>Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td><strong>Minister for Women</strong></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>Senator the Hon Arthur Sinodinos AO</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for the Public Service</em></td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Counter-Terrorism</em></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><em>Minister Assisting the Cabinet Secretary</em></td>
<td>Senator the Hon Scott Ryan</td>
</tr>
<tr>
<td><em>Minister Assisting the Prime Minister for Cyber Security</em></td>
<td>Hon Dan Tehan MP</td>
</tr>
<tr>
<td><strong>Assistant Minister to the Prime Minister</strong></td>
<td>Senator the Hon James McGrath</td>
</tr>
<tr>
<td><strong>Assistant Minister for Cities and Digital Transformation</strong></td>
<td>Hon Angus Taylor MP</td>
</tr>
<tr>
<td><strong>Deputy Prime Minister and Minister for Agriculture and Water Resources</strong></td>
<td>Hon Barnaby Joyce MP</td>
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<tr>
<td><em>Assistant Minister for Agriculture and Water Resources</em></td>
<td>Senator the Hon Anne Ruston</td>
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<tr>
<td><em>Assistant Minister to the Deputy Prime Minister</em></td>
<td>Hon Luke Hartsuyker MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>Hon Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade, Tourism and Investment</strong></td>
<td>Hon Steve Ciobo MP</td>
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<tr>
<td><strong>Minister for International Development and the Pacific</strong></td>
<td>Senator the Hon Concetta Fieravanti-Wells</td>
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<tr>
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<td>Hon Keith Pitt MP</td>
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<tr>
<td><strong>Attorney-General</strong></td>
<td>Senator the Hon George Brandis QC</td>
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<tr>
<td><em>(Vice-President of the Executive Council)</em></td>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td><strong>Minister for Justice</strong></td>
<td>Hon Michael Keenan MP</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>Hon Scott Morrison MP</td>
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<tr>
<td><strong>Minister for Revenue and Financial Services</strong></td>
<td>Hon Kelly O'Dwyer MP</td>
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<td><strong>Minister for Small Business</strong></td>
<td>Hon Michael McCormack MP</td>
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<td><em>(Deputy Leader of Government in the Senate)</em></td>
<td>(Special Minister of State)</td>
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<td><strong>Minister for Local Government and Territories</strong></td>
<td>Senator the Hon Fiona Nash</td>
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<td><strong>Minister for Infrastructure and Transport</strong></td>
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<tr>
<td><strong>Assistant Minister for Health and Aged Care</strong></td>
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<tr>
<td><strong>Assistant Minister for Rural Health</strong></td>
<td>Hon Dr David Gillespie MP</td>
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<td>(Manager of Government Business in the Senate)</td>
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<td>Shadow Assistant Minister for Indigenous Affairs and Aboriginal and Torres Strait Islanders</td>
<td>Senator Patrick Dodson</td>
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<td>Shadow Cabinet Secretary</td>
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<td>Shadow Assistant Minister for Preventing Family Violence</td>
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<td>Shadow Minister for Disability and Carers</td>
<td>Senator Carol Brown</td>
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**Shadow Minister for Infrastructure, Transport, Cities and Regional Development** | Hon Anthony Albanese MP
**Shadow Minister for Tourism** | Hon Anthony Albanese MP
**Shadow Minister for Regional Services, Territories and Local Government** | Stephen Jones MP
**Shadow Assistant Minister for Infrastructure** | Pat Conroy MP
**Shadow Assistant Minister for External Territories** | Hon Warren Snowdon MP
**Shadow Attorney-General** | Hon Mark Dreyfus QC MP
**Shadow Minister for National Security** | Hon Mark Dreyfus QC MP
**Deputy Manager of Opposition Business (House)** | Hon Mark Dreyfus QC MP
**Shadow Minister for Justice** | Clare O'Neil MP
**Shadow Minister for Employment and Workplace Relations** | Hon Brendan O'Connor MP
**Shadow Minister for Employment Services, Workforce Participation and Future of Work** | Ed Husic MP
**Shadow Assistant Minister for Workplace Relations** | Lisa Chesters MP
**Shadow Minister for Climate Change and Energy** | Hon Mark Butler MP
**Shadow Assistant Minister for Climate Change** | Pat Conroy MP
**Shadow Minister for Defence** | Hon Richard Marles MP
**Shadow Minister for Veterans' Affairs** | Hon Amanda Rishworth MP
**Shadow Minister for Defence Personnel** | Hon Amanda Rishworth MP
**Shadow Assistant Minister for the Centenary of ANZAC** | Hon Warren Snowdon MP
**Shadow Assistant Minister for Cyber Security and Defence** | Gai Brodtmann MP
**Shadow Assistant Minister for Defence Industry and Support** | Hon Mike Kelly AM MP
**Shadow Minister for Innovation, Industry, Science and Research** | Senator the Hon Kim Carr
**Shadow Assistant Minister for Manufacturing and Science** | Hon Nick Champion MP
**Shadow Assistant Minister for Innovation** | Senator Deborah O'Neill
**Shadow Minister for Health and Medicare** | Hon Catherine King MP
**Shadow Assistant Minister for Medicare** | Tony Zappia MP
**Shadow Assistant Minister for Indigenous Health** | Hon Warren Snowdon MP
**Shadow Minister for Early Childhood Education and Development** | Hon Kate Ellis MP
**Shadow Minister for TAFE and Vocational Education** | Hon Kate Ellis MP
**Shadow Minister for Skills and Apprenticeships** | Senator the Hon Doug Cameron
**Shadow Assistant Minister for Early Childhood** | Senator the Hon Jacinta Collins
**Shadow Minister for Agriculture, Fisheries and Forestry** | Hon Joel Fitzgibbon MP
**Shadow Minister for Rural and Regional Australia** | Hon Joel Fitzgibbon MP
**Shadow Assistant Minister for Rural and Regional Australia** | Lisa Chesters MP
**Shadow Minister for Resources and Northern Australia** | Hon Jason Clare MP
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<td>Shadow Minister for Ageing and Mental Health(^{(3)})</td>
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Monday, 21 November 2016

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

DOCUMENTS

Tabling

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

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

COMMITTEES

Meeting

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

Community Affairs Legislation Committee—public meeting today, from 4.30 pm, to take evidence for the committee's inquiry into the provisions of the Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016.

Corporations and Financial Services—Joint Statutory Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 1 December 2016, from 9.35 am.

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

Rural and Regional Affairs and Transport Legislation Committee—public meeting on Tuesday, 22 November 2016, from 4 pm, for the consideration of the 2016-17 supplementary Budget estimates.

Rural and Regional Affairs and Transport References Committee—public meeting on Thursday, 24 November 2016, from 4 pm, to take evidence for the committee's inquiry into airport and aviation security at Australian airports.

The PRESIDENT (10:01): Does any senator wish to have the question put on any of those committee meetings? There being none, we will proceed.

BILLS

Fair Work (Registered Organisations) Amendment Bill 2014

Second Reading

Consideration resumed of the motion:

That this bill be now read a second time.

Senator CAMERON (New South Wales) (10:02): I am pleased to indicate that Labor will be opposing the Fair Work (Registered Organisations) Amendment Bill 2014. The Prime Minister, Malcolm Turnbull, in his second reading speech, argued that he had fought the double dissolution election on our industrial relations commitments and they had won. I think there might have been one day when there was one small mention of industrial relations during the election campaign, but for the Prime Minister to argue that the last election campaign was fought on this bill is another example of where this Prime Minister has really lost the plot.
He went on to talk about grave failures of governance and a lack of accountability and transparency. I think the biggest failures of governance in this country have been the failures of governance in the banking industry, where the banks are systematically ripping off ordinary Australians, and this government will do nothing about it. This government refuses to have a royal commission into the banking industry, the biggest corporate rip-off that we have seen in this country for years.

He talks about setting up a robust regulator with appropriate powers and resources. I will come to it a bit later, but we have seen what their robust regulators do, with the ABCC and the absolute contempt shown by the ABCC—or Fair Work Building and Construction, who would like to be the Australian Building and Construction Commission. It is a regulator that does not care about accountability and does not feel that it should have to be accountable.

Malcolm Turnbull went on to talk about meaningful sanctions that can be applied when wrongdoing is revealed. There are plenty of sanctions there: the people that have been involved in wrongdoing are in jail, where they should be. Anyone that rips off money from workers and trade unionists should go to jail. That is where they should be—absolutely in the slammer, where they deserve to be.

Then the Prime Minister went on to say that the government has an unambiguous mandate from the Australian people to ensure that the registered organisations act is transparent and accountable. The transparency and accountability are there, and the transparency and accountability will be from what we are proposing, the amendments that we will propose to the Fair Work (Registered Organisations) Amendment Bill. We are proposing that ASIC investigate serious contraventions, not some mate of the coalition, put in there on hundreds of thousands of dollars to run the coalition's agenda from within a government organisation. We are arguing for tougher penalties, because we have no time for any trade union official, or anyone, who would rip off workers through the union movement.

We are proposing a cracking down on dodgy auditors. We are arguing that whistleblowers should be protected and encouraged. If someone wants to blow the whistle on anyone in the trade union movement that is doing the wrong thing, that should be dealt with. It should be dealt with unequivocally and in a clear manner, and the whistleblower should be protected. We are also arguing for transparent disclosure and disclosure thresholds.

I have to say to you I am appalled at the hide of the Prime Minister and of this party, the party who gave us Work Choices, the 2014 budget, the ABCC and trickle-down economics. How dare this party masquerade as a government who cares for rank and file unionists? It does not care about rank and file unionists. We know what its agenda is: to destroy effective trade unionism in this country so that the mates that keep throwing the money into its bank accounts for election after election—the big end of town—get more profit at the expense of ordinary working people. This is the party who gave us unfair individual contracts. Remember the Spotlight workers—women trying to help their families get food on the table, unmercifully ripped off by Spotlight under this government's Work Choices legislation. This is the party who reckons that, if you go on the job, you should simply do what the boss tells you, with no rights when you go on the job. You clock off your rights when you clock on, and the boss has complete managerial control. This is the mob that is trying to tell us that it is doing this to help ordinary workers and ordinary trade unionists. This is the mob that wanted to get rid of penalty rates, which are absolutely essential for many families to make a living.
and actually put food on the table, send their kids to school, and buy the school shoes and schoolbooks as and when they are needed. It wants to get rid of penalty rates, annual leave loading, bargaining rights and every long-held protection that workers have fought for in this country.

The crossbench should understand that this is just one aspect of how the coalition are going to set about doing this. This is not simply the end of the story for the coalition; this is part of a long-term strategy that they have to diminish the capacity of the trade union movement to represent workers and have decent bargaining rights in this country. If they were the mob that were going to look after workers, why have they treated the public servants, their employees, with absolute disdain and contempt over the last three years? If they were the great protectors of the trade unionists in this country, why have they not bargained in good faith with the Public Service in this country for almost three years?

This is the mob that says it is going to look after trade unionists, and it appoints a professional union buster, Mr John Lloyd, as the Public Service Commissioner—a man who has made his livelihood attacking trade unionists and workers’ rights for as long as he has been in public service in this country.

This is the mob who would destroy the apprenticeship system and shift the cost of training from the employer to the apprentice. It determined that there would be student builders to appease former Senator Bob Day and make sure that Senator Bob Day’s vote continued to be provided to the coalition. Former Senator Bob Day asked for $1.4 million so he could rip apprentices off, and what does this government do? It says: ‘No, Bob, we’re not going to give you $1.4 million. How about $2 million to get rid of apprenticeships in this country?’ This is the mob that, because it is supporting that Bob Day proposal, would destroy the trade certificate system in this country just to appease former Senator Bob Day.

The great protectors of the trade union movement, as they were trying to portray themselves, are the very mob that would seek to deny women workers decent maternity leave. That is what they are about. Do not ever be fooled into thinking that this lot have any bone in their body that is sympathetic to the trade union movement or workers in this country. They are the lot that would deny workers an increase in superannuation. I know that, when I first became a union official, one of my first jobs was to try to get superannuation for ordinary workers. If you were a blue-collar worker under the coalition, what happened with you then was that, if you left the job, you lost your superannuation, because there was no vesting of your superannuation for a blue-collar worker in this country—absolutely none. They supported that, and they opposed superannuation. So, for every condition that makes workers’ lives in this country a bit better and easier and makes it easier for workers to go home to their families and say, ‘Look, I’ve got a decent wage and decent conditions and I’m feeling all right about myself and my job,’ this is the lot that would take that away.

They really are the party who support Wall Street wages for the boss and Bangladesh wages for ordinary workers in this country. They have been like that for as long as I have been in this country, and that is over 40 years. That is what they are: Bangladesh wages for workers and Wall Street wages for the mob that put the money in their back pocket. That is what they are about. They are the party that believe it is okay to sack a worker unfairly. I could not believe that we have legislation that says, basically, that you can treat a worker unfairly and then you can sack them. This is just beyond belief.
This is the party that rails against unions while turning a blind eye to young, inexperienced Irish and German backpackers being killed on dangerous construction sites. Do you ever hear coalition members come in and say, ‘This is terrible that this construction company had no safety on the job and were using backpackers and the backpackers got killed under huge lumps of concrete, or a young German backpacker—a young woman, a female worker with no experience in the building and construction industry—fell many metres and met her death’? Do they say anything about that? No, they do not. This is not the mob that would support trade unionists in this country.

This is the party who ignores the plight of 457 workers being ripped off by senior Liberal Party members and Liberal Party donors. Just look at subclass 457. When was the last time you heard coalition members say anything about the workers working on 457 visas in 7-Eleven shops right around the country? They say nothing. They do nothing. The only thing you hear from this lot is attacks on the trade union movement.

This is the party that has given us the most incompetent, arrogant and biased public servant ever in this country, Mr Nigel Hadgkiss. Mr Hadgkiss, the head of Fair Work Building and Construction, who treats his accountability to the Senate with absolute contempt. Hadgkiss, who treats the estimates process as unimportant and not requiring honest and open answers. Hadgkiss, who believes maintaining a diary is his prerogative and not the need for any accountability for the expenditure of taxpayers’ money.

This is the mob who talk about accountability and transparency and failure of government when it comes to unions. Yet, when it comes to the Liberal Party itself, when it is discovered to be more corrupt than any trade union movement in this country, when it systematically goes around breaching electoral laws in New South Wales, when ICAC exposes the Liberal Party for its dishonesty, for its corruption, what does it do? It does not say to ICAC, ‘Great job; well done’. It changes the laws to define ICAC. That is what this lot do. So if it is the trade union movement and there are a minority of problems in the trade union movement, then you impose legislation that takes rights away from all workers. When it is the Liberal Party—up in Newcastle, sitting in the back seat of the Bentley, taking brown paper bags with 10 grand of illegal donations to the Liberal Party—what do you hear from the Liberal Party? A big fat zero. Nothing.

How dare the Liberal Party come here and lecture us about accountability and proper process? If they deal with the problems in the Liberal Party they might have an argument to come here and raise issues about any other organisation in this country. But they cover up the corruption in the Liberal Party, they cover up the corruption in the banks, they cover up the corruption in the farming sector where workers are being mercilessly ripped off. All they do is they come in here day after day attacking the trade union movement, when the real problems in this economy are the people who are supporting those opposite. They come in here after losing 10 Liberal Party members in New South Wales because of the corruption watchdog in New South Wales. Ten members of the Liberal Party gone because of corruption in New South Wales. Senator Sinodinos has memory loss. Every day that he was in ICAC he lost his memory, but he was prepared to take thousands of dollars from a company that was going bust—or even had been bust—to travel from the eastern suburbs to a meeting in the western suburbs of Sydney. Those are the types of people we are dealing with across the chamber.
They are the mob who ignore the greed and avarice and financial destruction of innocent families by the big banks. They are the mob who want to hand $50 billion in tax cuts to big business, including the banks. Why would anybody give the banks a tax cut when they are ripping families off day-in day-out, screwing families every day? This is the mob who are presiding over rising inequality and declining living standards. Surely that is the issue the public would want any government to deal with? They rail against red tape and big government, but when it comes to attacking the union movement or paying off their mate Bob Day, there is no limit to the amount of taxpayers' money that can be splashed around—absolutely no limit. They ignore the existing regulatory bodies, and they create more bureaucracy and red tape by establishing another regulatory body. Never too much red tape when it is used against the trade union movement!

They now want to create a new, highly paid position, the Registered Organisations Commissioner—another Nigel Hadgkiss or John Lloyd in the making.

Australian workers have a right to question this mob. The crossbench should be questioning it, because this is more red tape and more ideology at work. This is ignoring the real problems in the economy and taking the worst aspects of problems in the trade union movement and saying they apply everywhere. They do not. Australian workers have a right to belong to independent trade unions. I was a union official for 27 years, 11 years as National Secretary of the AMWU. I received the ACTU award for outstanding commitment to the Australian trade union movement. I know a bit about the Australian trade union movement. My record as a union official is on the public record. My activities are an open book: fighting for workers' wages and conditions, for superannuation, for shorter hours, for health and safety and for decent jobs and industry policy, and working with employers to improve the productive performance of companies. I was a member of Mr Keating's best practice advisory committee, where we went to companies who did not even have a business plan. How crazy was that? Yet it was the trade union movement, working with government, that actually modernised whole areas of Australian industry. I was responsible for putting an external review board into the AMWU so that accountability was there. Any member could go to former deputy president of the New South Wales commission Jim Macken, former Senator Barney Cooney and former Victorian Premier Joan Kirner, and take any complaint about the operation of the union to them.

This is just one step in a broader attack on the trade union movement. The government should be dealing with the real issues and should lay off the trade union movement, because without unions wages, conditions and living standards in this country will decline. *(Time expired)*

**Senator RHIANNON** (New South Wales) *(10:22)*: The Fair Work (Registered Organisations) Amendment Bill 2014 should be defeated. It has already been defeated twice in the Senate, and the right thing to do would be to vote it down again.

In trying to understand this bill, we need to examine it in the context of what the Liberal-National Party stand for and to understand why they are so obsessed with attacking the union movement, why they really go after collective action that workers engage in to improve wages and conditions, and why they effectively, therefore, are taking a stand against those working for a fair society. The registered organisations bill is not just some simple piece of
legislation to get some conditions in place; it is legislation about tying up how unions fundamentally work.

Again, why are Liberals and Nationals so obsessed with laws that weaken unions? The coalition’s key purpose is to deliver for its constituents, and its constituents are corporate Australia. And what is the key demand of corporate Australia? Why corporations are on the planet is to increase their profits. It is what CEOs are legally required to do: to do the best thing by their shareholders. The best thing by their shareholders is increasing profits. How do you increase profits? You limit the role of unions, and that is what is going on here with the registered organisations bill we are dealing with today and with the ABCC bill, which this government is also obsessed with pushing through.

So that is why they are doing it. That is why the Liberals and Nationals, under Prime Minister Turnbull, are pushing so hard in this last two weeks of parliament to get through this legislation. But they cannot go out there and say: ‘We have to pass this legislation because our main backers, corporate Australia, want it through. We want to make it harder for workers to get out there to defend and improve their conditions, gain higher wages and improve safety on the job—all issues that will cut, to some extent, into the profits. Corporate Australia want to have a free hand, with more deregulation, and want to go in there hard.’ Mr Turnbull cannot go out there and say, ‘We get big donations from corporate Australia, and their key demand is to weaken unions.’ Senator Cash, as the responsible minister, cannot go out there and tell the truth about why they are introducing this legislation. So what do they come up with? The big lie, the deception about why this legislation is being introduced.

Apparently, if you listen to them and believe them, it is about getting registered organisations and corporations on a level playing field so that they will be bound up with the same laws, requirements and standards. Again, when you look at it, that is just not the case. The starting point here needs to be that unions and corporations are not the same. Again, let’s remind ourselves: corporations have a legal obligation to get out there and make profits for their shareholders. What is the job of unions? Unions are organisations where workers—the members—come together collectively to work for improved wages and conditions.

Let’s also remember what this has meant for Australia. It is why we have the type of fair society that we have—a society where we need to work to improve fairness and reduce inequality. What workers have achieved, organised collectively and coming together in unions, is fantastic: holiday pay, sick pay and penalty rates. Why do we have penalty rates? Because we value our weekends. We value time in our communities with our families and friends. Therefore, if you are in one of those jobs where you have to work at weekends, you should get that extra assistance—that extra pay. All these conditions, and much more, have been won by unions in well over a century of struggle. But, if corporate Australia could get its way, so much of that would be stripped away. That goes to the heart of what we are dealing with here today, and it is a reminder that the role of unions is not similar to, and cannot be equated to, the role of corporate Australia, which is how the government are trying to present their argument, because they have this dilemma. They cannot justify what they are doing by being honest, so they are coming up with this huge misinformation about what is going on here.

It is really worth expanding on this issue of what the union movement has achieved for Australia, at a time when all you hear from the Turnbull government and from most of the
media outlets is attacks on unions, as though they are all out there feathering their own nests and doing the wrong thing. If people do the wrong thing, there are a raft of laws in Australia, as the government knows. If criminal activities are undertaken, you have a responsibility to go and report them, and they can be taken up immediately. That is not a problem. Again, the fact that those laws are so rarely acted on demonstrates what is really going on here.

I have detailed just some of the huge achievements of the union movement. These huge achievements are at the core of a fair society, and again they were not given to us because our forebears in this place came and sat on the red benches and the green benches one day, had a good idea and thought, 'Okay, let's pass some legislation so there'll be holiday pay, sick pay and penalty rates.' They did not happen because earlier MPs arrived at work and decided to pass that bill; they came about because workers collectively came together to struggle, campaign, go on strike and engage with their communities to win those rights—something that is so fundamental to the type of society we have today. It has been that big battle all along. If these proposed laws go through, the red tape—and remember that this is also a government that is always telling us how it wants to cut red tape, but not when it comes to the union movement; it wants to tie the union movement up—will make it much harder to continue those important campaigns that make such a difference to the lives of so many.

CEOs, bosses and corporate heads have their lobbyists in here pushing hard for laws that restrict union activities. That is why in the last two weeks, when there is so much important work that should be undertaken, we are being subjected to these two proposed laws, which should have been binned long ago.

It is easier to run a profit-making company unencumbered by unions saying workers deserve higher wages, calling for occupational health and safety inspections or campaigning for overtime to include full penalty rates. The boss sees all these demands as financial burdens. We cannot emphasise this enough, because this is what the government is refusing to acknowledge. Why do they do that? Why do they want to cut corners? Why do they not want to grant those very reasonable demands for safety on the job?

You heard the previous speaker, Senator Cameron, give that tragic example of the young German backpacker killed early on in her work here. She had no experience on the job, she was not given proper inductions, and she lost her life when she was travelling around the world trying to get some experience and to see different countries. There was the absolutely criminal activity in Queensland just recently. I will come back to this in the ABCC debate, but it is worth repeating many times: two workers were in a huge pit with big concrete slabs being moved above them. They see one slab starting to topple, and they are able to scramble up a ladder to get away from it. They start to stabilise it, but they cannot stop the next big concrete slab from toppling and they get squashed. They are killed between two concrete slabs. These are the sorts of incidents that are going on at building sites all the time. And if you wonder why it is a rough and tumble industry, it has a lot to do with the rotten working conditions that are becoming, tragically, more common because of the weakening of unions in this country, who find it much harder to get out there and take up these issues.

A couple of years back it was the Abbott government that was doing something similar to what the Turnbull government is doing today—that is, trying to push through these anti-union laws. This is common when you have conservative governments in power; this is what they do. One of their primary roles is to get this type of legislation through. We are seeing it from
the Turnbull government; we have seen it with the Abbott government. Not too long ago it was the Howard government and Work Choices. And then you go back to the Menzies government and the penal sections of the Conciliation and Arbitration Act that set down heavy fines and jail sentences for union officials and rank-and-file members who engaged in any action contrary to an order of the arbitration court. And unionists were jailed under that act.

Again, this is a reminder that the coalition understand what their core business is. They get into power and what is their job? To weaken how unions operate. And we have seen it successively with different governments, and that is what Minister Cash has been spending all her time on—to continue that history of how coalition governments work. And with that brief history that I just ran through of what previous conservative governments have done, it shows it is not that dissimilar to the registered organisations bill that we are now dealing with. The same intent is there: it is designed to tie up unions and limit their ability to work for improved wages and conditions.

An examination of current laws reveal why this legislation is not needed. Currently unions are required under the Fair Work (Registered Organisations) Act 2009 and other legislation to be democratic organisations. Remember there is no similar requirement for corporations. Unions are required to publish their accounts and financial returns every year online, but proprietary limited companies are not. The companies do not have to do that. That highlights the big lie that is coming from the government in how they are promoting what this bill is about. They are not being truthful with what is going on here.

Current laws prevent officers of registered organisations from using their positions for their own personal benefit. If an officer did abuse his or her position they could be prosecuted. And then there are all of the criminal laws: if there is corruption or if there is rorting in any form, it can be dealt with right now. That is possible. This bill is not needed in any form. The bill allows the government to intervene and control unions in a way that is not in place for private companies. Private companies, corporate Australia, can get away with it. The laws have been successively weakened on their accountability, whereas for unions it is getting much tougher.

If the Turnbull government were serious about putting unions and corporations on an even footing, they could extend the current democratic and reporting requirements demanded of unions to corporations. But instead the government are saying to organisations that represent Australian workers that they will impose the same penalties as apply to a publicly listed company. This legislation, by tying unions up in red tape, will reduce their ability to continue to work for the interests of workers. Those on very low pay and poor conditions need unions.

Again, when you look at the way Australian society has developed, what you see, for well over the last century, is that, when you have stronger unions fighting for and winning good wages and conditions, that flows through to workers who are not in that same position, may not be represented by a union and may not have the industrial muscle to be able to achieve those changes. In time it flows through to them. Cleaners, child-care and aged-care workers, and all workers with little ability to organise benefit when unions that cover workers in other sectors have wins with improved wages and conditions. We really need to remember that. It has been a very significant part of how our society has developed.

But now our society is at the crossroads. To pass this legislation will further exacerbate the inequality that is becoming the hallmark of 21st century Australia. Workplaces will become
more unsafe, and wages for many will hover around the poverty level as the government does everything possible to make it easier for companies to undercut wages, avoid penalty rates, and have more workers on casual rates while some work 50 or even more hours a week or attempt to survive by taking on one, two, three or more jobs. On those conditions, what meaning does family life have? How would people have time to go to a P&C meeting at their local school and attend their children's sporting events, and how would they pay for their children's school excursions? These are real questions. If you are committed to Australia being a fair society, a fair society means people are not in constant struggle to pay the rent, put food on the table, dress their kids and help them with their recreational activities. There are people who are struggling so hard at the moment, and the backup that so many families and so many people have is that there is a union movement there that is working for decency. What people are facing now, in the low-wage, no-job-security society that the Turnbull government is overseeing, is that life is going to get harder for them—again, because of bills like this that should in no way become laws.

This bill is the latest attack by this coalition government on the union movement—again, representing a long history of what coalition governments do when they get into power. They deliver for their constituency, corporate Australia, which donates millions of dollars to the Liberal and National parties to try to get them elected. The registered organisations bill should not pass. It is one more brick in the wall of inequality the Turnbull government is constructing. The intent is ugly, ruthless and cruel. It is a bad bill and it should be voted down.

Senator PATERSON (Victoria) (10:38): Mr Acting Deputy President Marshall, I am again privileged to be contributing to a debate with you back in the chair. Can I say how pleasing that is. It feels like the natural order of this place has been restored, and I hope there will be much more of it.

It is wonderful to begin a Monday morning in the Senate on such a positive note, with a terrific and important bill before the Senate, the Fair Work (Registered Organisations) Amendment Bill 2014. Mr Acting Deputy President, through you, can I please congratulate the minister for her leadership on this issue and on many other issues. This is a minister who will already go down as the minister who saved owner-driver truck drivers this year; this is a minister who will already go down as the minister who saved the CFA volunteers; and I hope, with the agreement of the Senate, in due course this will also be the minister who will go down as the minister who saved union members from being ripped off by dodgy union officials.

The contributions to the debate so far this morning, I think, have been very instructive. I listened carefully, as I always do, to Senator Cameron's contributions and, of course, to Senator Rhiannon's contributions as well. Although they were very passionate and erudite, as always, I thought it was very revealing to see what they chose to talk about and what they did not speak about. In fact, they spoke very little about the bill that is before us today. They spoke very little about its provisions, about what it seeks to do and about the problems that it seeks to address. Instead, they spoke at some length and in some detail about the union movement generally, about its achievements, its accomplishments and its role in society. Senator Rhiannon even talked about how some people in our society find it difficult to pay their rent or to find time off work to look after their kids. These are good and worthy topics...
and important issues, but not ones which relate to this bill directly or, frankly, in my view, even indirectly.

I would like this morning to return to the bill itself and talk about what it actually seeks to achieve, to see if we can help enlighten the Senate about what we are actually debating and focusing on this morning and throughout this week. The government is asking the Senate to ensure that both unions and employer organisations are subject to similar levels of transparency and accountability to those we require of companies. The Fair Work (Registered Organisations) Bill 2014 will establish a focused regulator to oversee unions and employer groups with strong powers to enforce the law. It will mean officials from unions and employer groups will be subject to similar standards to those of company directors under Corporations Law, including more thorough reporting and disclosure and, for those who break the law, bigger penalties.

This legislation is important because across Australia there are 47 unions and 63 employer groups, with annual revenues of $1.5 billion and assets of $2.5 billion. More than two million members trust these organisations with their money. Honest workers deserve to know their union or employer group is acting in their best interests. These organisations have special privileges under the law, and I think that it is appropriate that with those special privileges come reasonable obligations and expectations of capability and transparency. For example, these organisations are exempt from paying income tax. All Australians deserve to know, as a result of that, how they are being accountable for that privilege. Unions in particular have other special legal privileges that are not afforded to other organisations, companies or individuals in our society, such as the right of entry to a workplace. With such a special legal privilege I do not think it is unreasonable for them to be held at only the same standard as a company director or a corporation.

I will talk a little about how this legislation will work. The bill contains measures to improve the standard of governance of registered organisations and to deter wrongdoing. They include, for example, a focused regulator, to be called the Registered Organisations Commission with appropriate resources and powers modelled on those of corporate regulators, enhanced financial accountability provisions and meaningful sanctions that can be applied when any wrongdoing is revealed. Some of the new accountability measures for unions and employer groups will include requiring registered organisations to disclose remuneration paid to the top five highest-paid officers in their head office and any branches and requiring officers whose duties relate to financial management to disclose material personal interests, and ensuring officers do not make decisions on matters where they have a conflict of interest. It is difficult to understand what anyone would object to among those provisions. Perhaps that is why the senators who have spoken in opposition to this bill this morning have not referred to any of these provisions.

I note that Senator Dastyari is due to speak next. I have a challenge for him—that is to address the merits of the bill and of these provisions in particular. I look forward to hearing his specific concerns about these measures, if he is indeed joining with his colleagues and opposing this bill.

**Senator Dastyari:** Challenge accepted!

**Senator PATERSON:** I welcome that. The legislation also introduces higher civil penalties and a range of criminal penalties for organisations and officials who are found by
courts to have done the wrong thing—for example, civil penalties ranging from $18,000 to $216,000 for individuals and up to $1,080,000 for a body corporate and criminal penalties for reckless or intentional dishonest breaches of an officers duties of up to $360,000 or five years imprisonment or both.

I would like to talk about some of the events which led the government to form the view that this was a necessary measure. This is not something that the government decided to do on a whim or without any evidence. It is something that the government has done in response to major incidents of defrauding of union members' funds and the misuse of union officials' powers. Here are some examples, and it is important to note for the record that this applies to a range of unions, not just a handful. It applies to a range of union officials, not just a couple of bad apples. And it is not ancient history. Many of these incidents are current. Indeed, there is a case in the courts this very week relating to the National Union of Workers and an alleged fraud of up to $400,000 of union members' money. This is not ancient history; these are current issues facing union members and unions across the country.

For example, TWU officials spent more than $300,000 purchasing modified American utes, which were used for personal purposes. One official even attached personalised number plates to his ute. Another official had the union's redundancy policy redrafted so that he could take his car with him once he left the union, which happened not very long after the purchase of that truck. National Union of Workers officials and staff have used members' funds on dating websites, sports tickets, toys and holidays. NUW officials and staff used corporate cards and credit cards to buy holidays worth more than $18,000, sports tickets worth more than $4,000, toys worth more than $670, dating website services worth more than $2,200, hairdressing and iTunes purchases worth more than $1,500, and other personal purchases.

Back to our friends at the Transport Workers Union. We had assistant secretary John Berger as the Tasmanian superannuation liaison officer for TWUSUPER from 2009 to 2012. He was also an employee of the TWU at that time. In the 2011-12 financial year, Berger spent only five days in Tasmania, with half of his time devoted to his duties on behalf of TWUSUPER. The TWU then billed the superannuation fund $93,434 for his work in that financial year. That is a pretty spectacular rate of pay. Senator Cameron was very concerned about Wall Street rates of pay, but I think we should be looking very closely at Tasmanian rates of pay on that hourly basis. There would be many Wall Street traders who would be envious of that kind of remuneration. This invoiced amount covered exactly half of Berger's total annual salary. He reluctantly agreed with Jeremy Stoljar SC during the union's royal commission that, on the math, the invoice that was put in claims $93,000 for 2½ days' work. Obviously a very productive union official.

Another matter that senators may be aware of is that the Leader of the Opposition's campaign director's wages were paid by a construction company—obviously a very kind and considerate construction company. Mr Shorten accepted a $40,000 donation from one of the companies negotiating a pay deal with the Australian Workers Union, Unibilt, at the time he was the Australian Workers Union national secretary and campaigning to become a member of parliament. The donation was used to pay the wages of Shorten's campaign staffer in 2007, but was not disclosed until two days before the royal commission asked him about these matters in sworn evidence—quite a number of years later, as senators will be aware.
One final example: the Australian Workers Union—again—was identified as being engaged in issuing false invoices. The royal commission heard that Cesar Melhem, a member of the upper house in state parliament and a Labor MP, repeatedly issued false invoices to companies marked as 'training', 'occupational health and safety' or similar when in fact they were actually payments for union membership in the hundreds of thousands of dollars. The Australian Workers Union membership roll contained the names of workers as well as horseracing jockeys who had never agreed to become members of the union.

These are just a handful of examples. This is just a snapshot of the many instances in which union officials have engaged in untoward conduct, where union members' money has been spent misspent. We have not even spoken so far today about the Health Services Union and the spectacular misuse of members' funds that occurred there under the stewardship of a previous member of the other place, but I have no doubt that other senators will contribute some details about that case later on in the debate.

It is very clear that union members have been taken for a ride by union officials for far too long, and it has fallen on this government to take action to address it. It should not require a coalition government to address this. The previous Labor government was confronted with a very similar set of facts and could have taken measures to address this, but it chose not to. Instead, it chose to side with union officials over union members, and that is something that this government will not do. I commend the bill to the Senate.

Senator DASTYARI (New South Wales) (10:50): I welcome Senator Paterson's remarks and his contribution on the Fair Work (Registered Organisations) Amendment Bill 2014. He felt that the debate should be heading towards the specifics of the legislation that is before the Senate. I do intend to speak about the specifics of the bill itself, but I think it is near impossible to divorce the specifics of this bill from the broader issue, which is nothing other than a concerted assault by this government on elements of the trade union movement and the trade union movement as a whole. The idea that you can look at a piece of legislation like this in isolation without the context of the approach that is being taken by this government on the broader issues of workers' rights, trade union participation and the movement more generally I think would be false and a mistake.

I will talk a little bit about the specifics of what this bill proposes to do. I would not mind trying in an impartial way to outline the bill as I understand it and then outline my opposition to it. The bill itself establishes the Registered Organisations Commission, which will be headed by the Registered Organisations Commissioner, who will be hand-picked by the government and will have greater investigative powers than those currently available under the Fair Work Commission. It increases disclosure requirements for officers and registered organisations. It introduces higher penalties for civil contraventions and introduces criminal offences in respect of officers' duties which are modelled on those found in the Corporations Act 2001. I think it is worth noting that this bill was defeated—I know Senator Rhiannon said on two separate occasions—I recall on three separate occasions, but I may be mistaken—

Senator Jacinta Collins: I think you're right.

Senator DASTYARI: Yes, on three separate occasions by the 44th Parliament. There may have been an earlier one that defeated it once. It is a little bit like groundhog day here—here we go again.
Some suggestions have been proposed—and again I do not want to go so far as overly foreshadowing amendments that may or may not be made in this chamber. There are proposals—that should be taken—that Labor outlined as part of our plan for better union governance that was announced in December 2015. It would provide: increased penalties but exempt volunteers, greater protection for whistleblowers, more accountability for auditors and more accountability for electoral donations by reducing disclosure amounts from $13,200 to $1,000. Rather than creating a new bureaucratic Registered Organisations Commission, Labor proposed that the Australian Securities and Investments Commission use its extensive coercive powers to investigate serious breaches of the Fair Work (Registered Organisations) Act.

There are serious concerns about the nature of this legislation. The bill will establish the Registered Organisations Commission, which will be headed by the Registered Organisations Commissioner, who again will be hand-picked by this government. The bill modifies disclosure requirements. This bill actually increases red tape. It is fascinating to hear senators who have been such strong advocates of lessening government regulation, like Senator Paterson, arguing for what can only be described as another burdensome process being placed on none other than in many cases volunteers who are giving up their own time and their own effort to participate.

The bill contains higher penalties for civil contraventions and introduces criminal offences, as discussed earlier, but these sanctions are onerous. These sanctions are disproportionate. They are unfair. They prevent employers who volunteer to work for employer bodies from continuing that work. The bill treats volunteers like the chief executives of corporate boards, except without the pay and conditions.

Registered organisations and the role they play in our society should not be underestimated or ignored. They are created for the purpose of representing Australian employees and employees at work. But the important point is that a lot of these are organisations and positions that are held by volunteers, by people who give up their own time and their own resources and who choose to participate in these types of processes because they believe in the issues, the cause and the matters for which they are fighting. Registered organisations represent their members before industrial tribunals and courts and work with government on policy matters as wide-ranging as economic policy and social policy.

What concerns me is that the real agenda of the government is not in this case about strengthening the trade union movement. The real agenda with this legislation is to destroy and weaken the role of the trade unions within our society. The nature of this legislation goes to the heart of doing that by making it more difficult, more onerous and more challenging for volunteers to participate and be involved in these types of organisations. This legislation is nothing more than an attack on the rights of Australian workers to be properly represented and protected.

It is worth making the point that in the majority of submissions, from both employer and employee groups, to the Senate Education and Employment Legislation Committee’s inquiry into the previous iteration of this bill—again, this is not a new bill—were against the substantive measures outlined in the bill. I note that in an earlier inquiry the Ai Group, an organisation that is not known to be aligned with the Labor Party, said:
If the proposed criminal penalties and proposed massive financial penalties for breaches of duties are included in the RO Act, this would operate as a major disincentive to existing voluntary officers of registered organisations continuing in their roles, and would deter other people from holding office.

These are serious concerns.

Senator Paterson and others, especially from the government side, who have spoken about this bill tend to talk about the allegations of criminality, some of which are very serious cases of criminality. Unlawful behaviour, particularly criminal behaviour, by anyone should be met by the full force of the law. That should be the case whether the person is a banker or a union official. No-one should have any tolerance for those who steal from workers, whether that be corrupt union officials stealing members’ money or employers underpaying their staff. In all cases, the taking advantage of the weak and vulnerable is reprehensible behaviour and should be called out for what it is. That is why we have an Australian Federal Police and state and territory police with the powers to investigate crimes. We even have the Australian Crime Commission, which has coercive powers and the power to investigate serious crimes. They are the appropriate, well-resourced, bodies to deal with these serious allegations. I am not of the view that simply creating another level of bureaucracy is going to achieve the outcome of improving this situation.

Labor supports strong and proportionate regulation of registered organisations. Proportionality in this scenario means that you have an appropriate response to the challenges being faced. That is why the Labor Party in 2012 proposed a series of reforms. We further updated those reforms in December 2015. They are reforms that have not been taken up by the government.

In 2012, the legislation that was put forward by the then minister for employment and now Leader of the Opposition, Mr Bill Shorten, in the other chamber, tripled penalties for breaches of the Fair Work Act. The legislation required that education and training about governance and accounting obligations be provided to officials of registered organisations and required the disclosure of officials’ remuneration and pecuniary and financial interests. It also enhanced the investigative powers available to Fair Work Australia, including the power for the Fair Work Australia general manager to provide information to bodies such as federal or state police and other regulatory agencies, correcting a serious flaw in the regulatory regime introduced by a previous minister for workplace relations, Mr Tony Abbott. The legislation was supported by both employer and employee organisations. The regulation of trade unions as a result of these 2012 changes meant that we had a working body that had never been stronger. Accountability had never been higher, and the powers of the Fair Work Commission to investigate and prosecute for breaches had never been broader. Penalties were tripled, which means they had also never been tougher.

Look at how the government has carried on. Look at how the government behaves. If you look at how the government speaks and at the rhetoric it chooses to use in this space, you realise that what it says could not be further from the truth. The registered organisations act prohibits members’ money from being used to favour particular candidates in internal elections or campaigns. The registered organisations act already allows for criminal proceedings to be initiated where funds are stolen or obtained by fraud, and the registered organisations act already ensures that the Fair Work Commission can share information with police—as is entirely appropriate. The registered organisations act already provides for
statutory civil penalties where a party knowingly or recklessly contravenes an order and direction made by the Federal Court and the Fair Work Commission. Under the Fair Work Act, officers of registered organisations already have fiduciary duties akin to those of directors under the Corporations Law.

Labor has put forward a plan to strengthen the transparency and accountability of trade unions, and it is something that I feel this government should be looking at adopting. It is something that will actually have meaningful impact—improving the legislation and the procedures by which these matters are dealt with. What we have from the government, however, is nothing more than an ideologically-driven assault on the rights of workers to participate in the trade union movement and on the rights of workers—especially those who are volunteers—to engage and to have their role and their say. It is impossible to split the reality of where the government's agenda has been heading on this issue and what the government itself is saying.

I want to quickly run through what the government has been doing in some of these areas. When it comes to the protection of Australian workers, this government could not have done less on the real issue and on what is going on there. I find it disappointing that, on this Monday morning, the first issue of the day, the matter we are dealing with, is a registered organisations bill that has been rejected several times by this chamber in the past and that has no other purpose than to push an ideological agenda and an assault on good, hardworking Australians.

I was fortunate last week to participate in the Senate inquiry into matters related to the coal industry. The day before the inquiry I was fortunate to be able to travel to Hazelwood and meet with a group of workers who have been displaced or will be displaced as of May next year and to talk to these workers about the challenges that they face. Those are the matters that this chamber should be dealing with. Those are the matters that should be the top priority on our agenda. When we are seeing 750 workers who have lost their jobs, that should be the focus of this government. Instead, we have a government that has decided that the first piece of legislation on its agenda is going to be nothing other than an assault on the rights of workers and an attack on their ability to participate. The government is creating unnecessary legislation which will do nothing other than discourage volunteers and others from participating in these processes.

The proposals that were put forward by Labor at the end of last year, in December 2015, go to the heart of legitimate concerns that have been raised in this space. They go to the heart of the issues that need to be addressed. Unfortunately, we have not seen the government engage in serious amendments that can improve this legislation and have the possibility of being bipartisan. I am still hopeful there may be an opportunity to work out a bipartisan way of dealing with this issue. Unfortunately though, I am increasingly coming to the view that that is probably something that is not realistically going to happen.

The regulation we have placed on trade unions is serious; it is strong. But what we have here is assault after assault on trade unions; assault after assault on the rights of working Australians—and at a time when there are such challenges being faced with respect to the future of the Australian workforce and the future of Australian jobs, and with industry after industry being displaced. There is a disconnect in what is happening out there in the real world, in workplaces, in industries that are on the way out.
Rather than using our time in this chamber to discuss how we prepare our economy, how we prepare our workplaces and how we prepare our industry for the changes that will inevitably be taking place, here we are, with only two weeks to go, again talking about a piece of legislation that has been debated to death, that has been rejected on three separate occasions—rather than talking about the issues of what some of these workers are now facing. An incredible change is taking place in the Australian economy. Incredible changes are taking place when it comes to Australian jobs. The focus of the employment minister needs to be on how we futureproof our economy, how we make sure there are good, decent jobs for these Australians going forward. Instead, we have the rehashing of an old bill that has been dealt with before, that is being pushed by nothing other than a strong ideological agenda that will achieve nothing but discourage genuine, hardworking volunteers from being able to participate, to have their say and to be involved in these types of organisations.

Regarding the proposals that have been placed before us—and I want to speak to some of the crossbench senators here—an ideological agenda has been pushed in this chamber by the conservative side of politics for many, many years, and this is simply an extension of that. Think of all the volunteers in these organisations, the people who choose to give up their own time, their own resources. To hold volunteers, who are unpaid, to the standard of corporations without giving them the same type of remuneration or the same types of opportunities really will do nothing but weaken these organisations. I am proud of and like the idea that a lot of these registered organisations have real people—often, in the case of trade unions, off the tools—who work nine to five and who choose to participate because they want to have their say and they want to protect their industries. I think it will be a very worrying development if we head down the path where good, decent, hardworking Australians are excluded because of an ideological agenda that is being pushed as an assault on the trade union movement.

We have seen in blind quotes and comments that have been given that the government seems to view all this as 'good politics'. But it is bad policy, and that is why this bill, in its current form, should not be supported. (Time expired)

Senator ROBERTS (Queensland) (11:10): As a servant to the people of Queensland and Australia I rise with a sense of obligation to Australian workers to speak on the Fair Work (Registered Organisations) Amendment Bill 2014. The government has a mandate specifically for this bill, and the chamber must give careful and due consideration to this bill as it is central to the calling of the double dissolution election—a rare occurrence in Australian political history.

As I mentioned when the CFA legislation came before the Senate, Pauline Hanson's One Nation party travelled from the north of Queensland to rural Victoria to learn how the Australian industrial relations system was affecting the economy and how it was viewed by everyday Aussies. This bill begins a process of pulling apart the elites—and by 'elites' I mean those union bosses who lord over hardworking mums and dads who struggle to pay their union fees and who should rightly expect the best and most diligent representation by their union. This bill brings rule of law to the elites, the union bosses, who have failed to adhere to law or think they are above it. Australians always kick back when they think a group or person has too much power. The strong community support that exists for this bill is a result of the concentration and wielding of ugly power by elitist union bosses. Finally, Aussie
workers can breathe easy that this law will have their back. And having Australia's back was an exact promise of Pauline Hanson at the last election.

This bill seeks to bring the regulation of unions into line with the standards required of corporations and their directors. This long overdue legislation aims to create a registered organisations commission to take over responsibility for the oversight of unions and employer organisations from the ineffectual, union dominated Fair Work Commission. A high level of accountability is a measure for which Pauline Hanson's One Nation has been calling for some time. Why is this bill central to our philosophy? Central to our assessment of legislation is the concept of ensuring that freedom wins over any proposed control mechanism. The bill sets workers free to have representation without the yoke of a union boss's theft of resources and imposes on union bosses the obligation to look after union members' fees in trust with reasonable fiduciary obligations—obligations that every other section of the community is expected to meet.

This bill is about protecting workers, standing up for workers and giving workers rights to ensure that they are not unfairly or grossly controlled by elitist union bosses. Specifically, this bill seeks to bring the regulation of unions into line with the standards required of corporations and their directors. Provisions of the bill include, firstly, increasing the obligations of union office holders to disclose conflicts of interest and, where necessary, recuse themselves from making decisions on matters in which they have an interest. Secondly, the bill's provisions include increasing the requirements for union financial transparency and disclosure, making breaches enforceable by civil action and, most importantly, creating meaningful criminal penalties for union bosses who breach their statutory duties in line with those that company directors currently already face. In order to have sufficient power to monitor and induce compliance with these provisions, this bill will also create the office of the registered organisations commissioner, whose powers, most appropriately, will be modelled on those in the Australian Securities and Investments Commission Act 2001, which also aligns them with those which govern corporations and their directors.

This bill is largely in response to the shocking corruption scandal that engulfed the Health Services Union and the recommendations of the royal commission into union corruption conducted by Commissioner John Dyson Heydon QC. Honourable senators will recall the case of disgraced former Labor PM Craig Thomson, the former national secretary of the HSU. No doubt many of my colleagues will recount the stories of excess from that union. Even after overwhelming evidence of Thomson's criminality was revealed, former Labor Prime Minister Julia Gillard said in question time on 16 August 2011:

I have complete confidence in the member for Dobell. I look forward to him continuing to do that job for a very long, long, long time to come.

Some may wonder if he is still here. Then of course there was Thomson's successor at the HSU, Labor stalwart and so-called whistleblower Kathy Koukouvas Jackson, who was supposed to clean up the HSU after the Thomson scandal. These people are reprehensible; and, indeed, this bill will address their behaviour.

However, I want to turn the attention of the Senate to be leader of the Labor Party, a man who would not be Labor leader if it were not for the shady dealing he has engaged in with the union of greatest ill repute, the CFMEU. Mr Shorten's dirty dealings to gain the CFMEU's
support for his tilt at Labor leadership resulted in his ardent opposition to this bill—and it stinks. This is how corrupt these elites are. The CFMEU actually funds GetUp!, an organisation which aims in cahoots with American billionaires to de-industrialise Australia—the very industries that their members belong to. They do these acts in the name of global warming without any evidence and contrary to the empirical evidence on climate. It is a completely political agenda. GetUp! agitates for a Shorten prime ministership. Follow the money and you find the corruption of the elites.

Today 'someone-else-has-to-pay-the-Bill' Shorten, the 'honourable' Labor leader, has consistently spoken against increasing penalties on union officials for breaches of law, who breach their fiduciary duties to their members. Then again, Mr Deputy President, the 'honourable' Labor leader's position is hardly surprising, given his own colourful history. As the former national secretary of the AWU between 2001 and 2007, Victorian state secretary from 1998 to 2007 and Victorian state president of the Labor Party from 2005 until 2008, the 'honourable' Labor leader was a person of great interest to the Royal Commission into union corruption.

The Royal Commission into Union Governance and Corruption heard that Mr Shorten accepted and failed to disclose large donations for himself from employers while negotiating for the union on behalf of employees—secret commissions to sell his fellow union members down the river! By any measure these behaviours do not meet fiduciary obligations to protect the people he represents and serves. No wonder Mr Shorten opposes this legislation. He would have gained the most from rorting innocent workers—in innocent workers, and amongst the lowest paid in Australia. Rorting workers is the true hallmark of an elite hell bent on personal power and glory. The 'honourable' Leader of the Opposition admitted to the commission that he had failed to declare a political donation of around $40,000 from a labour hire company in the lead-up to the 2007 election campaign and that invoices regarding the payments for services were not truthful. Mr Shorten, however, claimed to have no knowledge of false invoicing, totalling more than $300,000, which had been sent to construction company Thiess John Holland—a convenient form of selective amnesia!

These 'donations' were undeclared because they were a payoff—a payoff to agree to lowering the wages and conditions of his already poorly-paid union members. No wonder he wanted them kept secret! So let's be clear: the leader of a major union and now the self-styled leader of the so-called workers party took secret commissions from employers to sell his own union members down the drain! This is the behaviour of an elite with no care for the rule of law. It is as if laws are for the peasants; accountability is for the poor; and the elites would call us the great unwashed. And now he says that we do not need a Registered Organisations Commission. Mr Deputy President, I ask you!

During cross-examination, counsel assisting Commissioner Heydon said that the 'honourable' Leader of the Opposition was being 'evasive' and 'non-responsive'—their words. 'Evasive and unresponsive'! It is hardly surprising, is it? I mean: if he was honest, he would have to admit he betrayed his fellow union members, just like Craig Thomson, Michael Williamson and Kathy Jackson. Mr Heydon QC said:
What I'm concerned about more is your credibility as a witness ... and perhaps your self-interest as a witness as well.
The commissioner did not believe him, Mr Deputy President, because he knew a lie when he heard one. On Mr Shorten’s watch as AWU secretary, massive conflicts of interest and ripping off his own AWU members in crooked side deals with employers like CleanEvent were the order of the day.

The DEPUTY PRESIDENT: Senator Roberts, you really have been taking us right to the limit with what is allowed in this debate. I think you are now crossing the line. I draw your attention to standing order 193(3), which does not allow you to make imputations of improper motives and personal reflections on members of this or the other House. I would ask you to give consideration to that in continuing your remarks.

Senator ROBERTS: Thank you, Mr Deputy President. It is no wonder in my view that the Labor leader is desperate to prevent the passage of this bill. Stopping this bill is what an elite would do. Let us recall what Mr Shorten’s cronies had to say about this legislation. Labor’s workplace relations spokesman Brendan O’Connor fulminated with confected indignation when this bill came before the House of Representatives. The member for Gorton said:

The opposition will not support a politically motivated witch-hunt designed to kill off unions …

Kill off unions? This is designed to strengthen unions and strengthen union members. The member for Gorton appears to think that financial transparency and accountability is a witch-hunt to kill off unions. That is hardly surprising, since his own brother Michael O’Connor is the CFMEU’s national secretary and he has been charged with industrial offences. I would think that was something of a conflict of interest. In fact, protecting criminal activities by unions seems perhaps to be something that runs in the CFMEU’s DNA. A family connection to the highest levels of the most corrupt and lawless union in the country hardly qualifies the member for Gorton to pronounce judgement on this bill. In fact, I think the vehement opposition of the likes of the CFMEU national secretary and his brother is the strongest recommendation for the registered organisations bill yet.

What else has been said by the cabal of Labor elites? When this bill was last in the Senate, my honourable colleague Senator Cameron claimed this bill was:

… about the coalition’s obsession with destroying collective bargaining in this country. The bill—

said Senator Cameron—

is about the government introducing over-the-top regulation and red tape on the … union movement …

Well, how wrong can anyone be! In truth, this bill is only about destroying corrupt practices such as the stealing of union members’ money by criminal and union bosses. Taking food from the tables of innocent workers and engorging the pay cheque and waistline of union bosses is abhorrent and unacceptable. So, does the senator still believe that these practices are so central to union operations that banning them will destroy the union movement? Apparently so.

Now some former Labor figures have recognised the necessity of this bill. As Senator Cash mentioned in question time two weeks ago, Paul Howes, Bill Shorten’s successor at the AWU, said three years ago:

I can’t see any reason why anyone in the [union] movement would fear having the same penalties that apply to company directors.

Former ACTU president Martin Ferguson stated:
There is an absolute obligation on the union movement to clean up its house. Former Labor attorney-general Robert McClelland said there was ‘unquestionably a case for further legislative reform’. Former ACTU secretary Bill Kelty has been quoted previously as saying:

I was always on that side of the debate which said that unions are public bodies so they are accountable to members for their management—

they are accountable to members for their management.

These are reasonable and rational comments by honest advocates of the union movement. They highlight the case for a legal fiduciary obligation on union bosses to be implemented. All of these comments have come from the union movement itself.

No-one should ever expect to waltz through life unaccountable for spending other people's money. There is a legal expectation in every industry that other people's money, given in trust—given in trust—must be spent to benefit those people for whom one holds the money. A fiduciary obligation on union bosses to take care of their workers should be a natural occurrence, but, sadly, some union bosses have become negligent and lawless in their behaviours.

When a union boss is corrupt, their malfeasance results in a number of repercussions that ricochet throughout the entire economy. The first of these is the increased cost to consumers. Everyday Aussies pay more for products like construction, delivery of goods, manufactured items or delivery of public services, to give just a few examples. Further, the economy grinds to a halt as union bosses extort and seek to control workplaces, free from punishment by law. At will, they do it. Other effects of lawless union bosses seeking to control our economy include lower productivity, resistance to investment, lower employment and damaged export capacity.

One would think that the Labor Party today would be keen to support measures to identify and prosecute such flagrant and criminal breaches of the trust of rank-and-file union members; promote and support the economy; and increase industry. But no—in Shorten's Labor, theft and malfeasance is encouraged and flourishes unpunished, with complete abandon. All that today's Labor members and senators seem interested in doing is protecting the snouts in the trough of their union-boss cronies. And there I was thinking that unions were there to represent the interests of their members in an honest and transparent, accountable manner!

Bill Shorten promised to run Australia like he would run a union. That would surely mean theft of taxpayers' money, taking bribes to sell out our great nation, standover tactics, extortion reigning, extreme levels of control, and abuse if you do not do things Uncle Bill's way.

The ACTING DEPUTY PRESIDENT (Senator Marshall): Senator Roberts, no—you must refer to members by their proper title. And again I think you are really pushing against the limits of what is allowed by the standing orders.

Senator ROBERTS: He has probably taken lessons from the United States, the Hillary Clinton school of governance, which would seem to be appropriate. I say to the Senate: the world dodged the Clinton bullet, and it holds out hope that by passing this legislation we can dodge the union bullet as well—the union bosses bullet.
We have also seen the Greens stand up on their hind legs to denounce this bill. During previous debates and today's debate in this chamber, watermelon Greens Senator Lee Rhiannon has repeatedly attacked it—

**The ACTING DEPUTY PRESIDENT:** Senator Roberts, you do not refer to other senators like that.

**Senator ROBERTS:** I retract that comment.

**The ACTING DEPUTY PRESIDENT:** Yes—and I would ask you to be mindful of the standing orders.

**Senator ROBERTS:** This is what Senator Rhiannon and said:

This is ugly legislation … Attacking the union movement to drive down wages and conditions as set out in this bill is integral to how the Liberals and Nationals operate.

Returning the union movement, a corrupt union movement, to the rule of law is apparently against Senator Rhiannon's commitment. I say to Senator Rhiannon: if one fails to support this bill, then what one in fact wants is a bunch of union bosses free to spend union members' money on prostitutes, Labor Party campaigning, jewellery and home renovations. But then I also remember that the CFMEU donates heftily to the Greens party. If they are free to wantonly spend this money, then they are free to jack up union fees and cause more financial pain to working families.

In fact, no-one who is not wearing a shabby koala suit and clutching a dog-eared copy of *Das Kapital* could possibly fail to see that this legislation is simply about honesty and decency. Holding union bosses to a fiduciary standard—which, if they were honest representatives of their members, they would already be upholding—is a very basic and long overdue requirement. It is certainly nothing to do with driving down wages and conditions, as the extremist Left rather hysterically screams.

Far from being an attack on unions, this legislation is about defending honest, hardworking union members from immoral and criminal union bosses who abuse their positions of trust and responsibility to steal from their own members. That is what this legislation is really about. Yet, for all their sanctimonious cant, the range of arguments by the opposition, by the opponents of this bill, are simply a tale told by an idiot, full of sound and fury, yet signifying nothing. Far from attacking unions, this legislation actually protects ordinary, everyday, rank-and-file unionists by ensuring that their leaders act in their interests' rather than simply in the leaders' bosses' interests.

This legislation protects ordinary union members, everyday Aussies, from having their funds stolen by corrupt union bosses. So it is astonishing that the Labor Party would be so vehemently opposed to it. In truth, as Paul Howes, Martin Ferguson, Robert McClelland and Bill Kelty have recognised, if the Labor Party actually represented everyday working people, this would be their legislation, not the government's.

Let me take up something that Senator Dastyari mentioned about volunteers. This will encourage volunteers to join boards, because volunteers will now be able to hold people accountable, and, if they do not like the corrupt dealings of a board, they can either change it or get off.

But the tragic reality is that the party of the working man and woman, the party of Chifley and Curtin, has ceased to exist. This legislation has simply exposed the modern Shorten-led
Labor Party for what it is: a party whose original ideology—promoting the interests of workers—has been perverted and subverted to simply doing whatever works to promote the interests of Labor and union bosses.

Mr Shorten's and Labor's hysterical opposition to this legislation only goes to illustrate how utterly debased, cynical and hypocritical the opposition to this legislation has become on his watch. The most profound truth that opposition to the Fair Work (Registered Organisations) Amendment Bill has revealed is that, while Labor began as a movement, it now ends as a gang—a movement to control people. Instead, on this side, in Pauline Hanson's One Nation we support freedom and rule of law—two fundamental tenets for human progress.

Senator IAN MACDONALD (Queensland) (11:30): I am pleased to enter this debate after my colleague Senator Roberts's address, which was very interesting and highlighted some of the real issues. We have heard in this debate from Senator Paterson, who I think said it all, but perhaps I could contribute somewhat as well.

I do note in passing that the contributors from the other side so far have been Senator Cameron, Senator Dastyari—both very involved in the union movement—and Senator Rhiannon, whose party was the recipient of quite generous donations from the CFMEU and other unions, I think.

Senator Bilyk interjecting—

Senator IAN MACDONALD: So you should be proud of it, Senator. But you would not be proud, perhaps, of some of the things that some union bosses have been involved in over the years. I notice Senator Dastyari made an impassioned plea in this debate— and well he might, because he has been involved on the fringes of this issue in more than one capacity.

I will relate to the Senate a story about Mr Paul Gibson, a former New South Wales Labor member, who did some so-called consultancy work to allegedly improve the relationship between the New South Wales ALP and the National Union of Workers in New South Wales. One would wonder why you would need a specially employed consultancy to improve relationships between the Labor Party and one of their biggest backers, but let us overlook that for the moment. Mr Gibson was paid $250,000 by the union—that is unionists' money. That is money that unionists, ordinary workers, contribute to their union for what they would hope would be things that the union might do to improve their conditions. They did not do it expecting that Mr Paul Gibson would receive $250,000 for a consultancy. The consultancy was not in writing, so we do not know exactly what it was about. No invoices were produced in support of two of the largest payments, of $16,500-odd and $44,500-odd. Where the invoices were produced, the services performed were simply described as 'consultant services' with no other details about what the payments were or when the services were supplied. This all came out in the royal commission, I might add. The consultancy fee continued to be paid for eight or more months after harmony between the National Union of Workers in New South Wales and the New South Wales ALP had been reached. I am quoting, again, the royal commission.

This arrangement was overseen by none other than the then General Secretary of the New South Wales ALP, who interestingly was my colleague Senator Dastyari, who spoke previously in this debate. So he well knows about how unionists' money—the membership fees they pay—was used in that instance. An amount of $250,000 was paid to a former New
South Wales Labor MP to make things better between the National Union of Workers and the New South Wales ALP. I am sorry, but that does not pass any accountability test and it certainly does not pass the pub test.

This arrangement was a bit like the one involving Michael Williamson, who we all know from the Health Services Union, back in 2008. The Senate might recall that in the first half of 2007 Mr Williamson made a payment to Mr Mark Arbib. There is a name we all remember here too. He was also, as I recall, the General Secretary of the New South Wales Labor Party. He came into the parliament. He did not have a terribly distinguished career; he was not here very long. He was appointed a junior minister in the then Labor government and a few months later retired under circumstances which were never fully explained. Anyhow, that is a subsequent happening. Mr Williamson paid Mr Mark Arbib some money for a purported consultancy in relation to a supposed upcoming dispute with the New South Wales government. The dispute never eventuated, but Mr Williamson still paid Mr Arbib for six months, at about the rate of what a senator would have received in this place, until he entered the Senate. His remuneration, as I say, came from the Health Services Union. But isn’t it interesting that around the same time Mr Arbib was strongly supporting Mr Williamson’s candidacy to be the ALP national president. There you have it all: six months pay to try and get Mr Williamson up as the ALP national secretary. I think he succeeded before he fell into disgrace. I am not sure where he is now—perhaps in jail—but, certainly, he has been the subject of legal proceedings.

When you listen in this debate to people like Senator Cameron, Senator Dastyari and Senator Rhiannon, you have to understand what their backgrounds are. In this debate, I prefer to listen to union leaders who are respected, who did a good job for their members and who did a good job for the ALP in various forms over the years. I did not like that about it, but they did a good job, a professional and an honest job. But they are the sort of union leaders who you really want to take notice of, rather than people who have spoken in this debate who seem to have conflicts of interests in the contributions they make.

Let me refer to Mr Paul Howes, who was the AWU secretary. He said:
I can't see any reason why anyone in the [union] movement would fear having the same penalties that apply to company directors.
He said, quite rightly:
If you're a crook, you're a crook …
Mr Paul Howes was correct.

Former ACTU president Martin Ferguson, who went on to become one of the better ministers in the Labor government—again, unfortunately for my side of politics!—was a good minister and an honest man. He said in relation to this bill:
There is an absolute obligation on the union movement to clean up its house. There is an obligation on the unions to put their house in order.
Former ACTU secretary Bill Kelty said:
I was always on that side of the debate which said that unions are public bodies so they are accountable to members for their management …
Former ALP Attorney-General Robert McClelland said there is 'unquestionably a case for further legislative reform'.

CHAMBER
That is what this bill is all about. The Fair Work (Registered Organisations) Amendment Bill 2014 contains measures to improve the standards of governance of registered unions and to deter wrongdoing. The provisions in this bill that we are debating include a focused regulator—the Registered Organisations Commission—with appropriate resources and powers modelled on those of the corporate regulator. It will be exactly the same as what happens for corporations and public companies. This will now happen, should this bill be passed, for those registered organisations involved in the fair work and industrial relations area.

The bill also requires enhanced financial accountability provisions and meaningful sanctions that can be applied when wrongdoing is revealed. The new accountability measures for unions—for both employer and employee groups, I might say—requires registered organisations to disclose remunerations paid to their top five highest paid officers in their head office and any branches. What is so bad about that? How could you object to that? We are parliamentarians here. Everybody knows every single cent that any person who works in this building receive, whether they be parliamentarians or secretaries of departments. So how could you object to the top five union officers or employee organisation officers in head offices or any branches being made public?

I know the ABC had a different view. Years ago, they did not like to tell us how much their top presenters received, although in a roundabout way Senate estimates committees did find that out. We have learnt that some of the top front-of-house ABC announcers are in the $700,000 and $800,000 bracket—a bit more than the poor old ABC people up in regional Queensland who I interact with. Even the ABC were forced, kicking and screaming, to account for their top paid presenters, but for some reason those on the opposite side seem to think that that is not appropriate for unions.

These accountability measures also require officers with duties that relate to financial management to disclose material personal interest. Again, that seems to be standard in public companies, in this business and in the Public Service. But for some reason—and Senator Rhiannon might explain this to me—the unions do not seem to abide by the same rules. I cannot understand that, Senator Rhiannon, unless it has something to do with the fact that those unions are fairly big contributors to the Greens political party. I can think of no other reason why one would object to that.

The provisions will also ensure that officers do not make decisions on matters where they have a conflict of interest. Again, it is a no-brainer. It is so basic. It is organisations 101. Yet, for some reason, the Labor Party here and their mates in the Greens political party are railing against it. I will just ask any of them who are going to contribute to explain to me why these rules should apply to public companies, corporations, federal parliament, the Public Service and state governments. Even local authorities have these accountability measures in place. But for some reason the union movement seem to think that they do not need to comply with those fairly common standards of honesty and propriety that apply to the rest of the world.

Mr Acting Deputy President Sterle, I do not want to take unfair advantage of you as you are in the chair, but I am curious about the TWU officials who spent over $300,000 on luxury cars. They were not just luxury cars. We hear Senator Carr and others railing against the closure of the Australian car industry, but we then find that these TWU officials not only spent $300,000 on luxury cars but were purchasing modified American utes which were for
their personal use. One of the officials even had a personalised number plate put on one. The other one apparently had the union's redundancy policy redrafted so that he could take the car with him when he finished work with the union. That, I understand, happened not long afterwards.

We then have the examples of National Union of Workers officials and staff using corporate credit cards to buy holidays worth over $18,000, sports tickets worth over $4,000 and toys worth $670. Over $2,200 was spent on dating websites and over $1,500 on hairdressing and iTunes purchases. It is not just money they are spending. This is money contributed by workers as union levies and dues. I am sure they did not expect that by paying their union dues they would be sending one of the union bosses overseas for an $18,000 holiday. Why would you not want to stamp that out? Please, Senator Rhiannon, please Senator Dastyari, please Senator Cameron, tell me why you would not want that sort of rort to be interrupted? We have all heard about Mr Shorten when, as a union official, he accepted a $40,000 donation from one of the companies negotiating a pay deal with the AWU—the company was Unibilt. At that time he was the AWU National Secretary, and was campaigning to become a member of parliament. The donation was used to pay the wages of Shorten's campaign staffer.

Senator Bilyk: Mr Shorten.

Senator IAN MACDONALD: Mr Shorten's campaign staffer. Thank you for that. I emphasise that it was Mr Shorten MP, the current Leader of the Opposition. The $40,000 he got from that company negotiating a pay deal was used to staff Mr Shorten's campaign office in 2007, but it was not disclosed until just two days before the royal commission asked him about these matters in sworn evidence. Senators would also have heard of Cesar Melhem, who is well-known in Labor circles and in this building. He repeatedly issued false invoices—marked 'Training', 'OHS' and similar—to companies, when they were actually payments for union membership to the value of hundreds of thousands of dollars. These are not just monetary figures that roll off the tongue; these are contributions paid by workers who go out, do a day's work, get their pay and then contribute a certain amount of that pay towards union memberships, because they believe that the unions will be doing the right thing by them. It is those sorts of people who are being ripped off by this, and I cannot understand that any party that claims to look after these workers could possibly oppose this sort of accountability that will bring honesty—

Senator McKim: The coalition has such a proud track record!

Senator IAN MACDONALD: Okay, you say the coalition has such a proud record, but, Senator McKim, if you are going to speak—if you are game to speak on this—you might first of all tell us exactly how much the CFMEU gave you, how much any other union gave you, and why you would oppose any legislation that required some accountability and honesty.

The ACTING DEPUTY PRESIDENT (Senator Sterle): Senator Bilyk, on a point of order?

Senator Bilyk: I would like to point out that Senator Macdonald is talking directly to Senator McKim and should be making his comments through the chair.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Bilyk. I encourage Senator Macdonald to ignore the interjections and direct his comments through the chair.
Senator IAN MACDONALD: You always know when you are getting somewhere in a debate and people are very embarrassed about what is being said—you have these stupid points of order to try and shut down a senator's speech.

The ACTING DEPUTY PRESIDENT: Senator Macdonald, I will get you to reflect on Senator Bilyk's point of order. It was not a stupid point of order; it was actually a correct point of order.

Senator IAN MACDONALD: Thank you, Mr Acting Deputy President. As always, you are absolutely correct. Another point of order, of course, is that there should not be any interjections—but, Mr Acting Deputy President, I do not see you stopping Senator Bilyk. That is okay; I do not need you to. I do not need protection from types like Senator Bilyk. Certainly you should not address senators directly and you are quite right, Mr Acting Deputy President—it is a most important standing order that must be observed on all occasions, and I am glad—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, are you reflecting on the chair? I ask you to carefully choose your words.

Senator IAN MACDONALD: Not at all—I am in fact congratulating you, Mr Acting Deputy President, on abiding by those standing orders and applying them so religiously. That is what we expect our chairmen to do. It is a rule that sometimes perhaps is not as observed as it should be. But I am glad, Mr Acting Deputy President, that you are doing it, because it is an important one. We should not talk directly to other senators. But I ask Senator Rhiannon and Senator McKim to explain to me just how much they get from the unions and why they think all of these things—the Williamson stuff, the—

Senator McKim: Your party has been shafting the workers for a century in Australia.

Senator IAN MACDONALD: I beg your pardon?

The ACTING DEPUTY PRESIDENT: Senator McKim, order. Senator Macdonald, I ask you to ignore the interjections.

Senator IAN MACDONALD: The Greens and the Labor Party supported Craig Thomson, and we now know that he was ripping off ordinary workers and using their money for his own personal gain—some of it pretty nefarious. That seems to be the sort of activity that Senator Polley, Senator Rhiannon, Senator Dastyari and Senator Cameron, and, I suspect, Senator McKim, might be—

The ACTING DEPUTY PRESIDENT: Senator Bilyk, on a point of order?

Senator Bilyk: I am well aware that most women over 50 look the same to Senator Macdonald, but, if he was referring to me, my name is Senator Bilyk, not Senator Polley.

The ACTING DEPUTY PRESIDENT: That is not a point of order.

Senator IAN MACDONALD: Again, I raise the point that you know you are getting close to the bone when the Labor Party continue to interrupt in any way possible on these things. Can I ask any speaker who is about to participate in this debate: how much have you got from the unions, how much are they supporting you, and why is it that you think that some of their activities—only a few instances of which have been mentioned by Senator Paterson, Senator Roberts and I—are good? Why don't you think unions should abide by exactly the same rules as public companies and corporations? Why should the unions be
different, when they get involved in these sorts of rip-offs—this lack of honesty, this stealing of workers' money? I cannot believe that anyone can seriously oppose this bill if they have any interest in the workers of Australia.

**Senator PRATT** (Western Australia) (11:51): I rise to speak on the Fair Work (Registered Organisations) Amendment Bill 2014. As senators in this place know, registered organisations play a critical role in Australia's workplace relations system. Most registered organisations do the right thing. They are there to represent their members and their industries. This should be recognised. Most unions, employer groups and other registered organisations conduct themselves, in the main, with dignity and integrity, providing vital services to employees and employers. That means that we in this place should value and support their work. They provide critical representation and advocacy for employees and employers alike. In particular, trade unions are of significant importance to the working people of this country, playing a pivotal role in protecting the rights of working people, providing essential advocacy and policy work and representation in tribunals and courts. It is representation that many workers would not be able to afford if it were not for the work of their unions.

In the legislation before us today we see coming yet again from those opposite an attempt to hamstring unions from representing the working people of Australia. The government's proposed registered organisations bill does nothing to improve the lives of working people. They claim it is about transparency, regulation and accountability, but it does not contribute to these matters. It simply makes it harder for unions to represent working people. It does this by requiring unions to comply with onerous and unnecessary requirements which are more about tying them up in bureaucracy than improving regulation or increasing the transparency which these organisations should naturally be subject to.

The sanctions in the bill are significantly disproportionate and unfair. So do not be fooled: this legislation is not about better unions or better workplaces. It is not even about better regulation. The registered organisations act already provides for regulation, and it does this very well. The Liberal government is trying to tell us otherwise; however, the act functions well and according to its purpose. For example, the act prohibits members' money from being used improperly to support candidates at internal elections. It allows for criminal proceedings being initiated where funds are stolen or obtained by fraud. We have seen significant examples of that and the way it is effectively prosecuted. The act already ensures that Fair Work Commission can share information with our police forces. The act provides for statutory civil penalties where a party knowingly or recklessly contravenes an order or direction made by the Federal Court or the Fair Work Commission. Under the fair work act, registered organisations have significant fiduciary duties akin to those of directors under corporations law. So what we have here in this legislation is a duplication of those responsibilities.

The registered organisations act requires officers to disclose their personal interests. The act already ensures that officers need to disclose when payments are being paid to related parties. The act already requires officers to exercise care and diligence in their work, to act in good faith and not improperly use their position for political advantage.

Why is the act already strong? Because Labor made it strong. As we have said again and again, we have no tolerance for corruption, wherever it occurs. Criminal acts in registered
organisations should be treated with the full force of the law, just as they should in corporations and in the community. Labor has always been committed to this and we always will be. It is why we strengthened the regulation and accountability requirements of the act, increased the powers of the Fair Work Commission to investigate and prosecute breaches, and tripled penalties for offenders. On this side of the chamber we in Labor believe in better unions, higher standards and tougher penalties for people and organisations who do the wrong thing.

But that is not what the bill before us today is actually about. This bill is simply about more bureaucracy and more red tape. It is about duplicating regulation where there is already regulation. In effect it is about making the work of unions harder.

In this place Labor will only support this bill if the government agrees to amendments which will be true to the principles that we have outlined in this place and in the other place. Our amendments will ensure that the bill actually achieves the stated purpose that the government has put forward—better governance of registered organisations. Our proposed amendments address the issues raised in the submissions by both unions and employer groups alike, who have put forward significant concerns. Submissions to the Senate inquiry made it clear that it is not only unions opposed to many of the measures in this bill, but also there is opposition coming from employer groups. The government should be proactively supporting and considering our amendments and accepting them if it is serious about transparency and accountability.

The first amendment we put forward relates to ASIC. That is about extending the powers of the Australian Securities and Investments Commission rather than introducing this new regulatory body. Here in Australia we do not need yet another government bureaucracy with the establishment of the Registered Organisations Commission under this bill. More layers of bureaucracy, as the government has so often liked to point out to us, do not achieve better outcomes for our nation. We are advocating that the powers of the Australian Securities and Investments Commission should be extended to investigate serious breaches of the fair work, rather than the creation of a new body. As our Prime Minister has said, ASIC has the standing powers of a royal commission. Their regulatory powers to investigate matters are similar to those of a royal commission. So why would we not want the body that we are supporting to have those powers?

Our next amendment is about increasing penalties but excluding volunteers from those penalties. Here we do need to see penalties increased for deceitful behaviour. We on this side of the chamber support this. But volunteers must be excluded from these penalties. Under the government's bill, volunteers, workers, union members and supporters will be expected to act like directors of publicly listed companies. This, I think, is incredibly unfair. They are expected to uphold these standards without the pay, conditions and expertise expected of these positions. The proposition that the government has put forward in this sense is absurd. It will deter people from participating in these kinds of organisations. The kind of participation that we are talking about includes workplace delegates, who need to be able to talk to their union and bring forward to their union issues from their workplace; they are elected delegates within their organisation. We are talking here about significant criminal penalties for people who might be a delegate or be on the board of their union.
Similarly, you can see that small businesses are affected by these kinds of clauses, where they might want to participate in their industry association. What this legislation means is that teachers, nurses, plumbers, electricians, small business owners and employees—ordinary hard working Australians—would be subject to hefty, unfair fines and criminal penalties. It is simply not fair. Even the Australian Industry Group has said:

If the proposed criminal penalties and proposed massive financial penalties for breaches of duties are included in the RO Act, this would operate as a major disincentive to existing voluntary officers of registered organisations continuing in their roles, and would deter other people from holding office.

While the Australian Industry Group now, oddly, supports this legislation, its views on this matter are still very clear. This, indeed, is Labor's view: only paid union officials and paid office holders should be subject to penalties.

The other thing we want to see is greater protection for whistleblowers. We agree that whistleblowers should be protected and encouraged. Our amendment goes further and improves protection for whistleblowers. This amendment is critical to ensuring that corruption is stopped and reported. Currently, the penalties for those taking adverse action against whistleblowers are $4,500, six months imprisonment or both. Indeed, whistleblower protections should be extended to those in the private and not-for-profit sectors. That would mean that anyone who intimidates or silences whistleblowers would be subject to a fine of up to $18,000 and two years imprisonment. These are appropriate penalties, considering the gravity of trying to stop someone from blowing the whistle on corruption. Our amendment would also allow whistleblowers to take civil action themselves. If the government is indeed serious about ensuring transparency and protection for those who come forward, these amendments should be supported.

We also have a further amendment on accountability for auditors. We seek to increase audit requirements and penalties for auditors. Those who are charged with the responsibility of examining the finances of registered organisations should do so in an honest and professional manner. They should be held to account if they do not do this. It is critical that auditors are required to disclose criminal misconduct should they come across it; we cannot let auditors be complicit in their silence—otherwise they are simply not doing their job. Labor's amendment also provides for the rotation of auditors to ensure greater independence and security, so that you do not get auditors in the pocket of anyone who is dodgy with the books of their organisation.

We have further amendments to the Commonwealth Electoral Act so that registered organisations are treated in the same way as members of parliament and other people making donations. We are asking here for amendments to the Commonwealth Electoral Act which decrease the threshold for disclosures of donations. While the government continues to talk about unions, disclosure thresholds and transparency, so far those opposite have refused to apply these very same standards to themselves! Those opposite want to see these standards imposed on unions but do not want to see these standards imposed on the donations that they receive themselves. We on this side have advocated for a long time for the lowering of the disclosure thresholds in the Commonwealth Electoral Act. All elections managed by the Australian Electoral Commission should be subject to the same electoral funding laws. Why should unions have a higher standard of donations disclosure than this government? Whether in unions or federal elections, accountability in electoral donations must be taken seriously.
We have proposed that the disclosure amount be reduced from $13,200 to $1,000, and we have argued this for a long time. If you opposite were serious about increasing transparency around donations, then you would accept those amendments to this legislation.

Indeed, our amendments are not unreasonable. These amendments would make this bill achieve what the Liberals say they want to achieve: accountability. I implore the government to consider and adopt these changes. But, significantly, I am concerned that this bill is not just the start but the middle of an ongoing antiworker agenda. Those opposite are not serious about tidying up corruption—otherwise they would have put forward the kind of bill that I have just outlined. Instead we see vicious attacks on workers, time and time again, from this government and indeed every Liberal government before it. I fear that we will continue to see such attacks because you do not care about workers. Jobs growth under Malcolm Turnbull has halved to 0.9 per cent over the year, down from 1.9 per cent. There are almost 1.8 million Australians who cannot find a job or cannot get enough hours to cover their basic needs. This is being felt most harshly in my home state of Western Australia, where unemployment is the highest in the country. And today the ABC is reporting that Rio Tinto is set to axe 500 iron ore jobs, adding more uncertainty to our already struggling WA economy.

What is the government doing about this? Nothing. Where are the Liberals when unemployment is rising? Nowhere to be seen. Where are the Liberals when unions uncover gross violations of workplace health and safety? You are nowhere to be seen. Where are you when unions uncover workers being paid below the minimum wage? Again, you are nowhere to be seen. Where are you when Australian jobs are going offshore? Nowhere to be seen. Instead of doing anything to actually improve the lives of working people, the government is back to the same old dirty tricks of union bashing. Those opposite me in this place and indeed the other place continue to seek to destroy unions and undermine the rights of workers in this country. Why? Because you fundamentally do not believe that workers are entitled to representation by their unions. You want to make it more difficult for union officials to do their jobs and, in turn, you allow large companies to slash wages and conditions. I, like millions of workers across this country, am tired of it, sick to death of it. I encourage the government to accept Labor’s amendments if you are serious about holding organisations to account. That way you can still allows unions to represent their members effectively.

It is thanks to unions that the working people in our country have the living standards that we enjoy today. Without this work we would not have sick leave, annual leave, an eight-hour working day or penalty rates for working on the weekend. Without unions this country would not have occupational health and safety standards and workers compensation. Indeed, without unions this country would not have Medicare or superannuation. These are the most basic but important rights that every worker in our country should enjoy every single day—and I pay tribute to the unions of our nation for delivering this to us. I can only imagine the country we would be living in today if it were not for their hard work. The active participation of workers in the union movement is fundamental to the future of our nation—and this includes our delegates and volunteers, who are targeted unjustly by this legislation. We need our unions to be able to protect the rights of workers and to do this effectively.

The Senate has rejected this bill multiple times. This bill is of course one of the bills you put forward that prompted the double dissolution election earlier this year, yet you barely mentioned it in the election campaign. Why? Because you know it is a vote loser. You know
it is flawed legislation. It is tied to the same agenda that we saw with Work Choices under the Howard government, which is one you tried to hide from the electorate. That is why you did not talk about it during the election campaign. We know that this bill is only a small part of the government's anti-worker, anti-union agenda. We have seen it with your flawed royal commission. In this legislation, yet again, we have an attempt to rip off the working people of our country. You should know by now that the working people of this country will not fall for your tired, dirty union-bashing tricks. Workers in this country will continue to stand up and fight against the conservative views that you put forward and we will not be silenced. (Time expired)

Senator REYNOLDS (Western Australia) (12:12): I too rise today to discuss the Fair Work (Registered Organisations) Amendment Bill 2014. In Australia, I believe it is reasonable for all Australians to expect those who represent their interests and are responsible for managing their funds to all be held to the same standards of transparency and accountability. Across Australia today there are 47 unions and 63 employer groups that have between them revenues of $1.5 billion and assets of over $2.5 billion. This is the money of more than two million hardworking Australian men and women who trust these organisations with their money and with the responsibility to look after their interests. These millions of hardworking Australian men and women pay their union dues and they deserve to know that their union, or their employer group, is acting in their best interests. They deserve to know that they are fully accountable.

I agree with Senator Pratt and those opposite that unions are critically important to Australia and to Australian workers. But unions, like every other organisation in this country that manages people's money and looks after their interests, must be held to the highest possible standard of accountability and transparency. But, scandalously, these organisations and their directors are not currently held to the same standards of accountability and responsibility as companies and company directors are. No amount of highly skilled verbal gymnastics from those opposite can hide the fact that what many union officials are doing is quite simply wrong; in fact, it is very wrong. Many high-profile union officials, and even former Labor attorney-general Robert McClelland, have called for these reforms. In 2012 Mr McClelland was quoted in The Australian as saying 'there is unquestionably a case for further legislative reform'.

Those opposite, who profess to be for the workers, are protecting and perpetuating an endemic culture of entitlement and abuse by union officials. Not only is this culture evident in the workplace, it is also seen in the ranks of the union officials themselves. Currently, there are 113—yes, 113—CFMEU officials before the courts. In fact, there are currently 10 from Western Australia before the courts—making a total of 24 in all from my home state of Western Australia, which is utterly scandalous. In recent years, courts have imposed more than $8 million in fines on the CFMEU alone. As numerous judges have observed, these penalties are not enough for unions that treat law-breaking as standard procedure, as business as usual. The $8 million in fines, paid for by union members' dues, are akin to parking tickets. They are simply seen as a cost of doing business. That is scandalous. That is an abuse. It is, absolutely, evidence of an endemic culture of union abuse and of unions rorting their membership.
If company directors were found to have behaved in the same way that, so far, over 100 officials just in the CFMEU have, they would be out of a job quick smart. They would be dealt with swiftly by the appropriate regulatory authorities and by the courts. Those opposite would be the first ones—in this place and in public—decrying, as they should, any such transgressions or abuse by the corporate sector. I simply cannot understand how those opposite can rationalise the systemic and endemic exploitation of Australian workers—the men and women who are members of unions and who pay their union dues, often at some financial hardship to themselves. Yet those opposite remain silent on the gross abuse of workers whom they so loudly profess to support. As we have seen in this place today, they keep trotting out the same old tired class-warfare rhetoric instead of actually standing up to the unions and saying: 'It is wrong. It is time to you to change.'

The facts are indisputable. Decades and decades of royal commissions and reviews have identified a clear culture of entitlement to other people's money when it comes to the unions. Sadly, in the absence of acceptable transparency and accountability standards, abuse of union members' fees is endemic. Today, many—certainly not all—union officials use their members' fees as their own personal ATMs. Just look at the audacity of two senior Western Australian Transport Workers Union officials who used branch funds to purchase themselves expensive imported Ford utes at a price of more than $150,000 for each ute. These union officials purchased their utes courtesy of union membership funds, and then they used them as their own personal vehicles. One official felt so comfortable using his union membership fee funded car that he put personalised plates on the car. It did not stop there. Just before they purchased these expensive imported cars, they had organised redundancies for themselves so that the vehicles could be taken with them when departing the union. So not only did one of the officials receive a redundancy payout of $500,000; he took his $150,000 souped-up Ford ute—paid for by union members—with him. Where were those opposite when this happened?

In 2015, former Health Services Union national secretary Craig Thomson was found guilty of misusing $300,000 for his own campaign to enter parliament and for his many personal indulgences and proclivities, as we now know. His colleague Kathy Jackson also fleeced more than $1 million through cash withdrawals, holidays, artworks and other luxuries. The membership funds of the Health Services Union funded this nearly $1.5 million of personal expenditure. Where were those opposite? Where were those opposite decrying the exploitation of workers? This money had come from nurses, from hospital cleaners and from disability and other healthcare workers who paid their annual fees to their union to be represented. Instead, they were funding a luxurious lifestyle for these officials. Where were those opposite when this happened? Why weren't you standing up for the TWU workers when they were so egregiously ripped off? As we all know, the audacity of union officials and others who rort any organisation just gets bigger and bigger if left unchecked.

In 2015, former Health Services Union national secretary Craig Thomson was found guilty of misusing $300,000 for his own campaign to enter parliament and for his many personal indulgences and proclivities, as we now know. His colleague Kathy Jackson also fleeced more than $1 million through cash withdrawals, holidays, artworks and other luxuries. The membership funds of the Health Services Union funded this nearly $1.5 million of personal expenditure. Where were those opposite? Where were those opposite decrying the exploitation of workers? This money had come from nurses, from hospital cleaners and from disability and other healthcare workers who paid their annual fees to their union to be represented. Instead, they were funding a luxurious lifestyle for these officials. Where were those opposite when this happened? These are the hardworking, honest Australians who take care of our most vulnerable people, often for minimal pay—and this is the thanks they were given by the unions who they were paying to represent them. This theft could only happen because of the lax legislation and because these union officials were able to exploit the lack of transparency.
But it does not stop there. In the most recent trade union royal commission, many other rorts and deceptive conduct by union officials came to light. For example, officials from the National Union of Workers spent money on personal holidays and a dating website. I am sure the membership of the NUW would be delighted to know they were funding the dating habits of their union officials! One NUW official even used members' fees to spring for a KISS concert corporate box for his family. He used his union card to pay $7,740 for a corporate box at a KISS concert, which was the subject of the famous 'I was made for rorting you' story in *The Daily Telegraph*. The same New South Wales secretary of the NUW spent nearly $5,000 on his union credit card for a New Year's Eve party for his family and $1,500 on a flight for his wife to Hong Kong. Where were those opposite when NUW members were being so egregiously rorted? They were nowhere to be seen. But it did not stop there in the NUW. Officials and staff used their corporate cards to buy luxury holidays worth more than $18,000, sports tickets worth over $4,000 and toys worth $670; to spend over $2,500 on dating websites; to spend money on hairdressing and iTunes purchases; and to spend more than $1,500 on other personal purchases.

Shockingly for me as a senator for Western Australia, CFMEU officials who were receiving kickbacks from underworld figures raided redundancy funds for staff. Redundancy funds were raided to pay workers who were unlawfully striking on the building site of Perth's new children's hospital. That is beyond contempt. Where were those opposite? Where were my Senate colleagues from the Labor Party when all this was happening? Nowhere to be seen and nowhere to be heard.

The TWU appointed its own assistant state secretary, Mr John Berger, as the Tasmanian superannuation liaison officer for TWU Super from 2009 to 2012. In the financial year 2011-12 Mr Berger spent five days in Tasmania—five days. How much do you think he got paid by the union for five days of work? He got $93,434 for five days work. Mr Berger finally had to agree, albeit somewhat reluctantly, that the invoice put in for $93,000 was actually for 2½ days work, not even five days work.

When he was the AWU National Secretary, the Leader of the Opposition's union accepted a secret donation of $40,000 from Cleanevent to fund his campaign for parliament—a fact he disclosed only when it was exposed by the royal commission. In his capacity as AWU National Secretary, Mr Shorten also signed an EBA with Cleanevent that cut the number of award conditions. Yes, it cut award conditions, including penalty rates, for the workers of his own union. What was the cost? What did he get in return? Cleanevent agreed to pay the union $25,000 per year for three years in return for the names of their workers and a deal that stripped the workers of their penalty rates. That is scandalous. And where were those opposite standing up for the workers? Mr Shorten was the organiser for Cleanevent when it entered a 1999 EBA with the AWU and was reportedly responsible for the 1999 deal that set low pay and conditions that applied not for the next four years or 10 years but for 15 years.

Mr Cesar Melhem of the Australian Workers Union repeatedly issued false invoices to companies, marking them 'training', 'OH&S' or similar, when they were in fact used to pay union membership, to boost the union's power within the ALP. He issued false invoices to raise money to pay for extra influence in the Labor Party organisation itself. The AWU membership roll contains the names of workers and horseracing jockeys who had never even
agreed to become members of the union. Where were those opposite when the AWU workers were again being ripped off by their union?

From these few examples—and sadly there are many, many more—it is clearly evident that the current laws in force are far too lax and do not ensure that unions and employee group officials are suitably accountable and acting in the best interests of the workers they represent. Over four years our systems and laws have remained unchanged. Hardworking Australians are still being shamelessly exploited and ripped off by unions and employee group officials. This is why the coalition government has introduced this bill, to ensure that the interests of all hardworking Australian men and women, whether they are championed by unions or not, have their best interests looked after.

But it is not just those on this side of the chamber who are seeking equal standards of accountability and transparency to protect Australian workers from the worst excesses of rogue union officials. For example, the former AWU Secretary Mr Paul Howes said: 'I can't see any reason why anyone in the union movement would fear having the same penalties that apply to company directors.' This is Paul Howes, and he said this:

If you're a crook, you're a crook.

How true. Former ACTU President Martin Ferguson himself, no less, said:

There is an absolute obligation on the union movement to clean up its house. There is an obligation on the unions to put their house in order.

Former ACTU Secretary Bill Kelty said:

I was always on that side of the debate which said that unions are public bodies so they are accountable to members for their management.

Senator Urquhart herself in this chamber stated in 2015 that it was her belief and Labor's belief:

… that officers of registered organisations or anyone in a position of trust who misuses the funds of members, who acts inappropriately or who takes benefits that they are not entitled to must never be condoned.

I would like to address two issues that Senator Pratt raised in relation to her amendments. The first one is the proposed ALP amendment in relation to ASIC being the regulator. Commissioner Heydon considered in detail whether ASIC should regulate registered organisations and he strongly recommended against this approach. He believed, after careful consideration, that transferring the regulation of registered organisations to ASIC risked diverting ASIC from its core responsibilities, which is the regulation of corporations and of financial services. It could also result in inadequate focus on the regulation of registered organisations. Additionally, he observed that 'sharing the regulation of registered organisations between ASIC and the Fair Work Commission would cause many great practical and administrative difficulties from having two regulators regulating in the same space'. I think it is very clear from the outcomes of the trade union royal commission that it is absolutely essential that there is a strong and dedicated regulator of registered organisations.

One of the other amendments that Labor is proposing, which Senator Pratt raised, relates to volunteers being excluded from this bill. In our view, that would be a seriously retrograde step, because currently all officials, whether they are paid or whether they are volunteers, have responsibility for financial management and have obligations under the Fair Work
(Registered Organisations) Act 2009. Our amendments to the act will not change the current situation.

There are actually a number of very important reasons for this, but I will give you two words: Kathy Jackson. Kathy Jackson is the exact example of why this should not change. In her last position with the HSU, she was a volunteer. Those opposite may not have known this, but she was a volunteer. She was the honorary national secretary. Under Labor's proposal, she could not have been held accountable for any wrongdoing in her role, because she was a volunteer. Labor must surely know that their proposed amendments to exclude volunteers would create a major loophole that could be exploited by an official with bad intentions, such as Kathy Jackson. There is absolutely no reason why the misappropriation of members' funds by a volunteer should be considered less serious than misappropriation by a paid official, because, as Martin Ferguson said, a crook is a crook, whether they are paid to do a job or whether they are a volunteer. This approach has been taken for charities and not-for-profit organisations, where directors, who are often also volunteers, are not exempt from Corporations Act obligations. We see no good reason why that should change.

The facts are very simple and clear. If those opposite were truly acting for the benefit of hardworking Australians, and of union members in particular, they would genuinely believe that a crook is a crook and that it does not matter whether you are paid, a volunteer, a company director or a union official—you should be subjected to the same standards of accountability and transparency. It is a very simple and clear prospect, and the Australian people deserve nothing less.

Senator KIM CARR (Victoria) (12:31): The Fair Work (Registered Organisations) Amendment Bill 2014 has been introduced in a hail of publicity in the final two weeks of sittings this year, along with the ABCC legislation. We noticed in the press today that the government has sought to play up how significant these matters are. I heard on Radio National today how busy we would be discussing these questions. Of course, the reality is very simple. This is a government that has no substantive legislative agenda. This is a government that has essentially stumbled through this year. It went to a double dissolution in June—it had a truncated and somewhat stunted budgetary program prior to that—in a desperate bid to clean out the Senate from the ravages of the crossbench, as the government saw it, only to find that that double dissolution turned out to be very bad for the government. The government has now been reduced to a majority of one. We have a Prime Minister who came into office just over a year ago full of hope and vigour, with great expectations of what he would achieve, only to find that those hopes and those expectations have been dashed, as we realised that this Prime Minister is a captive of the extreme right wing of his party and now has very little to say about the future direction of the country—unless it is actually approved by the extreme right wing of his party.

This morning, we had publicity around this bill and, of course, the ABCC bill. We have noticed in the last couple of weeks that this government has become increasingly hysterical in the language that it has used. Because it lacks a legislative program of substance, it now has to resort to the good old sturdy stand-by's of conservative governments—that is, racism and xenophobia, with a touch of a union bashing. That is really the hallmark of the government now, and this bill, of course, is very much part of that agenda.
The government has nothing to say about jobs and nothing to say about the circumstances under which ordinary Australians find themselves, in terms of declining economic opportunities. It has nothing to say about the fact that we have the lowest labour market participation rates in 30 years, that real wages have stalled and that living standards are declining in this country. It has nothing to say about the fact that we are shipping jobs offshore like it is going out of fashion. It has nothing to say about what the real circumstances of this country are. This is a desperate attempt to frighten the living daylights out of people by mocking up these proposals to try to suggest that, somehow or other, this is a government that actually stands for something other than the extreme right-wing agenda that, of course, gave Mr Turnbull the keys to the Lodge. Those were the terms on which he secured the Liberal Party leadership from Mr Abbott, and he could only act on these matters. So the great issues that he had made his name from, in terms of producing a progressive Australia, all went out the window in the desperate exchange that he made with the right wing of the Liberal Party so that he can appear to be running the government.

We just heard from Senator Reynolds the classic formulation of the proposition that the government advances. Those opposite say: 'We really like unions. We really think unions are good.' But, of course, it is a vision of unionism very different from what most Australians see as the role of trade unions. There is a vision of trade unionism on the Liberal side which essentially sees trade unions performing a tame cat role—acting like some sort of voluntary association, like all the other great interest groups of the country. But, in terms of having the industrial capacity to defend the rights of workers on the job, well, of course the unions are not really to be treated in that way, under this government's mentality. We do not have any talk about unions having a political role—that is regarded as illegitimate. What unions are really about is being some sort of voluntary organisation where you have a cup of tea and a bit of a chat every now and then, and you do not actually do anything about preserving real wages. You do not do anything about ensuring occupational health and safety. You do not do anything about defending working-class life in this country. That is not the role of unions, according to the Liberal Party; the role of the unions, essentially, is this legal fiction about the right to organise but not the right to actually do anything. This bill is a further extension of that proposition.

We have heard a lot about the misdemeanours and the various malfeasance actions of an isolated group of trade union officials, many of whom this minister has come into this chamber and waxed lyrically about, when matters are actually before the courts—only too happy to abandon the sub judice principles and blacken people's names, even those people who have been acquitted. We do not hear any acknowledgement that people actually are brought before the courts. Nor do we ever hear anything about the facts when people are acquitted of the crimes that she is accusing them of. And they are crimes, if they are proven, and that is the whole point.

This is a bill that does not really take any interest in making better workplaces or ending union or corporate corruption. It is not about that. And we make the point again and again that the labour movement has no room for corruption, no tolerance for corruption, wherever it occurs. It does not matter if it is a union official or a company executive; we take the view that that of course is not the intent of this bill in any event. That is the ruse. That is the device
to use to establish a further step forward in a union-busting, antiworker agenda, as coalition governments have done for generation after generation.

There is a standard pattern here: establish a royal commission, make all sorts of sensational allegations, and then the reality is—take Cole, for instance: how many people were actually convicted of any offence, despite all the claims? What we see is this measure to establish a registered organisations commission, headed of course by a Liberal Party appointment. The new commission would have even greater powers than those available to the general manager of the Fair Work Commission. This is a bill that seeks to advance the antiworker agenda of this government, seeks to criminalise legitimate trade union activity. It is not about dealing with criminal offences, because these proposals here in themselves do not acknowledge that there are currently laws against criminal activity.

What we have here are in fact measures pertaining to penalties which are much higher for civil contraventions. As I said, it is about criminalising normal activity. These sanctions are essentially onerous and unfair. And we see the circulation of the government speaking notes, and not just amongst the government senators—Senator Macdonald and Senator Roberts now. I guess it is clear that the government speaking notes have now been distributed to One Nation; it is very clear, because they use exactly the same rhetoric, exactly the same examples, exactly the same circumstances.

What we have here is a simple proposition that the registered organisations act—and the government never acknowledges this—already prohibits members' money from being misused in favour of particular candidates, for instance in internal elections. The current laws in this country already allow for criminal charges to be laid where funds are stolen or obtained by fraud. Already our legislation in this country allows the fair work commissioner to share information with police where that is appropriate. It already provides statutory penalties where orders of the Fair Work Commission or the Federal Court are unknowingly or recklessly contravened. We already have laws in terms of registered organisations about judiciary duty akin to the directors of the corporation law. That already exists at law. The current act already requires officers to disclose their personal interests.

Now, we acknowledge that it always needs to improve. But you have to actually acknowledge what the law is at the moment—what it is that you are seeking to improve. That is why we are proposing a whole series of amendments, including limitations on donations to make it consistent with the electoral act, and we have a contingent notice of motion provided for a series of amendments that we will propose in that regard. We will not support this bill, however, unless there are proper amendments. And of course we acknowledge that this is a bill that really is not about genuine reform; it is about the political agenda by this government, desperate, trying to cover up the fact that it has no broad agenda.

And now One Nation, which claimed that it came to this place as the enemy of the elites, has now demonstrated just how deeply antilabour and antiworker it is. It masquerades around its hostility to the elites but it has in fact become a tool of the elites. One Nation appeals to freedom of rule of law. But of course all of that rhetoric is shallow and empty, and it has been demonstrated to be such, because One Nation is in fact acting as the cat's paw for the Liberal Party in its antiworker, anti-union agenda. One Nation is of course about busting open the labour movement, who are the only bastions in this country to defend ordinary people against...
what are the abuses of corporate power, the abuses of the extraordinary capacity of the corporations in this country to actually take advantage of the current law.

These are the circumstances that need to be assessed when we are looking at these agendas, because now we have a party—the party of Work Choices—having yet again entered into this array of measures. And they have made it very clear in their other legislative agenda. They have made it very clear in the way they have conducted themselves in this parliament. We have seen the royal commissions established, as the historic pattern has shown. We have seen the deeply partisan actions of the government-appointed commissioner Mr Dyson Heydon. We know that the whole thing was an attempt to stigmatise the labour movement, to stigmatise leading members of the labour movement and to seek electoral advantage in so doing.

But of course the government was somewhat embarrassed by these measures and chose not to actually mention them too much in the last election. The reason for the election was not discussed—and that is a very simple proposition here—because they know that within the trade union movement there is very deep hostility to this. Even more important is that the Australian people understand how significant the trade union movement is to the history of this country and to the future of this country in ensuring protections of ordinary people's rights. This is a government that spent $60 million on its tainted royal commission. We know it was about hounding Labor leaders, that it was about hounding trade union officials and a transparent political agenda—which of course is not a surprise to anybody. We know that the Australian people are a wake up to these measures, just as they were to the Howard government's WorkChoices and the so-called Australian workplace agreements. In 2005 the Liberals sought to pretend that workers pay and conditions were protected by law. They in fact said at that time that wages were actually too high! Then they introduced various measures to freeze wages—to affect the consequences of their policies by reducing living standards and cutting wages. This, of course, was part of a much more detailed program of union busting.

We know the public is a wake up to this and we saw this in the submissions to the various inquiries into this bill. That is why this bill has been knocked back several times in this chamber. It is quite clear that between the union movement and employers there is an understanding of how dangerous these measures are when they are used by a hostile government that wants to undermine the capacity of workers to organise and defend themselves.

It is not just a question of the intransigence of the chamber; it is the fact that the government itself understands deeply it needs to accept a whole series of amendments because this bill is deeply flawed. If this bill was genuinely about reform, it would acknowledge what is happening within the police services across the country and their capacity to investigate crimes. It would acknowledge that the Australian Crime Commission already has coercive powers to investigate crime. These are the appropriate agencies to deal with criminal matters. They are not industrial relations bodies. It should be left up to the people who are actually responsible for dealing with criminal matters; it should not be about criminalising trade union activity.

What the shadow minister, the member for Gorton, has foreshadowed on behalf the Labor Party is a whole series of amendments which are designed to provide stronger penalties, but
which would exempt volunteers. Earlier I heard Senator Reynolds say, 'Of course, we can't have ASIC regulate registered organisations.' Doesn't that give a lie to the proposition that there should be equality of treatment between company directors and trade union officials? Shouldn't the same body do it? What we are hearing today is: 'Oh no we can't possibly do that because we need a specialised political police to organise union-busting activities.'

There have been important electoral changes of ensuring proper accountability to democratic principles, including disclosure of electoral donations by companies or banks. I would dearly love to see details of the way banks operate and how they influence the political direction of this country. I would dearly love to see the operations of companies in, for example, the recent scandals involving franchise chain stores; I would dearly love to see the level of political engagement that they have had. I would also love to see the Australian Securities and Investment Commission have the power to investigate serious contraventions of the act. I would have thought that, if the government were serious about equality of treatment before the law, it would accept these amendments.

Given the sort of misconduct we are talking about, we would expect the government to engage properly with the opposition on these matters rather than seek a blatantly political attack on unions, as we have heard today and as we have heard again and again, as this government desperately tries to cover up the fact that it has very little to say about the future directions of this country. We are saying that we should not have different standards for workers and employers. We acknowledge that, and that is why our amendments go to that question.

In 2012 is that the present Leader of the Opposition, as the minister for employment, introduced reforms to various laws regulating registered organisations. Those changes acknowledged that the penalties could be tripled for breaches of a Fair Work registered organisation. The legislation required education and training and responsibilities of governance to be provided to officials of registered organisations, both employers and unions. It enhanced the investigative powers available to Fair Work Australia, including giving the general manager of Fair Work the power to share information with federal and state police. The reforms corrected a serious flaw in the regulatory regime, which had been introduced by the former minister for industrial relations—who was, of course, Mr Tony Abbott.

The rhetoric and the misinformation peddled by the government never acknowledges that there is a history to these matters and that there are quite strong provisions within the current regulatory arrangements. If the government was to be honest about this arrangement, it would acknowledge that its real agenda is about destroying the union movement and about trying to destroy the links between the trade union movement and the Labor Party. We are proud of our relationship with the unions of this country. Unlike the Liberals, we actually acknowledge the critical role that unions play in defence of working people and in the advancement of a progressive and fair economy. Unions have driven fundamental social and economic reform in this country and every benefit has flowed to the people of this country—the eight-hour day, annual leave, sick leave, weekend penalty rates, workplace safety laws, equal pay for women, Medicare, superannuation. How many of these measures were supported by the parties of town and country capital in this country? Not one of these social justice measures was ever supported by a conservative political party in this country. We have to acknowledge some simple and basic principles are at stake here—the principles of a fair Australia, a just
Australia, and an Australia in which everybody has rights, which can be defended in the workplace or at the ballot box. This bill seeks to undermine that fundamental industrial and political principle.

Senator BACK (Western Australia) (12:51): I am pleased to rise to support the Fair Work (Registered Organisations) Amendment Bill 2014. I would have thought that every single solitary person in this parliament, from the other side and in this chamber, would want to see the fairness and the equity that have been proposed in this bill. Indeed, those listening to this debate might think that there is only one group of people who are the subject of this legislation, should it be passed, and that is members of the trade union movement, which of course is absolutely wrong. It will apply to employers and to employer groups. It highlights the fact that anybody in this country who receives the benefit of funding, including funding from taxpayers by way of tax benefits or tax relief, has a very, very strong obligation, and that is to be fully accountable to their members or to taxpayers.

That is exactly why this legislation, proposed by Minister Cash, is before us. It is not about unions only. It is about employers. It is about employer groups. It is about unions. It is about any registered organisation that collects, processes, manages and expends moneys on behalf of their members. What this bill does is say that this parliament places an obligation on those people to ensure that those who are responsible for the expenditure of members' moneys do so with propriety, with honesty and with transparency.

For those who think this is some historic event, it is not. Only Friday of last week, we had the circumstance in New South Wales where two people—the ex-secretary of the National Union of Workers of New South Wales, a Mr Derrick Belan; and his niece, the ex-financial controller, Ms Danielle O'Brien—were brought before the courts, on the recommendation of the recent Royal Commission into Trade Union Governance and Corruption, for the illegal expenditure of members' funds. It is not an inconsequential sum of money. The alleged fraud by Mr Belan is of the figure of $440,000. He was refused bail and is due to appear on a day to be fixed. The young lady was granted bail, but the figure was $430,000.

I want to reflect for a moment: how does it come to pass, in any organisation—be it an employer organisation, be it a union organisation or be it the RSL—that a couple of people think that they have the capacity and the wherewithal to knock off nearly $900,000, for whatever purpose? My father was a bank manager, and he used to say to me, 'Chris, if a teller is stealing, there are two people to blame. One is the teller who is stealing and the other is the manager who has failed to put into place strategies so that the teller will understand they will be caught.' If you take that on a macro scale, Mr Acting Deputy President Ketter, this is what is before us today. It is of sufficient importance that the Parliament of Australia must address itself to these questions. It is not union bashing; it is not employer bashing; it is looking at the proper activities of those charged with the responsibility and the husbandry of the money of members.

So, what happened in that New South Wales case? How could those two people think that they could knock off, if it is proven, $800,000 from their members—not taken from employer groups, not taken from the wider public, but taken from the membership fees of their own members. That is what we are addressing here today.

It is interesting to listen to Senator Carr go on about union-bashing et cetera. As I have said in this place, I am the very proud grandson of Tom Back, who was the secretary of what was
referred to as the lumpers union, on the wharves in Fremantle during the Depression years. The Fremantle Lumpers Union eventually, through the Waterside Workers Federation, became the MUA, a union with whom I have enormous difficulties today. I can assure you that I find grossly offensive all of those comments made by Senator Carr about our side of the parliament. They are wrong. They are lies. I find them offensive to the memory of my grandfather. The actions of my grandfather, and those like him, were the actions of a person who spends every living hour trying to ensure reasonable employment for members of the union—including my father, Bill Back; and his brother, my uncle Tom Maher, both of whom got work on the wharf when there was work on the wharf in Fremantle during the Depression. So I do not want Senator Carr coming in here and carrying on with that sort of nonsense that I just heard about that person.

I want to reflect for a moment on some of those vagaries about which we have heard. It goes to the point made a few moments ago, and that is the amendment foreshadowed by Senator Pratt, from Western Australia. We know that Ms Kathy Jackson, acting at one stage in her career in a voluntary capacity as the honorary secretary of the Health Services Union, would in fact be exempt, should this amendment pass. Let us think about that for a moment. Let us think about all those low-paid workers in nursing homes, those people for whom it must be a vocation rather than a job, going by the attention that they give to elderly people like they gave to my mother and that others who are in nursing homes receive.

To think that another person was, at the time, a member of the other place—Mr Craig Thomson. In 2015, the former Health Services Union national secretary, Mr Thomson, was found guilty of misusing $300,000 for his campaign to enter parliament and then for other indulgences, apparently including the use of prostitutes. As deputy chair of the then education, employment and workplace relations committee I could never get out of my mind the union fees that would have been being paid by those low-paid workers in nursing homes, in hospitals and in other facilities so that Craig Thomson could enjoy the services of prostitutes and, indeed, fund his own campaign for election.

Worse than that was the fact that we all know very well: the then Gillard government could not afford for Mr Craig Thomson to leave the parliament. Should he have been bankrupted, he, of course, must have left the parliament—a matter that is being dealt with at this very moment in consideration of another colleague—because, as we know, members and senators cannot sit in the parliament if they are bankrupt. So what happened? I would now invite Senator Dastyari, who at the time was the secretary of his union, to come in and correct the record if I am wrong in saying that Mr Craig Thomson's legal fees were paid so that he could continue in the parliament, when there was full knowledge of what this person was doing and was subsequently found guilty of undertaking.

I think that was one of the lowest moments in the history of this parliament—certainly in the eight years that I have been here—that the government of the day would protect a person against bankruptcy, using funds by another union, to avoid a circumstance in which he would have to leave the parliament, with the government then finding itself in a position of not having sufficient numbers to govern. I ask the question: if, indeed, those funds were paid by then secretary Dastyari, did the members know that those funds were being used for that purpose? This goes exactly to the reason why Senator Cash has brought this legislation before this parliament, and that is the fact that members of registered organisations—be they
employer groups, be they employee groups or be they unions—have a right to know that their funds are being husbanded and that they are being handled honestly, with integrity and with transparency.

We go to the legislation to which Senator Carr referred in the final moments of his contribution. Again, it relates to amendments introduced by the then minister for industrial relations, Mr Bill Shorten, in 2012. Remember, these were amendments that the then Labor government brought in. I will refer to one of them, because in the brief five days that the then Education, Employment and Workplace Relations Committee had to review this legislation, introduced by Mr Shorten, one of the elements then, and an element today, relates to the five highest paid officials.

With your concurrence, I want to quote from Mr Shorten's second reading speech in the other place, when he was speaking of the levels of disclosure. This is the comment that he made:

This bill will require the rules of registered organisations to provide for the disclosure of remuneration, including board fees, of the five highest paid officials of the organisation as well as the two highest paid in each branch, to the members of the organisation.

This is not an unreasonable requirement, one would have thought. He then went on to say:

Determining the five highest paid officials will be based upon monetary remuneration rather than non-cash benefits.

He concluded by saying:

…where an official's remuneration is required to be disclosed, that disclosure will require non-cash benefits paid to the official to be identified.

The then minister, the now Leader of the Opposition, Mr Shorten, was in support of the core key elements of what we are dealing with today.

As you know, Madam Acting Deputy President Reynolds, there is very strong support from luminaries of the Labor Party for the sort of legislation that is being proposed here today. Former ACTU president Mr Martin Ferguson, who went on to become the Minister for Resources and Energy, is highly regarded around Australia from everybody in those industries. He said:

There is an absolute obligation on the union movement to clean up its house. There is an obligation on the unions to put their house in order.

Former ACTU secretary Bill Kelty said:

I was always on that side of the debate which said that unions are public bodies so they are accountable to members for their management.

A previous Attorney-General in a recent Labor government, Robert McClelland, made this comment: 'Unquestionably, a case for further legislative reform.' We know that former National Secretary of the Australian Workers' Union Paul Howes was concerned about many of the elements. He spoke about the 'cancer of dishonesty' and how it can corrupt an organisation. At the time, he spoke of the need for developing resistance to corruption.

Senator Carr and I are on the same page when it comes to that particular issue. We know that in our democratic system, which is the Westminster system of parliament, the government of the day—the coalition government under Mr Turnbull—introduced this legislation into this place and it was rejected twice, which then became a trigger for a double
disillusion election. We went to the 2013 election saying that we would clean up the Shorten legislation and that we would introduce the registered organisations bill. We were voted into government in 2013. Then, in 2016, we said that, should we win government, should we be privileged to continue as the government of this country, we would again introduce this registered organisations legislation. And here we are back in government. It behoves those in this parliament to respect the voice of the Australian people. That is what must happen.

I am not going to spell out all of those vagaries that I know others have about the misuse of funds by people entrusted to their management by their members and often low-paid members of those organisations. But I do want to focus in the couple of minutes left available to me on how this legislation will work. There will be a focused regulator. There is no variation from the other side of politics on this one. There will be enhanced financial accountability provisions. The original Shorten legislation, as my colleague Senator Cash will remember, imposed enormous burdens on people to participate in further financial management training even if they were already highly competent in those spaces. The sensible legislation produced by the government through the minister today simply says there will enhanced financial accountability provisions with meaningful sanctions that can be applied when wrongdoing is revealed.

If we look at the penalties we can see they are serious. We are not talking about small sums of money. Last Friday it was $800,000 by two people who, because of the culture of their organisation or because of their own dishonesty, if proven, seemed to think they could walk away with $400,000 each. I just cannot believe this. So the penalties will require registered organisations to disclose the remuneration paid to their top five highest paid officers. I have already referred to the fact that Mr Shorten in government was in agreement with that. The penalties will secondly require officers whose duties relate to financial management to disclose material where they might have a personal interest. Isn't it amazing? If there is a conflict of interest, you will have to put your hand up and say so. We do that here. In any circumstance in which there is the possibility of a conflict of interest, we must announce that. So this is now being put into the legislation. Thirdly, we are ensuring in this legislation that officers cannot make decisions on matters where they have a conflict of interest. They must excuse themselves from any decision making. They must be absent from the room. The minutes of a meeting must confirm the fact that they took no part in that particular decision making.

As we know—and as was supported by the then government through its minister Mr Shorten—civil penalties will range from $18,000 to $216,000 for individuals and over $1 million for a body corporate, employer group, union or any registered organisation. And, as there needs to be, there will be criminal penalties that will apply for reckless or intentional dishonest breaches of officers' duties with a fine of up to $360,000 or five years imprisonment or both.

The wider community have an expectation that those charged with the responsibility for other people's money will take it seriously, honestly and with integrity and that there will be transparency. I do not care, further to Senator Carr's comments, whether it is an employer group, a union group or, indeed, anybody who puts their hand up and seeks taxpayers' money by way of either payment or tax relief. They should all be subject to the same burdens that have been introduced in this legislation.
Senator POLLEY (Tasmania) (13:11): I rise this afternoon to speak on the Fair Work (Registered Organisations) Amendment Bill 2014. This bill seeks to establish a registered organisation commission, headed by a registered organisation commissioner, hand-picked by this government. The new Registered Organisation Commissioner would have greater powers than those of the general manager of the Fair Work Commission.

Before I get into the detail of this legislation, I will say it never ceases to amaze me when those people on the other side start talking about former Labor members of parliament in such a glowing terms as we have heard this morning in the contributions from government members. There was talk this morning about people such as Bill Kelty, who headed up the ACTU, and Paul Howes, the former National Secretary of the AWU. It is just a great shame that those on the other side did not even utter any ounce of respect for those people when they were in those positions. But because it happens to fit their agenda today in this debate they have started making reference to these former members and rolling out all these fabulous things.

But it has been even more extraordinary than that, because we had a contribution this morning from Senator Roberts. I do not normally listen to his contributions in this place, but today it was just an extraordinary contribution! It was just extraordinary! This is a man who is totally ill informed about this legislation. He is totally ill informed or he has a prejudice against unions. It was just a gobsmacking contribution. I think perhaps he should go and have a read of his own speech and then reflect on it.

Then we had the contribution of Senator Macdonald. He was critical of my contribution when I had not even spoken in this place in this debate. It was a bit reminiscent, quite frankly, of when this government voted against their own legislation in the House of Representatives.

But I will go back to the bill. The bill modifies disclosure requirements and increases red tape. The bill contains higher penalties for several contraventions and introduces criminal offences in respect of officers’ duties which are modelled on but also exceed those found in the Corporations Act 2001. These sanctions are onerous, disproportionate and unfair and will prevent employers who volunteer to work for employer bodies from continuing that work.

The bill treats volunteers like the chief executives of corporate boards, except without the pay and conditions. This bill was defeated on three separate occasions by the 44th Parliament, along with the ABCC bill. Today, this bill is being taken out of the bottom drawer by a desperate government that has nothing else to say—a government bereft of any plan for the future of this nation and a government that quite frankly cannot go a week without stuffing something up. This is a government that has voted against itself twice in the House of Representatives—not once, but twice. This is a government that is unfit to govern this nation. This is a government that actually called on itself to demand it explain its own failings. I think that is pretty good; members of the government have actually had some foresight—they themselves concur that they are not up to the job.

This is a government whose members have been so preoccupied fighting each other that it has achieved nothing but a bunch of thought bubbles, and we have seen that week after week. In its desperation, it is returning to the anti-union, anti-worker and anti-fairness agenda it has always clung to. It has cut paid parental leave again, which will see 70,000 mothers lose some or all of their paid parental leave. It has called new mothers who have collective paid parental leave entitlements that intersect with the government’s scheme ‘double-dippers’ and ‘rorters’.
The Turnbull government's approach to bargaining across the APS has been to strip away rights and conditions that give workers a voice in the workplace. This is evident in the Members of Parliament Staff Enterprise Agreement 2016-2019 currently being proposed. It has quite frankly come to the table and said, 'There is no way that we are going to be here and bargain with you.' It has put an offer on the table and said take it or leave it. This is the character of this government.

This morning I was reading something in the media that is quite apt when you consider that the AAA rating of the economy is at risk yet again under the stewardship of Mr Turnbull. This a piece in The Australian newspaper—I know how much the government members like to refer to that newspaper—is very timely, because it is pointed towards the Prime Minister. In fact, the headline is, 'How to be Prime Minister.' That is pretty good, after somebody knifed Mr Abbott to take on the top job. We all know that Mr Turnbull has always had the ambition and the drive to be Prime Minister, but, unfortunately, since becoming Prime Minister he has not delivered on anything. He raised expectations in the community, particularly after he rolled Tony Abbott, that he was going to be a new Prime Minister—a 21st-century Prime Minister. His government would be agile. It has been anything but agile. Mr Turnbull, if you are listening, perhaps you might want to refer to The Australian. It is a very good article; it might give you a few tips—although I am not sure that anything will help you at this late stage.

This Prime Minister did the ultimate deed by knifing someone else in the back to take on the role, but he has failed to show any economic leadership for our nation. The man is well suited—we know that; he has better suits—but, to be quite frank with you, nothing much else has changed. The Liberal government still has no clear economic plan to speak of. Nothing has been done on the future of our economy, absolutely nothing. Again, in the papers this morning it is reported the AAA rating that we guard so jealously is under threat under this government. We have seen no economic leadership from Mr Turnbull. He has failed to be up front about his tax plans and has offered nothing to the Australian people. He is more interested in taking selfies with President Obama than displaying any economic leadership.

This week, we have a desperate government that knows that if it does not get its 2016 election trigger bills through a Senate it does not control it will look even more helpless and less able to articulate a vision. I do not blame Australians for wondering what the point of a double dissolution was. I ask myself that time and time again. What was the point of Mr Turnbull calling a double dissolution, when it has been almost five months since the election and only now do we have the bill before us? It is as clear as day that Mr Turnbull does not have any idea about where this government should go. He has no idea on the sort of policies that he needs to take forward. The only thing that he does know is that he is fighting every day for his own job—and he is fighting within his own caucus.

This Prime Minister promised to fix the budget and create jobs and growth, but all he has delivered to date are growing deficits, more debt, record low wages and record unemployment. Malcolm Turnbull's jobs and growth mantra during the 2016 federal election was nothing more than an empty slogan. Empty words and empty promises—that is all we are seeing from this government. The only plan the Turnbull government has put forward is a $50 billion tax cut for big business—the big end of town—which will smash the budget when Australians can least afford it. Looking at the statistics, it is clear that the Turnbull
government has failed the Australian economy. There are 261,100 young people unemployed—young Australians. There are 261,100, and too many of them are in my home state of Tasmania. The number of Australians giving up on finding work is at the highest level since 2006. The government just cut 128,000 apprenticeship places from the system in the midst of a skills shortage. These are the sorts of decisions that the government is making. There are over 1.8 million Australians who cannot find a job. That is 1.8 million Australians who do not have a job. Wages growth has fallen to another record low. The government is still hurting middle and working class families by attacking penalty rates. Its continuous attacks on Medicare are damaging to workplaces and economic productivity.

Those on the opposite side of this place will always support the big end of town, but they have never and they will never represent or support workers in this country. We on this side of the chamber know the importance of the union movement and we value the work that unions do on behalf of hardworking Australians. We support unions and we support the best possible standard of union governance. We on this side of the chamber have zero tolerance of corruption. That is zero tolerance of corruption.

Senator Bilyk: How much?

Senator POLLEY: Zero. My colleague from Tasmania, Senator Bilyk, knows this only too well. She was a former unionist. I have not been, but I have been a proud member of unions through my working life, because what my mother always used to say to us when we were growing up was, ‘You get a job, you work hard and you belong to the union. It does not matter how hard you work, if the boss wants to get rid of you he will try to. If there is a downturn the first people who will go will be the workers, so always join your union.’ Which I did.

Whether you sit in a boardroom or work in a factory, we believe that any corrupt behaviour should be met with the full force of the law. I cannot stress that enough. The diatribe contributed to this debate from those opposite has tried to paint a very different picture. I do not believe that anyone in this chamber would support any form of corruption, whether it is through a business—and we see a lot of white collar crime, but we do not very often hear about white collar crime from those opposite, though we always hear if there has been proven corruption within a union. And so it should be exposed for what it is. Whether it is in business, whether it is taxpayers’ money or whether it is your sporting organisation—it does not matter. Zero tolerance is what we stand for on this side of the chamber.

Let’s not pretend that this legislation, as it stands, is about better workplaces or stronger unions. That is not what this government wants. This government would be very happy to sit back while workers in this country were being paid half the minimum wage. They have done nothing to look at the widespread rorts or corruption and rorting in the 457 and temporary work visa system. The only time they talk about wages is when they complain that they are too high. Mr Turnbull does not want to support stronger unions which represent the interests of working people. The government’s goal is quite the opposite: it is to destroy the link between the trade union movement and the Labor Party. That is it—be up-front about it! Tell it for what it is—that is what your belief is. We will fight and stand by Australian workers every single day.

Their goal is to destroy the capacity of trade unions to organise and to bargain collectively. Their agenda is demonstrated by their legislative program, the way they conduct themselves
in parliament and the royal commission conducted by the most partisan of commissioners, Dyson Heydon. This is a government which has gone after former and current Labor leaders through an abuse of executive power and spending millions of taxpayer dollars. This is a government which introduced absolutely no legislation as a result of their trade union royal commission. They had one agenda—to blacken the union movement and Mr Shorten—but they failed, because there was nothing there to find. This government has given us plenty of reason not to trust them when it comes to workplace relations. Any resolution in relation to this bill or the ABCC is only the first step in the government's anti-union, anti-worker agenda. It is all part of their crusade against workers.

The way the government carries on you would think there was absolutely no regulation or registration of organisations. That is the picture they have tried to paint here this morning. But nothing could be further from the truth. The act already prohibits members' money from being used to favour particular candidates in internal elections or campaigns. It already allows for criminal proceedings being initiated where funds are stolen or are obtained by fraud. It already ensures that the Fair Work Commission can share information with the police as appropriate. It already provides for statutory civil penalties where a party knowingly or recklessly contravenes an order or direction made by the Federal Court or the Fair Work Commission. Officers of registered organisations already have fiduciary duties akin to those of directors under corporations law. The act already requires officers to disclose their personal interests.

The only reason this Prime Minister is talking about this legislation is to try and pacify the hard-right wolves of his Party. Labor is better than that. We are interested in improving this legislation to make it worthwhile, to genuinely improve conditions for employees and employers.

In December last year, the Leader of the Opposition and the shadow minister for employment and workplace relations, Brendan O'Connor, announced new measures to detect and deter corruption in trade unions and employer associations. Labor will move amendments in the Senate which seek to implement our election policy. Firstly, rather than creating a new government bureaucracy, the Registered Organisations Commission, Labor proposes that the Australian Securities and Investments Commission use its extensive coercive powers to investigate serious breaches of the Fair Work (Registered Organisations) Act.

Secondly, we will increase penalties for behaviour which is intended to deceive union members or the regulator. We will double the maximum penalties for all criminal offences under the act. We will increase the fine for false and misleading conduct from $10,800 to $18,000. For paid officials who act in a way that materially prejudices the interests of the union or its members, we will increase the fine from $10,800 to $216,000. Only officials in paid positions who are responsible for decisions about the financial management of registered organisations will be subject to these penalties—not volunteers.

Thirdly, Labor's amendments will increase audit requirements and penalties for auditors. We want to make sure that those people who are charged with the responsibility of independently examining the finances of registered organisations do so in a professional and accountable manner. Auditors that choose not to report misconduct in registered organisations could themselves be subject to imprisonment. This will ensure that auditors are not complicit in their silence. Further, in relation to auditing, we will require the rotation of auditors so that
there is sufficient turnover to ensure that new parties are coming in to examine the books, resulting in greater scrutiny and independence.

Fourthly, we are proposing a new donation threshold for union officials and politicians alike. It is time to extend the current electoral funding laws to donations and expenditure for all elections managed by the Australian Electoral Commission, whether they are union elections or the federal election. Any entity associated with candidates in such elections should be required to publicly disclose the total value of payments made, receipts and debts each year. Our amendments to this legislation will reduce the current disclosure threshold in the Commonwealth Electoral Act for election funding from $13,000 down to $1,000, as well as prohibit anonymous donations over $50 and introduce measures to end the practice of donation splitting by related entities, which can be used to avoid disclosure thresholds and so undermine donation transparency. The government are happy to go after unions when it comes to disclosure thresholds and transparency but they are not willing to apply the same standard to themselves.

Fifthly, we want stronger protections for whistleblowers. The penalties for those taking adverse action against whistleblowers are currently limited to a $4,500 fine, imprisonment for six months or both. Labor's improvements to this legislation will extend whistleblower protections to the private and not-for-profit sector and mean that people who seek to intimidate or silence whistleblowers will face two years jail and an $18,000 fine.

In summary, Labor will support an amended bill that will increase penalties but exempt volunteers, provide greater protection for whistleblowers, provide more accountability for auditors and provide more accountability for electoral donations by reducing the disclosure amount from $13,200 to $1,000, whether in union elections or federal elections.

We are genuinely interested in passing good legislation. So I say to those on the other side of the chamber: do not make this politically motivated, actually look at the amendments and make sure that the very best legislation is passed through this place, because, quite frankly, you do not have a very good track record on the legislation that you bring before us. We know, in fact, that those opposite have no legislation. We are spending an inordinate amount of time dealing with non-controversial legislation because those opposite are filibustering because they are still trying to get the numbers for various pieces of legislation. It is about time we saw something of the real Mr Turnbull and his agile, 21st century government, before it is too late.

Senator LAMBIE (Tasmania) (13:31): This is the third time I have risen to briefly contribute to the debate on the Fair Work (Registered Organisations) Amendment Bill 2014, and for the third time I will vote against this government legislation. In division 3, this legislation takes away fundamental civil rights from blue-collar workers—like the right to silence, the presumption of innocence and freedom of association. I cannot in good conscience support extraordinary legislation which specifically targets union members and blue collar workers while ignoring white collar crime and criminals.

If the government were at the same time to introduce extraordinary legislation to parliament, which applied the same standards to all workers, both blue-collar and white-collar workers, then they would have my support. For example: if the government wanted to establish a federal commission against corruption, or a federal ICAC, which had extraordinary powers to attack all corruption and crime, then I would support them. And there is a great
need for a Federal ICAC. But when the government try to take away fundamental civil rights from brickie's labourers while effectively exempting bankers from the same treatment, every fair-minded Australian must reject that proposal. Our nation and democracy are based on the principle of equality before the law for all. Regardless of whether you push a concrete saw on a building site for a living or a $1,000 pen in a corporate boardroom, you should be treated equally before the law. If the government makes the case for a removal of fundamental civil rights because of extraordinary and entrenched corruption and crime in the Australian community, then let the ensuing legislation and the corruption-fighting organisations attack wrongdoing both on the building sites and in the boardrooms of big business.

This legislation reverses the onus of proof. In other words, it forces accused workers to prove their innocence, rather than the authorities having to prove the guilt of alleged wrongdoers. So if this legislation is passed, building workers accused of wrongdoing will face penalties if they exercise their democratic right to silence, while they are forced to go to the expense of proving their innocence. This is an un-Australian and undemocratic situation. It should only be tolerated when you are tackling the extraordinary threats posed to Australia by terrorists and organised crime.

I have spoken about this to the Senate before, but it is worth repeating again. Unlike members of the Liberal Party in the Senate, I do not have an ingrained hatred for members of unions. I acknowledge that, on balance, the union movement in Australian has been an agent for positive change and has protected and strongly advocated for the rights of working Australia families. If we did not have unions and organised labour and their fights for better wages and conditions, Australia would be a poorer, less fair country and work sites would absolutely be less safe. However, yes, I also acknowledge that the unions—just like the corporate world, just like the military and just like politicians—have had their fair share of fraudsters, crooks and standover men who have ripped off their members and committed shocking crimes to satisfy their own greed and lust for power.

Of course, there is an ongoing need to monitor, investigate and enforce our laws wherever crime and corruption are found. Within many organisations, whether they be government departments, political parties, corporations or unions, the military—wherever there is a concentration of power and money—the risk for criminal or unethical behaviour increases because, as we all know, if you are human, power corrupts and absolute power corrupts absolutely. However, the problem I have, when the Liberals say they want to apply corporate standards of regulation to the unions, is that Australian corporate standards—let us be honest—are not all that flash. You only have to look at the corruption in some of the Liberal Party's biggest election donors, the banks, to realise that the Australian corporate standards are about as good as the standards and regulations governing the Australian union movement.

I believe that an equitable solution to corruption in the workplace and broader Australian society is the establishment of a permanent corruption watchdog whose Star Chamber power will apply to bankers and union members equally. Combine that body with reformed world's best whistleblower or public interest disclosure laws that protect, encourage and reward genuine whistleblowers coming forward, and then corruption in the workplace, corruption in government departments, corruption in the boardrooms, corruption in political parties and, God forbid, corruption in the military would finally be properly addressed.
I have also spoken about this in previous speeches when I have addressed the Fair Work (Registered Organisations) Amendment Bill 2014: overseas workers on various work, 457 and student visas have been used to undermine the rights and work conditions of Australian workers, something that this legislation does under the pretext of targeting corruption. Both Labor and Liberal governments have made rules while in government relating to 457 visas which allow our big oil and other associated companies to legally sack 36 Australian maritime crew and replace them with foreigners on their tankers. This Liberal government decided to kill off the jobs of 45 defence clothing manufacturing workers because the defence minister decided not to place further orders with the Workwear Group, resulting in the company announcing in recent times that union members will lose their jobs. This government has a budget of $100 million a year—$50 million to be spent on making uniforms in Australia—but now the Liberal Party is happy to have the majority of defence uniforms made overseas because it means fewer Australian union members.

I would like to address an issue raised by members of the government: political funding and its potential to influence votes in this chamber. The JLN has refused to take any political funding from big banks and from unions like the CFMEU and the Maritime Union, all of whom have had serious questions raised about their governance and integrity. I oppose the legislation before the House based on its merits as it is written, not because of any political funding or promise of political funding. Indeed, in order to lead by example, the JLN is the only political party in Australia which discloses political funding in real time. I challenge all senators and political parties to adopt a similar level of transparency for their political funding.

I will vote against the Fair Work (Registered Organisations) Amendment Bill 2014. I understand that, should this legislation progress to the Senate committee stage, different senators have proposed amendments which I believe may improve the flawed legislation. I will listen carefully to the debate and amendments proposed by all senators. In particular, I am very interested in the improvements foreshadowed by Senator Xenophon and Labor—and I am inclined to support their improvements to the legislation which provide greater protections for whistle blowers and more accountability for auditors and electoral donations.

The bill is ideologically motivated, unfair and irrational. It undermines the basic civil liberties and rights of Australian workers, while ignoring tens of billions of dollars in fraud, tax evasion and crime in the banking, finance, medical and insurance industries—just to name a few industries where multinationals have had great influence. According to Parliamentary Library research I recently commissioned, over a five-year period from 2010-11 to the present day the four big banks—the Commonwealth, the NAB, Westpac and the ANZ—have donated in excess of $2.56 million to the Liberal and National parties alone. That is why you will not see a banker lose their right to silence or have to prove their innocence if accused of an offence or crime in the finance industry. But if this legislation passes, you will see blue-collar workers lose their right to silence and the right to a presumption of innocence, while bankers are treated separately.

Government members and others have used findings and evidence of the Heydon royal commission to justify this legislation and the ABCC legislation. I have raised this point before. As my research and consultation on the ABCC legislation progressed over the months, my trust in Commissioner Heydon and his $60 million royal commission was absolutely
shattered when it became blindingly obvious that Commissioner Heydon had lied to the Australian people about the so-called grave threats he had discovered to the power and authority of the Australian state. I am in a unique position to pass judgement on Commissioner Heydon's secret reports and his findings. Unlike most Australians and politicians, I have read Commissioner Heydon's so-called secret reports. They are a fiction and they are lies. There are no grave threats to the Australian state. If there were, ASIO would have been all over the Heydon royal commission like a bloody rash. They would have been all over it and they would have known about it. When I questioned ASIO about Heydon's secret reports and his wasted $60 million at estimates, no copy had been referred to them—nor had ASIO even thought of asking for a copy of the so-called secret reports. What we have with this $60 million royal commission is a royal commissioner who agreed to participate in a Liberal Party fundraiser and who lied to the parliament and the Australian people about the seriousness of the threat to the Australian state through his investigations into union and other corruption. I repeat: why did Commissioner Heydon lie to this parliament and the Australian people?

I think it is very important to note that many members of the government have made speeches in which they have used many examples of CFMEU bad or criminal behaviour as a reason to pass this legislation. If the government were fair dinkum about tackling bad or criminal behaviour by the CFMEU they would have agreed to my proposal to deregister them. In the last parliament I asked a question of the then Leader of the Government, Senator Abetz: Given that the senator agrees that the CFMEU leadership is involved in a wide range of serious criminal activities—blackmail, extortion, death threats and assault—and associations with outlaw bikie gangs, killers and underworld figures, and given that there is little difference between the CFMEU and the BLF, can the senator explain why his government … has not deregistered the CFMEU, just as it knows the Hawke-Labor government did in 1986?

That was the moment when the Australian people were able to see that the government really did not want to address the problem at hand in a measured and targeted manner that respected democratic fundamental civil rights and liberties. It quickly became apparent that they were using a rogue union as an excuse to attack the democratic civil rights and liberties of all Australian workers. It is a classic case of using a sledgehammer to crack a nut—and legislative overreach which must be opposed or, at the very least, amended and mitigated. I oppose this legislation.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (13:43): Here we are, in the fifth week of this parliament, considering the so-called urgent legislation that was the rationale for a double dissolution election. And the other double dissolution trigger—the ABCC bills, which we were also told needed to be passed urgently—has been pushed down the agenda even further. Apparently these bills were so urgent back in July that it has taken the Turnbull government until November and the penultimate sitting week of the year to introduce them to the Senate. The timing of this bill and the ABCC bills just goes to show that the double dissolution was not about these bills. Combined with the proroguing of parliament, they were a convenient trigger for Mr Turnbull to get the election timing that suited him. It was the first time in recent history that the parliament was prorogued for a purely political purpose. Mr Turnbull knew that the Australian people were slowly waking up to the fact that he was not the leader they thought he was and had abandoned his true ideology so he could pander to the conservative base in his party. He knew he was sliding in the polls because of
this and had to get an election behind him as soon as possible. An ordinary election would have been too late. Had the government held on until August, it is very likely that they would not have achieved their very slim majority in the House of Representatives.

Wasn't it curious to see, having justified the double dissolution on the basis of this bill being urgent, and on the basis of the ABCC bills being urgent, how little these issues were mentioned by Mr Turnbull during the election campaign? They were certainly mentioned heavily in the lead-up to the election being called but barely at all during the campaign proper. This demonstrates that the registered organisations bill was a convenient excuse for calling a double dissolution election. When it comes to this bill, there is something blatantly political about the government's agenda, and that is their desire to attack trade unions, to attack the organisations that represent ordinary workers. I am very proud to have been a long-term member—for many decades—of various unions but I am very proud to stand here and say that for the past 25 years or so I have been not only an employee but also a workplace delegate of the Australian Services Union and I continue to be a member.

Those on the other side of the house paint the unions as evil and corrupt and attempt to stymie their ability to organise. Why do they do this? They are doing this so they can pave the way for an extreme workplace relations agenda—because that is what Mr Turnbull's mates in big business want. Their big-business mates must be offering a very substantial reward. The attacks on unions by those opposite, their cozying up to big business, is so brazen and so blatant that they are not even trying to hide their agenda. They are pursuing their antiworker agenda with all the subtlety of a freight train. I am surprised. I did not know they even knew anything about unions except to bag them. I have been here nearly nine years, and I have never heard them stand up and defend unions or the members of unions in the way I have heard in the past few hours today. There have been other days when they have done it, but only around these bills. Their hypocrisy is blatant. They are the lapdogs of big business, sitting there wagging their tails, waiting for a doggy biscuit and a little pat on the head. When big business says, 'Jump,' they ask, 'How high?'

They demonstrated that when they spent $60 million of taxpayers' money on a political witch-hunt: the trade union royal commission. Commissioner Dyson Heydon showed his political colours by accepting an invitation to speak at a Liberal Party fundraiser while he was still commissioner. If this alone were not enough to expose the royal commission for the blatant political farce that it was, let us not forget that we have seen only one conviction—just one—resulting from the 93 referrals of possible breaches of civil and criminal law. That is because the commission spent so much time going beyond its brief of exposing genuine corruption and instead started to pursue legitimate industrial activity. But this embarrassment has not stopped the government from inflating the findings of the royal commission. I guess that, after spending $60 million of taxpayers' money on a political witch-hunt, they had to get some bang for their buck. After all, it is easier for them to try to pretend the royal commission was money well spent when faced with the prospect of admitting to Australian taxpayers that they just blew $60 million of taxpayers’ money.

The royal commission is also exposed as the political exercise it is by the fact that the government introduced this bill—a bill supposedly about union governance—before the royal commission had concluded. Following the conclusion of this political farce, not one bill has been introduced, nor has an existing bill been amended, as a result of the findings of the royal commission.
commission. It is a shocking abuse of power that so much taxpayers' money was wasted by this government in pursuing their political opponents. As I said, they have a blatant political agenda, and it is about as transparent as cling wrap. So it is when it comes to this bill, a bill which is designed to tie up trade unions in red tape, a bill which is designed to hobble unions and deny them the capacity to effectively do their job, which is organising and protecting workers. This is an exercise in rank hypocrisy from a government which claims to be about reducing regulation but which ties up parliament's time introducing reams of legislation to remove redundant provisions and to correct punctuation and which then proposes a bill which will bury registered organisations in the very red tape that it promised to cut.

Let me tell you the biggest hypocrisy of the lot for me. The biggest hypocrisy of the lot is that those on that side of the house—within their own mix, within their own group—hid corruption in the Tasmanian Liberal Party by Mr Damien Mantach. They did nothing about it, they let him walk away, they let him resign from his job, and then they gave him a job in Victoria. What did he do there? He blew the money there! They have the audacity to come in and talk about union officials and how some union officials are doing the wrong thing as if all unions are tarred with the same brush. We know for a fact that Mr Mantach's spending on his party credit card during his time as director of the Tasmanian branch of the party some eight years ago resulted in 15 charges relating to 53 payments from Liberal Party coffers. They have the audacity to come in here and act like they are so pure and they really care about unions, union members and the taxpayers. Well, they do not. I cannot believe that they would have the gall to do it.

Mr Mantach initially racked up almost $48,000 in personal expenses on the card. The then president of the Tasmanian branch, Mr Dale Archer, met with the then Leader of the Opposition in the Senate, who at the time was Senator Abetz, on 5 March 2008 to inform him of an investigation. Senator Abetz's account of that meeting was:

No advice was sought or offered. No sum of money was mentioned.

That must have been a real beaut meeting! He did not even get told that $48,000 had been misappropriated by Mr Mantach. The following day—6 March—Mr Archer informed the then federal director, Mr Brian Loughnane, that Mr Mantach had resigned. He just gets away scot-free. He gets to resign. How amazing is that! According to the Hobart Mercury,

"Brian Loughnane was informed by me of the full extent of the circumstances surrounding Mr Mantach's departure," Mr Archer said. "There is a file note that confirms in writing that the federal director was advised of this issue on the 6th of March, 2008."

If we believe the accounts of both Mr Archer and the then Leader of the Government in the Senate, Senator Abetz, the investigation was completed, the amount of money was determined and Mr Mantach had agreed to resign, all in the space of one day. And they come in here to talk about alleged union corruption and how all unions are evil. Give me a break, people!

The Liberal Party's Tasmanian President, Mr Geoff Page, held a closed-door meeting to discuss the party's handling of the issue with a select group of members. Mr Page told members at that meeting that a sensible decision was made to negotiate the repayment of money by Mr Mantach. This is the bit where it gets really, really good: the Tasmanian branch of the Liberal Party had not disclosed to the Australian Electoral Commission Mr Mantach's repayment of the expenses. The Tasmanian director at that time, Mr Sam McQuestin, filed the
request in August and said that the failure to do so seven years earlier was an 'administrative oversight'. So you can belong to the Liberal Party and steal $48,000 of Liberal Party members' money and the party can have an 'administrative error' for seven years, and they have the gall to come in here and bang on about bad unions!

At least the unions do something for the people. You know what unions do? Unions get you annual leave. Do you really seriously think that kind employers give annual leave away just because they want to? They get you sick leave. They may well end up negotiating you some paid parental leave, depending on what those on the other side decide to do about that. You do not get these things due to the generosity of employers—trust me. They have been negotiated over years and years for people in the workforce. That is why it is important that we stop this complete witch-hunt and the political agenda about trying to reduce the importance of the trade unions.

But let me take you back to the story about Mr Mantach. Section 234 of the Tasmanian Criminal Code states:

Any person who steals anything is guilty of a crime.

So, if money was stolen, repaying the money does not absolve a person of committing the crime. Section 102 of the Criminal Code states:

Any person who solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, as a consideration for any agreement or understanding that he will compound or conceal a crime, or will abstain from, discontinue, or delay a prosecution for a crime, is guilty of a crime.

I say everybody in the Liberal Party in Tasmania who knew about that must be guilty of a crime. Why was the matter involving the Tasmanian branch of the party not ever reported to the police? Why was it not reported to the police?

This gets even better: the former Federal Director of the Liberal Party, Brian Loughnane, was part of the selection panel that appointed Mr Mantach to the position of director in Victoria. So he steals $48,000, he uses his credit card for all sorts of things in Tasmania and, funnily enough, he gets to resign. Nobody goes to the police about it, even though a crime has been committed. He then picked up a job in Victoria from the people who knew what he had done in Tasmania. We know that people knew what he had done. So they appointed Mr Mantach to the position of Victorian director of the Liberal Party knowing the circumstances of his resignation as director of the Tasmanian branch. If just one of the many people in the Liberal Party who knew about Mr Mantach’s conduct in Tasmania had come forward and reported the matter to police, it is possible that the much larger alleged crime in Victoria could have been avoided.

I will give the Liberal Party in Victoria a little bit of credence: they did report him. But how can they stand there and talk about corruption in the union movement when it is right within their midst and they knowingly gave someone a job in Victoria. What a joke! Given that public funding of political parties is available in Victoria, this involves not just Liberal Party members' money but—guess what—also public money.

Let’s go back to the bill at hand. What also makes the bill and the trade union royal commission such a political exercise is that this government is so intent on going after trade unions when, as I said, there is much more evidence of corruption and malfeasance in the
corporate and financial services sector. As we have heard, it is right within their midst. And what do they do? They just sweep it under the carpet and let Mr Mantach get away with whatever he wants to do, because he is one of theirs.

Senator Ryan: He went to jail!

Senator BILYK: Yes, but not when he was in Tasmania. When he was in Tasmania, you let him resign and you let him get away with the theft of $48,000. If he had not recommitted a crime, if he were not a repeat offender, he would have got away with stealing $48,000 from the Liberal Party in Tasmania. You cannot cover that over. There is no way you can cover that over—absolutely no way.

When we hear so many stories about ordinary customers being mistreated by the big banks while Labor is calling for a royal commission, this government wants to give them a $7 billion tax cut. With 1.8 million members, the trade union movement is the largest social movement in Australia. Many of the rights and conditions that have been gained throughout history that Australians take for granted, as I said earlier, have been won not through the kindness of employers but through the advocacy of trade unions and their members over many, many decades. But those on the other side are very happy to let people lose their working rights and conditions. You are a disgrace. You are all a disgrace! You found unions all of a sudden. What a joke!

The PRESIDENT: To the chair.

Senator BILYK: What an absolute joke, for you to have found the unions just so you can bag them and you can bring in your new industrial relations agenda. Who know what exactly it is going to be, but I tell you what: I do not want to see what you guys have got to offer, because I remember mark 1. I remember what you put up before and how you wanted to screw the workers over and have individual bargaining. 'Let the members fend for themselves. We're an individualistic group—everybody out for themselves.' You know what? We are not supporting that. We are here for the workers and we will defend the workers to the hilt. There is nothing that we will not defend our workers for. When you can get your own house in order and when you can stop people like Mr Mantach getting away with stealing $48,000—

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:00): I advise the Senate that Senator Payne will be absent from question time this week due to illness. In Senator Payne's absence, I will represent the Minister for Defence, the Minister for Defence Industry, and the Minister for Veterans' Affairs, the Minister Assisting the Prime Minister for the Centenary of ANZAC and the Minister for Defence Personnel.

QUESTIONS WITHOUT NOTICE

Turnbull Government

Senator WATT (Queensland) (14:00): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to the Prime Minister's comments at the Business Council of Australia dinner last week, where he admitted that, under the coalition government, economic reforms would result in 'winners and losers'. I also refer to the
Turnbull government’s May budget, which gave millionaires a $17,000-a-year tax cut and big business a $50 billion tax cut. Why are millionaires and big business the winners under Mr Turnbull?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:01): It never ceases to amuse me to hear the Australian Labor Party asking questions about economic management. Economic management, of all things, is their special subject—their special subject at which they were so infamously unsuccessful during six long, tedious and fractured years in government. The reality, Senator Watt, is that economic growth under this government is strong. The economy is growing at 3.3 per cent, faster than any of the G7 economies and over double the speed of the Canadian economy, the G7 economy with which the Australian economy bears the closest comparison.

The unemployment rate, at 5.6 per cent, is the lowest that it has been in three years. To put jobs growth into perspective, around twice as many new jobs have been created in the last 12 months than in Labor’s last 12 months in office. Consumer confidence is buoyant. The ANZ’s weekly measure of consumer confidence remains at the high rate of 118.2 points—that is above the long-term average. It has been above the long-term average for every week of the last six months. Exports are strong. Exports of goods and services from Australia are 9.6 per cent higher than they were a year ago—the fastest yearly growth rate in 16 years. Let me say that again: it is the fastest yearly growth rate in exports in 16 years. International education in particular is playing an extremely important role in our services exports. So far this year, 328,000—(Time expired)

The PRESIDENT: Senator Watt, a supplementary question?

Senator WATT (Queensland) (14:03): I refer to the Turnbull government’s family payments cuts, which will leave couples with a single income of $65,000 and three children in primary school $1,747 a year worse off. Are these the Australians Mr Turnbull was referring to as losers?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:03): The government remains committed to providing parents with more choice and opportunity for work and for children, with high-quality early childhood education through the Jobs for Families Child Care Package. Senator Watt, you probably do not appreciate the fact that the current system is not working for families and is in need of significant reform.

The PRESIDENT: A point of order, Senator Wong?

Senator Wong: The question was not about child care; it was about family payment cuts.

The PRESIDENT: Thank you, Senator Wong. I remind the Attorney-General of the question.

Senator BRANDIS: The government will invest more than $40 billion in child-care support over the next four years, including more than $3 billion in additional—

The PRESIDENT: Pause the clock. A point of order, Senator Gallagher?

Senator Gallagher: The supplementary question was about family payments, which are different to child care.
The PRESIDENT: Thank you, Senator Gallagher. The Attorney-General has 14 seconds in which to complete his answer.

Senator BRANDIS: The Australian government is committed to ensuring the policy settings are correct. We are investing where we need to invest to ensure that Australian families—(Time expired)

The PRESIDENT: Senator Watt, a final supplementary question?

Senator WATT (Queensland) (14:05): I refer to the Turnbull government's family payment cuts—not child-care cuts—which will leave a single mother with an income of $65,000 and two children in high school $3,000 a year worse off. Isn't it clear that, under the Turnbull government, the winners are big business and millionaires, and the losers are working- and middle-class Australians?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:05): That is absolutely not the case. The winners are all Australians who will benefit from a prosperous economy, and that is what the government is determined to deliver. It may have escaped those in the Australian Labor Party, but, when you reduce the costs of doing business, when you reduce the costs imposed on Australian small- and medium-sized businesses—and larger businesses as well—you give those companies the opportunity to employ more Australians. That is precisely why, during the federal election campaign, the government announced an enterprise tax plan front-end loaded towards small businesses but ultimately directed at all Australian businesses—so those businesses will have the opportunity to employ more Australians and generate more economic activity, more economic growth and higher wages.

DISTINGUISHED VISITORS

The PRESIDENT (14:06): Order! Before I call on the next questioner, I draw to the attention of honourable senators the presence in the chamber of a delegation from the Association of Southeast Asian Nations. On behalf of all honourable senators, I wish you a warm welcome to Australia and, in particular, the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

National Security

Senator BACK (Western Australia) (14:07): My question is to the Attorney-General, Senator Brandis, representing the Prime Minister. Can the Attorney-General outline the importance to Australia's national interests of maintaining bipartisanship on matters of national security?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:07): It is absolutely vital. We can have our disputes about domestic policy. We can have our disputes about the management of the economy. But when it comes to Australia presenting a face to the world, Australia is only ever strengthened when there is bipartisanship on issues of national security. The Australian Labor Party has generally accepted that when they have been in opposition, as my side of politics has always accepted it when we have been in opposition, but I am sorry to say that in recent weeks we have seen that attitude break down.
Australians deserve to have every confidence, whatever party is in government and whatever party is for the time being in opposition, that its leaders will act in the national interest. At the heart of our national interest is our alliance with the United States of America, an alliance formed by the ANZUS Treaty in 1951—that crowning achievement of the diplomacy of the Menzies government—which has been supported—

Senator Wong: It was Curtin.

Senator BRANDIS: I am sorry, Senator Wong, but in 1951 Mr Curtin was not the Prime Minister; Sir Robert Menzies was the Prime Minister who negotiated the ANZUS Treaty of 1951.

So, it is vital that both sides of politics give their steadfast support to the American alliance. What that means is that the measure of our commitment to that alliance does not wax and wane according to the personality of the President—for the time being—of the United States of America.

The PRESIDENT: Senator Back, a supplementary question?

Senator BACK (Western Australia) (14:09): I thank the Attorney-General for that explanation and ask him: is he is aware of any threats to Australia's longstanding bipartisan approach to national security?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:09): Yes, I am, and that threat is presented by the weakness, division and opportunism of the Australian Labor Party—the alternative government—and Mr Bill Shorten in particular. As I said in response to the initial question, the commitment of both sides of politics, both the government and the alternative government of Australia, ought not depend upon whether they like the personality, the attitudes or the policies of the President of the United States of America for the time being. Whatever side of politics forms the administration in the United States, and whatever side of politics forms the government in Australia, that relationship must endure, it must be strong and it must be supported by both sides of politics.

The PRESIDENT: Senator Back, a final supplementary question?

Senator BACK (Western Australia) (14:10): Is the Attorney-General aware of any other threats that might befall Australia?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:10): Yes, I am sorry, I am. Not only did we have, last week, Senator Wong's extremely poorly judged op-ed in the Fairfax press, in which she made the Labor Party's commitment to the American alliance conditional upon the President of the United States by declaring the election of Mr Donald Trump as President as a 'change point', but also, the previous week, at the Labor Party's caucus meeting, they decided to seek to oppose and to undermine the government's latest measure to keep our borders secure. So, twice in two weeks the Australian Labor Party has broken ranks, has broken bipartisanship on national security—last week on the US alliance and the week before that on border protection, both of which are essential to Australia's national security. (Time expired)
Economy

Senator DASTYARI (New South Wales) (14:11): My question is to the minister representing the Prime Minister, Senator Brandis. I refer to the Australian Bureau of Statistics data released last week which shows that wages growth has fallen to 1.9 per cent, the lowest rate of wage growth since the ABS started publishing the Wage Price Index in 1998. Why are Australian average wage earners the losers under Mr Turnbull?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:12): We are all winners from a prospering economy, and the Australian economy today is a prospering economy. I recited in answer to the question asked of me by your colleague Senator Watts the economic growth figures, the export growth figures and the consumer confidence figures. But in relation to wages, can I tell you that over the past three years wages growth has been higher than CPI, meaning that there has been growth in real terms. Wages are up by 6.9 per cent since the September quarter of 2013, at a time when inflation, aggregated over that period, has been running at 5.2 per cent. So in terms of average annual growth, wages have risen at 2.2 per cent per year, compared with CPI growth of 1.7 per cent a year. Growth in the CPI in the last three years has itself been much lower than historical trend growth, while wages in the public sector have grown faster than in the private sector. Public sector wages have grown at an average of 2.6 per cent, compared with 2.2 per cent in the private sector. Commonwealth public sector wages growth has been 0.9 per cent per year. Across the states and territories, average annual growth in public sector wages has ranged from 2.4 per cent to 3.4 per cent.

Senator Dastyari, the growth of real wages during this period of coalition government reminds us of the growth in real wages during the previous period of coalition government—under the Howard government—(Time expired)

The PRESIDENT: Senator Dastyari, a supplementary question?

Senator DASTYARI (New South Wales) (14:14): I can refer to ABS data, which shows that employment growth has slowed to just 0.9 per cent, collapsing by more than half in only three months. Why are Australian job seekers the losers under Mr Turnbull?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:15): Well, Senator Dastyari, as I said to you at the start, nobody is a loser in a prospering economy, and this economy is prospering. You asked me, Senator Dastyari, about growth in employment. The unemployment rate, as I said in answer to your colleague Senator Watts, is at the moment standing at 5.6 per cent, its lowest level in three years.

Senator Cameron interjecting—

The PRESIDENT: Senator Cameron.

Senator BRANDIS: its lowest level in three years.

Senator Cormann interjecting—

The PRESIDENT: Senator Cormann.

Senator BRANDIS: and twice as many jobs were created in the last 12 months as in your last 12 months in office. Our economy is growing faster than that of any other G7 nation. The annualised growth rate is 3.3 per cent, Senator Dastyari. So there we have it—(Time expired)
Senator Bilyk interjecting—

The PRESIDENT:  Order, Senator Bilyk. Senator Dastyari, a final supplementary question.

Senator DASTYARI (New South Wales) (14:16): Was overseeing an economic agenda under which average wage earners and job seekers lose out the kind of economic leadership Mr Turnbull had in mind when he deposed former Prime Minister Abbott?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:16): Well, Senator Dastyari, I am sorry but the facts are stubborn and impressive, and they give the lie to what you have asserted. As I said to you a moment ago, and I will keep repeating it, unemployment at the moment—

Opposition senators interjecting—

The PRESIDENT: Order on my left!

Senator BRANDIS: at 5.6 per cent is at its lowest level for three years. The rate of real wages growth has consistently outperformed the CPI throughout the period of this government. The rate at which new jobs are being created is significantly higher than the rate at which jobs were created under the previous government of the Australian Labor Party. So, Senator Dastyari, a prospering economy, a booming export sector, burgeoning business confidence, burgeoning consumer confidence, low unemployment, consistently higher wages growth than CPI, that is the—(Time expired)

Workplace Relations

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:17): My question is to the Minister for Employment, Senator Cash. Can the minister inform the Senate of any recent events that highlight the need for greater accountability and governance of registered organisations?

Senator Kim Carr: Is this on the Notice Paper?

The PRESIDENT: Order!

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:18): I thank Senator Williams for his question and, disappointingly, yes, I can. Last week New South Wales police arrested a former secretary and a former accounts manager of the National Union of Workers. Together, these two former NUW staff members are facing 172 fraud-related charges. They are accused of misusing $870,000 of their members’ money. The facts about these arrests and the charges faced by these NUW staff members were released on Friday by the New South Wales police. Had it not been for the royal commission, the New South Wales police and the public may never have known of these incidents. As the royal commission has unfortunately concluded, this type of behaviour is probably the tip of a very large iceberg.

The National Union of Workers represents approximately 90,000 members. This includes many people who work in warehouses and factories; it includes people who process meat and package food. They deserve to know how their money is being spent by their union and they need to know that their interests are being looked after. When any worker pays hard-earned money to any union or employer group, they expect to be properly represented. They do not
expect to be robbed, especially to the tune of $870,000. Clearly, existing laws are inadequate, and they are not preventing this type of behaviour. Existing laws continue to fail to prevent these types of events, and this government will clean this up.

The PRESIDENT: Senator Williams, a supplementary question?

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:19): That brought some silence in the chamber from those on the other side. Can the minister advise the Senate why it is important that all registered organisations are accountable to their members?

The PRESIDENT: Just before I call the minister, I will advise the minister that she needs to exercise caution in relation to matters that refer to the debate concerning the current bill. The minister was fine in the first section.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:20): As I said, the National Union of Workers represents approximately 90,000 workers. Across Australia there are 47 unions and, despite the howls of those opposite, there are more employer groups—there are 63 employer groups. Between them, these registered organisations represent approximately two million Australians. These organisations have ownership or are in control of assets of $2.5 billion. Their annual revenue is approximately $1.5 billion. These are not small sums that we are talking about. Those two million workers deserve to have confidence—whether it be their employer group or their union—that that employer group and that union is acting in their best interest, is acting ethically and honestly—(Time expired)

The PRESIDENT: Senator Williams, a final supplementary question.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:21): Is the minister aware of any impediments to ensuring that officials of registered organisations are properly accountable for the use of members’ funds?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (14:21): Again, based on the howls of those opposite, it is clear that those opposite still do not understand that we need greater accountability in registered organisations. Is it not enough that just last week we have seen former NUW officials arrested and charged with taking approximately $870,000 from their members?

If those on the other side do not want to listen to us, perhaps they might consider the views of a respected former official like former ACTU president Bill Kelty. What did he say? He said:

I was always on that side of the debate which said that unions are public bodies so they are accountable to members for their management …

Again, all we are asking is that the two million Australians represented by registered organisations are represented honestly and ethically, and that their interests are put first.

Asylum Seekers

Senator McKIM (Tasmania) (14:22): My question is to Senator Brandis, the Minister representing the Prime Minister. Attorney, the United States has agreed to consider accepting refugees currently detained on Manus Island and Nauru. Given that this deal creates the possibility of people who sought asylum by attempting to come to Australia by boat being
resettled in a durable way in a developed nation, will you now admit that the government's entire policy of deterrence was based on a myth? Will you admit that your government's deliberate harm of men, women and children was actually for political purposes, not humanitarian purposes? Will you apologise to the people you have deliberately harmed and will you do the right thing by settling all of them, genuine refugees or not, here in Australia?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:23): Senator McKim, I am very proud of the fact that there are no children in detention in Australia today. When the government of which I am a member came into office, there were 2,000—in fact 1,992. That was at the end of the period of Labor government which had seen 8,000 children in detention. As a result of the policies of this government and the work of two ministers, Mr Morrison and Mr Dutton, there are now no children in detention. We have closed 17 detention centres in Australia because there is nothing for them to do. They are surplus to requirements, they are surplus to capacity, because we have solved the problem.

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

Senator McKim: Yes, it is a point of order based on relevance. The Attorney was specifically asked whether he accepts that the government's deterrence policy was a myth; and will he in fact do the right thing and resettle people from Manus and Nauru here in Australia. We do not need the Attorney's version, rewriting history, about what has actually happened. The question was very specific.

The PRESIDENT: Thank you, Senator McKim. In fact, you really destroyed your own point of order in the way you framed it, because the Attorney-General was exactly answering that point—about whether it was a myth or not. The Attorney-General has been in order.

Senator BRANDIS: Senator McKim—through you, Mr President—it is not a myth if it worked, and it did. It did: zero children in detention; no successful attempt to penetrate Australia's maritime borders for some 850 days; no deaths at sea, compared to the 1,200 or more that we know about during the period of the Labor government. And now, at last, we are dealing with the final legacy of the previous, Labor government—the offshore processing centres at Manus Island and Nauru.

Now, the Australian government has reached an agreement with the government of the United States of America, the details of which were announced by the Prime Minister and the Minister for Immigration and Border Protection last week. But I wonder when the day will eventually come that the fact that this problem has been comprehensively solved by this government—(Time expired)

The PRESIDENT: A supplementary question, Senator McKim.

Senator McKIM (Tasmania) (14:26): The supplementary question—not that we got an answer to the first one, I hasten to add—is this: Attorney, given that your government has now undermined its own myth of deterrence and conceded that warehousing our fellow human beings in indefinite offshore detention is actually a dead end, which we agree with, why won't you take the sensible step of resettling everyone detained on Manus Island and Nauru here in Australia?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:27): Through you, Mr President—
Senator McKim, I sometimes think you must live in a parallel universe. Under the previous government, there were 800 boats; under this government, there have been zero. Under the previous government, 8,000 children went through the detention centre system in Australia; today there are zero. We have put the people smugglers out of business. We have closed the 17 detention centres that had to be opened by the previous, Labor government as a result of their having absolutely and comprehensively lost control of this problem by losing control of Australia's borders. And now we are dealing with the last aspect of the legacy left to us by the Labor government, because every one of those people on Manus Island and Nauru was put there not by this government but by the Labor government. I am waiting to hear you acknowledge that fact, Senator McKim.

The PRESIDENT: Senator McKim, a final supplementary question.

Senator McKIM (Tasmania) (14:28): I will not be acknowledging that fact, because it is simply not true. Attorney, my supplementary question is this: how many people does the government anticipate will be resettled in the United States; under what terms will they be resettled; and what will become of our fellow human beings who are seeking asylum, and those who have not been found to be genuine refugees? What will become of them, Attorney; and will you do the right thing morally and legally and bring them here to Australia?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:28): Senator McKim, I think the last point I made in response to your previous question must have missed you, so let me just say it again. The people on Manus Island and Nauru who we are dealing with and seeking to resettle are people who were put there not by this government but by the previous, Labor government.

Now, Senator McKim, you inquire about the terms of the arrangements. The terms of the arrangements were announced by the Prime Minister and the Minister for Immigration and Border Protection last Sunday week, and effect will be given to those arrangements in the near future.

Medicare

Senator CAROL BROWN (Tasmania) (14:29): My question is to Senator Brandis, the Minister representing the Prime Minister. Can the minister confirm that, in Tasmania, bulk-billing rates for GP visits have dropped by a massive 2.4 percentage points, or over 16,000 GP visits?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:29): Let me just turn up what the bulk-billing rates are. Bulk-billing rates for 2016-17 are 85.4 per cent across Australia, compared to 84.6 per cent in the same period in 2015-16. Bulk-billing rates are at a historical high at 85.4 per cent. Senator Brown, you asked me the particular bulk-billing rates for Tasmania. I do not have that information before me, but I will take it on notice and I will get back to you. An 85.4 per cent bulk-billing rate—a historical high—is an impressive affirmation of the Australian government's, this coalition government's, very strong support for Medicare.

The PRESIDENT: Senator Brown, a supplementary question.
Senator CAROL BROWN (Tasmania) (14:31): Can the minister confirm that since July bulk-billing rates for GP visits have dropped by half a percentage point, or 167,000 GP visits, across Australia?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:31): What I can tell you is that in the period since the March quarter, which is the period for which I have figures, bulk-billing rates have actually increased from 85.1 per cent to 85.4 per cent.

Senator Gallagher: Mr President, a point of order on relevance. The question from Senator Brown was clearly relating to the figures since July—not from the March quarter but from the July quarter.

The PRESIDENT: Thank you. I appreciate that difference, but the Attorney-General indicated they are the only figures he has in his possession. I call the Attorney-General.

Senator BRANDIS: Senator, I have given you the relevant statistics and I have pointed out to you that bulk-billing rates now are 85.4 per cent nationwide, which is an increase of 0.3 per cent in the past six months.

The PRESIDENT: Senator Brown, a final supplementary question.

Senator CAROL BROWN (Tasmania) (14:32): Given that the Prime Minister has failed in his absolute guarantee that nobody would pay more to see a doctor because of his six-year Medicare rebate freeze, isn't it clear that Australians who rely on bulk-billing are amongst Mr Turnbull's losers?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:33): Certainly not. Let me tell you what the year-on-year bulk-billing rates were. In 2012, in the September quarter, they were 81.7 per cent. In 2013 they had grown to 82.8 per cent, under the last year of the Labor government. In 2014 they had grown to 84 per cent—an increase of 1.2 per cent—under the coalition government. In 2015 they had grown again to 84.6 per cent—an increase of 0.6 per cent. As at the September quarter this year, they have grown yet again, to 85.4 per cent, under this coalition government. An increase from 82.8 per cent in the last quarter for which the government of which you were a member was in power to 85.4 per cent three years later hardly supports the assertion in your question.

Western Sydney Airport

Senator BURSTON (New South Wales) (14:34): My question is to Senator Nash, representing the Minister for Infrastructure and Transport. I refer to the environmental impact statement for the proposed Badgerys Creek airport, which is now on public display. The EIS notes that the project will have a significant impact on both Aboriginal and European heritage sites. Twenty European heritage sites have been recorded at the proposed airport site and a further 22 heritage items have been recorded in the surrounding area. The EIS further notes that stage 1 of the proposed development would affect 39 sites of Aboriginal heritage. Given these heritage impacts, and the fact that an airport at Badgerys Creek will add a significant level of pollution to the Sydney smog basin, is the government willing to consider relocating the proposed new airport from Sydney to Newcastle, where the infrastructure for a major international airport is already in place?
Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:35): I thank the senator for his question and for some advance notice of it. I can inform the senator that many studies have found the Commonwealth-owned land at Badgerys Creek to be the best site to cater for the long-term aviation needs of the Sydney region, including the 2012 joint study on aviation capacity in the Sydney region, which assessed 80 sites across 18 locations, including Newcastle, for a new airport in the greater Sydney region.

The environmental impact statement for the proposed Western Sydney airport is the culmination of over 700 field investigations and 19 technical studies. It includes noise impact modelling and assessments of expected air and water quality changes as well as a health risk assessment. The EIS also sets out measures to manage and mitigate these impacts. Using the latest technology and incorporating sustainability measures, impacts can be minimised and benefits can be enhanced for the people of Western Sydney.

The EIS for the proposed Western Sydney airport considers the impacts of an airport on the heritage of the site and surrounding areas. The EIS also includes mitigation measures to manage any impacts and conserve the site's heritage values. These measures would be incorporated into the European and Aboriginal heritage management plans for the proposed airport and include measures such as further archaeological investigations, and curation and repatriation of heritage items. The EIS found that the proposed airport would result in only minor changes to air quality in the Western Sydney region. Emissions would be within relevant standards and represent an increase of just 0.1 to 0.7 per cent of total emissions in the Sydney Basin.

The PRESIDENT: Senator Burston, a supplementary question.

Senator BURSTON (New South Wales) (14:36): Given the existing infrastructure already present at Newcastle Airport, and the heritage and environmental impacts at the proposed Badgerys Creek airport site, is it not the case that expanding Newcastle Airport to serve as a second point of entry to Sydney would serve as a more environmentally friendly and cost-effective option for taxpayers?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:37): The senator asks a very important question. The answer, though, is no. The joint study on aviation capacity in the Sydney region found that Badgerys Creek was the best site to cater for the long-term aviation needs of the Sydney region. Newcastle Airport was determined to be too far from the Sydney market to serve as a second airport and to not have the physical capacity to grow and meet long-term aviation needs. Further, Newcastle Airport is in fact an RAAF base and home to a significant aviation defence capability for Australia's defence. The airport is shared with its civilian users, but it is primarily a military airfield with civilian flights limited to eight per hour.

The Badgerys Creek site was recommended as the best site to meet Sydney's long-term aviation needs for a number of reasons, including proximity to transport links, employment opportunities and economic development for Western Sydney's growing population and because planning restrictions have prevented incompatible development nearby.
The PRESIDENT: Senator Burston, a final supplementary question?

Senator BURSTON (New South Wales) (14:38): Is it the case that selling more land at Badgerys Creek already set aside for a second Sydney airport raised revenue for the Commonwealth in the order of $20 billion?

Senator NASH (New South Wales—Deputy Leader of The Nationals, Minister for Regional Development, Minister for Local Government and Territories and Minister for Regional Communications) (14:38): I can inform the Senate that the Commonwealth owned land at Badgerys Creek has been formally declared an airport site under the Airports Act of 1996 and the government has no plans to use that site for any purpose other than as the airport.

I want to make the point that this project has been the subject of debate for decades. I think many of us who have been around for a significant period of time are well au fait with the arguments that have been going backwards and forwards. As with any major infrastructure project, it has its proponents and its detractors. We have considered all sides of the debate carefully. We are now at the point where both major parties agree on the need for a second Sydney airport, and we agree that it should be based at Badgerys Creek. The government is getting on with delivering this vital infrastructure project.

Indigenous Affairs

Senator REYNOLDS (Western Australia) (14:39): My question is to the Minister for Indigenous Affairs, Senator Scullion. Can the minister update the Senate on the government's Indigenous land reform agenda and on negotiations with traditional owners in northeast Arnhem Land for a township lease?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:39): It was my great pleasure to announce earlier today an arrangement with the Gumatj people of northeast Arnhem Land over a township lease for a community called Gunyangara. It is of significant importance because of the innovation around that township lease. We were able to have innovation around the township lease because we co-constructed it. Both the Gumatj people and the Commonwealth government decided in the fight of land rights and concerns that any lease would take that away from your control, but that some balance was needed. So in this particular place we no longer have an executive director of township leasing. We actually have a community controlled Gumatj organisation that will take that role. It is quite innovative.

It was a process I will not forget. I was sitting under this large Syzygium, enjoying a cup of coffee that was actually made by the Gumatj cafe and served to me by a young Gumatj woman. In the background was the Gumatj nursery right next to the Gumatj furniture factory, just down the road from the Gumatj butcher. These are communities that are on community owned land and they are working in a very good way.

It is important as well that we ensure that if we have Commonwealth property, Northern Territory government property and other people's property on their land we are making proper payments. This gives effect to ensuring that the Gumatj people will have a revenue flow to add to their own economic development of the area.
We have found a very careful balance. We know that land rights are so important to our first people. But also this is one of the fundamental ways in which we can assist them in developing the land in the way that they would like to develop it.

The PRESIDENT: Senator Reynolds, a supplementary question?

Senator REYNOLDS (Western Australia) (14:41): Can the minister further outline how this township lease will benefit local Indigenous landowners and what opportunities for jobs, business development and home ownership it will deliver to the community?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:41): I thank the senator for the question. This process will in fact support much better land administration because it will allow the granting of an individual house site, for example, if somebody wants to own their own house. It also will involve the capacity for people to lease a block of land within the township to start a business.

But the most important part of the process is that we have provided a line of credit of $2 million to the Gumatj on the basis that the Northern Territory government and the Commonwealth government have guaranteed the payments for that. We already know that the payments are guaranteed, so their line of credit is guaranteed. So they can now invest in their own land and their own country in the same way that anybody else would. We have also provided some assistance around ensuring that people who go there to work have some accommodation. This has been a package that has certainly been supported by the Gumatj people. (Time expired)

The PRESIDENT: Senator Reynolds, a final supplementary question?

Senator REYNOLDS (Western Australia) (14:42): Can the minister also advise why the government is committed to working with Indigenous landowners to reform existing tenure arrangements and drive economic development across northern Australia?

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (14:43): As this place knows, we are committed to doing things with Indigenous communities and Indigenous individuals. This outcome is because we did that. It is something that we have strived unsuccessfully since 2006 to effect. Of course the innovation has come from people like Balupalu, Djawa and Galarwuy Yunupingu, who were sitting under the tree with me and saying, 'These are the sorts of things we need to do.'

The impetus that this has been provided to support using their land in their way has set up a new process. I would say to whoever would like to discuss this process that it is not about saying, ‘Would you like an executive-director-of-township-leasing approach or a Gumatj approach?’ It is not that. It is about saying that people from their own community can have their own innovative approach to allow them to have that balance between the safety of their land rights they fought so hard to have and the economic development enjoyed by every other Australian. (Time expired)

Employment

Senator CHISHOLM (Queensland) (14:44): My question is to the Minister representing the Prime Minister, Senator Brandis. I refer to Australian Bureau of Statistics data released last week that showed the workforce participation rate has now fallen 0.6 percentage points over the past 12 months to 64.4 per cent, the lowest participation rate in a decade. Why are Australian jobseekers the losers under Mr Turnbull?
Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:44): I am sorry to have to tell you this, Senator Chisholm, but the premise of your question is wrong. The premise of your question is wrong because, as I pointed out to your colleague Senator Watt a little earlier, unemployment in Australia at the moment, at 5.6 per cent, is at its lowest level in three years. That is the key indicator of the health of the labour market—the unemployment rate. You can ask about the participation rate, but it is does not follow from that proposition that the labour market is in a poor condition. The unemployment rate, at 5.6 per cent, is the lowest it has been for three years, and there is a reason for that, Senator Chisholm. The reason is that the policies of the Turnbull government are working. The policies of the Turnbull government are working to create more jobs—twice as many new jobs created in the past 12 months as in the last 12 months of the Labor government. Senator Chisholm, I know you were not a member of that government, but I think you were a party official of some description. In the last year of the previous Labor government, the rate of growth of new jobs was half what it has been under this government.

Senator Chisholm, it is not a surprise that the unemployment rate is at a three-year low, it is not a surprise that consumer confidence and business confidence is buoyant and it is not a surprise that our exports are booming, because the policies of this government are working. If the Labor Party would get out of the way here in the Senate and pass some— (Time expired)

The PRESIDENT: Senator Chisholm, a supplementary question.

Senator CHISHOLM (Queensland) (14:46): I again refer to ABS data released last week that showed the participation rate for young people has now fallen 1.5 percentage points over the past 12 months to 65.9 per cent, the lowest rate experienced over a 30-year period. Why are young Australian job seekers the losers under Mr Turnbull?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:47): Senator Chisholm, let me give you some more relevant information. Total unemployment has fallen by 2,000 in the past month. It has declined over the year. The female unemployment rate is now the lowest it has been since July 2013. That is an employment participation figure that you may care, Senator Chisholm, to deny, but it is the reality and it is an outcome that this government celebrates— the female unemployment rate is the lowest it has been since July 2013. (Time expired)

The PRESIDENT: A point of order, Senator Wong?

Senator Wong: We did not ask about the female participation rate. We asked about the participation rate of young people.

The PRESIDENT: Thank you. I remind the Attorney-General of the question.

Senator BRANDIS: Mr President, I was simply trying to explain to Senator Chisholm that if you inquire as to the health of the labour market the most relevant inquiry is as to the unemployment rate, which has fallen as a headline rate. The female unemployment rate, in particular, has fallen to the lowest level in three years. (Time expired)

The PRESIDENT: Senator Chisholm, a final supplementary question.
Senator CHISHOLM (Queensland) (14:48): Was overseeing an economic agenda under which jobseekers, including young people, lose out the kind of economic leadership Mr Turnbull had in mind when he deposed former Prime Minister Abbott?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:48): Senator Chisholm, the kind of economic leadership that Mr Turnbull has in mind is the kind of economic leadership that sees unemployment fall, as it has done. It is the kind of economic leadership that sees exports boom, as they have done. It is the kind of economic leadership that sees consumer confidence and business confidence boom, as they have done. It is a kind of economic leadership that sees not only the unemployment rate fall but the youth unemployment rate fall to 13.2 per cent from a peak of 14.5 per cent within a year after the coalition government was elected. On every metric you care to identify, Senator Chisholm, whether it be the employment rate, whether it be the strength of the economy, whether it be economic growth of 3.3 per cent—the strongest in the G7—whether it be the strength of exports or whether it be the strength of confidence, this government's economic policies are working. (Time expired)

Education

Senator McKENZIE (Victoria) (14:49): My question is for the Minister for Education and Training, Senator Birmingham. Could the minister update the Senate on how our international education sector is growing, in terms of both numbers and employment outcomes for Australians?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:50): I thank Senator McKenzie for yet another thoughtful question in the education and training portfolio. Our international education sector is absolutely booming, and booming to good effect for all Australians. We have seen some 11 per cent growth in international education participation numbers in Australia since 2013. Since the coalition came to power there has been 11 per cent growth in student numbers, which is ensuring that we have greater economic activity across a whole range of parts of the economy supported by those international students. So far in 2016 we have had a record half a million international students studying in Australia. That shows the scale of this sector now—half a million different international students passing through Australia already in 2016, shared across all states, shared across all major cities and shared across our rural and regional areas as well. ABS data shows that international education contributed $20.3 billion to Australia's economy in 2015-16, making it our third largest exporter after coal and iron ore.

We see from that new data the absolute scale supporting an estimated 130,700 full-time-equivalent jobs—jobs across the construction sector as accommodation is built, jobs across accommodation maintenance, jobs and opportunities for Australians across hospitality, and, of course, jobs and opportunities for Australians in education services themselves. These are enormous opportunities that are not only creating employment opportunities for Australians today but also enhancing our cooperation with other countries of the region through the collaborative education approaches that are undertaken between those international students and the Australian students they are studying alongside. (Time expired)

The PRESIDENT: Senator McKenzie, a supplementary question?
Senator McKENZIE (Victoria) (14:52): Could the Minister inform the Senate how this growth in the international education sector will benefit rural and regional Australia?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:52): Already around five per cent of international students currently study in Australia's regional areas, making a significant and hopefully growing contribution to those local regional economies. Around 54 per cent of international students studying in regional campuses are enrolled in higher education courses, and we see a higher propensity amongst those students in regional areas to be in STEM fields—some 37 per cent, compared with 26 per cent in metro areas. These courses include agriculture and livestock breeding at the University of New England in Armidale or marine biodiversity at James Cook University in Cairns. Estimates for Armidale are that around $33 million is contributed to the local economy and 243 full-time equivalent jobs. But of course, as Senator McKenzie would be interested in, even those students studying in cities like Melbourne make a vast contribution to areas of regional Victoria: around $888 million of contribution supporting 5½ thousand full-time jobs. (Time expired)

The PRESIDENT: Senator McKenzie, is there a final supplementary question?

Senator McKENZIE (Victoria) (14:53): Can the Minister appraise the Senate of the next steps in protecting and growing this vital industry?

Senator BIRMINGHAM (South Australia—Minister for Education and Training) (14:53): It is estimated that by 2025 there will be one billion potential international students in the world. Of course, we want to make sure that the 11 per cent growth that we have realised for Australia's international education sector since 2013 builds upon that and ensures that there are more opportunities for Australians to support this high-income, high-opportunity earner for our country, which creates jobs across a range of industries and supports the internationalisation and understanding of all of our domestic students as well.

That is why our National Strategy for International Education is an important initiative. It is Australia's first ever national strategy, which is being brought together, implemented and delivered now by our Council for International Education, representatives of the different portfolios of government and the different sectors of the international education industry. It is building upon ensuring that we have student visa integrity, quality in our education design and incentives for innovation and market development around the world. (Time expired)

Whaling

Senator WHISH-WILSON (Tasmania) (14:54): My question is to the Minister representing the Prime Minister, Senator Brandis. Last summer the Japanese whaling fleet went down to the Southern Ocean and slaughtered 333 minke whales, nearly half of them pregnant females with calves. It was announced on Friday night that the Japanese whaling fleet—five harpoon vessels—have left for their Southern Ocean slaughter. Will you condemn the Japanese whaling fleet and the Japanese government, which sponsors and finances this whaling fleet? Will you take the opportunity to do so now?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:55): Governments on both sides of politics in Australia have taken a common position of opposition to Japanese whaling in the Southern Ocean. We have taken a common position in the International Court of Justice and
in the International Whaling Commission. We do condemn Japanese whaling. We call upon Japan to abide by the decisions of the International Court of Justice and the International Whaling Commission. In relation to the announcement that was made on Friday night, I think it is appropriate for me to allow my colleague the Minister for the Environment and Energy to state the government's specific position in relation to that particular announcement. As to our attitude towards Japanese whaling in the Southern Ocean, there has never been any ambiguity whatsoever.

The PRESIDENT: Senator Whish-Wilson, is there a supplementary question?

Senator WHISH-WILSON (Tasmania) (14:56): It would be nice to hear some public comments. In relation to the comments this morning by the New Zealand Prime Minister, Mr John Key, that he will be meeting with Japanese Prime Minister Shinzo Abe in APEC to raise this issue with him directly, can you tell the Senate whether the Prime Minister also plans to meet with the Japanese Prime Minister and raise this issue with him directly?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:56): I am not aware of whether the Prime Minister proposes a meeting with Prime Minister or, if there were to be such a meeting, what the particular items on the Prime Minister's agenda would be.

The PRESIDENT: Senator Whish-Wilson, is there a final supplementary question?

Senator WHISH-WILSON (Tasmania) (14:56): You mentioned that there has been bipartisan support across the chamber against Japanese whaling. In your seven years in opposition, every summer you said you would send a patrol boat to the Southern Ocean during the whaling season if you got into government. It was a policy of your government in 2010 and 2013. Can you confirm to the Senate whether it is still government policy to send a Customs vessel to the Southern Ocean this summer to monitor the Japanese whaling fleet, and will you finally do so? (Time expired)

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:57): As you know, from time to time Australian governments on both sides of politics have sent Australian vessels to the Southern Ocean to monitor Japanese whaling and to monitor compliance with decisions of the International Court of Justice and the International Whaling Commission. I will take on notice the particular level of operational engagement which the Australian government may choose to adopt this summer.

Murray-Darling Basin

Senator GALLACHER (South Australia) (14:58): My question is to the Minister representing the Prime Minister, Senator Brandis. When did the Prime Minister become aware of the Deputy Prime Minister's intention to abandon the previous bipartisan support for the implementation of the Murray-Darling Basin Plan in full and on time—before or after the Deputy Prime Minister wrote to the South Australian Minister for Water and the River Murray last Thursday?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (14:58): It is not for me to advise Senator Gallacher, but if I were him I would not be springing to the defence of the South
Australian water minister, Mr Ian Hunter, given his substandard conduct, shall we say, at the recent meeting last week of water ministers.

The premise of your question is not only false—it is deliberately and misleadingly false. There has been absolutely no difference of view whatsoever evident from anything that Mr Joyce, the Deputy Prime Minister, has either said or done in relation to this issue. The Australian government is committed to delivering the Murray-Darling Basin Plan in full and on time. The basin plan is based on an approach to water management that delivers a healthy basin and supports productive industries, confident communities and a resilient environment. It is based on balancing those three policy objectives in the most sensible way.

Basin water ministers met, as you know, Senator Gallacher, on 18 November. That was the occasion upon which we learned that the South Australian water minister, Mr Hunter, disgraced himself by his behaviour. The Deputy Prime Minister raised with his colleagues the challenge of delivering the Basin Plan in a way that avoids detrimental impacts on regional communities. Do I infer from your question, Senator Gallacher, that you do not think that that is an issue that ought to be addressed by water ministers? Of course, it is. But it is desirable as well that water ministers of both sides of politics and in all jurisdictions, state and federal, deal with each other, so far as they can, in a non-partisan way and in a spirit of civility.

The PRESIDENT: Senator Gallacher, a supplementary question.

Senator GALLACHER (South Australia) (15:00): Thank you, Mr President. I thank the Attorney-General for his answer. I refer to Minister Frydenberg, the Minister for the Environment and Energy, who yesterday said:

... we're absolutely committed to implementing the Murray-Darling Basin Plan in full.

Has the Prime Minister spoken to the Deputy Prime Minister to ensure he is aware of the government's commitment?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:01): Senator Gallacher, honestly and truly, surely you can do better than that. The Prime Minister and the Deputy Prime Minister—and do not forget that the Prime Minister is a former Minister for the Environment and Water Resources in the Howard government—both take a very deep and very, very well-informed approach to this issue. They speak about the issue frequently, as they speak to each other frequently about all issues, as you would expect in the relationship between the Prime Minister and the Deputy Prime Minister, and they are absolutely at one on this issue.

The PRESIDENT: Senator Gallacher, a final supplementary question.

Senator GALLACHER (South Australia) (15:01): Thank you, Mr President. I refer to the Liberal member for Barker, Mr Tony Pasin, who says:

I'm just a little concerned about the fact that we now have a deeper involvement by the National party, with respect to the implementation of the plan ...

Doesn't the Deputy Prime Minister's behaviour prove that Mr Pasin was right to be concerned?

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:02): There is only one minister's behaviour that has attracted adverse notice in this latest engagement, Senator Gallacher, and that is the behaviour of Mr Ian Hunter, your Labor Party colleague in the South Australian
government, who behaved disgracefully and in a manner which any Australian elector would not expect any minister on either side of politics to behave. But leaving that matter aside, I have not seen Mr Pasin's remarks. I do not comment on remarks that I have not seen. But I can assure you that the position of the Australian government, represented by both the Prime Minister and the Deputy Prime Minister, is to deliver on the Murray-Darling Basin Plan, to make sure the balances of which I spoke in my answer to your initial question are appropriately struck and to deal with other political parties and other jurisdictions civilly. Mr President, I ask that further questions be placed upon the Notice Paper.

ANSWERS TO QUESTIONS ON NOTICE

Questions Nos 163 to 171

Senator WATT (Queensland) (15:03): Under standing order 74(5)(a), I seek an explanation from the Attorney-General, Senator Brandis, as to why questions numbered 163 to 171, which I placed on notice on 5 October 2016, remain unanswered.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (15:03): They remain unanswered because answers are still being prepared.

Senator WATT (Queensland) (15:04): Under standing order 74(5)(c), I move that the Senate take note of the minister's failure to provide the answer requested.

Senator Brandis: Point of order, Madam Deputy President, that motion cannot be moved, because I have not failed to provide an answer. I have just given an answer. The senator may not be satisfied with the answer; he may wish to criticise the answer; but it is wrong in fact to say that I have not answered his question, when you have just heard me do so.

Senator WATT: We could have a semantic argument about whether the Attorney-General has answered the question or not, but I am happy to rephrase the question. Under standing order 74(5)(c), I move:

That the Senate take note of the minister's failure to provide either answers or an explanation.

The questions on notice that I asked, to which the Attorney-General has failed to give an explanation, relate to the scandalous appointments made by this Attorney-General to the Administrative Appeals Tribunal on election eve this year. It is yet another in a long series of stuff-ups from probably the most accident-prone Attorney-General that this country has ever seen. Of course, there is such a long list of stuff-ups but I will remind the Senate of some of them. This Attorney-General has on at least two occasions misled this chamber, first of all with his statements in relation to the letters from the man responsible for the Lindt Cafe siege, Man Monis, and secondly more recently this Attorney-General has misled the Senate, and been found to have done so by a Senate committee, in relation to his behaviour concerning the Solicitor-General. That, of course, related to the Attorney-General's attempt to restrict the independence of the Solicitor-General and the Attorney-General's false claims to have consulted the Solicitor-General in the making of that direction.

On at least two occasions this Attorney-General has misled the Senate. We all know that the punishment for that, admitted by none other than this Prime Minister, is that this Attorney-General should resign. Unfortunately, we are still waiting for this Attorney-General to show this Senate the respect that it deserves by tendering his resignation.
This Attorney-General has also had the rare achievement of having been censured by the Senate in relation to the disgraceful conduct by him and other coalition senators in relation to the President of the Human Rights Commission, Professor Gillian Triggs. I know that very soon we will have yet another show trial of Professor Triggs convened for coalition senators to do their dirty work again.

But what I am mainly talking about today is another stuff-up from this accident prone Attorney-General, and that is in relation to his scandalous appointments to the Administrative Appeals Tribunal just before this year's federal election. I asked a number of questions on notice around the time of Senate estimates this year to the Attorney-General concerning media reports about appointments that he had made to the Administrative Appeals Tribunal which, just coincidently, seem to favour a number of former LNP or Liberal Party donors, staffers, candidates and members of parliament. It did seem, when you looked through the list of appointments that were made by the Attorney-General to the AAT just before this year's election, that having an LNP or Liberal Party card or having been a staffer, a member of parliament or a donor was a pre-requisite—certainly a great advantage—in getting yourself appointed to the AAT by this Attorney-General. Unfortunately, we are still waiting for answers from the Attorney-General to some fairly basic questions about whether he had ever met with those appointees or had met or spoken to senior LNP officials about those appointments. It seems that the Attorney-General has not yet had the opportunity to get around to answering those very questions.

I think it is important to give the Senate a little bit of history about these appointments, because I am aware that not everyone was a member of that Senate committee as I was and is not necessarily familiar with the process and what occurred. A number of things emerged from that Senate estimates hearing, the first of which is that, when it comes to appointments to be made to the AAT, in 2015 the Attorney-General was party to a new protocol which set out the process which should be followed in relation to appointments to the AAT. The idea, when you look at that protocol, is that there should be a process of cooperation between the president of the AAT and the Attorney-General before an appointment is made. Reviewing this protocol: it is a very good process, it is a very transparent process, that allows the president of the AAT to have input into what appointments are required and who are the appropriate people to be appointed. Of course, it does leave the final recommendation to the Attorney-General, and the final decision to cabinet, as is appropriate.

In essence, the steps that this protocol sets out for appointments to the AAT require the president of the AAT to supply the Attorney-General with an indication of what the tribunal’s needs will be in terms of new appointments and reappointments. The Attorney-General indicates which positions do not require public advertisement because the Attorney-General has determined suitable people to fill those appointments—and we will come back to that. But it is very clear that, in general, what should occur in relation to appointments to the AAT is that the Attorney-General should seek an expression of interest for those appointments by public advertisement. The purpose of that, as is the case with many government appointments, is to give the widest possible number of people who are qualified for these roles the opportunity to indicate an interest and to ensure that Australia is calling on its best minds, whoever they may support politically, to take up these very important and very highly paid roles.
The protocol says ‘the secretary of the Attorney-General's Department will establish a selection committee that will include the president of the AAT, or their nominee; a representative of the Attorney-General; and the secretary of the department, or the secretary's nominee’. Again, that is a very fair, transparent and rigorous selection process, as you would expect for highly paid important public sector positions like members of the AAT. Only at the end of that process—at the end of the president providing the A-G with their assessment of what appointments are needed, at the end of going through an EOI process to cast a very wide net as to possible appointees, at the end of setting up a selection committee which interviews and vets people—is the Attorney-General to recommend appointments for cabinet's consideration. As I said, that is a very transparent and fair process and one that I commend to the Senate.

Unfortunately, what we learnt at Senate estimates this year was that the Attorney-General flagrantly ignored his own protocol, his own fair and transparent process for coming up with appointments to the AAT. And not only that; it was very clear from the evidence presented at that Senate estimates committee that the Attorney-General not only did not follow that protocol but completely subverted the process in order to get his own mates and mates of the LNP or the Liberal Party into these very well remunerated and responsible positions. Again, I think it is important to remember that these appointments did not come at any moment in time; they were made one day before this year's election was called. I am not sure whether that was because the Attorney-General was concerned about the government's chances at the election and felt a desperate need to get mates of the LNP and the Liberal Party into these positions before they might have missed that opportunity. I am not sure whether people had recently finished up as staffers and needed new jobs to be guaranteed, or whether donors needed to be rewarded. But, for whatever reason, a very curious number of appointments—and I will come to that shortly—were made by the Attorney-General, without having gone through his own process, one day before the election was called.

In total the Attorney-General made 76 appointments to the AAT one day before the election was called. You might ask: how much was the selection process followed by the Attorney-General? What was revealed at Senate estimates was that not one of those 76 appointments that were made by the Attorney-General one day before the election went through the selection process and the selection committee that was established under the protocol. The Attorney-General's Department gave evidence at the estimates hearing that it was not asked about the qualifications of these 76 employees. Despite the fact that there is supposed to be a process for people to give EOIs and have their qualifications vetted, on this indication it appears that the qualifications and experience of these appointees were not relevant to the job whatsoever. Of course, what we learnt was that there were certain other qualifications that were required, and that is favouritism, by many, towards the Liberal Party.

The department gave evidence that it did not come up with the names of the 76 AAT appointees. Ordinarily, the department would be involved and would be asked for advice about who would be appropriate appointees to the AAT. On this occasion, the Attorney-General's own department did not come up with the list of names. It was only as we got into the late-night session at that Senate estimates that the truth became very clear. When asked who came up with the list of names of those 76 people to be appointed to these highly paid,
responsible positions on the AAT, the answer from the department was that, just as we all suspected at the beginning of the day, that list came from the Attorney-General.

That is really not much of a surprise when you review the names, experience and background of the 76 appointees. With a little bit of research, we found that 21 of the 76 appointees were ex-Liberal Party donors, members of parliament, candidates or staffers. That is nearly a third of these appointees. There was not really any consideration given to whether they had legal qualifications or whether they had experience that was appropriate to the sorts of decisions that they would need to make as AAT members, but they ticked a very important box in the Attorney-General's new selection process—and the box that they ticked was that they were former Liberal Party donors, MPs, candidates or staffers. It seems that, if you were able to tick that box, you got a much bigger advantage in getting appointed.

Time does not permit me to go through the experience of all 21 of these appointees, but I think it is important to highlight the experience of some of the more celebrated appointees that this Attorney-General found his way clear to appoint to the AAT. The one who has attracted the most attention is Mr Theo Tavoularis, a former solicitor and criminal defence lawyer in Queensland—my own home state. It became clear from media reports that Mr Tavoularis represented the Attorney-General's own son in court. When it was put to the Attorney-General, he said that he could not remember whether legal fees that were paid by his son were discounted, whether there was a further favour made to Mr Tavoularis in addition to his appointment to the AAT—

Senator Ian Macdonald: You're a real grub!

Senator WATT: Senator Macdonald, you know all about that. We also found that Mr Tavoularis donated to the LNP in the lead-up to the 2013 election. He had quite a good track record and had done many favours for the LNP in Queensland. Now he has been rewarded with the princely sum of $370,000 per annum for five years. His appointment to the AAT will go for five years. That is quite a reward for services rendered to the LNP in Queensland.

Dr Denis Dragovic is a failed former Liberal Party preselection candidate. He failed in his bid for Liberal Party preselection in the electorate of Goldstein in Victoria, he failed in his bid for the Liberal Party Senate ticket in Victoria, but he did not fail when it came to being appointed to an even more financially rewarding position on the AAT. Dr Dragovic has really hit the jackpot. He may not have got into the Senate, and he may not have got into the House of Representatives, but he is going to be receiving $300,000 per annum for seven years. That is even longer than a full Senate term, so I think he has done pretty well out of this arrangement.

The one that I am most interested in is Mr John Sosso, who all of us from Queensland know has a very long political history in Queensland. As long as coalition governments have been in power in Queensland in my lifetime, Mr Sosso has been one of their favoured people. He is a good example of the type of person who this Attorney-General considers appropriate to exercise a position of responsibility and independence on the AAT. Mr Sosso was the director-general of the Queensland Department of Justice and Attorney-General under the Newman government. He was fired after the commendable election of the Palaszczuk government, but he was appointed as the director of the Justice and Attorney-General's Department under the only Attorney-General from Queensland who I could possibly imagine
to be worse than this Attorney-General, and that is Jarrod Bleijie, the trumped-up conveyancing clerk from Kawana.

*An opposition senator interjecting—*

**Senator WATT:** Is he pompous? He is pompous.

**The DEPUTY PRESIDENT:** Senator Macdonald, on a point of order?

**Senator Ian Macdonald:** I know Jarrod Bleijie—he would not worry at all about an attack from this sort of senator—but the rules of the Senate do require that members of parliament in other places be referred to properly. This half-hearted attack by this ambulance chaser—

**The DEPUTY PRESIDENT:** Senator Watt did actually refer to him as an Attorney-General—

**Senator WATT:** I did.

**The DEPUTY PRESIDENT:** but I remind all senators of the need—

**Senator WATT:** He was also known to us in state parliament as the conveyancing clerk for Kawana, so perhaps that is a more appropriate way to refer to him, as well as 'the former Attorney-General'. Mr Sosso oversaw that department under former Attorney-General Jarrod Bleijie and oversaw a range of controversies involving a tender that was provided to a company to run boot camps. Mysteriously, that company was an LNP donor. He oversaw the implementation of the VLAD laws, which were supposed to be about combating bikie gangs in Queensland. Those laws have been spectacularly unsuccessful: not one conviction has been recorded against a bikie. All they really came up with was the idea of putting bikies in jails in pink jump suits, which is something no-one really ever understood. Mr Sosso was also the director-general of that department when it and the Attorney-General had a spectacular falling out with the Queensland judiciary over, among other things, their appointment of Justice Tim Carmody as the Chief Justice of the Supreme Court. I am interested that someone who presided over the Department of Justice and Attorney-General in Queensland at a time when there was a failure to understand the separation of powers and the importance of an independent judiciary now finds himself on a tribunal.

Mr Sosso's background with the Queensland LNP and National Party goes much further back than that. He also served within the legislation and policy branch in the justice department during the premiership of Joh Bjelke-Petersen. He advised the National Party Attorney-General during the Fitzgerald inquiry. Mr Fitzgerald, one of Queensland's most outstanding justices and legal figures ever, was highly critical of the role Mr Sosso played at the justice department when he served there during the Fitzgerald inquiry. He went on to have many other dealings and appointments under Queensland National Party governments, and now he has been rewarded further by this Attorney-General for more service by being appointed to the AAT for seven years.

We have also had Ms Saxon Rice, the former LNP member for Mount Coot-tha for one term, who has been appointed to the AAT for seven years. Ms Ann Brandon-Baker—ex-chief of staff for Scott Morrison, the current Treasurer—was appointed to the AAT for five years. Louise Bygrave—a former staffer to Tim Wilson, the member for Goldstein, when he was the Human Rights Commissioner—is now appointed to the AAT for five years. Mr Michael Manetta, who unsuccessfully ran for the South Australian parliament in 2014 for the Liberal
Party, is appointed to the AAT for five years. Ms Adrienne Millbank, a researcher a Monash University who has called for Australia to abandon the UN convention on refugees, is now going to be appointed to the AAT. I am not sure whether she will be handling migration matters—one would only hope not—with that kind of attitude. They are only some of the 21 appointees with very clear links to the Liberal Party as either ex-donors, members of parliament, candidates or staffers.

In conclusion, it is very important that the Attorney-General promptly answer these questions on notice to advise the Senate of any dealings that he personally had with these appointees. We already know that 21 of these 76 appointees have very clear links to the Liberal Party or the LNP in Queensland for past services, for past donations or as past members of parliament, staffers or candidates. That was the only requirement they needed to fill in order to gain appointment to the AAT one day before the election. As I have already indicated, a number of these people are going to be holding these very responsible positions which really determine the rights of Australians all around the country. They are going to be being paid, in some cases, more that $300,000 a year for each of the seven years that they are going to be appointed. But we still have not had any clarification from the Attorney-General about the qualifications that these people held, about the experience they held or, indeed, about whether he had personal contact with any of them before he miraculously came up with a list of names that was presented to his department.

The DEPUTY PRESIDENT: Senator Watt, resume your seat. Senator Brandis, a point of order?

Senator Brandis: The point of order is this: it is not a debating point, given the motion that the senator has moved. The senator has said that there has been no explanation as to the qualifications of these people. Most of his speech, indeed, has been directed to asserting or implying that they were not qualified, which is not true. My point of order is that the questions concerning which an explanation was sought of me do not inquire of their qualifications.

The DEPUTY PRESIDENT: I think it still goes to the fact it is a debating point. Thank you, Senator Watt.

Senator WATT: As I was saying, it is critical that the Senate is provided with answers by this Attorney-General, in particular about the contact that he personally had with each of these appointees. I note that a number of them actually do have quite an extensive background with the Liberal Party, the National Party or the LNP in the Attorney-General's own state of Queensland. I think we would all be interested to know about his level of personal contact with these people.

In wrapping up, this is yet another example of an accident-prone Attorney-General. Canberra is rife with rumours about the Attorney-General being moved on in a pre-Christmas reshuffle. There are rumours up and down Queensland about people jockeying for his Senate role. Madam Deputy President, you can really easily understand why when you reflect on the fact that he had repeatedly misled this Senate, he has been subject to a censure motion and now has made scandalous AAT appointments. (Time expired)

Senator IAN MACDONALD (Queensland) (15:26): What a disgusting and sad presentation by someone who claims, unfortunately, to be a senator for my state of
Queensland. It is no wonder the people of a Brisbane electorate got rid of Senator Watt when he represented them in the state parliament. They clearly understood that their representative was worthless and even worse than that. Not only was that speech the sort of speech that brings the political system into disrepute, but certainly Senator Watt, as a newcomer, is adding to the disdain with which most Australians hold their politicians.

Madam Deputy President, you only have to listen to that speech to understand why the Australian public holds politicians like Senator Watt in such low esteem. He is a hack from the Labor Party. He was a union bully. He worked for the disgraced Premier of Queensland, Anna Bligh. He then went into parliament, as happens with union bullies and Labor Party hacks. He went into the state parliament, but could not even hold his seat in a very safe Labor seat. He was thrown out.

Then, to add insult to injury, do you know, Madam Deputy President, what he did? He got the faction to do over Senator Jan McLucas. Senator McLucas and I had our disagreements on policy issues, but she was a serious, sincere and honest senator. She would come into this chamber and she would make points. What I particularly liked about her, of course, was that she was from northern Australia. But Senator Watt got his union thugs to do her over. She missed out on the preselection and was replaced by Senator Watt. Not only did he not come North Queensland—he came from Brisbane—but he has recently announced with great gusto that he is moving out of Brisbane and going further south down to the Gold Coast. Would you believe it? On the weekend I fortunately happened to be talking to someone in Brisbane and they told me he has his office down in the Gold Coast pretending he is there, but he has made it clear he is not going to move from his house in the leafy suburbs of Brisbane.

I would not justify this debate by going through the long list of Labor politicians and supporters who were appointed to AAT positions. Some had qualifications, most did not. I might say—without naming her, Senator Watt—that there was a Labor senator sitting exactly where you are sitting now—

Senator Watt: You could not remember her name the other night!

Senator IAN MACDONALD: I do remember her name, but I am not going to announce it. I will give you the initials: L.K. I do not want to denigrate people who are currently serving members of the AAT, nor do I want to go through a long list of Labor appointments of former Labor hacks, union hacks and people who were failed candidates—and you might well qualify yourself there, Senator Watt—to these positions. I will not dignify this debate by going through that; it does not serve the interests of justice and the important work that the AAT does.

I will mention the name of one former Labor parliamentarian, and that is the president of the AAT—none other than the honourable Duncan Kerr, who was, for many years, a member of the Labor Party in this parliament. But of course Senator Watt does not want to hear about this, so he will leave now when I tell him that the boss of the AAT, the president of the tribunal, is none other—

Senator Watt: Madam Deputy President, on a point of order: the reason I am leaving the chamber is that I have a very important meeting with Pacific islanders who are threatened by climate change.

The DEPUTY PRESIDENT: That is not a debating point.
Senator Watt: I would rather it not be noted on the Hansard that I am frivolously leaving.

The DEPUTY PRESIDENT: That is a debating point.

Senator IAN MACDONALD: Senator Watt, I think the sooner you leave the better it will be for the institution of the parliament and, certainly, for debate in this chamber.

The DEPUTY PRESIDENT: Senator Macdonald, I have allowed a fair bit of liberty with this debate, but your remarks should be made to the chair.

Senator IAN MACDONALD: Thank you, Madam Deputy President. I am pleased to see that you and one of your colleagues sitting in the chair are now enforcing that rule, which, as I said to one of your colleagues this morning, is something that I think should be enforced. It never is, but I am pleased to see that you are doing it, as was one of your colleagues earlier.

The President of the Administrative Appeals Tribunal, Mr Duncan Kerr, was a former Labor member of the House of Representatives for—what?—nine or 12 years. Was Senator Watt referring to him in his accusations and his baseless tirade about people who were appointed? He talked about Mr Sosso, I think—and I must say, as someone who has been involved in the Liberal Party in Queensland for over 50 years, I have never met Mr Sosso. In fact, I do not think, I regret to say, that I have ever heard of him. But I have just been alerted to the fact that he was Director-General of the Queensland Department of Justice. He is a distinguished lawyer in his own right and he is now a presidential member of the Australian Native Title Tribunal. He is a very distinguished lawyer and, if he happens to have some connection with the LNP, which I am not aware of, he is not appointed for that; he is appointed because he is a distinguished lawyer with a very significant background in administration of justice who also, as I say, currently sits as a presidential member of the Australian Native Title Tribunal. This is the sort of person that Senator Watt, in a coward's castle in this chamber, wants to denigrate.

Senator Watt went on further to denigrate a Dr Dragovic—again, having been round the Liberal Party for a long time, I am sorry to say I have never heard of—who is a consultant to several United Nations agencies. He is a very distinguished man. He is a person who has devoted his life to helping the causes that the United Nations stands for. Yet here you have someone of Senator Watts's newness standing and denigrating these people who have made a lifetime contribution to our society.

Senator Watt mentioned a number of other people. He mentioned someone who I think, as I understood him, used to work for Mr Tim Wilson, the current member for Goldstein, when he was a human rights commissioner—and suddenly that makes this person unfit for appointment. I could think why other people associated with the human rights tribunal might be unfit for appointment, but I would not have thought that a distinguished person with a legal background, who happened to have worked for someone who is now a member of parliament, would be disqualified from appointment to the AAT.

If anyone was listening to this debate seriously—and I certainly hope very few Australians were listening to Senator Watt—can I mention that most of the 76 appointments that Senator Watt made such a big thing about were reappointments of existing AAT members who had been appointed in the past by the Rudd-Gillard-Rudd government and, I suspect, some by the Abbott government. They were reappointments whose terms expired on the same day and on the recommendation of the president of the AAT, the honourable Justice Kerr—a former...
Labor politician, but a very fine and distinguished legal mind. A fair number of those 76 were existing members of the AAT who were being reappointed, as I mentioned, on the recommendation of the president, former Justice Kerr.

Can I diverge a little wider and congratulate Senator Brandis on the wonderful job he has done as Australia's Attorney-General. I have been, as I say, in this place for quite a long time, and I do not think I have seen a more fit and able person to hold the role of Attorney-General than Senator Brandis. Senator Watt would have you believe that a Senate committee made a finding of 'misleading', but can I tell anyone who might be listening to this that this Senate committee comprised a majority of Labor and Greens senators who, before they had heard the first bit of evidence, had prewritten the report of this dodgy committee—this dodgy committee that had a majority of three Labor members and one Green member.

If anyone is interested in reality, they should look at the dissenting report of that committee, which found that most of the views of the majority of the committee—the three Labor members and one Green member on the committee—were simply irrelevant. It was quite clear from those hearings that the Attorney did not mislead the parliament. There was not a skerrick of evidence of that. In fact, the evidence all quite clearly showed that the Attorney—as he has said in this chamber—had consulted the Solicitor-General on the issue. And not only was the evidence quite clear, but there is documentary evidence from the Secretary of the Attorney-General's Department: they actually sent a brief to the Attorney saying, 'go ahead with this direction,' and, 'you have done the required consultation'—the consultation he was required to do. Yet in spite of that, the majority of three Labor members and one Greens member on this committee said that the Attorney misled the Senate by saying that he had consulted—when not only did the evidence show he had consulted but the written advice from the department confirmed that he had consulted and that the current consultation was correct.

Senator Watt was not directly on point, but he was speaking on this so I will go there: he mentioned that there is going to be the 'show trial' of Professor Triggs. I do not know what is a show trial about it. Those of you who read about these things in the newspapers might remember that at the estimates committee hearing, I particularly said to Professor Triggs: 'Now, in this interview with Ramona Koval, you have allegedly said these things'—and I went through the recorded interview of Ramona Koval with Professor Triggs. I wanted to ask Professor Triggs why she said in this interview, 'how dare they question me'. I also wanted to find out from Professor Triggs what she meant when she said, 'I could have destroyed them'. Unfortunately for Professor Triggs, it just so happens that The Saturday Paper—and I might say, most people would not have heard of The Saturday Paper, but it is well known as
being a rag of the Left—actually physically recorded the interview—and good luck to The Saturday Paper; I must try and get a copy and read it sometime. They came forward because Professor Triggs had not only misled the Senate committee but she had impugned the professional reputation of a journalist. And naturally, The Saturday Paper and the journalist took umbrage at that—so would I—and good on them. So they actually produced the tape recording where Professor Triggs said exactly what was in that report. It was not a question of not answering my questions because she did not say those things; she deliberately said she did not say them, so therefore we could not ask her.

Senator Watt talks about a show trial. It will not be a show trial. I will simply ask Professor Triggs, first of all, why she deliberately misled the Senate. And secondly, I will say: 'Why do you think that you—as the only public servant—the only person on the taxpayers' payroll who comes to estimates committees and thinks this—do not have to answer questions?' Now maybe she did not mean that when she said, 'how dare they question me'. Maybe she meant something else. But I want to give her the opportunity of answering those questions. As for Senator Watt's show trial: we will simply be giving Professor Triggs the opportunity of explaining why she misled the Senate—why she denied that she had said those words—when The Saturday Paper actually had the physical recording of her saying those words.

Madam Deputy President Lines, I have diverted, as did Senator Watt, from the substantial instance he was talking about. But can I come back to this point: the AAT is a very important part of the administration of governance and justice in our country. Most of the appointments that Senator Watt railed against were reappointments of previous AAT members appointed by the Rudd-Gillard-Rudd government, or, I assume, by the Abbott government, although I am not sure of that. They were reappointments.

Senator Watt was able to talk about 21 of the 76. But, in his unfortunate and childish tirade in this chamber, he did not distinguish between the 21 and the other 55. He lumped the whole 76 into the same category. Some of them are formerly well-known people in the Labor Party and the union movement. I am not sure who runs the Labor Party in the Senate now but, Madam Deputy President, I think it would be useful to counsel Senator Watt on using this chamber to denigrate people who are doing a wonderful job. I have mentioned just two people who are distinguished lawyers. They may have an association with the LNP; I do not know. I do not know who was appointed and I have not seen the names, so I do not know whether they have an association with the LNP. But can I tell you this, Madam Deputy President: if they have been appointed, they have been appointed because they have distinguished legal backgrounds, or backgrounds in government, which mean that they can do a good job in the AAT—the same as Duncan Kerr, a Labor man; the same as the former senator—who I do not want to name, because she is a serving member of the AAT—but a Labor senator who sat where you are, senator, in this chamber during the time that I have been here. I did not hear Senator Watt mention her at all, or Duncan Kerr, or any of the others who are doing a good job regardless of their political affiliation in a former life.

It is a shame when it comes down to this sort of thing. Senator Brandis, of course, does not need me to defend him. Being attacked by Senator Watt is a bit like being hit with a wet lettuce leaf. But I do think that the administration of justice and the operations of our government would be better if senators would refrain from making baseless comments in this chamber under parliamentary privilege. Senator Watt, I think, is a part-time lawyer. Someone
referred to him around Brisbane as an ambulance chaser; I am not quite sure what that means, but apparently he has some legal qualifications, and he should know better. I certainly hope that the leadership in the Senate will counsel him on these matters.

Senator Brandis has been an exemplary Attorney-General, a quite brilliant legal mind in his own right. He has done a wonderful job in the administration of justice and all the other things that the Attorney-General has to do in relation to national security. To have to sit and listen to 20 minutes of what we had just prior to my speaking, from a junior senator who is a failed Labor member from Queensland and who clearly has not learnt anything from his short period practising law, is very regrettable. In this chamber we have our policy debates and we sometimes even have a personal debate, but when you embark upon that sort of attack it does nothing for the standing of the senator himself, certainly nothing for the chamber and nothing for the institution of parliament. I reject everything that Senator Watt has said. (Time expired)

Question agreed to.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Turnbull Government

Economy

Medicare

Senator CAROL BROWN (Tasmania) (15:47): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) to questions without notice asked by Senators Watt, Dastyari and Brown today.

The answers that we received from Senator Brandis today in question time leave me in no doubt that the people in my home state of Tasmania are the losers under the Turnbull government. After the election, Mr Turnbull said that he had learnt the lesson on Medicare, and Mr Turnbull also claimed that bulk-billing would be protected. It has taken a massive blow in the first post-election data, which shows that the Medicare freeze is indeed biting. In relation to those figures, today of course Senator Brandis was not able to give me any answers when I asked him about my home state of Tasmania. It is very good to see that two of the Liberal senators from Tasmania, Senator Duniam and Senator Bushby, are here, because really they need to be taking it up to this government and talking to their Prime Minister about what is happening in Tasmania on bulk-billing. Tasmania, of course, is already the state with the lowest bulk-billing rates of any state around the country.

What have we had from the first set of data that has been released? This data reflects what is happening after the 2 July election. These are the government's own figures, and those figures show that bulk-billing is dropping. As I said in my question to Senator Brandis today, the bulk-billing rates for GP visits in Tasmania have dropped a massive 2.4 percentage points, which in effect is 16,000 GP visits. During the election, as I have previously told the Senate, in GP surgeries there were a number of notices that indicated to patients: 'Due to the Medicare freeze on rebates, we unfortunately, as a surgery, can no longer continue to bulk-bill all concession card holders.' This is what GP surgeries were telling their patients. This is not something that I have just come in here and made up; these are notices that were in GP surgeries. That was what was going to happen after 1 July, and indeed this set of data that has been put out now, up to the quarter of September, shows that what the Labor said during the
campaign would happen has indeed happened. So not only has Tasmania had a massive drop of 2.4 percentage points but, over the country, we have seen a drop of half a percentage point, which in effect is over 167,000 GP visits nationally.

We have already seen that this is just the start of the impact of this government's six-year Medicare freeze. Every time a Tasmanian goes to the doctor, they will have to pay out more money. This is what the Labor Party said would happen, and this is what this Prime Minister said would not happen. He gave a commitment about bulk-billing figures. But of course it is not just me and the Labor Party talking about what is going to happen. The dataset that has been released confirms this. Senator Brandis was unable to answer the questions that were put to him in question time today, and I was not really expecting an answer, because the answer would actually confirm the Labor Party’s position: that the bulk-billing rates are falling and that Tasmania is one of the worst hit states.

We are not the only ones that are saying this. GPs are saying it. The Royal Australian College of General Practitioners said last month that out-of-pocket costs for a patient to visit the GP have increased by six per cent in the past year under your government, Senator Duniam. I wonder what you are going to do. Stand up for Tasmania! Stand up for Tasmanian patients! (Time expired)

Senator HUME (Victoria) (15:52): Madam Deputy President, as I rise to respond to Senator Brown and to those opposite, may I preface my remarks with an observation. I am new to this chamber—to its vagaries and its protocols—and perhaps my naivety means that I am willing to give those opposite the benefit of the doubt. But, having come from a business background that recognises time and human capital are the most precious resources that we have, I am continually flabbergasted at the amount of precious time the opposition waste in focusing on issues that have no impact on the lives of everyday Australians. We are five sitting weeks in, and yet—

Opposition senators interjecting—

Senator HUME: Uh-uh—it is not as if we have not given you the opportunity to consider these important issues. Today, finally—thank you so much—we have had a question about the economy. This is the first question about the economy we have heard in five sitting weeks. Finally today we have had a question about health—the first question about health that we had heard in five sitting weeks. Finally today we have had a question about employment—the first question about employment in five weeks. My faith is somewhat restored.

Terrifically, though, I have been grateful for the inertia of those opposite over the past five weeks—though, yes, it has been bewildering—because, by persisting with the inane questions on matters entirely unrelated to the lives of ordinary Australians, those opposite have fallen into the hands of the government and given us a stick with which to beat them. Today they have actually given us an opportunity to sing the praises of this government's strong economic plan for jobs and growth and its support for Medicare.

It is extraordinary that the greatest lie ever perpetuated in a federal election persists in the face of bulk-billing rates rising yet again. The 'Mediscare' experiment has failed. This is clearly a government that supports Medicare. Medicare investment has continued to rise under the Turnbull government and so have GP bulk-billing rates. Official Medicare figures for the September 2016 quarter showed unequivocally that GP bulk-billing rates grew nearly
one percentage point on the same time last year to 85.4 per cent—up from 84.6 per cent in the September 2015 quarter. This coincided with an extra half a million Medicare funded GP services for that September quarter, taking total Medicare GP investment to $1.9 billion for the period. GP bulk-billing rates remain the highest in history under the coalition, and no amount of Medicare lies from Bill Shorten, or from those opposite in this chamber, can change that. An extra 17 million GP services were bulk-billed under the coalition last year compared with Labor.

This is also a fantastic opportunity for us to speak on the extremely pleasing economic indicators that Senator Brandis referred to earlier today. Our economy is strong. Growth is strong. The Australian economy is growing at over three per cent per annum—3.3 per cent. Our economy is growing faster than any of the G7 economies and at over double the speed of Canada's, a comparable resource-rich economy. This government's economic plan is the foundation upon which we can build a brighter and more secure future in a stronger economy with more jobs. This government is delivering on its promise of a growing, thriving and prosperous economy for all Australians—not just for Tasmanians, Senator Brown, but for all Australians. All Australians are winners in a growing, thriving and prosperous economy, and I am proud to be part of this government, which is delivering on its promises. (Time expired)

Senator DASTYARI (New South Wales) (15:57): Madam Deputy President, can I begin by saying I have not had the opportunity to congratulate you on your elevation to the role of Deputy President of this place. I think it is now the 'Chair of Committees', not the 'Chairman of Committees'. I think that is a change you have begun.

The answers that were given today by Senator Brandis were extraordinary in their lack of detail and lack of knowledge of the matters that were asked about and that we were there to discuss. I want to quote what the Prime Minister himself—let me reword that: 'the Prime Minister for now'—Mr Malcolm Turnbull, said at the Business Council of Australia dinner last week. He said that, under the coalition government, economic reforms would result in 'winners and losers'. The questions that were asked today were specifically about identifying who these losers under the Turnbull government are going to be, because when millionaires are given a $17,000-a-year tax cut they are clearly not the losers of this system. When big business are given a $50 billion tax cut, they are not the ones who seem to be losing out of this. No; the losers seem to be couples with single incomes of $65,000 or less and three children in primary school. They are $3,000 a year worse off. Are they the losers that Mr Turnbull was referring to in his Business Council address? I refer to the Turnbull government's May budget, in which a single mother with an income of $87,000 and two children in high school is over $4,000 worse off. This is becoming a game of winners and losers. One group seems to be winning and one group seems to be losing.

Senator O'Sullivan interjecting—

Senator DASTYARI: I will take that interjection.

Senator O'Sullivan interjecting—

Senator DASTYARI: No, I will take that interjection from the good senator from Queensland. I note that when I asked my second question of Senator Brandis today, he could barely be heard over the jeers that were coming from the other side of the chamber in what was nothing more than a relentless and unfair attack on my hairstyle.
Senator O'Sullivan interjecting—

Senator DASTYARI: Let me be clear: we cannot all be as fortunate as Senator Hinch, who is in this chamber today. We may all try to aspire to have what Senator Hinch has, but none of us can be that fortunate and none of us can be that lucky.

I want to quickly praise Dennis Shanahan from *The Australian*, who came out and defended me when I was unfairly attacked by James Jeffrey in *The Australian*. I know what it is like to be persecuted and I am sick and tired of being objectified in this place. But I digress—and I note that Senator Lines chose to use this as an appropriate moment to leave the chair.

Senator Hinch interjecting—

Senator DASTYARI: Senator Hinch, I was praising you a moment ago. The answers given today, the comments made today and the responses made today show a complete lack of knowledge and understanding of the true challenges that are being faced at an economic level—the challenges that are being faced in this system of winners and losers. What I fear is that the losers in this economy and the losers from these reforms that the Prime Minister was talking about are some of the lowest paid people and those who are struggling the most. The Australians who need the most assistance are those who are being left behind. A handful of very fortunate Australians are prospering and doing very well out of all of this, but they are not the majority. I think this chamber deserves better than the answers that Senator Brandis gave today.

Senator DUNIAM (Tasmania) (16:02): Senator Dastyari is a hard act to follow—

Senator O'Sullivan: It is impossible.

Senator DUNIAM: It is impossible, but I will try and stick to the facts.

Senator Hume: You have good hair too.

Senator DUNIAM: I like my hair—thank you very much. Following on from the motion moved by Senator Brown to take note, I thought I might try and stick to the facts of the debate.

Senator O'Sullivan interjecting—

Senator DUNIAM: Yes, I know. I am going to be boring today. What I find most interesting coming into Canberra at the beginning of a sitting week is sitting on the plane and wondering what sort of stunt the opposition is going to try and pull this week and what sort of tactic will be employed during question time by the brains trust of those opposite. This week we saw the taking out of context of three words—winners and losers—from what was probably a 15- or 20-minute speech. That was the basis for today's question time. They were three words out of a very long speech out of all of the speeches the Prime Minister has given. They have used those words as a basis to try and attack the government. They have clumsily threaded together all of these questions, trying to contrast statements made on policies against what they think to be right.

I was listening to Senator Dastyari and his characterisation of policies geared toward creating jobs and economic growth—policies targeted, in many cases, at small businesses. We are not talking about billionaires, as the opposition would characterise them. These are small business operators who employ small numbers of people. These policies create an opportunity
for these people to employ more people, often in small and regional communities in my home state of Tasmania. The characterisation that these policies are all geared toward billionaires at the expense of down-and-outs in our community—or whatever they want to call them—is just wrong, and I think they need to be held to account on this. They are trying to mount a simplistic argument and they are trying to take the Australian people for mugs. I think that is something that is not right and is unbecoming of people in this chamber.

The other point that was made by the Attorney in response to questions today was the need to ensure that the system is fair and sustainable moving forward, so that it is there for generations to come. It is not a system that is going to be burdened by oversubscription and something that becomes unaffordable. Contrast the approach we employ and the policies we have outlined, which are about job creation and economic growth—everyone knows about them. They get derided by those opposite, but we have outlined them as ways forward to create jobs—against the policies of those opposite. They want to spend more and tax more and hope for the best into the future. They have no regard for trying to manage a budget and ensure essential services, like many of the welfare payments referred to by the senators who asked questions, the answers to which we are taking note of today. There is no reference to that at all.

If we stick to this theme of winners and losers that the opposition have tried to bring to the debate today, the real losers are those people who will miss out if Australians fall for the rubbish being espoused by those opposite and re-elect the Labor Party into government. What you will see is spending at record highs again, increases in taxes and an unsustainable future—a future where the welfare system that provides for so many in need just cannot be sustained. Who is going to pay for it? How are we going to manage it? We need to take that into account.

Also, with regard to Senator Brown's question about Medicare bulk-billing in the state of Tasmania: I have some sympathy for Senator Brandis, who does an excellent job of being across many, many briefs representing the Prime Minister in this place. Senator Brown did have the opportunity to ask the Minister representing the Minister for Health—and may well have been able to do that and get a more specific answer—but what became apparent to me was that Senator Brown did not actually like the statistics that were being repeated to her in the answer. The question I would like to know is where things were at in the state of Tasmania when the Labor Party left office in 2013. I know that Senator Hume, who spoke previously in this debate, has referred to some of them.

In closing, I think we need to reiterate where things are at with regard to bulk-billing: rates are 3.2 per cent higher in the September 2016 quarter, at 85.4 per cent, than they were in September 2013—Labor's last quarter in office—when they were 82.8 per cent. You only have to look at where things were throughout their term in office. They were consistently lower than where we are today. So this claim being mounted and the statistics that are being cherry-picked really show this argument for what it is: a baseless one and one without fact in its foundation. I think Australians deserve better. (Time expired)

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (16:07): The Prime Minister has spoken about the need to undertake reforms to deliver long-term gains for all Australians, which may create winners and losers in the near term. It was a fairly clear statement about how he sees that dynamic. But clearly nobody has told the
Attorney-General that that is the view of the Prime Minister, because the Attorney informed this chamber earlier that nobody is a loser in a prosperous economy and this economy is prospering.

In that context it might be worth considering what the Attorney-General might consider to be a prospering economy, because he was asked very directly about the nature of the Australian economy during question time today. Are there plenty of well-paid, secure jobs? Just last week the ABS issued its latest labour force figures, and employment growth has slowed. It has slowed to 0.9 per cent, down from 1.9 per cent just months ago. There are now more than 1.8 million Australians who are underemployed or unemployed, and it is underemployment that is causing so much of the hardship that we know we see in our communities. This figure includes 261,000 young people. These are young people who maybe are on the verge of giving up on the hope of their first job, their first step into the labour market, because what we also see is workforce participation amongst young Australians also falling.

And how about wages? How are families going? What are they taking home? Wage growth has hit a fresh record low, below two per cent, the lowest in the series, with workers across all industries seeing pay increases that barely match the increased cost of living. So Senator Brandis can make all of the assertions about prosperity that he likes, but the truth is that Australians do not experience the economy at the moment as a period of prosperity, because all the risks are being passed on to them but the amount of money going home in their pockets is just not keeping up with what is needed to keep yourself together.

Perhaps Senator Brandis would consider a well-balanced budget a mark of a prospering economy. There is a new report out this morning from Deloitte which projects a further $24 billion deterioration in the Commonwealth budget under Mr Morrison, the Treasurer; and Mr Turnbull, the Prime Minister. If that projection eventuates, that is going to put further pressure on Australia's AAA credit rating.

We have had the deficit for 2015-16 blow out by eight times what was projected at the 2013 election, and today the Treasury is confirming that we will not see a surplus until 2021, and their only plan to address it seems to be cuts to essential services and, worse, a corporate tax cut that will blow the deficit out even more and that is completely unfunded and represents the height of irresponsibility.

The fact that reform creates winners and losers is unremarkable, actually, because change does create winners and losers, but what is remarkable is that under this government there is a consistent pattern. It is a pattern that emerges every single time we see a proposition for reform. That pattern is that the winners under any reform process that is commenced are the top end of town every single time and the losers every single time are low- and medium-income Australians.

There are reform agendas—real agendas for economic reform—that would share the growth, benefit middle-income Australians, benefit low-income Australians and benefit the Australian economy, but these are reforms that the government is unwilling to contemplate. They are reforms to education which would see every Australian have the chance to build the skills that they need to contribute to productivity in this country. These are critical reforms that were initiated under Labor, and Gonski is being undermined by this government. They are reforms to housing that would see the playing field levelled so that people who want to
buy a home to live in—not just as an investment property—get a fair run at the auction. These reforms this government refuses to contemplate. There are tax reforms which would ask higher-income earners to pay their fair share rather than give tax cuts to the very big corporations, but none of these reforms are contemplated by the government. That is the real tragedy here, because we know that the economy does need reform.

But Australians are right to be nervous when they hear the Prime Minister talking about winners and losers, because they know that, every time, if they are an ordinary Australian, they will lose. *(Time expired)*

Question agreed to.

**Asylum Seekers**

*Senator McKIM (Tasmania) (16:12): I move:*

That the Senate take note of the answer given by the Attorney-General (Senator Brandis) to a question without notice asked by Senator McKim today relating to asylum seekers.

It is worth noting here that, for many years, immigration minister after immigration minister or their representatives in this place or Prime Minister after Prime Minister or their representatives in this place have lectured to the Australian people that in fact we have to be cruel to people seeking asylum in our country. We have to be cruel, we have to turn back the boats, we have to indefinitely detain our fellow human beings who are reaching out their hands for help from us, and we have to do all that in order to ‘stop the boats’. Let's leave aside for a minute the fact that the boats have not actually stopped and that we are still turning boats back at an average of about one a month and have been since Operation Sovereign Borders started. Let's just leave that aside for a minute and go to the heart of the argument from the government and backed up by Labor that we have to be cruel to people so that they do not place their lives at risk by going to sea in unseaworthy vessels.

What we have from the government now is a complete backflip, an effective admission that this deterrence myth is in fact just that: a myth. What the government has done is to agree with the United States that the US will consider—and that is all they have agreed to do, by the way—taking some of those poor people who have been incarcerated for so long on Manus Island and in Nauru. After being told time and time again that we cannot give people seeking asylum a pathway to a better life, because it will just encourage them to place their lives at risk at sea, what are we doing? We are creating a pathway to a better life for people seeking asylum. That better life is in the United States of America.

I hope that the United States of America take a significant number of people from Manus Island and Nauru. Who could blame people on Manus Island and Nauru—who, let us not forget, were actually seeking asylum in our country, Australia—for taking the opportunity to go to a place like the United States, when the alternative is to rot away in indefinite detention on Manus Island and in Nauru? Of course a lot of people are going to take that option, if it ever becomes available to them. But that does not change the fact that we have a responsibility here in Australia. We deliberately harmed these people; we indefinitely detained these people. We have a moral obligation to every one of them, whether or not they were found to be genuine refugees, because we have harmed every one of them and placed every one of them in harm's way—every woman, child and man. Not only do we have a moral
obligation to bring them to Australia but we also have a legal obligation under the international conventions and protocols that we are a signatory to.

The government has admitted that indefinitely warehousing our fellow human beings on Manus Island and in Nauru is unsustainable—and hallelujah for that. Finally, after torturing people for years in Australia's name, the government has admitted that it is not a goer. But, instead of doing the right thing, the simplest thing—bringing those people to Australia—we are still casting around for third countries to take these people. Why is that? Because this myth of deterrence was always about domestic politics; it was never about humanitarian outcomes. Humanitarian outcomes were the masquerade, the camouflage that successive governments have placed on their policy frameworks. The myth of deterrence was not about delivering humanitarian outcomes; it was about cheap domestic politics that began, in its latest iteration in this country, when John Howard refused to allow the MV Tampa to come into the country. It has gone on time after time since that day. But, finally, the government has confessed that it was all a myth. The deterrence myth was just that—a myth—and, in fact, they had no need at all for the cruelty of their policies. It was all about a domestic political imperative, not about delivering humanitarian outcomes, which was the camouflage that they placed over it. *(Time expired)*

Question agreed to.

NOTICES

Presentation

**Senator McGrath** (Queensland—Assistant Minister to the Prime Minister) (16:18): I give notice that, on the next sitting day, 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:

Australian Organ and Tissue Donation and Transplantation Authority Amendment (New Governance Arrangements) Bill 2016

Superannuation (Excess Transfer Balance Tax) Imposition Bill 2016

Treasury Laws Amendment (Fair and Sustainable Superannuation) Bill 2016.

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

Leave granted.

*The statements read as follows—*

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2016 SPRING SITTINGS**

**AUSTRALIAN ORGAN AND TISSUE DONATION AND TRANSPLANTATION AUTHORITY AMENDMENT (NEW GOVERNANCE ARRANGEMENTS) BILL**

**Purpose of the Bill**

The purpose of the bill is to introduce governance changes to the Australian Organ and Tissue Donation and Transplantation Authority (AOTDTA) by creating a Board to govern the AOTDTA.

**Reasons for Urgency**

A recent review by Ernst and Young recommended immediate changes to governance structures of the AOTDTA to address issues of transparency and representation in the governance of the AOTDTA.
This bill will amend the *Australian Organ and Tissue Donation and Transplantation Act 2008* (the Act) to:

- establish a Board to govern the AOTDTA;
- abolish the existing AOTDTA Advisory Council created by Part 4 of the Act; and
- revise the functions of the AOTDTA CEO in Section 11 and other related parts of the Act to accommodate the Board.

Introduction and passage of the bill is required in the same sitting period to facilitate the efficient adoption of the new governance arrangements for the AOTDTA. Time will be required to permanently recruit a new Board, Chair and CEO. The current AOTDTA Advisory Council expires on 31 December 2016. If the bill is not dealt with in this sitting period, this may impact upon the effective governance of the organisation.

(Circulated by authority of the Assistant Minister for Health and Aged Care)

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE
IN THE 2016 SPRING SITTINGS
TREASURY LAWS AMENDMENT (FAIR AND SUSTAINABLE SUPERANNUATION) BILL**

**SUPERANNUATION (EXCESS TRANSFER BALANCE TAX) IMPOSITION BILL**

**Purpose of the Bills**

The purpose of these bills is to:

- ensure that the definition of ‘superannuation income stream’ under the *Income Tax Assessment Act 1997* includes products that do not pay an immediate annuity but which meet the new alternative set of pension and annuity rules to be set out in the *Superannuation Industry (Supervision) Regulations 1994*;
- allow catch-up concessional superannuation contributions;
- improve superannuation balances of low income spouses;
- introduce a $1.6 million superannuation transfer balance cap;
- introduce a lifetime cap for non-concessional superannuation contributions;
- introduce a Low Income Superannuation Tax Offset;
- reform the taxation of concessional superannuation contributions;
- remove the anti-detriment provision in respect of death benefits from superannuation;
- improve integrity of Transition to Retirement Income Stream taxation;
- provide for tax deductions for personal superannuation contributions;
- give effect to the measure which will introduce a $1.6 million superannuation transfer balance cap; and
- impose excess transfer balance tax on a person who has exceeded their personal transfer balance cap. The tax will neutralise the benefit the person would otherwise receive because, but for the breach, the excess amount would have been included in the person's accumulation phase and taxed at 15 per cent.

**Reasons for Urgency**

The Superannuation Reform Package is a high Government priory. Introduction and passage in the 2016 Spring sittings is required to enable industry sufficient time to build systems to implement the significant changes by the commencement date of 1 July 2017.
Presentation

Senator Williams to move 15 sitting days after today:

No.1—That the Class of Persons Defined as Fast Track Applicants 2016/049, made under the Migration Act 1958, be disallowed [F2016L00679].


Senator Waters to move on 23 November 2016:

That—

(1) There be laid on the table, by each minister in the Senate, in respect of each Commonwealth Department or Agency administered by that minister, or by a minister in the House of Representatives represented by that minister, by not later than 7 days before the commencement of the budget estimates, supplementary budget estimates and additional estimates hearings, a statement in accordance with the succeeding provisions of this order:

A statement, covering the period since the previous statement was tabled, in respect of each former minister, listing:

(a) all meetings at which lobbying, advocacy or the consideration of business took place, including date, location and duration, between current ministers, secretaries or deputy secretaries (or equivalent), of any Commonwealth Department or Agency and former ministers;

(b) the capacities in which people attended; and

(c) what topics were considered at each of the meetings.

(2) This order has immediate effect with the first statement for 2016-17 additional estimates covering all meetings from the date of commencement of this order to 7 days prior to additional estimates.

(3) In this order:

(a) "Commonwealth Department or Agency" means a Commonwealth entity, other than the Parliamentary Departments and the Office of the Official Secretary of the Governor-General, within the meaning of the Public Governance, Performance and Accountability Act 2013;

(b) "former minister" means a person who is no longer a member of the Australian Parliament and who has been a minister in the 18 months prior to the estimates hearing at which the statement is due.

(4) If the Senate is not sitting when a statement is ready for presentation, the statement is to be presented to the President under standing order 166.

(5) This order is of continuing effect.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) last year, the Fair Work Ombudsman found evidence of exploitation of 20 per cent of workers on the 457 visa,

(ii) the problems with the 457 visa scheme result from weak regulation and exploitative employers,

(iii) exploitation of foreign workers also increases exploitation of Australian workers, and

(iv) promoting division between workers based on ethnicity and nationality is a common tactic used by conservatives to distract from exploitation by employers; and

(b) calls on:
(i) the Government to reform migrant worker visa schemes to prevent employer exploitation of all workers, and
(ii) all parties to cease promoting division between foreign and Australian workers.

**Senator Gallagher** to move:

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

The regulatory framework for the protection of consumers, including small businesses, in the banking and financial services sector, with particular reference to:

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

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

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

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

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

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

(g) options to support the prioritisation of consumer protection and associated practices within the sector; and

(h) any related matters.

**Senator Di Natale** to move:

That the Senate—

(a) notes that:
   (i) the election of Mr Donald Trump as President of the United States of America has raised concerns within the Australian community, including amongst Australia's foreign and defence policy experts, about the influence of the alliance with the United States on Australian foreign and defence policy,
   (ii) since Australia signed the ANZUS Treaty in 1951, Australia is the only country to have joined the United States in every major military intervention, including Korea, Vietnam, the Gulf War, Afghanistan and Iraq, and
   (iii) Australia's security and prosperity is inextricably linked to its own region, and we must strengthen our ties with our Asian neighbours; and

(b) urges the Australian Government to renegotiate the terms of the United States alliance and commit to an independent, non-aligned foreign policy.
Senator Rice to move:
That the Senate—
(a) notes that:
   (i) the funding reallocated by the Turnbull Government last week from the now defunct East West Link was directed almost entirely to roads in Victoria, despite the original $3 billion in funding being earmarked for public transport,
   (ii) the Turnbull Government is yet to commit funding to any major public transport projects in our urban centres, and
   (iii) investment in well-designed public transport infrastructure is essential to tackle congestion in effective, economic, equitable and less polluting ways; and
(b) calls on the Government to prioritise funding for public transport in our major urban centres, which boosts productivity and addresses car-dependence in our cities.

Senators Xenophon, Lambie, Kakoschke-Moore and Griff to move:
That the following matters be referred to the Economics References Committee for inquiry and report by 22 June 2017:
(a) the increase in the cost of home, strata and car insurance cover over the past decade in comparison to wage growth over the same period;
(b) competition in Australia's $28 billion home, strata and car insurance industries;
(c) transparency in Australia's home, strata and car insurance industries;
(d) the effect in other jurisdictions of independent home, strata and car insurance comparison services on insurance cover costs;
(e) the costs and benefits associated with the establishment of an independent home, strata and car insurance comparison service in Australia;
(f) legislative and other changes necessary to facilitate an independent home, strata and car insurance comparison service in Australia; and
(g) any related matters.

Senator Hanson-Young to move:
That the Senate calls on the Turnbull Government to commit to the Murray-Darling Basin Plan and delivering the 2,750 gigalitres of environmental water, and the additional 450 gigalitre top-up, that the science shows is the minimum necessary amount of water diversion required to keep the Murray River flowing and the South Australian agricultural sector and environment thriving.

Senators Siewert and Griff to move:
That the following matter be referred to the Community Affairs References Committee for inquiry and report by 21 March 2017:
Changes to the Aged Care Funding Instrument announced in the 2015-16 Mid-year Economic and Fiscal Outlook (MYEFO) and 2016-17 Budget, with particular reference to:
(a) the impact of these cuts on service delivery and the level of care that older Australians receive, including in regional and remote communities;
(b) the impact of these cuts on the sector including the sector's capacity to deliver complex health care, and the ongoing viability of the sector;
(c) the impact of these cuts on state and territory governments if health systems are required to provide more complex care as a result;
(d) the assumptions and data underlying projections by the Government;
(e) the consultation process with consumers, community groups and aged care service providers in relation to these changes; and

(f) any other related matters.

Senator Cameron: To move (contingent on the Fair Work (Registered Organisations) Amendment Bill 2014 being read a second time:

That so much of standing orders be suspended as would prevent Senator Cameron moving, in committee of the whole, amendments to the bill which amend the Commonwealth Electoral Act 1918 to provide for expenditure and donation disclosure reform within Part XX of that Act.

Senator Cameron: To move (contingent on any order for the further consideration of the Fair Work (Registered Organisations) Amendment Bill 2014, including consideration in committee of the whole, being called on:

That so much of standing orders be suspended as would prevent Senator Cameron moving, in committee of the whole, amendments to the bill which amend the Commonwealth Electoral Act 1918 to provide for expenditure and donation disclosure reform within Part XX of that Act.

Senator Kakoschke-Moore: At the request of Senator Xenophon and pursuant to standing order 78, gave notice of Senator Xenophon’s intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion no. 2 standing in his name for today for the disallowance of the Civil Aviation Legislation Amendment (Part 101) Regulation 2016, made under the Civil Aviation Act 1988 and the Transport Safety Investigation Act 2003.

BUSINESS

Leave of Absence

Senator BUSHBY (Tasmania—Chief Government Whip in the Senate) (16:19): by leave—I move:

That leave of absence be granted to the following senators for personal reasons:

(a) Senator Payne from 21 November to 24 November 2016; and

(b) Senator Smith for today.

Question agreed to.

NOTICES

Postponement

The Clerk: Postponement notifications have been lodged in respect of the following:

Business of the Senate notice of motion no. 3 standing in the names of Senators Xenophon, Griff and Kakoschke-Moore for today, proposing a reference to the Standing Committee of Privileges, postponed till 24 November 2016.
COMMITTEES
Community Affairs Legislation Committee
Education and Employment Legislation Committee

Reporting Date

The Clerk: Notifications of extensions of time for committees to report have been lodged in respect of the following:

Community Affairs Legislation Committee—Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016 [Provisions], extended to 23 November 2016.


The DEPUTY PRESIDENT (16:20): I remind senators that the question may be put on any proposal at the request of any senator.

MOTIONS

Trans-Pacific Partnership Agreement

Senator HANSON-YOUNG (South Australia) (16:21): I move:

That the Senate calls on the Turnbull Government to abandon moves to implement the Trans-Pacific Partnership Agreement, given that Mr Donald Trump has been elected President of the United States of America.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:21): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McGrath: In accordance with our standard treaty-making processes, the Joint Standing Committee on Treaties is currently considering the Trans-Pacific Partnership Agreement and will report in due course. Following the conclusion of that process and considering ratification processes in other Trans-Pacific Partnership countries, the government will then consider advancing implementing legislation.

Senator Gallagher (Australian Capital Territory—Manager of Opposition Business in the Senate) (16:22): Labor cannot support this motion in its present form. As the motion stands, it is incomplete. It calls on the government to drop out of negotiations on the Trans-Pacific Partnership Trade Agreement because Donald Trump is President-Elect of the United States. Labor believes that the motion should read 'calls on the Turnbull government to abandon current plans to implement the Trans-Pacific Partnership Agreement given that the TPP cannot come into force without ratification by the United States, which now appears extremely unlikely as the Obama Administration has indicated that it will not come before the Congress during this presidential term, and President-Elect Donald Trump has indicated that he does not support the agreement'.

That is a motion that Labor could have supported. The wording would have made it clear that the TPP is unlikely to be ratified by the United States, and if the United States has not ratified this agreement there can be no TPP. Indeed, we have already called upon the government to suspend ratification plans until there is clarity about the United States'
intention. We contacted Senator Hanson-Young to propose rewording the motion. However, we could not reach an agreement and therefore are unable to support this one.

The DEPUTY PRESIDENT: Thank you, and I note that I should have sought for leave to be given for you to speak for one minute.

Senator HANSON-YOUNG (South Australia) (16:23): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator HANSON-YOUNG: This motion is as simple as it can possibly be. The Trans-Pacific Partnership is a bad deal for Australia, and we know that President-Elect Trump does not want to pursue it. We should get out now. We should stop wasting government resources, agency resources. I understand that the Labor Party is uncomfortable about having a position on this.

Senator McGrath: You are debating it. You are not supposed to be debating it.

Senator HANSON-YOUNG: Well, there are times in this place when you have to make a decision. Today would have been an opportunity to send a clear message that Australia and this Senate does not support continuing with the TPP.

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

The Senate divided. [16:29]

(The Deputy President—Senator Lines)

Ayes .................... 15
Noes .................... 40
Majority................. 25

AYES

Burston, B
Griff, S
Hanson-Young, SC
Lambie, J
Rhiannon, L
Roberts, M
Waters, LJ
Xenophon, N

Di Natale, R
Hanson, P
Kakoschke-Moore, S
McKim, NJ
Rice, J
Siewert, R (teller)
Whish-Wilson, PS

NOES

Abetz, E
Bilyk, CL
Bushby, DC
Canavan, MJ
Chisholm, A
Dastyari, S
Duniam, J
Fawcett, DJ
Fifield, MP
Gallagher, KR
Hume, J

Back, CJ
Birmingham, SJ
Cameron, DN
Carr, KJ
Cormann, M
Dodson, P
Farrell, D
Fierravanti-Wells, C
Gallacher, AM
Hinch, D
Ketter, CR

CHAMBER
I move:

(a) notes that:

(i) the Fair Work Commission found that Ms Kimberley Kitching provided untruthful and unreliable evidence in Health Services Union—Victoria No. 1 Branch [2015] FWC 3359, and it also found that her conduct strikes at the heart of the integrity of the right of entry permit system; and

(ii) this decision was upheld on appeal by three members; and

(b) calls on anyone appearing before the Fair Work Commission to provide reliable and truthful evidence.

I seek leave to make a short statement.

Leave is granted for one minute.

Senator ABETZ: Senator Abetz really should know better: general business is not the forum for personal attacks on fellow senators. It is disappointing that an experienced senator like Senator Abetz should resort to these tactics. As the saying goes, people in glass houses should not throw stones. It would be remarkably easy for our side to flood the Notice Paper with serious questions regarding senators on the other side of the table. This government and its ranks could provide unlimited fodder if we chose to launch personal attacks. I am sure that Senator Sinodinos, Senator Abetz and others could think of plenty such attacks. What I would like to do instead is to say that anyone appearing before the Fair Work Commission should provide reliable and truthful evidence. In her first speech in this place Senator Kitching outlined her commitment to represent— (Time expired)

Senator ABETZ (Tasmania) (16:34): I seek leave to make a one-minute statement.

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

Senator ABETZ: This motion in no way is a personal attack. It is a statement of fact that the Fair Work Commission—indeed four separate commissioners—found that the person that Mr Shorten parachuted into this place had provided untruthful and unreliable evidence to the Fair Work Commission. All this motion does is to call on anyone appearing before the Fair Work Commission to provide reliable and truthful evidence. I would have thought that should have been a unity ticket for all of us. The fact that it is not from the point of view of the
Australian Labor Party tells us everything we need to know as to why they are so vehemently opposed to the Registered Organisations Commission bill. The thought of somebody actually giving truthful and reliable evidence is abhorrent to the Labor Party. That is why we moved— (Time expired)

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

The Senate divided. [16:39]

(The Deputy President—Senator Lines)

Ayes .................36
Noes .................21
Majority.............15

AYES
Abetz, E
Birmingham, SJ
Bushby, DC (teller)
Cash, MC
Di Natale, R
Fawcett, DJ
Fifield, MP
Hanson-Young, SC
Hume, J
McGrath, J
McKim, NJ
O’Sullivan, B
Reynolds, L
Rice, J
Ruston, A
Scullion, NG
Sinodinos, A
Whish-Wilson, PS

Back, CJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Hanson, P
Hinch, D
Macdonald, ID
McKenzie, B
Nash, F
Paterson, J
Rhiannon, L
Roberts, M
Ryan, SM
Siewert, R
Waters, LJ
Williams, JR

NOES
Bilyk, CL
Carr, KJ
Dastyari, S
Farrell, D
Gallagher, KR
Lines, S
McAllister, J
O’Neill, DM
Pratt, LC
Urquhart, AE (teller)
Wong, P

Cameron, DN
Collins, JMA
Dodson, P
Gallacher, AM
Ketter, CR
Marshall, GM
Moore, CM
Polley, H
Sterle, G
Watt, M

PAIRS
Bernardi, C
Brandis, GH
Payne, MA
Singh, LM
Chisholm, A
Kitching, K

CHAMBER
Rearrangement

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:42): At the request of the Minister for Communications, Senator Fifield, I move:

That—
(a) so much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect;
(b) on Monday, 21 November 2016, the business of the Senate notice of motion proposing the disallowance of the Customs (Prohibited Imports) Amendment (Shotguns and Shotgun Magazines) Regulation 2016, standing in the name of Senator Leyonhjelm for that day, be called on no later than 6.10 pm; and
(c) if consideration of the motion listed in paragraph (b) is not concluded at 6.25 pm, the questions on the unresolved motion shall then be put.

Senator Gallagher (Australian Capital Territory—Manager of Opposition Business in the Senate) (16:43): I seek leave to move an amendment to the motion.

The Deputy President: Is leave granted? Has the amendment been circulated?

Senator Gallagher: I have it here if it needs to be circulated, and I had mentioned this to the government previously. I specifically spoke to Senator Fifield about this.

My amendment is very straightforward. It simply leaves out '6.25 pm' and substitutes '8.30 pm' in paragraph (c). It allows for debate on the disallowance motion to continue to 8.30 pm. We understand that this disallowance motion needs to be dealt with tonight. We do not want to delay it unreasonably, but there are a number of people that would like to speak to this disallowance motion, and, if this disallowance comes on at about six o'clock, we need some time to debate it.

Leave granted.

Senator Gallagher: I move the following amendment:

Paragraph (c), omit "6.25pm"; substitute "8.30pm".

It is just to allow time for some more speakers if this does not come on before six o'clock tonight.

Senator McGrath: by leave—I want to put a couple of things on the record in terms of the amendment. We had not seen the amendment—it had been verbally advised—so that is why we raised those concerns. We will be opposing Senator Gallagher's amendment.

The Deputy President: The question is that the amendment moved by Senator Gallagher be agreed to.

The Senate divided. [16:50]

(The Deputy President—Senator Lines)

Ayes ..................... 37
Noes .................. 23
Majority ............. 14

AYES

Burston, B                  Cameron, DN
Carr, KJ                   Chisholm, A
Collins, JMA                Dastyari, S
Di Natale, R               Dodson, P
Farrell, D                 Gallacher, AM
Gallagher, KR              Griff, S
Hanson, P                  Hanson-Young, SC
Hinch, D                   Kakoschke-Moore, S
Ketter, CR                 Lambie, J
Leyonhjelm, DE             Marshall, GM
McAllister, J              McKim, NJ
Moore, CM                  O'Neill, DM
Polley, H                  Pratt, LC
Rhiamon, L                 Rice, J
Roberts, M                 Siewert, R
Sterle, G                  Urquhart, AE (teller)
Waters, LJ                 Watt, M
Whish-Wilson, PS           Wong, P
Xenophon, N

NOES

Abetz, E                   Back, CJ
Birmingham, SJ             Bushby, DC (teller)
Canavan, MJ                Cash, MC
Cormann, M                 Duniam, J
Fawcett, DJ                Ferravanti-Wells, C
Fifield, MP                Hume, J
Macdonald, ID              McGrath, J
McKenzie, B                Nash, F
O'Sullivan, B              Paterson, J
Reynolds, L                Ryan, SM
Scullion, NG               Sinodinos, A
Williams, JR

PAIRS

Bilyk, CL                  Ruston, A
Brown, CL                  Payne, MA
Kitching, K                Bernardi, C
Ludlam, S                  Seselja, Z
McCarthy, M                Smith, D
Singh, LM                  Brandis, GH

Question agreed to.

Senator LINES (Western Australia—Deputy President and Chair of Committees) (16:52):
The question is that the motion, as amended, be agreed to.
Question agreed to.
DOCUMENTS
Australian Defence Force
Order for the Production of Documents

Senator LAMBIE (Tasmania) (16:52): I move:
That there be laid on the table by the Minister for Defence, by no later than 3.30 pm on 28 November 2016, all recordings of the Australian Defence Force’s resistance to interrogation training programs.

Question agreed to.

COMMITTEES
Community Affairs References Committee
Reference

Senator GRIFF (South Australia) (16:53): I seek leave to amend business of the Senate notice of motion No. 4 standing in my name and in the name of Senator Xenophon for today proposing a reference to the Senate Community Affairs References Committee relating to the Prostheses List framework.

Leave granted.

Senator GRIFF: I, and also on behalf of Senator Xenophon, move the motion as amended:
That the following matters be referred to the Community Affairs References Committee for inquiry and report by 30 March 2017:

- Price regulation associated with the Prostheses List Framework, with particular reference to:
  - (a) the operation of relevant legislative and regulatory instruments;
  - (b) opportunities for creating a more competitive basis for the purchase and reimbursement of prostheses;
  - (c) the role and function of the Prostheses List Advisory Committee and its subcommittees;
  - (d) the cost of medical devices and prostheses for privately insured patients versus public hospital patients and patients in other countries;
  - (e) the impact the current Prostheses List Framework has on the affordability of private health insurance in Australia;
  - (f) the benefits of reforming the reference pricing system with Australian and international benchmarks;
  - (g) the benefits of any other pricing mechanism arrangements, including but not limited to those adopted by the Pharmaceutical Benefits Scheme, such as:
    - (i) mandatory price disclosure,
    - (ii) value-based pricing, and
    - (iii) reference pricing;
  - (h) price data and analytics to reveal the extent of, and where costs are being generated within, the supply chain, with a particular focus on the device categories of cardiac, Intra Ocular Lens Systems, hips, knees, spine and trauma;
  - (i) any interactions between Government decision-making and device manufacturers or stakeholders and their lobbyists;
(j) any implications for prostheses recipients of the National Disability Insurance Scheme transition period; and

(k) other related matters.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (16:54): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator McGrath: The government has announced reforms to the prostheses list that aim to ease pressure on private health insurance premiums in 2017. These reforms include reducing the cost of certain devices on the list and reconstituting the Prostheses List Advisory Committee with specific instructions to work on developing a more robust and transparent price disclosure model, amongst other things. These reforms are based on the recommendations of an industry working group that comprised representatives of consumers, device manufacturers, private hospitals, insurers and clinicians. The proposed Senate inquiry would duplicate work that has already been undertaken by the working group and may risk delaying much-needed reform.

The DEPUTY PRESIDENT: The question is that the motion as put by Senator Griff be agreed to.

The Senate divided. [16:56]

(The Deputy President—Senator Lines)

Ayes ....................38
Noes ....................22
Majority ...............16

AYES

Bilyk, CL
Cameron, DN
Chisholm, A
Dastyari, S
Dodson, P
Gallacher, AM
Griff, S
Hanson-Young, SC
Kakoschke-Moore, S
Lambie, J
Marshall, GM
McKim, NJ
O’Neill, DM
Pratt, LC
Rice, J
Siewert, R
Urquhart, AE (teller)
Watt, M
Wong, P

Burston, B
Carr, KJ
Collins, JMA
Dj Natale, R
Farrell, D
Gallagher, KR
Hanson, P
Hinch, D
Ketter, CR
Leyonhjelm, DE
McAllister, J
Moore, CM
Polley, H
Rhiannon, L
Roberts, M
Sterle, G
Waters, LJ
Whish-Wilson, PS
Xenophon, N

NOES

Abetz, E
Birmingham, SJ

Back, CJ
Brandis, GH
Question agreed to.

NOTICES
Withdrawal

Senator BURSTON (New South Wales) (16:58): I withdraw general business notice of motion No. 103 standing in my name.

MATTERS OF PUBLIC IMPORTANCE

Climate Change

The DEPUTY PRESIDENT (16:58): I inform the Senate that, at 8.30 am today, three senators each submitted letters in accordance with standing order 75. Senator Siewert proposed a matter of urgency, and Senators Gallagher and Roberts proposed a matter of public importance for discussion. The question of which proposal would be submitted to the Senate was determined by lot. As a result, I inform the Senate that the following letter has been received from Senator Roberts, namely:

The policy position of the Australian Government towards the disputed theory of global warming, with the election of Mr Trump as President, who is well known to reject exaggerated claims of anthropogenic climate change.

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 ask the clerks to set the clock accordingly.

Senator ROBERTS (Queensland) (17:00): I rise as a servant to the people of Queensland and Australia. I am very proud to represent my home state and stand up for everyday Australians who had to endure years of green guilt. The debate on this matter of public
importance is in the context of the statements made by Senator the Hon. George Brandis QC earlier today during question time, when he stated:

At the heart of our national interest is our alliance with the United States …

I note that the ALP and the Greens have subsequently said that we need to abandon the TPP because of President-elect Trump's opposition. I say to my fellow Queenslanders that this historic debate in this chamber marks the beginning of a Western spring. Today begins the process by which we expose the truth of the green guilt elite—those who sit in this chamber and others who stand over Australians as if they were our lords and barons at birth, as if the red of this chamber were infused in their blood as a right. The world of the elites came crashing down when Donald J Trump was elected. They knew it last Wednesday, and that night they collectively wet their beds. Mr Trump has previously called the alleged human-caused climate change catastrophe a hoax, and has thus vowed to cancel the USA's participation in the Paris Agreement, as well as ending President Obama's war on coal by removing a number of climate policies and significantly downsizing the Environmental Protection Agency.

One Nation applauds President-elect Trump's highly moral and courageous position, yet many in this parliament still want to recklessly plough ahead with economy-killing climate policies such as ratifying the Clayton's Paris Agreement, in stark contrast to the plans of President-elect Trump. If the honourable Prime Minister would like to reconsider his government's stance, then my office team is in a strong position to assist, given, firstly, the presence of our team's economic policy adviser and former Trump campaign economic policy adviser, Darren Brady Nelson, and our growing relationships with senior members of the Trump presidential team like Myron Ebell, who will reportedly lead the EPA, and David Malpass, who is under consideration to lead the Treasury. We need to use every resource at our disposal if we are to extricate ourselves from reprehensible accords such as the Paris Agreement.

It is important at this juncture to highlight that the Paris Agreement, like all Australian federal, state and local climate policies over the past few decades, was not subject to a proper and independent cost-benefit analysis for the benefit of the Australian people. Who do they think they are, these people passing such policies? A Paris Agreement cost-benefit analysis is long overdue and preferably should be done by the highly credible Productivity Commission. Any such cost-benefit analysis will need to include at least two scenarios: one based on the evidence-light pseudoscience of the climate alarmists, such as the minority within the CSIRO, the Bureau of Meteorology and the UN along with their related calls for massive government control, and, secondly, an alternative based on the evidence-heavy science of the climate realists. The National Interest Analysis for the Paris Agreement states:

The Office of Best Practice Regulation confirms that a regulation impact statement is not required for the ratification of the Paris Agreement.

This is outrageous, given that the website of the Department of Foreign Affairs and Trade says:

Treaties which affect business or restrict competition are also required to be tabled with a Regulation Impact Statement (RIS).

Such a study often includes cost-benefit analysis, as it should and must. My recent submission to DFAT on the Paris Agreement emphasised the crucial need for cost-benefit analysis. One
of the reasons was that cost-benefit analysis most explicitly recognises that human wants are infinite, and natural resources are finite. Decisions have to be made between alternative government actions that compete for such resources. There are always choices to be made, even if the choice is to do nothing.

It is also important that I draw the Senate's attention to the wealth of experienced people President-elect Trump has gathered around him to dismantle the elites running the global climate agenda. The potential future head of the EPA, Myron Ebell, is currently the director of the Centre for Energy and Environment at the Competitive Enterprise Institute. Sometimes called a 'climate denier in chief', he has called for abolition of the EPA and wants to scrap the Paris Agreement, a deal Trump has vowed to withdraw from. The potential future head of Treasury, David Malpass, is currently the founder and president of Encima Global, an economic research and consulting firm based in New York City. He served as Deputy Assistant Treasury Secretary under President Ronald Reagan and Deputy Assistant Secretary of State under President George W Bush. As may be recalled, Pauline Hanson's One Nation party took to the last federal election a comprehensive environment policy. To quote from it:

"Climate change has and will continue to be used as a political agenda by politicians and self interest groups or individuals for their own gain. We cannot allow scare mongering by people such as Tim Flannery, who make outlandish statements and are not held accountable. Climate change should not be about making money for a lot of people and giving scientists money. Let's know the facts and scientific evidence to make a well informed decision as to how best to look after our environment."

"... ..."

Our solution is comprehensive because core problems cannot be solved by ad hoc, one-off party politics. That failed Liberal-Labor-National approach, combined with Greens grandstanding, is causing Australia's deterioration.

To tap into Australia's wealth and to share it with all Australians we need to get to the root causes, the core problems and address them comprehensively. We need to involve people across Australia in developing solutions to restore Australia's productive heartland and wealth for the benefit of all.

"... ..."

Instead of so-called 'Alternative Energies' that are really 'alternatives to energy'—as South Australia shows—

we will work to reduce energy prices and bring back dependability and reliability through environmentally responsible, energies. Low cost energy enables efficiency and productivity that generate wealth to protect the environment.

For the pleasure of the Senate I highlight the following summaries provided on the environmental policies of the Trump administration. President-elect Trump, who has called the alleged human-caused climate change catastrophe a hoax, vowed to cancel the United States' participation in the Paris Agreement. Mr Trump has also committed to scrapping the Clean Power Plan, the Obama administration's signature effort to reduce production of carbon dioxide with no scientific benefit or justification. Mr Trump has said he will review and possibly reverse the EPA's determination that carbon dioxide is a pollutant endangering public and environmental health. Reversing that endangerment finding would end the legal justification for a range of climate policies. In the process it would end radical environmental activists, who are supported by American billionaires such as George Soros, and their ability to use the courts to impose climate policies on an unwilling public whose elected
representatives have repeatedly rejected climate policies. Who do they think they are? These people are funding activists destroying Australian industry and jobs, and they are closely connected to the Hillary Clinton camp and President Obama's advisers. Who do they think they are, interfering in our country and our state and destroying our industry and our jobs?

Before the election Mr Trump said he would reverse Obama administration rules imposing undue burdens on businesses. In particular, Mr Trump said he would cut the EPA's budget dramatically, virtually reducing it to an advisory agency, and review all EPA regulations, eliminating many of them, because 'overregulation presents one of the greatest barriers to entry into markets and one of the greatest costs to businesses that are trying to stay competitive.' Hear, hear, Mr Trump!

Mr Trump says he wants to open up more federal lands to oil and gas drilling and eliminate regulations that have contributed to the decline of his coal industry. I put it directly to the chamber: many here joined the conga line behind President Obama when his policies suited them and said we had to follow our ally's lead. As Senator Brandis said this morning, our most important strategic alliance is with the United States. If it was good enough for some here to use the US when it suited them, then it is good enough now for us to follow the Trump administration. Australia's prosperity and the prosperity of the world is now reliant on our country withdrawing from the great global warming swindle. Future generations will judge us poorly if we do not take action now to stop our deindustrialisation. For their sake, let's trump control with freedom.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (17:10): Mr Acting Deputy President Back, I know you are a well-educated man, from the Christian Brothers many years ago—probably before my day—

The ACTING DEPUTY PRESIDENT (Senator Back): Well before!

Senator WILLIAMS: Imagine this: we put the most expensive carbon tax on industries here in Australia. I want to draw attention to the cement industry. In Australia we produce 10 million tonnes of cement a year. We also import two million tonnes, mainly from China. When we produce one tonne of cement here, we produce 0.8 of a tonne of CO2. So the 10 million tonnes produces eight million tonnes of CO2. Under the previous Labor-Greens-Independent government, when we were told that we were never going to get a carbon tax—'not under the government I lead' as former Prime Minister Julia Gillard said—of course she came under pressure from not only the Greens but Independents like Tony Windsor, who demanded a multiparty climate change committee, and along came the most expensive carbon tax in the world. Even though the cement industry had 95 per cent reduction of the carbon tax, it still cost them an enormous amount of money. In China they produce one billion tonnes of cement a year, compared to our 10 million tonnes. When they produce a tonne of cement in China, they produce, on average, 1.1 tonnes of CO2. Ours is 0.8 of a tonne of CO2; theirs is 1.1. So if we produce those ten million tonnes in China instead of Australia, there would be 11 million tonnes of CO2 produced instead of eight million tonnes.

What was the effect of the carbon tax? Shutting down the cement industry and putting it under pressure, when we already had Kandos and big factories closed recently. Shift the manufacture overseas and produce more CO2—to me that is not very smart at all. That was the effect of the most expensive carbon tax in the world—the carbon tax we were never, ever going to have. I am sure you remember that, Mr Acting Deputy President.
This is where we have to be very careful. I have not travelled the world much, though I have been to Thailand many times for Anzac Day. Carbon dioxide is actually odourless, colourless and non-toxic. You cannot see it. When you get to Thailand, you never see the sun or the stars, from the pollution—the carbon monoxide, the smoke, the lead, the sulphur—all those poisonous gases that are very harmful to mankind and to animals on this planet.

Senator Whish-Wilson: And the atmosphere.

Senator WILLIAMS: And the atmosphere. But what do we do about reducing those poisonous gases? We will concentrate on carbon dioxide—the odourless, colourless, non-toxic gas which is essential to all life on earth—and we do not even concentrate on the poisonous gases. Twenty years or so ago, on a calm, fine spring morning, you could see the smog over Sydney—the pollution and smoke mixed. You do not see it now. Unleaded petrol has helped in some way. There are huge lead deposits under the Sydney Harbour Bridge, as scientists have discovered. I find it amazing that we concentrate on carbon dioxide and not poisonous gases. I wonder why those poisonous gases are okay? I see how on TV in China they have a meter measuring the dangers of breathing the air, and it is blowing through the red level. That is what they are breathing. The carbon dioxide is not hurting them, but those poisonous gases are. What are they doing to address it? It is a big argument.

Never forget that Australia produces roughly 1.3 to 1.4 per cent of the world's CO2. But we are doing our bit. Instead of spending $10 billion a year tax, which the previous Labor-Greens-Independents government placed on us—$9 billion and growing, going up and up all the time—we are spending $2.5 billion over four years with the Emissions Reduction Fund. That is about one quarter the cost to the Australian people of the carbon tax.

I want to make another point here. It is one of my pet hates. You see so-called environmentalists lock up national parks—just lock up the country and leave it. That has been pushed strongly through the National Parks Association. They have shut up the red gum forests in southern New South Wales now and all this country in New South Wales. They lock the country up, then the rain falls and of course the grass and vegetation grow. There is no grazing, very little hazard reduction burning and very little management, and along comes the lightning and along comes the bushfire. The Black Saturday bushfires in Victoria released an estimated 90 million tonnes of CO2. The one bloke who cleared the vegetation around his house—some 200 metres—was fined by the local council for clearing around his house, but his was the only house in the area that survived the fire. That is because he reduced the fuel levels on the ground. What a criminal he was! He was fined for doing the right thing and protecting his house. The insurance company should have paid his fine—they did not have to rebuild his house. I find this whole debate about the environment so ironic when it is all right to lock up country and not manage it.

In Tasmania, where Senator Whish-Wilson is from, 52 per cent of the six million hectares of that state is locked up. It is like you having a farm, Acting Deputy President Back, of 10,000 acres, locking up half and wondering why you cannot make a living on your farm! Because you have half of it locked up. That is in the national parks, wilderness areas and so on. Of course, they will get their share of fires—especially this year. One of the big concerns this year, after the huge wet winter and spring we have had, is South Australia. I see Senator Farrell from South Australia in the chamber. They will face a huge future bushfire danger. I hope that people do the right thing and that those who do the wrong thing are charged and
punished severely if they are out lighting fires, because we are going to see more risk this year. Of course, bushfires put more CO2 into the air as well, plus the huge damage they do to stockfeed and, sadly, in many cases, the loss of life.

One thing I have pushed strongly for is soil carbon. When my wife, Nancy, and I bought our farm a few years ago the first we did was get the bulldozer in—the Greens reacted in negative way once before when I said this. We rebuilt the contour banks to prevent soil erosion. Our greatest asset is our topsoil. It has to grow food for thousands of years to come, for generations to come, yet we seem to pay little attention to our soil. Increasing carbon in the soil can be done by simply balancing the magnesium and calcium levels; it usually requires spreading lime and letting Mother Nature do its job. If we were to increase our soil carbon by three per cent over the 450 million hectares of agricultural land in Australia, that would neutralise our CO2 emissions for 100 years—zero. This is what we have to do: concentrate on looking after our land. The more carbon in your soil, the better your soil is. Healthy soil grows healthy food and you have healthy people. This is all a health issue.

Emissions trading schemes are schemes where wealthy people sell fresh air to wealthy people and poor people pay for it. It is as simple as that. That is what emissions trading schemes are. That is what the previous government wanted to do—have the carbon tax and then go to an emissions trading scheme. That puts costs onto businesses and puts costs onto households. We saw the cost of living going up and people paying more for electricity in their households and in their business. Of course, then they had less money to spend down at the local shops and the shops and businesses were doing it tougher, slowing the economy. Of course, lack of infrastructure is an issue. We only have to go to the South Australia's recent history—the state of darkness—to know how much money they spent on infrastructure there, even with the carbon tax put in place and the money they collected.

So I think we need a realistic attitude here. Yes, we are doing our bit—we are doing our bit at a lot lower cost than the previous government. We will meet our targets, and that is for sure. I think we can do a lot more for our environment. What is this whole parliament about, to me? Government is about protecting Australia for the future, for future generations, securing our country, whether it be protecting our environment, protecting our finances, protecting our borders from people coming here, protecting our Defence Force and keeping us safe.

Senator Roberts mentioned Mr Trump. It is amazing how critical so many Australians are of Mr Trump. I ask you to cast your memories back to the Second World War, the Battle of Midway and the Battle of the Coral Sea. That was a turning point in the Second World War. Who was there? The Americans. Do not ever forget that.

Senator Whish-Wilson interjecting—

Senator WILLIAMS: Without the Americans in the Second World War, we would not have a parliament of democracy here today, Senator Whish-Wilson; we would be under a Japanese dictatorship. You should remember that when you are throwing criticisms at the Americans. They have been great allies for that long. Our side of this parliament will do our utmost to maintain that strong friendship and relationship with the Americans. That is what you should concentrate on—the fact of things. It is all right to criticise who they elected over there. You may not like their democracy and who they have elected, but the fact is that we
owe America an enormous amount for the democracy we enjoy in this place. Sometimes you might think about that before you go shooting your mouth off, Senator Whish-Wilson.

Senator MOORE (Queensland) (17:20): I will put on record straightaway that I never was taught by the Christian Brothers, though sometimes I think it would be a useful thing to have happened! We have the matter of public importance before us, and certainly the element of it that talks about the disputed theory of climate science is one that we know is true. There is a disputed theory of climate science. We only have to listen to some of the contributions as we have just heard from Senator Williams. There will continue to be dispute around the issue of climate science, as we have heard many times in this place. Those of us who were here during previous parliaments when there were moves to put in place measures around carbon emissions know just how strong this dispute continues to be not only in this parliament but in others. But I believe the level of dispute is lowering. I truly believe that, as a result of years of discussion in this space, there is more understanding more willingness to listen and more acceptance that there are indeed threats to our environment as a result of climate change.

We had the Paris Agreement signed only in the last year. As you would know, Acting Deputy President Back, that was a considerable move forward in terms of international discussion on the issue. Only a few years ago, we had the Copenhagen conference, where again countries from across the world gathered to talk about issues of the science, issues of the threat and issues of the future. At that stage, there was no agreement by the nations. There was lots of talk and there was concern, but no single agreement was signed at Copenhagen. There was a change by the time the Paris agreement was signed by over 190 countries who agreed that there needed to be change and needed to be a response to the real understanding that there are threats to our environment. And an environment is not owned by one state, by one nation or by one region. Our environment is such a vibrant natural feature that it is owned by the world. And the world stood up at the Paris agreement and said there needed to be change. One of the key areas that pushed for change and has continued to be involved in this discussion over many years, never moving their anger, never moving their concern, is the region of the Pacific, our closest neighbours. If you remember, there was a great deal of media around Copenhagen, and again in Paris, about small nation states from Oceania who went to talk about their reality to the other nations of the world.

I hope many people in this place do have the opportunity to talk with the people from Micah, who are visiting the parliament today. At their open meeting outside the parliament— their parliament—this morning, and in their meetings with many of us, they said, of course, that we can have discussions about climate change. Of course they know that parliamentarians here will be part of that discussion. But for them it is not a discussion. For them it is their livelihood. For them it is their future. That was the message that the people of Oceania as a group—Tonga, Samoa, Kiribati, Tuvalu—took to the international conferences. And they turned to us, their nearest neighbour, and asked us to support them in their struggle for the future.

The people of Oceania, the people of the Pacific, are not just standing back and waiting for other people to take action; they meet regularly and talk about the threat to their nations. At the recent Pacific Islands Forum, a number of important issues were passed. Climate was the No. 1 issue at the Pacific Islands Forum. The communique from the Pacific Islands Forum, which came out on 21 November this year, said: 'This week, as the entire world gazed at the
super moon from the comfort of their homes, some Pacific islanders evacuated their homes temporarily due to the result of tidal surge. Let there be no doubt about the real impacts of climate change. Climate change remains the single greatest threat to the livelihood, security and wellbeing of people of the Pacific.‘ They went on to talk to their neighbours: 'We seek your support in accelerating the implementation of commitments made in the Paris agreement at the COP 22 meetings this week. The Pacific Island Forum members have endorsed the framework for resilient development in the Pacific to ensure coordinated action on a number of the key issues related to climate change and disaster risk management.'

I feel sure that not every single person in the Pacific actually rates climate change as the No. 1 issue for their region. I do not believe that every single leader in the Pacific would say that they absolutely believe in every element of the climate change science. I understand that there continues to be some dispute. But what has been put on record is that, when the leaders of the Pacific nations gathered together, they identified together that they did not have a dispute about the climate change science. They did not have a dispute about the theories around the need to change the way we operate in our environment, in our nation and in our region. They were clear that they understood that there had to be changes made. And the reason they understood that so clearly was exactly what the impact on their part of the world was. We can sometimes feel quite protected and safe. But when you have in your immediate sight the impact of the loss of your land, a change in your water safety and the need to move location because you can no longer live where your parents and grandparents were able to live, that makes it very important and very real to you.

Only a couple of months ago Caritas Australia, with their Pacific groups, put out a document that was circulated to all parliamentarians in this place. It was called Hungry for Justice and Thirsty for Change. It was a state of the environment report for Oceania in 2016. This particular document hears from people from across the Pacific nations talking about what has happened to their environment over recent years. In this particular document a very strong argument was put to us about the immediate impact. There were statements from Tonga, which is an extraordinarily beautiful country—as Senator Fierravanti-Wells knows. And we had a young man from Tonga speak with us this morning. He was from Micah. He was talking about the connection with country and also about the need for strong action to be taken to look at the science and make sure people across the region understood the severity of the situation—in particular, the safety of water in that area, water salinity, coastal erosion and flooding, and the impact on communities having to leave their traditional lands and no longer able to plant the crops that they had always been able to plant.

I do not believe that this discussion will end the debate around climate change. I do not believe it will end the dispute about the science. What I do know is that we will have the opportunity to listen to people from our region, respond to their needs and make the discussions very active and very real so that we understand the impact and what our role will be as one of the 197 countries who have signed up to the Paris agreement. I have not read the communiqué from Marrakech—I am sure it is around—from the recent meeting that Julie Bishop attended representing Australia. But I know that there were further commitments made there and a re-enforcement of Australia's position.

Senator Roberts, I know that, as you have been a regular correspondent over many years, we will continue to have this discussion. I understand that we have the opportunity to listen to

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the science and to challenge it—of course we must challenge it—but, having listened to people from the Oceania region, we cannot turn our back on their needs. We need to work together to ensure that this science, whilst disputed, continues to be understood.

Senator McKIM (Tasmania) (17:30): Senator Roberts, I could not possibly tell you any more about climate change than the CSIRO, NASA, the Intergovernmental Panel on Climate Change, the National Oceanic and Atmospheric Administration, the Met Office in the United Kingdom and the overwhelming majority of scientists around the world. I could not possibly school you any better than Professor Brian Cox did on Q&A or any better than Dr Gavin Schmidt and Dr Alan Finkel have recently done. I could not possibly school you as well as that. Do you know what? When you get the empirical evidence that you so consistently demand, what we get from you is conspiracy theories—pure, simple conspiracy theories.

Senator Roberts believes that Australia ceded its sovereignty to the United Nations 20 years ago. Senator Roberts believes that Australia—and, in fact, global finances—are controlled by the tight-knit international banking sector. I wonder who you think they are, Senator Roberts. I wonder who you mean by that. Presumably you think that NASA is trying to read your thoughts through the fillings in your teeth, that the chemtrails are impacting on your neural pathways or that maybe the lizard people are stealing your thoughts through the special implants in your brain that they put in while you were sleeping one night! It is interesting, because I found this tinfoil hat outside the Senate door that you usually come in through, Senator Roberts. I wonder: if the hat fits, would you like to wear it, Senator Roberts?

The DEPUTY PRESIDENT: May I remind all senators that props are not allowed in the Senate. May I further remind you, Senator McKim, that your address must be to the chair, not directly to other senators.

Senator McKIM: I was just trying to help Senator Roberts. I thought he might have dropped his hat. Anyway, regardless of whether Senator Roberts needs the tinfoil hat, I look forward to his next motion, perhaps questioning whether the moon landing actually took place or whether Tasmania is really an island! When you close your eyes, Senator Roberts, is it still there? Really, seriously, haven't we all got better things to do than debate the conspiracy theory laden rubbish that you bring into this place?

The real world—not the fantasy world that Senator Roberts lives in—is quite rightly moving to prevent global warming from getting worse even more rapidly. Quite rightly, many of us are doing that. Quite rightly, those moves will always be championed and advanced by the Australian Greens so that we do everything we can to bequeath to our children and our grandchildren the same crack at life that those of us lucky enough to live today have had.

Senator IAN MACDONALD (Queensland) (17:33): I congratulate Senator Roberts for bringing this matter before the chamber. It would be interesting to have a debate about something where you did not have the Greens sniggering and carrying on with their normal 'we know better than everyone else' thing. What now passes as debate from the Greens in this chamber seems to be them running around with tinfoil hats. This is a serious subject. You may not agree with the mover of the motion, but the debate should be treated with some seriousness rather than having the childish behaviour we see from the Greens political party—but that is nothing new.
I have dealt with Senator Roberts before he was Senator Roberts, when he was a constituent of mine in Queensland, and we have had some long discussions on this issue. I do not have the expertise and—I always make this clear—I do not have any scientific understanding or background. I have a commonsense approach to different things. But I do know that Australia emits less than 1.2 per cent of the world's carbon emissions. If carbon emissions are the cause of alleged global warming—I try to stay agnostic on that debate—then Australia's emissions of less than 1.2 per cent of the world's carbon emissions makes Australia a very small player. If remedial action has to be taken then Australia should play its part when everybody else plays their part. When the big emitters like China, America, Russia and the European Union get their emissions down to less than 1.2 per cent of the world's emissions then Australia should step up. What I say now is my own view. I do not necessarily speak for the government in this particular debate.

I had a visit earlier this afternoon from the Micah group. I was delighted to hear from Salama, a young lady from Kiribati who is worried about her island homeland going under water. I feel for her and I said to her that, if there is anything I can do to help, I will be happy to do it. I will speak to Julie Bishop about where our foreign aid goes and whether more can be diverted towards reconstruction and resilience in relation to the changing climate of the world. The changing climate of the world has been happening since mankind came to this earth. As I keep saying—everyone laughs at this—we were once covered in ice, so of course the climate changes. It always has. As I said to Salama, I do not want to understate this, but I know there are other Pacific Islands that have gone under the waves in the last couple of hundred years. It has happened in the Torres Strait and people have had to be moved of these islands. That has been happening. It is not a new happening.

People always say to me—my briefing notes even say so—that the number of days per year over 35 have increased in recent decades and there has been an increase in fire weather. I live in North Queensland and I have lived there for most of my life. People say to me, 'These cyclones are becoming more frequent and they're becoming intense.' So they tell me. Sorry, I have lived there. I have lived through 60 years of cyclones and I know what they are like. People say to me, 'This is the biggest cyclone we've ever had since 1920,' and 'The Brisbane floods were the biggest floods we've ever had because of climate change since 1928.' It is always since some other time. These things have been happening for a long time.

As I say, I have no scientific knowledge—I bow to those who do—and I think Senator Roberts might. I simply work on the basis that if this is the cause for the changing climate, then Australia, which emits less than 1.2 per cent, is doing far more than it needs to. I am pleased the government is involved. There is some money as a result of the Paris Agreement. As I understand it, there is a bit of money put aside, but it will be run by Australia and will come out of the foreign aid budget in any case. It will just be a question of where it is directed. I hope some of it might go to Kiribati to help that island, but as I said to Salama, I'm sorry to say this, but nothing Australia does and nothing the world does is going to make a long-term difference to islands like yours. I'm sorry, but somewhere into the future you will have to look at resettlement, as has happened in times gone past.' I repeat that when other countries who emit big amounts of carbon dioxide get down to Australia's level, then Australia should do more.
Notwithstanding that, I do support my government's approach in reducing emissions and reducing particulates going into the atmosphere. I am quite happy about that for reasons other than climate change. As a result of the good work the Turnbull government and, before that, the Abbot government have done, there are a number of initiatives that encourage Australians to look at alternatives to fossil fuel emissions. One of them is the Emissions Reduction Fund which, through using Australian carbon credit units, can mean that beef producers in Australia can get more productivity out of their herds. At the same time, through targeted feeding supplementation through improved feed quality and improved weaning rates, managing the herd age and installing fencing to control herd movements it has actually meant that these beef properties are run more productively, more efficiently and, therefore, more profitably. As a result of that, they increase the opportunities for employment. This is particularly important in northern Australia, where some of the very large beef cattle herds currently operate. The Meat and Livestock Australia analysis found that improved management activities for a herd of 10,000 animals on pastoral lands could generate annual productivity gains of $40,000 to $80,000. These returns are in addition to revenue from the sale of carbon credits. So there is an upside to some of these arrangements that have been made. I am pleased to say that farmers—probably more than the Greens political party and their supporters—understand how important climate change is, acknowledging that the world has always had climate change and that the climate of the world continually changes from what it was years ago.

I thank Senator Roberts for not only this motion but for a number of other things he has raised in the Senate. We are now able to have a debate on this subject without going on with the childish name-calling that we get from the Greens political party. I have made it clear to Senator Roberts privately and now publicly that I do not always necessarily agree with everything he says. I am not quite sure that this is a world bankers' conspiracy. I do not know anything about it, but I do not imagine that is right. But Senator Roberts does have some scientific background that most of the other senators who have participated in this debate simply do not have. Thank you, Senator Roberts, for raising it. Thank you for allowing us in this Senate now to have a rational debate about this. For years that I have been here, if you even suggested that you did not go along with the Greens' political correctness, followed by the Labor Party view that you had to have a carbon tax, you were an absolute pariah. It is this juvenile debate that the Greens and the Labor Party went on with over the last 10 or so years that I am pleased has now come to an end. You can have a rational debate with, it appears, in Senator Roberts' case, someone who has some scientific understanding of the issues for and against it. Thanks very much for bringing this up for debate, Senator Roberts. I do not necessarily agree with you, but thanks for raising it. (Time expired)

Senator McALLISTER (New South Wales—Deputy Opposition Whip in the Senate) (17:43): It is 2016 and we should not be devoting an hour of time in this chamber to debating whether climate change is real. We actually should be devoting a month to exploring ways we can address it. Instead, here we are. I want to say that I believe in climate change and so do my Labor colleagues. We believe in it because tens of thousands of qualified scientists over dozens and dozens of years have measured it, experimented and modelled it. Climate change is real.
I know that Senator Roberts keeps on asking people in this chamber to provide empirical evidence. In the words of Mulder and Scully, it is out there—mountains of it. The evidence does not stop being empirical just because you disagree with it.

A 2013 survey of scientific papers found that, of the 4,000 recent papers that expressed a view on climate change, 97 per cent thought that it was real and caused by humans. I know that 4,000 is a lot and I do not expect that anyone here is going to read all of those, but I thought what I could do is help people to start a reading list. Here are the 20 most cited peer-reviewed papers about climate change and its effects, compiled by Thomson Reuters, so that people can get started: 'Ecological responses to recent climate change' by Walther, Post and others in *Nature* in 2002; 'A globally coherent fingerprint of climate change impacts across natural systems' by Parmesan and Yohe in *Nature* in 2003; 'Extinction risk from climate change' by Thomas, Cameron et al in *Nature* in 2004; 'Fingerprints of global warming on wild animals and plants' by Root and others in *Nature* in 2003; 'Acceleration of global warming due to carbon-cycle feedbacks in a coupled climate model' by Cox and others in *Nature* in 2000; 'Climate change, coral bleaching and the future of the world's coral reefs' from an Australian researcher who is very well known, Hoegh-Guldberg, in *Marine And Freshwater Research* in 1999; 'Causes of climate change over the past 1000 years' by Crowley in *Science* in 2000; 'Climate change, human impacts, and the resilience of coral reefs' by Hughes and others in *Science* in 2003; 'Global response of terrestrial ecosystem structure and function to CO2 and climate change: results from six dynamic global vegetation models' by Cramer et al in *Global Change Biology* in 2001; 'Biological consequences of global warming: is the signal already apparent?' by Hughes in *Trends Of Ecological Evolution* in 2000; 'Timing of millennial-scale climate change in Antarctica and Greenland during the last glacial period' by Blunier and Brook in *Science* in 2001; 'Predicting the impacts of climate change on the distribution of species: are bioclimate envelope models useful?' by Pearson and Dawson in *Global Ecology And Biogeography* in 2003; 'Interpretation of recent Southern Hemisphere climate change' by Thompson and Solomon in *Science* in 2002; 'Biological response to climate change on a tropical mountain' by Pounds, Fogden and Campbell in *Nature*, back in 1999; 'Transient climate change simulations with a coupled atmosphere-ocean GCM including the tropospheric sulfur cycle' by Roeckner and others in *Journal Of Climate*, back, again, in 1999; 'Range shifts and adaptive responses to quaternary climate change' by Davis and Shaw in *Science* in 2001; 'Ecological and evolutionary responses to recent climate change' by Parmesan, again, in *Annual Review Of Ecological Evolution Studies* in 2006; 'Global water resources: vulnerability from climate change acid population growth' by Vorosmarty, Green, Salisbury and Lammers in *Science* in 2000; 'Signature of recent climate change in frequencies of natural atmospheric circulation regimes' by Corti, Molteni and Palmer, back in 1999, in *Nature*; and 'Tropical origins for recent North Atlantic climate change' by Hoerling and Hurrell in *Science* in 2001.

That is the top 20 that Thomson Reuters identified, but you could read other things. You could read the IPCC reports—and there are quite a few of those—or, if you are worried that it is all a conspiracy by China, the UN, or a 'cabal of international bankers', I have some earlier papers. You can go back to 1896 and find a paper by Arrhenius called 'On the influence of carbonic acid in the air upon the temperature of the ground'. You can go to a paper by Callendar from 1938 called 'The artificial production of carbon dioxide and its influence on temperature', published in the *Quarterly Journal of the Royal Meteorological Society*. You
can go to Phillips in 1956 and read 'The general circulation of the atmosphere: a numerical experiment' or to Manabe and Wetherald and read 'Thermal Equilibrium of the Atmosphere with a given distribution of relative humidity', which was in the Journal of Atmospheric Sciences in 1967. You can go to a paper from as recently as 1976 called 'Atmospheric carbon dioxide variations at Mauna Loa Observatory, Hawaii' by Keeling, Bacastow and others.

If there is not enough empirical evidence there or in the 4,000 papers that were reviewed in the study that I mentioned earlier, the problem is not with the evidence. The thing is that there is a climate conspiracy—but it is not a conspiracy by the tens of thousands of scientists who have contributed to our current understanding of climate change; it is a conspiracy by climate denialists to muddy the waters of what is now a very clear scientific consensus. Back in 1995, a Republican strategist, Frank Luntz, was encouraging Republican members to 'challenge the science' by 'recruiting experts who are sympathetic to your view'. Ten years later, he was still at it, with a 2001 memo that said: 'The scientific debate is closing against us but not yet closed. There is still a window of opportunity to challenge the science. You need to continue to make the lack of scientific certainty a primary issue in the debate.' That was the strategy. Well, he was not the only one to adopt that strategy, and the flood of misinformation has not abated. International organisations like the Heartland Institute actively sow uncertainty about climate change.

We should not allow the debate about climate change in this country to be derailed by misinformation the way that it has been in the United States and elsewhere. We are lucky in this country to have the leaders of both major parties in agreement that climate change is real. The difference, of course, is that the Prime Minister seems unwilling to actually do anything about it. But, for Labor, it is a critical issue and one that we are proud to take a stand on. The policies we took to the last election constitute a real response to climate change. We committed to 50 per cent renewables by 2030 and to funding agencies like ARENA and the Clean Energy Finance Corporation to get there. We committed to having a plan—a real plan—to support workers, businesses and communities who will bear the brunt of change. There is no doubt that change has costs. Our responsibility is to make sure that those people who bear those costs are not left unsupported and that there is a real plan for their communities and their jobs. We committed to bringing in a domestic emissions trading scheme that will bring Australia in line with our international obligations and drive the long-term transition that our economy needs, because there are opportunities—huge economic opportunities—for a country that makes this transition.

Those opportunities lie in building the technical expertise and the manufacturing capability to build the technologies of the future that will assist not just Australia to decarbonise but in fact the globe. Sadly, that is an opportunity that we seem unable to grasp under this government, because we know that through the hostility to renewables and through the vacillation around climate change policy we have seen a fall in investment in renewable energy in this country. We have seen this country decline in the international rankings as a place that is attractive for people who are seeking to invest in renewable technologies. And it is a great shame, because our researchers, our excellent technologists, have actually led the debate, led the research, yet so many of them have been forced offshore, forced overseas, because they have found that their skills, their knowledge and their vision are not welcome here and are not supported by conservative governments.
This is a huge opportunity for Australia to build an economy that is resilient and sustainable for us. It is an opportunity to build an energy system that is resilient and sustainable. But most of all it is an opportunity to leave an environment for our children that matches the one we have enjoyed, and other senators have spoken about this. But I want my kids to be able to play outside in summer, and should I ever have grandchildren I would like them to be able to do that. I would like to take them to the reef. I would like to take them to the alpine areas to see the animals and plants that live there now because of the unique climate that is there but will not be there under a warming scenario. These are all legacies I would like to leave for my children, and we have the opportunity to leave them. But it takes Australian political leadership to do so. (Time expired)

Senator LAMBIE (Tasmania) (17:53): I rise to make a short contribution to this matter of public importance regarding climate change. The Greens are deniers of natural climate change. The average world temperature is about 14.5 degrees, and science shows us that we cannot stop natural climate change; we can only make preparations to survive it. The JLN has climate change policies based on that unescapable fact. Ice-core samples from Antarctica show that about 110,000 years ago the average world temperature was also about 14.5 degrees. And because of natural climate change, which is caused by variations in the earth's orbit around the sun, the average world temperature rose about five degrees very quickly to around 19 degrees. The variation in the earth's orbit then made the average global temperature collapse very quickly, to bounce around five to 10 degrees, causing an ice age that lasted until about 15,000 to 20,000 years ago, when, just like clockwork, the average world temperature changed and warmed and rose very quickly again to 14.5 degrees.

The scientific record shows that no amount of windmills, solar panels, renewable energy targets or Australian pensioners paying over-the-top prices for their electricity will stop the earth's temperature heating up by another four or five degrees if that is what natural cycles dictate. In fact, the Antarctic ice-core samples show that about every 100,000 years the average world temperature quickly rises two to five degrees from today's average of 14.5 degrees without any help from humans burning fossil fuels. Why don't the Greens and other deniers of natural climate change acknowledge these scientific facts? Why won't the Greens acknowledge the fact that if the world temperature did rise two degrees it would not be unusual, extraordinary or beyond the limits compared with scientific records shown in ice-core samples?

The whole Greens political movement would collapse if people no longer felt guilty about demanding cheap, reliable power from their governments. The uninformed Greens cretins who say we can stop world climate change by shutting down our cheap, reliable base load power stations and replacing them with expensive, subsidised, unreliable solar panels and inefficient wind turbines and make our manufacturing industries, families, farmers and pensioners pay for some of the most expensive power in the OECD should be shown the disrespect, contempt and political wilderness that they deserve.

Senator BURSTON (New South Wales) (17:56): I wish to speak in support of my colleague Senator Roberts in respect of the vital matter of public importance he has raised on climate change. The Greens Left has long argued that the spectre of catastrophic human-caused climate change requires a globalist, UN based response. They have said this for two
reasons—firstly, because it is pitifully obvious that a country such as Australia, acting alone, could never do a thing to affect the climate in any measurable way. Even if we accept the hysterical global warming doomsdaying, we account for just 0.33 per cent of the world's population. Even if we were to shut down the whole country, with not so much as a wood fire to warm ourselves in our caves, the difference this would make to the atmospheric concentration of carbon dioxide would be entirely counteracted by the rest of the world's action in a matter of months. So, to avoid confronting that reality, the Greens tell us, we need to simply be obedient to the United Nations and cut our emissions, and then everyone else will do the same—as if China and India were ever going to let themselves be led around by the nose the way the Left say that we should let the UN lead us.

Secondly, the radical Greens have argued for global deals and global agreements in a way to reduce the power of individual countries and national institutions and to increase the power of global organisations such as the United Nations and the European Union. The green Left has long found it easier to make inroads among the global elite rather than by convincing the citizens of their own countries, so they have agitated for more and more power to be surrendered to the global organisations. And now with the election of the Trump administration the fantasy of global action has been punctured forever. There will be no global suicide in the name of climate change. The United States will not sacrifice its economic wellbeing. And with such a huge and pivotal country refusing to be part of any such collective—(Time expired)

Debate adjourned.

DOCUMENTS
Department of Communications and the Arts
Consideration

Senator MOORE (Queensland) (17:59): I move:

That the Senate take note of the document.

The report of the Department of Communications and the Arts on the prohibition of advertisements of interactive gambling services is required under the Interactive Gambling Act 2001. This document is produced annually as a result of the legislation which says there must be a report presented to parliament that details the number and nature of any contraventions in the preceding 12 months and any action taken by the minister or Commonwealth agency in response to each contravention.

This report points out that in the previous 12 months five complaints were received. While none of those complaints moved further than the original investigation, the process under section 61 FE of the act is one of the processes currently in place to look at the issues of interactive gambling. This has been debated and discussed in this place for several years. In fact, in the last parliament it was part of my responsibilities, and the ongoing discussion of how we understand what is going on in our community around interactive gambling is very important to me.

In discussions I have had across the community—including businesses which were involved in the industry—I have found that we still have a long way to go before we fully understand exactly how the industry operates and how that community is impacted by interactive gambling. We know that in 2015 a review was done on the impact of illegal...
offshore wagering, which was called the O'Farrell review. It made recommendations about the
need to clarify the law on offshore gambling, which includes interactive gambling; the need to
put more focus on the Australian Consumer and Media Authority; the need to establish a
national consumer protection framework to look at the prohibition of lines of credit, a self-
 exclusion register, voluntary precommitment, enhanced staff training and enhanced research;
and the need to look at establishing a register of unlicensed and illegal interactive gambling
services. All of these issues became clear in the review; and this report stems from ongoing
concerns many years ago about this industry. The report is one way for us to see whether
efforts are made to engage with advertising of interactive gambling services which intrude on
the Australian community.

The complaints received came from individuals and organisations. The first three were not
investigated further by the department not because there was no complaint but because the
process was already under investigation at the time of the receipt of the complaint. So, by the
time the official complaint was made, a process had already been instigated to ensure an
investigation. That indicates that there is material being imported into Australia and provided
to consumers which may breach the current laws—not the ones which may be introduced in
the future. It is very important that when this report is presented to parliament that it is
considered and understood and any questions arising from anyone in the community or in the
parliament are taken seriously by the organisation. That is the only way that we can get a clear
understanding of the many allegations of overseas companies that provide access to gambling
options which can cause significant damage to individuals and, as was indicated in the 2015
review of interactive gambling, a significant impact on our economy.

The amounts of money that we are talking about are substantial. Australians are amongst
the biggest gamblers in the world, spending $1245 per capita in 2014. As I did not spend a
cent, it means that many other Australians are spending considerably more. I commend the
report on the operation of prohibition on interactive gambling advertisements. I know it will
not be a bestseller, but I do think it reminds us that there are processes in place and that there
needs to be more work in this space. That is why the government put the 2015 review in
place; that is why we continue to ask questions about the issue. When we do receive these
reports, we should take note of them in this place.

Question agreed to.

Aboriginal Hostels Ltd
Consideration

Senator DODSON (Western Australia) (18:04): I move:

That the Senate take note of the document.

As we know Aboriginal Hostels provide a vital service to accommodate Aboriginal people in
remote areas and also in urban areas. It is a wholly owned Commonwealth company and it is
within the portfolio of Prime Minister & Cabinet. There are 47 sites in the network that
provide short-term accommodation for Aboriginal people. They offer a high level of comfort,
safety and customer service. They are critical links for Aboriginal and Torres Strait Islander
peoples to access services that most other Australians take for granted, particularly in the
remote parts of the country.
The hostels, as I say, provide safe and cultural accommodation; they are used for education, employment, health and other services—students finishing high school, parents or their families seeking renal dialysis, mothers accessing pre- or post-natal care and job seekers.
The vision of Aboriginal Hostels is to improve the quality of life and economic opportunity for Aboriginal peoples. Unfortunately, one of the challenges is that wages for the workers in the Aboriginal Hostels organisation, who are mostly unskilled, are the lowest wages for any worker in the Australian Public Service. Large proportions of the workforce are on the bottom rung of the pay scale, the highest percentage being Aboriginal and Torres Strait Islander staff of any public sector agency—67 per cent.

Workers at Aboriginal Hostels Ltd have been offered a pay rise of three per cent over three years, half the six per cent pay increase that continues to be rejected by the vast majority of people working elsewhere in the Commonwealth Public Service. The Community and Public Sector Union describe this offer as disgraceful. It obviously is an offer aimed at the lower rungs of the employment scale, primarily Indigenous people.

The need for proper resourcing of Aboriginal Hostels Ltd is critical, obviously, for it to meet and improve its situation. A review of the Aboriginal Hostels that examined its governance model, financial sustainability and strategic direction was finalised in a report in May 2016. The review findings present significant challenges and opportunities for the company, particularly in relation to a decline in real funding, the future governance model and company structure, and the Aboriginal Hostels vision and mandate. To be able to improve in those matters, it needs some serious attention. The report gives us a very promising indication of the vital service that it provides, but, unless the wages and conditions of the workers within the Aboriginal Hostels organisation improve, I am afraid the quality of the services will only be hampered for the people that are utilising them.

I seek leave to continue my remarks later.

Leave granted.

The DEPUTY PRESIDENT: Pursuant to order agreed to earlier, debate is interrupted to enable the Senate to deal with Senator Leyonhjelm's proposed disallowance motion.

REGULATIONS AND DETERMINATIONS

Customs (Prohibited Imports) Amendment (Shotguns and Shotgun Magazines) Regulation 2016

Disallowance

Senator LEYONHJELM (New South Wales) (18:10): I move:

That the Customs (Prohibited Imports) Amendment (Shotguns and Shotgun Magazines) Regulation 2016, made under the Customs Act 1901, be disallowed.

I am moving to disallow this regulation which reimposes an import ban on the Adler seven-shot lever-action shotgun. I am bound to do this to highlight the government's treachery in dealing with me and to honour my commitment to Australia's 800,000 licensed firearm owners.

On 6 August 2015, the government banned the importation of seven-shot lever-action shotguns. I immediately voiced my opposition, and, on 12 August 2015, the government agreed in writing to sunset the import ban in exchange for my vote on another matter. The
sunset was due to take effect on 7 August 2016. The details of the agreement are contained in
an exchange of emails which are now in the public domain. I honoured my part of the
agreement: I voted with the government to oppose a Labor amendment to a bill. It was not a
matter of high principle, but I would not have voted that way but for the deal.

At first, the government kept its side of the bargain, making a regulation on 4 September
2015 that would have lifted the import ban on 7 August 2016. However, on 28 July 2016,
little more than a week before the sunset was due to take effect, the government made a new
regulation reimposing the import ban. That is the subject of this disallowance motion.

The Minister for Justice, Mr Keenan, called me on the day he announced the reimposition
of the import ban. When I pointed out that he was breaking our agreement, he told me that he
had never had any intention of allowing the shotgun to be imported. In other words, the
government did a deal with me, in writing, in order to get my vote, in full knowledge that it
would never abide by the deal. There is a technical term for that; it is what is known as dirty
dealing.

In the 45th Parliament, the government will require the support of all but two crossbench
senators to achieve a majority when opposed by Labor and the Greens. Securing that support
is obviously more likely if it is honourable and negotiates in good faith. But, before I go
further on that, let me first consider the merits of the import ban itself.

The ban applies to lever-action shotguns with magazines of more than five rounds. It also
prohibits the importation of magazines for lever-action shotguns that hold more than five
rounds. The best known brand of lever-action shotgun is the Adler, which is made in Turkey,
but there are several other brands from China and Italy. Lever-action shotguns and rifles have
been around for well over a century. Some say they were first sold by Winchester—lever-
action rifles from 1867 and lever-action shotguns from 1887. There is some disagreement on
the details around that but no disagreement about their longevity. They are not new
technology. In fact, they have barely changed in over a century.

The benefit of a lever-action shotgun is that it does not have to be reloaded from shells in
your pocket, like one with a single shot or a double barrel. It is reloaded by cranking the lever.
For those hunting rabbits, foxes and pigs, the ability to get repeat shots away relatively easily
can mean the difference between eliminating pests and watching them escape. It is nowhere
near as fast as a semiautomatic and still quite a bit slower than a pump action, but it is better
than fumbling around with shells in your pocket. Lever actions also have a sporting use.
There is a discipline called '3-gun practical', involving pistols, rifles and shotguns, which is
not very practical if the shotgun can only fire two shots. So lever-action shotguns are used in
this discipline, at least in Australia.

The idea that lever-action shotguns can be fired rapidly and that this makes them dangerous
is sometimes mentioned as a reason for prohibiting them. Yes, if you crank the lever fairly
quickly it is possible to fire off shots in somewhat quick succession, although not as fast as a
semiautomatic or a pump action, but you cannot do that and hit what you are aiming at. There
is no way of cranking a lever action while maintaining a point of aim. Shotguns have
substantial recoil, which makes keeping them on target difficult at the same time as firing
rapidly. In other words, if you fire quickly you will miss. If you want to hit what you are
aiming at, slow fire is best. Anyone who knows about guns knows that and also knows full
well that those who say otherwise are ignorant and foolish. It does not matter whether they are
law enforcement, politicians or media: ignorance is ignorance. You can have your own opinions, but you cannot have your own facts.

A desperate gun control advocate might say that, ‘A criminal may still choose a lever-action shotgun, because they do not care if they fail to hit what they aim at.’ But lever action shotguns have never been the firearm of choice for criminals. If you saw off the barrel, you also saw off the magazine. It becomes a single shot. Not only that, but the Adler seven-shot shotgun has a barrel length of 28 inches—hardly something that you could hide down your shorts.

As I mentioned, the import ban in question covers lever-action shotguns with magazines of more than five rounds. It does not affect five-shot lever-action shotguns, which can be imported and legally owned. Like other shotguns, they are in category A, consistent with the National Firearms Agreement. The import ban also does not prevent anyone from converting a five-shot Adler into a seven- or eight-shot simply by fitting a longer tube magazine. There is nothing illegal about it, and plenty of people are doing it. The only restriction is that the longer magazine has to be made in Australia, because the import ban means they cannot be imported. Thus, the import ban achieves nothing. It is certainly not preventing the ownership and use of seven-shot lever-action shotguns. Not that there is anything special about the presence of two extra rounds in the magazine. They do not transform it from a safe firearm to a dangerous firearm. Neither a mass murder nor a terrorist attack is more likely because of those two extra rounds. Being a shotgun, its range is very limited. Whereas a lever-action rifle might have a danger range of 500 metres, a lever-action shotgun is not much of a threat beyond 60 or 70 metres. It is worth remembering that the permitted magazine capacity of the lever-action rifle, as with any other rifle, is 10 rounds. Ten rounds is also the magazine limit on pistols—many of which are semiautomatic.

Of the more than 800,000 firearm owners in Australia, relatively few want to own a lever-action shotgun, and very few care whether their lever-action shotgun holds five rounds or seven. However, every one of them knows the implications of creeping regulation on their sport. They know if it is lever-action shotguns today, it will be something else tomorrow. The firearms section in the Attorney-General’s Department has had an agenda of incremental restrictions on firearms for over a decade. Semiautomatic pistols, pump action rifles, lever-action shotguns and lever-action rifles are on the list. The 800,000 firearm owners in Australia will not take this lying down. Indeed, I am making it my business to ensure that they all know what is being done to them. For the government, there are a lot of votes to be lost and not one to be gained on this issue.

This disallowance is about much more than the fact that the government has failed to stick to an agreement. It is about what is being done to sporting shooters—taking yet another slice off the salami, yet another step in the process of disarming law-abiding Australians, preventing them from enjoying their sport, hunting and collecting activities. It is about another step towards a disarmed society, where only the police, military, security guards and criminals have guns.

Some might see what happened to me as part of the cut and thrust of politics. I do not. There was cut and thrust in the negotiation of the agreement. The government could have chosen, at any time, to withdraw. Instead, they gave their word, which they have now broken. It is about trust. In the interests of all the negotiations to come, I call on government senators...
to support the disallowance of this regulation. In the interests of fairness to 800,000 decent, law-abiding Australians, I call on all senators to support the disallowance.

**Senator KIM CARR** (Victoria) (18:21): I thank the government for their indulgence in allowing the opposition to speak first on this disallowance. Owing to private circumstances, I will not be able to speak on it later on. However, in my remarks I will pass on to Senator Moore, who I trust will be able to assist in that regard.

I will indicate that, fundamentally, the opposition reject Senator Leyonhjelm's position on gun control. We take the view that these are issues that go beyond, as he said, his concern about the way in which he has been treated by the government in negotiations on other matters. This is fundamentally an issue which we believe ought be the subject of a bipartisan approach, and that is the approach that we have taken on this question. I am particularly disturbed by Senator Leyonhjelm's statement that, on a matter that he said was not of great principle to him, he was prepared to trade his vote in return for government action in lifting the ban on the importation of the Adler shotgun.

It strikes me as extraordinary that a senator would stand in this place and quite openly announce that he was prepared to trade his vote on a matter which he said was not one of principle to get the government to support him on such a controversial question. Of course, he feels that this is not just about the regulations concerning the use of this particular weapon but about much more substantial questions about the disarming of people in this country. He said to us that it was a question of trust. I find this an extraordinary proposition to put in the open chamber. I have not quite heard anything like it in the many, many years I have been here now. I find it an amazing situation that this is a matter of libertarian principle from my colleague here, and it is a principle in whose pursuit the senator is prepared to trade his vote.

What is even more disturbing, though, is that the government was prepared to entertain this and was prepared to accommodate Senator Leyonhjelm on these questions. Whether or not the government has now reneged on the deal, the fact that the proposition was actually entered into as a serious one is one that should be of great concern to this chamber and, I would suggest, more broadly within our community.

In the aftermath of the Port Arthur shootings in 1996, there was a cross-party understanding that we should restrict the ownership of firearms in Australia. This is not America. We in this country do understand the importance of not privatising personal security. We take the view—and I think there is widespread public support on this matter—that there ought not be a proposition that the individual is responsible for arming themselves as a means of providing security, that it is a legitimate function of the state to regulate the use of firearms. While recognising that licensed firearm dealers, by and large, are very law-abiding people, the need for us to individually arm ourselves comes from a philosophy which I think is an anathema to the political culture in this country. Community protection and individual personal security—I want to emphasise this—should never be a matter that requires privatised action. It should be the responsibility of the state to ensure that people have that personal security.

What strikes me is that Australians have come to accept that principle. In the United States we see a completely different attitude. In fact, what we see is enlightened people in the United States pointing to Australia to show what can be done by government to enhance opportunities for ordinary people to live safely. We only have to look at the statistics of the
number of people killed in this country with the use of firearms and compare it to the number of people killed with firearms in the United States. It is 10 times more likely to be the case that a person will be killed in the United States than in Australia. What is the fundamental difference? The fundamental difference is one of philosophy—that the public accepts it is necessary for the state to regulate the use of firearms. This is one measure that John Howard got right. This is a measure that ought to be supported by this parliament. It is a measure I trust the parliament this evening will follow through on and that it will reject this particular measure that Senator Leyonhjelm is proposing for a disallowance. I will leave it at that point.

Thank you very much.

Senator BURSTON (New South Wales) (18:26): I rise to speak in support of the motion moved by Senator Leyonhjelm in relation to the Adler shotgun. When people complain about politicians who are more concerned with appearance than reality, who are disconnected from normal people and who are more interested in scoring points than fixing problems you would struggle to find a better example than the way this debate has been handled and the lies and misrepresentations that have been spread about.

The weapon itself at the heart of this debate should be entirely uncontroversial. If any firearm has a legitimate purpose this one does. Aside from the entirely safe and responsible practice of recreational target shooting, many farmers rely on firearms to deal with pests and feral animals that endanger both stock and the natural environment. Shotguns are in many cases the best weapon for dealing with these predators. Against a moving target at close range, they are far superior to rivals and handguns. There is a legitimate need for shotguns in rural Australia if we are to protect both our farmers' livelihoods and our national wildlife.

There is also a legitimate purpose for medium-capacity shotguns. It is common for some feral animals—pigs, in particular—to move in and about in medium-sized groups. It is not at all uncommon to see a group of five or six feral pigs running around together. If you have a shotgun that holds just two shells, the most you can hope for is to get two of those pigs. A pig that gets away is a pig that will likely inflict some very painful and very gruesome deaths on other animals. So let's have no silly talk about animal cruelty here. The cruellest thing we can do is to let these vicious predators roam unchecked. There is a legitimate reason for this gun to be sold in Australia. Not everyone will be in a situation where this gun is necessary or useful for them but some will be, and they should have the right to access it.

On the other hand, is there a compelling reason to block it? Could allowing this gun lead to massacres such as the tragic event at Port Arthur? Could it be used by underworld figures as part of their criminal activity? The simple answer to that, of course, is no. Long arms such as rifles and shotguns are tremendously impractical for committing crimes. Looking at FBI statistics from the United States on gun violence—and I think we would all agree that the US has a much bigger sample size in this regard than we do—there were 12,000 murders in 2014, the last year for which we have data. Of those murders, 262 were committed by shotgun. That is about two per cent. More people were killed with blunt objects. By comparison, there were 1,500 murders with knives in that time—about six times as many. But surely no-one is silly enough to suggest we should ban kitchen knives?

Sitting suspended from 18:30 to 19:30

Senator BURSTON: The simple fact of the matter is that long arms are very unsuitable weapons for criminal activity. They are big, cumbersome and difficult to conceal. But even
these statistics overstate the danger of the Adler seven-round shotgun. While handguns are far and away the weapon of choice for gun murderers, it is true that a small number will use sawn-off shotguns. By cutting off the barrel of the gun, a shotgun can be made more concealable and more suited to crime. It is uncommon, but it does happen. And this is where a significant proportion of the 262 shotgun murders come from. However, the Adler seven-shot shotgun cannot possibly be used in this way. This particular weapon has the magazine built into the barrel of the gun. If you were to attempt to saw off the barrel of one of these guns, you would ruin the weapon and make it unusable for anything.

So, this is a gun that has a very valid and legitimate purpose, and which is exceptionally unsuited for carrying out violent crime. If any gun should be allowed in Australia, it is this one. Indeed, the five-shot version is perfectly legal, and it is also perfectly legal to purchase a magazine extension to increase the capacity of that version to seven. So, there are already perfectly legal seven-shot Adler shotguns in the country. Where is the murder spree? Where is the chaos and violence? But God forbid those larger magazines are built in instead of added on. That difference, we are to believe, will kill us all. The rhetoric around this issue has been hysterical. The Leader of the Opposition, among others, has claimed that allowing this weapon would be watering down John Howard's gun laws. What utter nonsense. Guns of this nature were never banned under Howard's prime ministership. This is not John Howard's legacy; it is Tony Abbott's and Malcolm Turnbull's. John Howard's laws were targeted at automatic and semi-automatic weapons. The Adler is neither of these. It is a manually reloaded, lever-action, single-shot weapon.

We are not talking about a machine gun or an assault rifle here. Yet we see responsible gun owners treated like trigger-happy psychopaths, for the crime of wanting to practise responsible pest management. It is like there is a cloud of unreality that hangs over this building, and the people in it occupy an entirely different world to people outside. They live in a world where peace-loving Australians are champing at the bit to go on murder sprees just as soon as they can get a seven-round shotgun instead of a five-round one. I know there are some among the National Party here who know exactly how crazy this whole confected controversy is. And yet they feel constrained from speaking too loudly or clearly in opposition to it, because they are beholden to their Liberal Party masters. You can hardly be surprised, then, when their voters turn to parties that are not wholly owned subsidiaries of the Liberals, as they did in Orange.

Beyond the facts of the issue, there is another principle at stake. That is the principle of standing by commitments. I speak here of my crossbench colleagues, some of whom, I recognise, may have a very different view than me on firearm regulation. The deal that was struck by Senator Leyonhjelm with the government on this issue was a concrete deal, in writing, and it has become clear that the government never had any intention of honouring it. Even worse, they have had the shamelessness to claim no deal ever existed—even though the text of their agreement is now publicly available for everyone to see. We hear claims that we now live in a post-truth society, and, watching the brazen behaviour of the Liberal Party on this issue, one can feel sympathy for that assessment.

If the government is able to break faith on this issue, for no good reason and with no consequence, one could hardly blame it if it decided it could get away with it while dealing with Senator Hinch, Senator Lambie or Senator Xenophon. Governments, both Liberal and
Labor, will break their promises sometimes. We all know this. But I see no reason for we crossbenchers, or for the Senate as a whole, to assist them in doing so. Say what you mean, and do what you say—that is the standard that the Australian people demand, and that is the standard that we should hold this government to. Pauline Hanson's One Nation is proud to support the motion proposed by Senator Leyonhjelm.

Senator O'NEILL (New South Wales) (19:35): From the outset, I want to say very clearly that the opposition fundamentally rejects Senator Leyonhjelm's position on gun control. Therefore, we do not support his motion to disallow Customs (Prohibited Imports) Amendment (Shotguns and Shotgun Magazines) Regulation 2016. This is in the context of the lived history of Australians. In the aftermath of the Port Arthur shootings in 1996, a cross-party understanding was reached on restricting ownership of firearms in Australia. It was not a partisan matter then, nor should it be now.

Labor accepts that the Howard government's initiative in removing rapid-fire weapons from circulation was necessary for community safety. The decline in gun related deaths in this country speaks for itself. It is idle to object, as gun advocates like to do, by saying that deaths have not fallen in each year since 1996. They have fallen overall. As Ms Lesley Podesta, the CEO of the Alannah & Madeline Foundation, has pointed out, in the decade before Port Arthur there were 11 mass shootings in Australia—more than one a year. In the decades since Port Arthur, there have been none. It is undeniable that the gun buyback scheme and the introduction of tougher gun laws have made this country a safer place in which to live. I acknowledge that there are those in the chamber who hold a very different view, but that is the view held by very many Australians, and I am glad to put it on the record this evening.

The number of guns in Australia was reduced by one fifth and the number of households with guns dropped by a half. There has been a decline in homicides by gun and a dramatic drop in suicides by gun. According to data published in the American Law and Economics Review in 2010, an estimated 200 lives a year were saved by the changes in Australia's gun control regime.

The core principle of that regime was that rapid-fire weapons should be subject to the greatest restrictions. Some argue that shotguns, including the lever-action shotgun that is prohibited under the important regulations that Senator Leyonhjelm wants to disallow, should be treated differently. That is an evasive quibble. What matters is that we are talking about a rapid-fire weapon with a large magazine capacity. The international version of the Adler shotgun under discussion here this evening has a magazine capacity of seven rounds, with another in the chamber—in other words, it can fire up to eight shots in quick succession. It can easily be modified to hold up to 11 rounds.

The Adler is now listed as a category A firearm—the least restrictive category and the easiest to buy. Category A licences are held by recreational shooters and are notionally limit ownership to guns with the lowest rate of fire, such as bolt-action rifles and shotguns that can hold only two cartridges. Pump-action shotguns, because of their higher magazine capacity and relatively higher rate of fire, are normally classified as category C or D, the kinds of licences held by farmers and professional shooters. It is anomalous that the Adler is in category A. It happened because, when the Howard government toughened up the gun laws under the National Firearms Agreement in 1995, lever-action shotguns were not considered worthy of attention, unlike pump-action shotguns. The Adler shotgun was popularised by
Robert Nioa, the son-in-law of the member for Kennedy. He tried to import thousands of Turkish-made seven-shot Adlers, but when a temporary ban was implemented, they were modified by regulation to become five-shot weapons.

Senator Leyonhjelm would like to overturn this restriction. For Senator Leyonhjelm this is a matter of libertarian principle, a principle whose pursuit he is prepared to trade with his vote. The tragedy is that the Liberals in government have been prepared to accommodate Senator Leyonhjelm in regard to this matter.

Labor recognises that the vast majority of firearm owners in Australia comply with the law, and we acknowledge the work that their associations have done in promoting safe storage and responsible use of firearms. But the law must also concern itself with the minority who might not act responsibly. Gun technology will evolve, and it is appropriate that firearms legislation be reviewed from time to time. When the review of the National Firearms Agreement is complete, Labor will give careful consideration to any recommendations that are made. But we see no reason why the prohibition of the import of this particular type of shotgun should be disallowed. On the contrary, prohibiting the import of this lever-action shotgun is consistent with the intent of the changes in federal and state laws since the horrific shooting at Port Arthur.

Senator Leyonhjelm may rage against what he sees as the government's refusal to honour a deal on making the import ban subject to a sunset clause. He is a libertarian; let him rage. Extending the import ban is a sensible decision in the interests of community safety. It is spurious to argue that this is a case of the nanny state overriding the rights of individuals to arm themselves. For Labor, the practical work of saving lives and preventing violence will never be sacrificed to libertarian ideological purity. Saving lives will never be sacrificed to Liberal political expediency.

Until recently, Australians had reason to believe that the government would maintain bipartisanship on this matter. Who would have expected the current lot of Liberals to trash John Howard's legacy; but that is exactly what they have done with a succession of dirty deals and backflips on this issue. In August 2015, the government banned the Adler A110. Five days later, touting for votes against Labor's amendments to a migration bill, the Minister for Justice and the Minister for Immigration and Border Protection cut a deal with Senator Leyonhjelm. I want to reflect on the language used by Senator Leyonhjelm in his opening comments today. Senator Leyonhjelm, I understand completely your sense that there has been an abuse of the trust that you have displayed in your own dealings with the government, when you said that you voted with the government in line with your agreement. You would not have voted that way, you declared. It was about a bill that you said was a matter of no consequence. I think they were your exact words—'a matter of no consequence'.

I would not call a matter entitled the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015 a matter of no consequence. In fact, it is a piece of legislation that is of great consequence and has significant impact on Australians. The government practises, as you clearly said, in dirty dealing. 'Dirty dealing' is how you described it, Senator Leyonhjelm, and I think that in that regard you absolutely hit the nail on the head. It is certainly palpable that you are very, very disappointed. But that is the style of governing and the style of communication—the contemptuous style of government—which you saw firsthand in the last
parliament and now seems to have been replicated by Mr Turnbull, who has traded in his leather jacket and decided to wear Tony Abbott's suit and try the same sort of technologies.

Five days after touting for votes against Labor's amendments to a migration bill, the Minister for Justice and the Minister for Immigration and Border Protection cut a deal with Senator Leyonhjelm. They agreed to restrict the Adler ban by means of a sunset clause, which would have lifted the ban in August this year. But as that date approached the government was embarrassed by the prospect of having to explain to the Australian people why they were willing to allow these weapons into the country. So they buckled, and repudiated their dirty deal with Senator Leyonhjelm. More recently, there have been rumours of yet another backflip on gun safety. The Prime Minister was said to be considering watering down Australian gun laws in the hope of persuading the crossbench in the Senate to wave through his anti-union legislation. Let's face it: if it worked once, why wouldn't he try it again? It worked for Tony Abbott; so, flattering Tony Abbott, I suppose Mr Turnbull thought that he should have a go and see if it would help him get some tricky legislation through, too.

What we have seen with this Adler shotgun saga has shown that the government cannot be trusted on gun safety. Senator McKenzie, the member for Parkes, who I note is in the chamber, and the member for Moore, are all calling for this gun to be allowed in this country. These events have also shown—

**Senator McKenzie**: Point of order, Mr Acting Deputy President. My understanding of the standing orders is you need to refer to senators by their correct title. I am actually a senator for the great state of Victoria not the member for the seat that Senator O'Neill was talking about.

**The ACTING DEPUTY PRESIDENT (Senator Ketter)**: That is a point of order. Thank you. Senator O'Neill.

**Senator O'NEILL**: Senator McKenzie, I acknowledge that you do represent the state of Victoria. I could not call it 'the great state'! Being a senator from New South Wales, myself, I will have to claim ascendancy there. We are the premier state, New South Wales!

What we see from Senator McKenzie in calling for this gun to be allowed is a very, very different view of the importance of protecting the Australian people. Labor is very proud to stand in support of gun laws that have seen improvements in the expectation to be able to move freely in our community without fear of being shot by such implements as we are discussing here this evening.

The events that we have seen also show weakness and incompetence on the part of the Prime Minister and his predecessor, the member for Warringah. They have presided over a mess in which ministers have traded guns for votes and then broken their promises when keeping them became inconvenient. The manoeuvrings over the Adler ban were even caught up in the continuing rivalry between Mr Turnbull and Mr Abbott. Australians were treated to the unedifying spectacle of the Prime Minister and the member for Warringah sparring in the other place over just what was promised to Senator Leyonhjelm in August last year. Senator Leyonhjelm was watching with great interest, I am sure, to see what happened, but the outcome was that Mr Abbott lost that round. However, you could not say that the Prime Minister has emerged unscathed, because the government has changed its position on multiple occasions and no-one in the government is willing to take responsibility for the multiple
messes they have made in managing this piece of legislation and this commitment to Senator Leyonhjelm, through the many sagas that have emerged.

It is not Labor's approach to the matter. We are clear: we will not risk undermining public safety in order to chase votes in the Senate, and that is what we are talking about—trading guns for votes. We will not be complicit in the weakening of Australian gun safety laws, which have kept us safe for two decades and set a benchmark for the world.

On the 20th anniversary of the Port Arthur massacre, the Alannah & Madeline Foundation started a national petition urging states and the federal parliament not to water down gun laws. Almost 60,000 people have signed that petition, and opinion polls regularly indicate that 80 per cent of Australians want the strict controls on firearms to be maintained. That may annoy libertarians like Senator Leyonhjelm, but it should surprise no-one.

Australians know that they live in a safe country, and they value that fact. They do not want this country to imitate the United States, where gun crime is prolific and people are unsafe—the country in which gun ownership is normalised under an 18th century understanding of the need to maintain a militia. The modern consequences of that outdated statute in the US are beyond tragic. Mass shootings have become commonplace in the United States. That country has more than 300 million guns in circulation, and that is more than one per person. One in 10,000 Americans will die as a result of gun injury. That compares with one in 100,000 Australians. I think we should stick with the Australian statistics, and stick with the legislative reform and gun control that we enacted as a bipartisan national response to the tragedy of Port Arthur, which captured the public imagination and helped us crystallise the sort of society that we want to live in and the sort of society in which restrictions on the freedom of some who would seek to use particular guns for particular purposes are balanced against the freedom and safety of the many.

When we look at the statistics, Americans are 10 times more likely to be killed by someone using a gun than Australians are. That is the consequence of the sort of open slather gun regime that Senator Leyonhjelm thinks is acceptable. The mass shootings in public in the US have been well publicised. We know the tragic litany of place names—places we have never visited but where we know this great tragedy of the abuse of guns has occurred—Orlando, Charleston, San Bernardino, Sandy Hook and Virginia Tech. But, as gun control advocates like Lesley Podesta remind us, gun violence is not always in a public place. I am not referring to those Hollywood style shootouts between cops and gangsters. Every day in the US five women are murdered with guns—five every day. Many of those deaths take place in the context of domestic violence. We know that the scourge of domestic violence is still far from being ended here in Australia. Moving to American style gun laws would only make the present danger that so many women and children experience even worse than it already is.

It must be hoped that the review of the National Firearms Agreement will not be subverted by those who want this country to go backwards on gun safety. Making it easier to import and own Adler A10 shotguns would undoubtedly do that. It is a disgrace that the government has resorted to vote-trading on this fundamental issue of public safety. But, if it now chooses to adhere to the original ban, it can at least redeem some of its sullied reputation.

The power of the gun lobby in the United States is legendary. The argument, 'Guns do not kill people, people do,' is bunkum. Enlightened Americans look to Australia as an example of what can be done with widespread public support to control firearms and make the country a
safer place to live. Community protection and individual or personal security are not something to be privatised, as they are in the United States, by individuals arming themselves. Proper regulation of firearms is a responsibility of the state and not a case of individual freedom.

In closing, can I say that this must be one of the more underhanded, convoluted and bungled deals in recent memory: trading access to firearms to secure firearms in the Senate, guns for votes. Those are the sorts of headlines we have seen swirling around this government; it does not get much worse. From a New South Wales point of view, this has the added intrigue of the greyhounds, coalition bickering and a Deputy Premier who has fallen on his sword after abandoning his people. It all reeks of disarray, division, weakness and deceit in the coalition within both the federal and state tiers of government. It reeks of horse trading away public safety for the sake of power.

Former Prime Minister Tony Abbott introduced this ban in the context of concerns around the Lindt Cafe siege in Sydney in 2014. And he backed that view up just last month when he said:

With a heightened terror threat, there is just no way that any serious Coalition government, any government in the tradition of John Howard should be allowing rapid fire weapons on a very large scale into our country.

We have made very clear Labor's position that we fundamentally reject Senator Leyonhjelm's position on gun control. But we also reject the way in which this government interjects with the crossbench. The crossbench are duly elected by the Australian people. In the last parliament we heard the name-calling from those opposite, from those who are supposed to be leading the government, of people who sat on the crossbench. Perhaps they have learnt their lesson and are name-calling a little less; but they are dirty dealing as much as they have ever done.

Senator Leyonhjelm's comments this evening are explosive. He said there is a better chance of the government getting agreement if it negotiates to secure crossbench votes in a way that is honourable and if it negotiates in good faith. Senator Leyonhjelm is clearly indicating to anyone who is watching around Australia that this is a government that no-one trusts. Even when getting their legislation through depends on doing a deal, they cannot be trusted. Senator Leyonhjelm honoured his deal—as much as I disagree with it. He gave his word—in the way businesses and decent people around Australia operate every day. He gave his word. But the government could not keep its word; it could not lie straight in bed; it is a government that you cannot trust. Senator Leyonhjelm has spelt out very clearly that that is absolutely the case: this is a government that you cannot trust. Labor will not support this disallowance motion by Senator Leyonhjelm.

Senior WONG (South Australia—Leader of the Opposition in the Senate) (19:55): I rise to speak on Senator Leyonhjelm's motion to disallow the Customs (Prohibited Imports) Amendment (Shotguns and Shotgun Magazines) Regulation 2016. Whilst the opposition acknowledges the rationale behind Senator Leyonhjelm's desire to disallow this regulation, and his consistency in terms of his views in this area, as has been articulated we will be opposing the motion to disallow. However, I want to briefly address the context in which this regulation has been made. We know that the regulation amends the Customs (Prohibited Imports) Regulations 1956. The effect of the amending regulation, the regulation that Senator
Leyonhjelm has moved to disallow, is to prohibit the importation into Australia of lever-action shotguns with a magazine capacity of more than five rounds. In addition, it prohibits the importation of firearm magazines with a capacity of more than five rounds for lever-action shotguns whether attached to a firearm or not.

Significantly, this regulation has the effect of maintaining the relevant prohibition as introduced and implemented by the Customs (Prohibited Imports) Amendment (Firearms and Firearm Magazines) Regulation 2015 whilst a review of the National Firearms Agreement continues. A previous regulation already provided for the relevant provisions in the prohibited imports regulation. However, the sun set on that regulation on 7 August 2016 and so it was necessary to make a new regulation to continue the ban.

Labor's position on the Adler A110 lever-action shotgun has always been clear: we do not support lifting the ban on the Adler. Tonight we will be sticking with our position and voting against the disallowance motion. This is because we say what we mean and we mean what we say. This cannot be said of those opposite. It is regrettable that this government has used this issue as a political tool for more than a year. It has gone through all of the dodgy processes possible: secret deals, broken promises, botched cover-ups and incoherent attempts at further deals. The government has ended up failing completely. In doing so, this government has risked the watering down of Australia's world-leading gun laws for political expediency.

Labor has made it clear that we support the ban on the Adler. Labor has made it clear that we believe in strong gun laws because they save lives. We are worried about the risk to public safety if thousands of these shotguns are let into Australia, which is why we will be voting against the disallowance motion.

On 6 August 2015, Labor supported the government's decision to impose a ban on these shotguns from entering Australia whilst a review of the National Firearms Agreement was underway. There was significant concern in the community about the Adler lever-action shotgun, and Labor's position has always been that there should be a ban on the importation of these weapons whilst the review that I referred to was being undertaken. As I said, we support this ban because we support Australia's world-leading gun laws, because we are concerned about public safety. And we had hoped that the government was of the same mind. But from its actions it appears that the government does not care about gun control. When the government was short of votes in the Senate, it quickly turned to Senator Leyonhjelm and struck a deal to water down these gun laws. This is the deal they cut. The Minister for Justice and the Minister for Immigration and Border Protection agreed that the government would amend the Customs (Prohibited Imports) Regulations 1956 to put in a sunset clause so that the Adler ban was automatically lifted in 12 months. As we know, this sunset clause was implemented.

In return, Senator Leyonhjelm was to vote against Labor's amendments to the Migration Amendment (Strengthening Biometrics Integrity) Bill 2015. Not only did the government do this deal, but they put it in writing on 12 August 2015. Whilst I disagree with Senator Leyonhjelm's position on this, he is a man of his word, and he agrees to this deal. In his email to the Minister for Justice's staff, he even states, 'I am assuming good faith here.' It is obvious from what occurred subsequently that there was no such good faith. Fast-forward to 2 July 2016, and the government realises that they were facing the consequences of their deal with Senator Leyonhjelm. They realise that their desperate attempt to get votes is about to put
thousands of these weapons into our communities. Public pressure mounts, and the government buckles and they put in place a regulation extending the ban—a regulation which Senator Leyonhjelm is now seeking to disallow.

Whilst we support the reinstatement of the ban, let me make it clear that the opposition does not endorse the government's behaviour—not their slippery position on the regulation, trading guns for votes, and not their treatment of Senator Leyonhjelm. When the government backflipped on the sunset clause, Senator Leyonhjelm was played. He was, in his own words, 'duded'. He is right. The government welshed on their deal with him and betrayed him. He reacted, if I may say so, with honesty. He was up-front with the government about his position and patiently waited two months to get a straight answer from them on this issue. It was only when the government needed the senator's support on other legislation that they bothered to try to fix the mess that they had created.

Even after all of this backflipping and these tricks, the government have still not ruled out watering down our gun laws. This whole issue has been such a disaster, and yet none of those opposite are willing to take responsibility. Certainly there has been no responsibility taken by the Prime Minister, Mr Turnbull. In fact, he has been at pains to ensure he has distanced himself from the deal. On 18 October 2016, Malcolm Farr reported that Mr Turnbull had refused to rule out doing a deal on the shotgun regulation in return for the passage of antiworker industrial relations bills. The extent to which Mr Turnbull failed the test of leadership became obvious when we saw Mr Abbott, the member for Warringah and the former Prime Minister, also desperately trying to distance himself from this failed deal. On the same day as the Malcolm Farr story appeared, Mr Abbott tweeted:

Disturbing to see reports of horse-trading on gun laws. ABCC should be supported on its merits.

Obviously, Labor's position is that the ABCC bill should fail on its merits. Notwithstanding this, Mr Abbott was fundamentally right when he condemned horse-trading with gun laws for a vote on industrial legislation. Mr Turnbull's weakness of leadership became further apparent the next day when members of the coalition came out in support of Senator Leyonhjelm's position. It is not a bad effort from the Prime Minister to foster a split in his own party room and trash the Howard legacy all in the space of a day. Then Mr Abbott said:

No deals from me. No deals from my office. No deal.

That was interesting because it led Mr Turnbull to contradict his predecessor by claiming:

… the Minister for Justice acted in the full knowledge of the Prime Minister's Office at that time.

Just picture this on the floor of the House of Representatives: the duelling versions of the truth from the current coalition Prime Minister and the former coalition Prime Minister. The former Prime Minister says: 'No deals from me. No deals from my office. No deal.' Mr Turnbull contradicts his predecessor and says, 'the Minister for Justice acted in the full knowledge of the Prime Minister's office at that time.' All the divisions in the government were opened up for all to see on the floor of the House of Representatives as the Prime Minister openly contradicted the former Prime Minister, who was then forced to make a personal explanation in the House of Representatives. What an extraordinary spectacle! I cannot recall a time when we have seen that sort of open warfare, an open contesting of the truth, from one Prime Minister to a former Prime Minister on the floor of the House. I think the only thing that is certain in all of this, with all the claims and counterclaims—'It wasn't me, it was him'; 'No, it wasn't, it was him'—and all of the obfuscation, ducking and weaving that we have seen, is
that the government made a deal with Senator Leyonhjelm to get his vote, and then they broke it when it suited them. I think that is absolutely clear.

This is a government that often likes to talk about the unworkable Senate. It is unsurprising they have a bit of a tough time at times in this chamber, given their poorly concealed disdain for those who disagree with them, particularly some members of the crossbench. We in the Labor Party often do not have the same policy position as senators on the crossbench, but I think we are pretty clear with them about that. We tell them what we can support and what we cannot. We try to have integrity in our dealings with them. You cannot say the same of the government, which is prepared to do a deal and then walk away from it when the political circumstances demand otherwise. Let us all remember what the Prime Minister said when the crossbench was elected to the Senate. He described their election to the Senate in 2013 as a disgrace.

We also all remember the 44th Parliament—perhaps some of us do not because some senators were not here—in which the government sought to get around the crossbenchers as much as possible. First it was by dealing exclusively with the Palmer United Party, and then they tried to do over the crossbench on the future of financial advice regulation—another disallowance where the government did not succeed. On other occasions, the government have cuddled up with the crossbench when it suited only to turn their back on them once they had secured the outcome they wanted. Some might say that, for the government, it has never been about the quality of the ongoing relationship, only the shotgun wedding!

Perhaps Mr Turnbull's crowning achievement was when he actively went about trying to get rid of the crossbenchers, passing legislation intended to dilute their chances of election. That is what the Senate voting changes were about. They were trying to dilute the chances of crossbenchers being elected. Prime Minister Turnbull thought it would clear them out, but, combined with a double dissolution election, his plan clearly did not work. In fact, the Australian people returned many crossbenchers to the Senate, plus added a few more—so much for Mr Turnbull's grand plan. Now we see the government trying to duel with Senator Xenophon and his South Australian colleagues, with the Acting Prime Minister, Senator Joyce, signalling his intent over the weekend to dishonour the Murray-Darling Basin Plan. I will talk about that more on another occasion. I just say yet again: how is it that Mr Turnbull, who once argued so strongly for this plan, can be in a position where his deputy simply up-ends it?

The most disappointing thing about this whole fiasco is that the dodgy deals that have been the focus of much of the debate could have ended up allowing dangerous weapons onto our streets. This government was prepared to contemplate watering down our gun laws in order to get totally unrelated legislation through the Senate. That is right: the coalition was prepared to contemplate watering down our gun laws in order to get totally unrelated legislation through the Senate. They have subsequently tried to cover that up, backflip and then blame each other. I think the lesson from this is clear: the government cannot be trusted to stick to its word when it comes to Australia's gun laws. Labor has made its position clear: we believe in strong gun laws because they save lives. We are worried about the effect of the Adler entering into Australia and the effect that it will have on public safety. Labor has a clear position which is clear to the Australian people. We will not do politically expedient deals to sell out their
safety. It is shameful that the other party of government cannot make the same commitment. For this reason, the opposition will not be supporting this disallowance.

**Senator McKENZIE** (Victoria) (20:08): My contribution will be short. I am a licenced firearm owner. I am chair of the Parliamentary Friends of Shooting group. In response to Senator Wong, we have strong gun laws in this country, and the passing and debating of this motion does not change the strong gun laws in this nation which are a result of state governments agreeing to licence and regulate firearm ownership and use in this country under the National Firearms Agreement. That does not change with this motion.

Nearly one million Australians own at least one gun. That is the reality. There are a lot of us who do not think that is necessarily a bad thing. We champion our Olympic shooters and we manage our feral pests. There are social benefits, particularly with those who came to Australia through the 1950s. Our immigration story of the 1950s has resulted in a very strong family connection to hunting through, particularly, our Italian community. There are economic benefits that hunting and shooting bring to the Australian society and a $1 billion dollar industry employing tens of thousands of Australians.

This debate is just full of so many mistruths as people conflate the tragedies of Port Arthur and Lindt Cafe. Increased gun crime—which is an absolute indictment on our law enforcement agencies at a state level and at a federal level—on the streets of our cities from illicit firearms conlates the threat of terrorism into a public conversation where law-abiding firearm owners in this nation are derided and belittled by political elites who think they know better. We need a debate that is informed by fact, not by fiction or emotional language. If you read over the Hansard of this particular debate tonight you will see a lot of emotion. There is a lot of scare campaign out there and not a lot of fact. There is a lack of understanding in our media, for instance, around how guns are used and why, and how our current National Firearms Agreement actually works.

This debate has also been focused on a false argument around categorisation that is not based on science or evidence. For example, the lever-action shotgun currently in category A under the National Firearms Agreement has five shots. To increase that to seven is not an exponential increase in risk. I would urge anybody to bring forward the science on that and also to please bring forward the evidence of a lever-action shotgun being used in crime since the late 1800s. It just is not based on fact; it is based on fear.

I am not arguing for a weakening of gun laws, and I never have. I am calling for a debate around science and evidence. We need laws that get the balance right. This particular disallowance motion does nothing to change the National Firearms Agreement or the strong gun laws which have held us in such strong stead from a safety perspective, getting that balance right for the last 20 years. I support the motion.

**Senator RHIANNON** (New South Wales) (20:12): The Greens do not support the disallowance of the Customs (Prohibited Imports) Amendment (Shotguns and Shotgun Magazines) Regulation 2016. Here is another example of a member of the gun lobby, Senator Leyonhjelm, working to sacrifice public safety to expand firearm ownership and use. Senator Leyonhjelm has also provided an insight for us into how negotiations operate with the Turnbull government. What we have also seen in the course of what he has disclosed is the extent to which the Turnbull government is going to trash the very important legacy of the
former Prime Minister, John Howard, when it came to making Australia a safer country by bringing in stronger gun control measures.

We have just heard from one of the members of that government, Senator McKenzie, speaking about her commitment that she is not trying to water down the laws on guns in this country. But what we know is that the Turnbull government is trying to do precisely that in the way that they are in slippery deals with prominent people who advocate weakening the gun laws. The priority right now should be stopping Adler weapons coming into this country—stopping them flooding in. Using the classic tactic that we see so often from conservatives these days, they say one thing when their intent is quite the opposite. We have seen that from Senator McKenzie tonight, making out that she is not out there trying to advocate for weaker gun control.

Senator McKenzie: This doesn't change anything!

Senator RHIANNON: It does, actually. It enormously does. Your misinformation tonight was extreme. Another piece of misinformation that comes from people like Senator McKenzie and others is that people who advocate gun control want to take firearms off people. It is something that Senator Leyonhjelm set out and it is frequently an argument. It is not about taking guns off people.

I have been involved in this issue of gun control since the 1990s. Back then, we were even accused—a crazy suggestion—of trying to stop firearm competitions in the Olympic Games. What absolute rubbish. Again, that misinformation to try to make out that people who advocate for gun control—

Senator McKenzie interjecting—

Senator RHIANNON: I am happy to acknowledge the interjections of senators here. We should be working together to achieve public safety. Public safety requires stronger regulation. That means bringing the National Firearms Agreement up to date with the challenges of new technology, which is very much relevant to the whole issue with the Adler.

When we have these debates, we need to remember our history—particularly this year, which is 20 years since the tragedy of Port Arthur. It was in April this year that the 20th anniversary was commemorated, with great sadness. The positive out of it—it is obviously incredibly tragic that it had to come this way—is that we have seen a history in Australia of gun control advances because of the tragedy of massacres. Stricter gun controls have led to a huge decline in gun murders. It is worth people noting the research that came out at the time of the anniversary. Reuters did an analysis of Australian Bureau of Statistics figures. The chance of being murdered with a gun in Australia in 1996 was 0.54 per 100,000. If you come forward to 2014, the figure had plunged from 0.54 to 0.15 per 100,000. That is significant. That is what we are talking about: public safety—people's lives saved. In 1996, Australia had 311 murders, of which 98 were with guns. In 2014, with the population having increased from 18 million in 1996 to 23 million in 2014, Australia had 238 murders, of which 35 were with guns. That is putting it in real figures—figures that reflect people's lives. Families can feel confident that so many people live a life that could have been robbed from them if we did not have the gun control measures that we have achieved. The government buyback and the confiscation of about a million weapons was part of that shift to measures that contribute to public safety.
What we also need to focus on with the National Firearms Agreement—which again brings in the Adler, because that is where this debate about the Adler should go, not with the trickery going on with this disallowance—is addressing one of the problems that occurred in 1996. While the agreement was a huge advance—and I pay tribute to former Prime Minister John Howard for what was achieved then—all that was banned was semiautomatic long arms, not the semiautomatic pistols.

**Senator Leyonhjelm:** Which is what they use in the Olympics!

**Senator Rhiannon:** We are not talking about the Olympics; we are talking about what can be used generally and is generally available, and you know that, Senator Leyonhjelm.

Since the Port Arthur massacre in 1996, gun control in Australia has proved to be incredibly effective in curbing violent crime. The buyback of semiautomatic weapons in the aftermath of Port Arthur has been incredibly significant. It was one of the most comprehensive reforms of firearm laws anywhere in the world, held up as a great example of how communities can become safer. But what we see now with the Adler—and just to concentrate on the Adler issue itself—is a very stark example of the gun lobby trying to reverse, to erode, the gun control regulations that have been put in place.

Improvements in firearm technology and design have turned the old, clunky lever-action shotgun into a modern rapid-fire gun that can shoot eight rounds in eight seconds. Going back to some of Senator Leyonhjelm's contribution, you would have thought that this was nothing really special and that it is just a bit of a difference between having bullets in your pocket and having bullets in your gun so that they can fire off a bit more quickly. Well, it is actually a very advanced weapon and it is a rapid-fire weapon—what some call semiautomatics.

Currently, all lever-action shotguns—even ones with magazines—are characterised as general hunting rifles. That puts them in categories A and B, the least restrictive categories, which are available to the majority of firearm licence holders. As we have heard from other speakers tonight, there are 800,000 people in Australia who hold that licence. I understand that primary producers, military people and others who require access to these firearms for general purposes are not going to be impacted here. We are talking about recreational shooters. This is where the gun lobby is out to expand the use of guns in our society, targeting more people to bring them in as recreational shooters. They are the people who would have access to the Adlers, and they have no need to at all. How irresponsible, putting those forms of semiautomatic weapons in the hands of so many ordinary people who do not need them! They have absolutely no reason to have access to such rapid-fire firearms.

In 2015, the Australian Crime Commission actually issued a warning about this weapon. The people who do not like this—the conservatives on the government benches—are usually out there singing their praises. It is those very security people, the Australian Crime Commission and many of our police forces, who are deeply worried about Adlers coming into Australia.

What is very relevant to this issue is some of the comments from the federal Minister for Justice, Michael Keenan. He approved the importation of the Adler five-plus-one shot. Over 7,000 have already arrived in Australia, and the Adler A110 do-it-yourself magazine extension kit is now also available across Australia, turning the five-plus-one into an 11-shot firearm. Those figures are probably not really clear to a lot of us, and I am certainly not an
expert in guns. But what I know, in terms of how this technology is being developed, is that it is sophisticated and it means there are weapons that can fire off a number of rounds in a very short time—eight rounds in eight seconds—which means they are very dangerous weapons.

The federal government should be acting now to prevent the rapid-fire shotgun from flooding into the Australian market. That should be the priority of a responsible government. I think it is also relevant to also make a few comments about the situation in the US, because the National Rifle Association of the United States is giving advice to the gun lobby here and, as we know, it was a significant issue in the recent US election. In January last year the person who is now the President-elect of the United States, Donald Trump, wrote in a tweet:

Fact – the tighter the gun laws, the more violence. The criminals will always have guns.

There was also a bit of an infamous comment from the gun lobby advocates in this country. They are out there saying that criminals are the ones with illegal guns and that is where the problem lies. What they need to remember, and what they should be honest about, is that illegal guns were once legal guns, and the more legal guns there are in circulation the more guns that will get stolen and end up in illegal hands and be part of the shootings and the crimes that we see in this country. You cannot divorce these two issues.

But going back to how this is playing out in the states: this year Ted Cruz, one of the Republicans, blamed Australian gun laws for a rise in sexual assault—really crazy debating stuff there. Unfortunately, the unsuccessful candidate, the Democrat Hillary Clinton, ruled out an Australian-style gun buyback, and Bernie Sanders, the other hopeful, rejected the need for tougher gun controls despite a gun murder rate of 3.4 per 100,000 in the United States. Now, the fact that those comments have been made by Ms Clinton and Mr Sanders—I would say people who are very progressive on a majority of issues—shows the power of the gun lobby; they just do not want to entertain tighter gun laws. Australian gun laws brought into the United States would save lives rather than having the horrendous situation we see in that country at the moment.

So, with regard to some of the comments from Senator Leyonhjelm: he said he negotiated in good faith with the government. He set out a very interesting scenario of how it played out. How he negotiated in good faith with the government is a bit beyond belief, because he has been here long enough and surely he knows the track record of this government and how often they have broken their word on so many issues. We have seen a real sellout on public safety for the expansion of gun use. That is basically what is going on, even though I noticed a number of times that a number of the Labor senators have congratulated Senator Leyonhjelm on how he set it out. But what he was setting out was his willingness to sell our public safety so there would be Adlers flooding into this country.

Then we hear the argument about feral animals, which is a total con job. Having recreational shooters out there killing feral animals is no way to control that problem. Such animals need to be addressed in an evidence based way with professional management. The Greens do not rule out that sometimes these animals may need to be shot. But that needs to be undertaken in a professional way, not in the way that is currently proposed.

We need to remind ourselves of what happened at Port Arthur. Port Arthur was an absolute tragedy. We learned a lot of lessons, but the job was not fully done. Not all the weapons that need to be banned were banned to ensure that we can promote public safety to the degree that we have a responsibility to ensure. The ban on the semiautomatic longarms came in but not
on the semiautomatic shortarms, and now we have the Adlers—a rapid-fire weapon—that should come under that ban. That is essentially what we are dealing with here now.

I do congratulate Gun Control Australia. They are advancing this issue. They are having a very important campaign around banning the Adler. It would be much wiser for the debate on this issue to occur in the context of the National Firearms Agreement rather than in the sneaky way Senator Leyonhjelm is trying to advance it here today. It does no credit to him. We need to get back to addressing gun control and the use of firearms, making public safety the priority, not expanding the number of guns in our community.

Senator McGrath (Queensland—Assistant Minister to the Prime Minister) (20:27): The government opposes the disallowance motion of Senator Leyonhjelm. In August 2015 the Commonwealth temporarily prohibited the importation of lever-action shotguns with a magazine capacity of more than five rounds. The government took this step on the advice of Commonwealth, state and territory law enforcement agencies and officials pending the outcomes of the review of the National Firearms Agreement. Although a sunset clause was later put in place, it was envisaged that the review of the National Firearms Agreement would have concluded before the expiration of the prohibition. However, as the review is yet to be concluded, the prohibition was recently extended.

Ministers considered classification of lever-action shotguns and a National Firearms Agreement at the Law, Crime and Community Safety Council last month and agreed to further discussions to achieve consensus on classification of lever-action shotguns and finalising the National Firearms Agreement review. The importation prohibition is intended to be in place until the review of the agreement is concluded and the agreed outcomes are implemented.

Senator Lambie (Tasmania) (20:28): I rise to make a short contribution on this disallowance motion. If this motion is passed tonight Australia's gun laws will be weakened. I wonder how John Howard is feeling tonight, and I wonder whether he is listening to this debate. I imagine he would be feeling pretty disgusted right about now that his beloved Liberal Party was prepared to do a political deal which would allow into the country rapid-fire shotguns which can deliver nine shots in 10 seconds. The terrorist alert is at one of the highest levels in history and the Liberal-Nationals party is prepared to do a deal to allow rapid-fire shotguns into Australia.

Imagine the carnage and butchery that would have happened if the terrorist who held up the Lindt cafe was armed with an Adler shotgun, instead of a double-barrel shotgun. I know many senators have taken the time to deliver well-researched and well-written speeches on this motion, but if they really want to know what Tasmanians think, I can assure you, they should go and visit Port Arthur. If only the Nationals would put as much effort into fixing the backpacker tax crisis as they do in bringing into this country shotguns that are a terrorist's wet dream.

The Acting Deputy President: It being 8.30, the time for debate has expired. The question must now be put. The question is that the motion moved by Senator Leyonhjelm be agreed to.

The Senate divided. [20:34]

(Acting Deputy President—Senator Gallacher)
Ayes .................7
Noes ....................45
Majority ...............38

AYES
Burston, B
Hanson, P
McKenzie, B
Williams, JR

NOES
Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Collins, JMA
Dodson, P
Fierravanti-Wells, C
Gallacher, AM
Griff, S
Hinch, D
Kakoschke-Moore, S
Kitching, K
McAllister, J
McKim, NJ
O’Neill, DM
Pratt, LC
Rhiannon, L
Ryan, SM
Siewert, R
Smith, D
Waters, LJ
Whish-Wilson, PS
Xenophon, N

Culleton, RN
Leyonhjelm, DE (teller)
Roberts, M

Bilyk, CL (teller)
Brown, CL
Cameron, DN
Chisholm, A
Di Natale, R
Duniam, J
Fifield, MP
Gallagher, KR
Hanson-Young, SC
Hume, J
Ketter, CR
Lambie, J
McGrath, J
Moore, CM
Polley, H
Reynolds, L
Rice, J
Seselja, Z
Sinodinos, A
Sterle, G
Watt, M
Wong, P

Question negatived.

BUSINESS
Rearrange

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (20:38): I seek leave to move a motion relating to the hours of meeting for today.
Leave not granted.

Senator BRANDIS: I move:

That so much of the standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to provide for the determination of a motion relating to the hours of meeting and routine of business without amendment or debate.

And I move:

That the question be now put.
The ACTING DEPUTY PRESIDENT (Senator Gallacher): The question is that the question be now put.

A division having been called and the bells being rung—

Senator BRANDIS: Mr President, while the division bells have been ringing, I have spoken to the Leader of the Opposition in the Senate. The government is prepared to have a 30-minute debate on the suspension motion—to call off this division, proceed to the debate and then put the motion.

The PRESIDENT: If it is the will of the Senate. Is leave granted for the division to be cancelled?

Leave granted.

The PRESIDENT: There being no objection, we will cancel the division.

Senator BRANDIS: Thank you very much indeed, Mr President. The purpose of this motion is to enable proper consideration, without further delay, of the Fair Work (Registered Organisations) Amendment Bill 2014. Those of us who have been listening to the second reading debate on this bill throughout the course of the day know that the Australian Labor Party will do whatever they can to stop this bill being passed and to stop this bill being put, because what this bill seeks to achieve is to restore accountability, transparency and integrity to registered organisations, both trade unions and defined industrial organisations, and that is something that the Labor Party is determined to resist.

We have had a long second-reading debate. All of the arguments for or against this bill have been canvassed from both points of view, and the crossbench have had their opportunity to make their contribution as well. It is time now, frankly, that the Senate got on with it.

This is one of the bills that, as we all know, were a double dissolution trigger. It is one of the bills that we took to the people, and we were re-elected. We undertook at the election that, if we were to be re-elected, we would re-present this bill to the parliament, and that is what we are doing. If the bill is carried, as the government hopes that it will be, that will be a very, very significant reform for the Australian industrial relations landscape.

We have heard for years now the mounting evidence of unlawfulness and illegality by trade union officials—not all, not most, but enough to be of concern. It was one of the themes of the Gillard government in particular that scandal after scandal within the trade union movement—in trade unions such as the Health Services Union, the Australian Workers Union, the Transport Workers Union and of course, infamously, the CFMEU—was exposed. What did the former, Labor government do to address those abuses of power, those decisions by crooked union officials to enrich themselves at the expense of their members? The sad truth is they did nothing—nothing.

So, when the coalition were elected, we established a royal commission, the Heydon royal commission, whose findings were absolutely damning and made the case in language too powerful to admit of argument that the need to reform industrial relations in Australia was both urgent and significant.

We introduced this bill. We also introduced other legislation to reform the construction industry, but that is a matter for another debate. All the registered organisations bill will do is ensure that officers of registered organisations are subject to the accountability, transparency
and integrity standards of officers and directors of public companies, and yet that is too much
for the Australian Labor Party to swallow. When you have legislation that merely seeks to
ensure that some important entities with power in the economy are subject to the same
transparency, accountability and integrity regime as other powerful elements in the economy,
and one side of politics resists it tooth and nail, it cannot be because they have a policy based
argument. It cannot be because they have a principled argument or an intellectual argument
against what the government is seeking to do—and they do not. This is an absolutely
shameless attempt by the Labor Party, led by Senator Wong and the CFMEU, to prevent
reform, because every man and woman of them—every single one of them—owes their place
in this chamber to the patronage of a trade union movement that has decided to do everything
it can to prevent reform.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (20:46):
Senator Brandis described us as shameless, and what he has done is rocked up in here on the
bill that has been on their agenda for years. It was the double disillusion trigger. All of a
sudden, they come in and say, 'Bang, we want to get this voted on tonight because we've got
the numbers.' It is pretty clear what has happened. The government believe they have got the
numbers. They want to get this through tonight, so they are coming in here, without notice, to
move a motion to require that the Senate sit until this bill is dealt with.

You would have thought that, given how long this matter has been on the agenda, the
government might have been able to get themselves into order to actually work out how it is
that they are going to resolve the debate on this bill and how they are going to manage it. But,
no, yet again what we have is disarray—the same sort of disarray we saw in the vote before. I
do not know if others noticed, but the Nationals voted against the government. The Turnbull
government split on the floor of the Senate. The Nationals voted with Senator Leyonhjelm.

Where were the Nationals ministers? Where were the Nationals cabinet ministers? Were
they here? I have to say—

Senator Brandis: It was a mick.

Senator WONG: It was a mick he says. That was very, very mediocre, Senator Brandis.
We will have a bit more to say about mediocrity, I am sure, in the days ahead, as will your
colleagues, but that is a different point.

We saw the disarray from this government—the disarray which was government senators
voting against the government's position, against the Prime Minister's position, in the few
minutes before this motion came on. Nationals cabinet ministers were not even here to back in
the Prime Minister's position. Now the Leader of the Government in the Senate walks in here,
put down the motion and says: 'Guess what? We're going to be here all night if that's
what it takes, because we've got the numbers.'

Senator Brandis: I did not say that.

Senator WONG: He says, 'I didn't say that.' What does this mean: 'The hours of meeting
shall be 10 to adjournment and government business order of the day No. 1'—which is the
registered organisations bill—'will be called on immediately and have precedence. The Senate
shall adjourn after it has finally considered the bill listed above'? In order words, we have got
the numbers, so we want to sit here until it is done. You could just own it, George. It is the
exercise of numbers. But do not come in here at a later stage and tell the Australian Labor
Party, when we want to resolve something—we want to bring something to a vote—that somehow that is an unreasonable thing. The government wants to finish the debate on this bill. It wants to ram it through tonight. It wants to get this bill resolved and it is clear that it does not want to have to deal with the set of amendments that Labor, and potentially the crossbench, are seeking to move. We are very clear about this. We do not believe the Senate ought be treated like this. We do not believe that the Senate ought be in the position where the Leader of the Government in the Senate comes in without notice and slaps down a—

Senator Brandis interjecting—

Senator WONG: You really are talking a lot. There is a quite a lot on Twitter about you at the moment, Senator Brandis. We could say some of the things that Liberal MPs are currently talking about. Quite privately, LNP MPs were fuming over the comments. 'George has been such a shining example of good government,' said one, on the condition of anonymity, but I digress.

The point here is this: we had an orderly process for dealing with this piece of legislation—orderly to the point, I suppose, because the government finally actually listed it. But what we have is the Leader of the Government in the Senate coming in and slapping down a motion to enable this to be voted on tonight. This bill has been an example of this government's inability to manage its legislative program. This bill has been an example of a Prime Minister who goes out and demands a double dissolution, partly to clean out the crossbench—remember that was one of the reasons he used: to clean all the crossbench out. He said, 'This bill is so important, we are going to go to a double dissolution on it.' He gets a crossbench that he is not sure he can get the numbers on for this legislation. Then he refuses to list the legislation, despite the fact that this was the great fight that Malcolm Turnbull was going to have. This was the great economic reform—this legislation. He refuses to list it and now, finally, what we have is the government coming in and saying, 'We have to have the debate. We have to finalise it tonight, because we do not want the Senate to have tomorrow to debate it,' as would be normal. 'We want to finish it tonight, even if it takes all night.' That is no way to run a legislative agenda. (Time expired)

Senator DI NATALE (Victoria—Leader of the Australian Greens) (20:51): What was it? Five months ago or so that we went to a double dissolution election on these two bills: the registered organisations bill and the Australian Building and Construction Commission bill. It was so critical that these two bills passed that the Prime Minister decided that he would call a double dissolution on the back of them. These are the pieces of legislation that dare not speak their name. We cannot talk about these pieces of legislation, because we did not talk about them right throughout the election campaign. People had no idea on what basis this government took us to a double dissolution. And then in the subsequent months after the election there has been not a peep, not a word. We could not bring on these bills because the government clearly did not have the support.

Now here we are at the start of a two-week sitting period. It is the first Monday of a two-week sitting period and suddenly we have the government trying to railroad this piece of legislation through the parliament. We had the preceding period during the election campaign when no-one dared mention the words 'building commission' or 'registered organisations'. For the subsequent period after the election, for months afterwards, there was not a peep. And
now it is so critical that at the start of a two-week period we have to pass these bills gone midnight! I just do not get it.

This is not the calm, methodical, grown-up government that we were promised, firstly, by Tony Abbott, who apparently lost his way because he had poor polling numbers. We were promised more mature, grown-up government by Malcolm Turnbull. But this is what we get? We have two weeks. We could be back here tomorrow to have a sensible, mature debate with the scrutiny of the Senate, as is warranted. Instead, we are going to be here gone midnight debating what are such critical pieces of legislation that no-one has mentioned them for over five months!

Let's also remember that the only reason that we are here—and we accept that it appears that the government has the numbers—is that the government has managed to secure the support of the crossbench. I have a special word of thanks for some of my colleagues on the crossbench. Senator Xenophon stood here during the last period of government when the Labor Party were in office and was so critical of how often these sorts of tactics were pulled. Yet here he is supporting precisely the sort of tactic that he was critical of during the last Labor parliament.

I do not get what is so critical that we have to be here until—who knows?—11 pm, 12 am, 1 am or 2 am when we could be here tomorrow and giving this the scrutiny that it deserves. Senator Xenophon, the government clearly think they have you where they want you. They have their foot on your throat, and you are giving it to them without us doing our job. You have been in this chamber telling us how critical it is that the Senate scrutinises important pieces of legislation. Senator Xenophon, you—through you, Mr President—have consistently said that it is our job to scrutinise all legislation for us to do our job and you are now giving the government what they want. Why is it that you are denying this Senate the opportunity to ensure that we do what we are supposed to do, and that is ensure that every amendment receives scrutiny. I am just looking at the amendments that are proposed here. There is a wad of amendments here, and you are asking us at one in the morning to give them the scrutiny that they deserve. Sorry, but I just think that is unconscionable.

What we have now is a piece of legislation that will probably get through. There might be some amendments passed. We could all have an opportunity to understand what they mean and do our job. But, instead, here we are with this government's dirty deal with some crossbenchers. I do not expect anything more of some of our colleagues on the crossbench but, Senator Xenophon, I expected more of you.

Senator XENOPHON (South Australia) (20:55): I have enormous regard for Senator Di Natale. I want to put this in context: I will not support a gag motion on the substantive merits of a bill—that is, the debate of a bill and the committee stages of a bill. I have been absolutely consistent on that in the eight years that I have been here. I have been consistent in relation to that. It allows the Senate to scrutinise legislation. This motion, which is a procedural motion, will in effect allow for all senators to contribute to the debate on this bill. It is not satisfactory, Senator Di Natale—through you, Mr President—but it would be less satisfactory not to deal with a number of amendments—

Honourable senators interjecting—
Senator XENOPHON: There will be a second reading stage. There will be a committee stage. I have worked very hard in good faith with the government in relation to amendments that deal with whistleblower protections in this country and a commitment to extend them to the corporate and public sectors. They have been circulated online.

Opposition senators interjecting—

The PRESIDENT: Order! Just a moment, Senator Xenophon. Senator Di Natale, you were heard in relative silence. I think you should extend the same courtesy to Senator Xenophon. I remind all senators not to interject.

Senator XENOPHON: This is not satisfactory, but it would be less satisfactory to lose an opportunity to make the most sweeping changes to whistleblower protection laws that this country has ever seen. It will become apparent in the course of this, and I make no apology for that. It would be less satisfactory to lose this opportunity in relation to sweeping whistleblower protection laws that will extend to the corporate and public sectors.

Senator GALLAGHER (Australian Capital Territory—Manager of Opposition Business in the Senate) (20:58): I rise to support the comments of the Leader of the Opposition in the Senate, Senator Wong. What a surprise it is tonight to see the government has finally managed to secure a deal with the crossbench. We are yet to see what the results of that deal are. We have just heard some assurances from Senator Xenophon that it will all be very positive, but we simply will not have the time tonight to work that out.

This procedural motion in response to Senator Brandis's motion tells us a few things about this government. Firstly, it is that they have failed to manage their legislation program effectively. That is clear. We have been seeing that ever since the election. Secondly, it is that they have failed to manage their speakers. We have seen this today. For a government that supposedly is in such a hurry to get this bill dealt with, we have seen government speakers added to speaking lists. We have had Senator Macdonald speak at length, I think, a number of times today, giving full 20-minute speeches on things with the government supposedly wanting to prioritise this bill.

We have also seen signs of a government that fails to engage with parties and representatives of parties they are not doing a deal with. We had no idea this was coming on tonight. We had no notice. It has been made clear to me that, for the smooth functioning of this chamber, it requires the parties in this place to work together, to provide notice where they can and to let people know what is going on. You hear rumours in this building, but it was not until Senator Brandis walked in tonight and tabled this motion that we were afforded the courtesy of finding out how this government is intending to deal with this bill—and that is that we are going to sit here until it is done, without the opportunity to go through any amendments that have been agreed to between the crossbench and the government. We will sit through the night—working on our feet to work out what these amendments mean. We have our own amendments to work through. Over the last year we have heard about how important this bill is. It has been before this chamber twice and been rejected, and it has been the subject of a double dissolution election, after which it mysteriously went missing. It has been in the missing persons unit, or the missing legislation unit, for the last six months. Then it appears, gets listed and we are told that it will be dealt with all in one day—despite us...
trying to engage. We know that our shadow minister has been trying to engage proactively with the government, saying that we wanted to work with them on the amendments we put. We can see that there was no interest at all in that approach. We have a government that has done some dirty deals, and this is a dirty deal—we do not know what it is about, we will not have the time to scrutinise it, and we are not prepared to take Senator Xenophon's word that it will be a great outcome.

It just shows again how the government are prepared to treat this place once it locks in the numbers—once the numbers are there, the rest of you can go and get stuffed—chuck out good procedure, chuck out communication, chuck out good process and chuck out the collaboration that, for the most part, works in this place on a day-to-day basis; instead, we are going to ram this through and make legislation in the early hours of the morning when people have not been given the right time or afforded the courtesy or the opportunity to work through the detail of the deal that has been locked in over the last couple of days. That is not how good legislation is made. That is not how important bills that come to this place should be dealt with.

Today, when I moved an amendment to the disallowance motion, I had all these comments across the chamber about, 'We didn't know about this; we didn't get advice.' I understood that the way it worked here was that you provide people with the opportunity and the information on what you are doing. I did that before question time today. Unfortunately, the same courtesy has not been provided to the opposition. There has been no engagement on this. Senator Brandis walking in and slapping down a motion as soon as they have locked in the numbers is not good enough. This is an important bill, there are political differences around it and it has been highly contentious. It is thoroughly inappropriate that the handling of this bill should be dealt with in the way that the government intends to, just because they have done a deal that none of us are party to. That is why we will be opposing this motion when it is put substantively.

Senator CAMERON (New South Wales) (21:03): I always understood that the Senate was the house of review, and the house of review was about actually scrutinising the legislation that comes before it.

Senator Brandis: Coming from you!

Senator CAMERON: Senator Brandis, never mind 'coming from me' at all. What we have seen here tonight is another example of the coalition trying to trash democracy—absolutely trash democracy. There is no foresight with your legislative approach—you have been struggling all year, you have been struggling under this new Prime Minister, you continue to struggle today, and we know that the divisions—

Senator Brandis: This is the third time this bill has been debated.

Senator CAMERON: Senator Brandis, we know what you think about a lot of things. We know what you think about your colleagues in Queensland from the LNP. We know that when a mike is near you in future you will need to check that the mike is off. But this is simply about a coalition in disarray. They are at odds with each other. You talk about accountability and integrity, but the only accountability and integrity that you guys want is accountability and integrity in the trade union movement, not accountability and integrity within the Liberal Party—absolutely none within the Liberal Party.
As I said, we are the house of review. I just had a quick look at the amendments being put forward by Senator Xenophon. They are extensive amendments. I do not think too many senators have actually had an opportunity to look at those amendments. When you add those amendments to the amendments from Labor, which are also extensive amendments on this bill, then this is something that you should not be debating, something that you should not be considering, way into the small hours of the night just because the coalition cannot get their act together. You talk about wasting time. Who did we have today? We had Senator Macdonald, we had Senator Reynolds, we had Senator Back and we had Senator Paterson up and engaging in the debate. How dare the coalition accuse us of filibustering when they have their own people up on their feet talking for 20 minutes each in the debate. If we were wasting time, what were they doing?

This is a matter of complex and very important amendments. I say to the coalition that we are interested in accountability and integrity. We are not just interested in accountability and integrity for the trade union movement, even though that is important. We need to start looking at accountability and integrity for the Liberal Party—even for the mediocre LNP in Queensland. Maybe we should be looking at how good they are—that mediocre mob of LNP senators and members up in Queensland who your leader says are so bad that he cannot control himself and gives a character reference in front of the whole country. I do not often agree with Senator Brandis, but he has got it right on this. What a mediocre mob up in Queensland. What a mediocre bunch of LNP members up there. Your own leader has absolutely no time for you. Your own leader does not have any concern for your feelings, because he just said you are mediocre. You are absolutely mediocre. It looks like we have all night now, if this gets passed, to deal with complex legislative issues, issues that we should not be dealing with in a rush. I like what the Greens say, that Senator Xenophon, bringing this on and supporting this, is actually doing everything that he had lectured us for years in this place not to do. But I suppose that once you get into a position of power, like Senator Xenophon, your morals and values can slip a little if it suits you. This should not go ahead. We should do our job. (Time expired)

Senator FIFIELD (Victoria—Manager of Government Business in the Senate, Minister for Communications and Minister for the Arts) (21:08): The motion that was moved by Senator Brandis, for which leave was denied, seeks to give this chamber the opportunity to deal with legislation that has been extremely well ventilated in this place, in the other place, this side of the election and the other side of the election. This has been very well-ventilated legislation. It was taken to the election. It was one of the triggers for the double dissolution election. It is legislation for which this government has a mandate. What Senator Brandis's motion was seeking to do was to enable this chamber to have the opportunity to sit for as long as it takes to deal with this legislation conclusively, once and for all.

The reason that Senator Brandis sought to move the motion is that we know that those opposite will use each opportunity that they can, procedurally and using the other mechanisms of this place, to delay the inevitable, which is this chamber having the opportunity to address this legislation. Senator Brandis's motion did not seek to curtail the opportunity of colleagues to make contributions. The debate will go for as long as it needs to. The second reading speeches will go for as long as colleagues wish to contribute. The committee stage will go for
as long as colleagues wish to ask questions, contribute and move amendments. There is no attempt to curtail the capacity of colleagues to make contributions.

It is unfortunate that leave was denied, but it has been denied. Nevertheless, that gives the opportunity for me and colleagues such as Senator Xenophon to give their views as to why the suspension should be granted to enable Senator Brandis to move his motion. This is a very reasonable approach in the circumstances that we are in here. It is important that this chamber transact the people's business. It is not a case where there is opportunity after opportunity looked for to deny that to happen. The granting of suspension of standing orders will allow Senator Brandis to move that we can get on and debate this important legislation immediately.

The PRESIDENT: The question is that the motion moved by Senator Brandis to suspend standing orders to vary the hours of business be agreed to.

The Senate divided. [21:15]

(The President—Senator Parry)

Ayes .................34
Noes ..................31
Majority ..........3

AYES
Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Sculion, NG
Sinodinos, A

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B (teller)
O'Sullivan, B
Paterson, J
Roberts, M
Ryan, SM
Seselja, Z
Xenophon, N

NOES
Bilyk, CL (teller)
Cameron, DN
Collins, JMA
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S
McAllister, J
Moore, CM
Polley, H
Rhiannon, L

Brown, CL
Chisholm, A
Dastyari, S
Dodson, P
Gallagher, KR
Ketter, CR
Lambie, J
Marshall, GM
McKim, NJ
O'Neil, DM
Pratt, LC
Rice, J

CHAMBER
Question agreed to.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:18): I move:

That a motion to vary the hours of meeting and routine of business for today may be moved immediately and determined without amendment.

And I move:

That the question be now put.

The PRESIDENT: The question is that the question be now put.

The Senate divided. [21:19]

(The President—Senator Parry)

Ayes .....................34
Noes .....................31
Majority.................3

AYES

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Sinodinos, A

NOES

Bilyk, CL (teller)
Cameron, DN
Collins, JMA
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fieravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B (teller)
O'Sullivan, B
Paterson, J
Roberts, M
Ryan, SM
Seselja, Z
Xenophon, N

Brown, CL
Chisholm, A
Dastyari, S
Dodson, P
Gallagher, KR
Ketter, CR
Lambie, J
Marshall, GM
Question agreed to.

The PRESIDENT (21:23): The question now is that the motion moved by Senator Brandis to give precedence to the variation of hours of business be agreed to.

The Senate divided. [21:23]

(The President—Senator Parry)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
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<td>34</td>
<td>31</td>
<td>3</td>
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AYES

- Back, CJ
- Brandis, GH
- Bushby, DC
- Cash, MC
- Culleton, RN
- Fawcett, DJ
- Fife, MP
- Hanson, P
- Hume, J
- Leyonhjelm, DE
- McGrath, J
- Nash, F
- Parry, S
- Reynolds, L
- Ruston, A
- Scullion, NG
- Sinodinos, A

NOES

- Bilyk, CL (teller)
- Cameron, DN
- Collins, JMA
- Di Natale, R
- Gallacher, AM
- Hanson-Young, SC
- Kitching, K
- Lines, S
- McAllister, J

Brown, CL
- Chisholm, A
- Dastyari, S
- Dodson, P
- Gallagher, KR
- Ketter, CR
- Lambie, J
- Marshall, GM
- McKim, NJ
Question agreed to.

Senator BRANDIS (Queensland—Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate) (21:26): I move:

That—
(a) the hours of meeting shall be 10 am to adjournment;
(b) government business order of the day no. 1 (Fair Work (Registered Organisations) Amendment Bill 2014) be called on immediately and have precedence over all other business until determined;
(c) the Senate shall adjourn after it has finally considered the bill listed above, or a motion for the adjournment is moved by a minister, whichever is the earlier.

And I move:
That the question be now put.

The PRESIDENT: The question is that the question be now put.

The Senate divided. [21:27]

(The President—Senator Parry)

Ayes .................34
Noes ..................31
Majority ..............3

AYES

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Sinodinos, A

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B (teller)
O’Sullivan, B
Paterson, J
Roberts, M
Ryan, SM
Seselja, Z
Xenophon, N
Question agreed to.

The PRESIDENT (21:30): The question now is that the motion moved by Senator Brandis to vary the routine of business be agreed to.

The Senate divided. [21:30]

(The President—Senator Parry)

Ayes .................... 34
Noes ..................... 31
Majority ............... 3

AYES

Back, CJ  .................. Birmingham, SJ
Brandis, GH ............... Burston, B
Bushby, DC ................ Canavan, MJ
Cash, MC .................. Cormann, M
Culleton, RN ............... Duniam, J
Fawcett, DJ ................ Fieravanti-Wells, C
Fifield, MP ................. Griff, S
Hanson, P .................. Hinch, D
Hume, J  .................... Kakoschke-Moore, S
Leyonhjelm, DE ..........  Macdonald, ID
McGrath, J ................ McKenzie, B (teller)
Nash, F .................... O'Sullivan, B
Parry, S ................... Paterson, J
Reynolds, L ................ Roberts, M
Ruston, A .................. Ryan, SM
Scullion, NG ............... Seselja, Z
Sinodinos, A ............... Xenophon, N

NOES

Bilyk, CL (teller)  .......... Brown, CL
Cameron, DN ............... Chisholm, A
Collins, JMA ................ Dastyari, S
BILLS
Fair Work (Registered Organisations) Amendment Bill 2014

Second Reading

Consideration resumed of the motion:
That this bill be now read a second time.

Senator HINCH (Victoria) (21:33): In recent weeks, and for the final two weeks of Senate activity, it is an alphabet soup of business: ROC, ABCC, PPL, VET, 18C et cetera—the list goes on. Today, to give it its full title, it is about the Fair Work (Registered Organisations) Amendment Bill 2014. It is to hopefully improve that bill that I am co-sponsoring some vital amendments, with Senator Xenophon. We will have the chance to debate them later. I have told journos many times that I am pro worker and anti corruption—be it union corruption or corporate corruption.

In recent weeks, I have spent a lot of time with ministers, shadow ministers, union officials, including from the CFMEU, and other senators. I will be voting for the amended bill, if the planned amendments pass. To get to this position, I have read many proposed amendments. I have supported some, and I have rejected others. The opposition encouraged crossbenchers to work on amendments. I suspect the big picture—as Paul Keating would say—was to get this bill and the ABCC legislation watered down as much as possible so that if, in the end, they did get passed, they would be closer to a gelding than a stallion. This legislation has been a long time coming. It is time, I believe, for a full-time, independent regulator for this sector, which has been wrecked with scandal, rather than the current body dealing with it part time.

The union movement will only be strengthened if potential members can be confident that all of their leadership are working to benefit members, not to personally benefit themselves. I do not see this as an attack on unions. I see it as an effective way to improve the way that this sector is governed. No-one, including people within the union movement, wants to see a repeat of the Kathy Jackson or the Craig Thomson rorts. Kathy Jackson misappropriated $900,000 from the Health Services Union. Craig Thomson squandered $300,000 of union members’ money—much of it on prostitutes.
In case anyone wanted to argue these horrors were a thing of the past, just remember that last week police arrested Derrick Belan. He was previously the New South Wales branch secretary of the National Union of Workers. Police also arrested his niece, Danielle O'Brien, who managed the union's accounts and audited his personal expenses. Belan has been charged with 24 fraud related offences totalling about $440,000. Police also charged him with participating in a criminal group. O'Brien is facing 148 fraud related offences totalling over $400,000. It is shocking. I wonder how anyone can argue, in the face of these events, that we do not need a specialised, properly-resourced organisation to deal with these matters.

One of the late Labor amendments is to get rid of a new sheriff and have ASIC play policeman. I have decided to vote against that. I have decided to vote against it because I think ASIC already has a volume of problems of its own, policing corporate crooks in an increasingly sophisticated world of company crime. My fear is that by dumping this area on ASIC, we would see it not get the scrutiny it deserved nor have the sophisticated, specialised nous that is required.

Then there are whistleblowers. Senator Xenophon and I are and will be, I believe, rightly proud of what could be the best whistleblower protection in the world. It would cover anonymity, compensation and protection. Even though it now deals specifically with unions, it must in the near future be extended with the same powers and the same protections to whistleblowers in the corporate sector. As my grandma used to say, 'What's sauce for the goose is sauce for the gander.'

One of the amendments I am sponsoring, with the Xenophon team's support, concerns auditors. I must admit that when I was railing against that scumbag Craig Thomson on radio and television, I never thought that one day I could be in a legislative position to do something about such selfish, self-serving thieves. I will admit that in this case it is partly personal. When the stories started coming out about Craig Thomson spending $500 a time on hookers I was actually lying in a hospital bed, and watching members of his old union, the Health Services Union, doing menial tasks for about, I guess, $15 an hour. I remember that I watched a middle-aged European woman with a mop cleaning up after a burst colostomy bag. I thought at the time that her union fees for the year would probably be around the $500 that Thomson spent on one prostitute in one assignation. I thought that at the time that her union fees for the year would probably be around the $500 that Thomson spent on one prostitute in one assignation. Maybe better auditing would have sprung people like Thomson, Kathy Jackson and Michael Williamson, and it may have sprung them hundreds of thousands of dollars earlier.

So there it is—my support for this bill. These are some of the reasons I have come to the decisions I have. I know and understand that I will not please everybody, but I got to this position without making deals with either side. That is what I promised the people who elected me.

**Senator LINES** (Western Australia—Deputy President and Chair of Committees) (21:40): We have had four Senate inquiries into the Fair Work (Registered Organisations) Amendment Bill 2014, and Labor's view has not changed. We do not support this bill. We have been responsible and we have put up a raft of amendments, but when it comes down to the bill it is unnecessary and duplicates changes that Labor made when we were in government.

Every time I have spoken on this bill I have made my views known, both here in the parliament and in the broader community. I do not support corruption either as a Labor senator, as a former trade union official or as a member of the public. If there is a hint of
corruption or any kind of inappropriate behaviour which affects the proper running of an organisation or business then it must be investigated and those found guilty must face the full strength of the law. But unlike the Turnbull government I do not draw a distinction between whether it is a business, a trade union or a community organisation. I do not stand for corruption, full stop. I stand for transparency and openness.

This bill is unnecessary and duplicates the changes that we made as a Labor government when we acted on corruption and made changes to registered organisations. At that point I was still a trade union official, and those changes made by Labor affected the way that we operated the union. When this bill was first put forward, the changes that Labor made—which we had implemented and which created further accountability and transparency for not only unions but employer organisations—were still being worked through. Of course you will not hear about Labor’s changes from the Turnbull government. They like to pretend that Labor did nothing. It is a shame—in fact, it is more than that; it is a missed opportunity—that no proper review has taken place of the changes Labor made to registered organisations.

Of course, Mr Acting Deputy President, if you just listen to the government you would think this bill was all about trade unions. Indeed, if you listen to a range of speakers from the crossbenches or the government you would still think this bill is simply about trade unions. Of course, it is not. It covers employer organisations—those employer organisations who choose to be registered under the Fair Work Act. The government’s agenda is about demonising trade unions.

Since this bill was first put forward we have unfortunately seen the collapse of a number of construction companies. This has happened to large companies across the country, leaving employees, subcontractors and suppliers out of pocket and sending some of those smaller companies to the wall. What is the government doing about those crashes? Nothing. The most notable of those collapses is of former Senator Day’s building companies. He has debts of at least $38 million, and yet the government’s silence on this sad state of affairs is palpable. Australian families who signed up with the former senator’s companies to build their dream homes were left stranded. Worse off are those families who in good faith signed up with the former senator for him to take out insurance policies against the building work in their name. He never took those policies out, so those families have been left absolutely high and dry, with nowhere to go. They have nothing—not even the insurance protection that they had paid for up-front. They do not have that protection to fall back on because the former senator did not take out the insurance these families had in good faith paid for. Again, what are the Turnbull government saying about the plight of these families? Nothing.

More recently I have heard about the many small company suppliers who, in good faith, supplied products to the former senator’s companies and who are all out of pocket. Some are not just out of pocket but are wondering where, or, indeed, if they can make up that shortfall to their business to the tune of hundreds and thousands of dollars—money that they were relying on to in turn pay their employees and their suppliers. What about them? What action is the Turnbull government taking to ensure this does not happen again? What are they saying about the plight of these businesses? Nothing. And why? Because it does not suit their ideological agenda.

On the one hand the Turnbull government tell us that Australian small business is at the centre of our prosperity as a nation; yet, on the other hand, they ignore the hundreds of small
businesses affected by this crash and the crash of many building companies across the country. They ignore those Australian families who will not have new homes at Christmas. Indeed, some of them—those for whom the former senator failed to take out insurance—have absolutely no answers at all.

Worse still are those government senators who, despite the failings of former Senator Day’s companies, still extol his virtue, even moving a motion of support. Why is that? Because he was a guaranteed vote for them and their conservative legislation. Once again the Turnbull government are demonstrating that this is all about them—their own survival—more than the plight of Australian families or Australian small business.

The major registered organisation employer groups do not want this legislation either. They, too, believe it to be an imposition. Like unions, registered employer organisations rely on volunteers. In this case, they are people who are running their own business who give up their own time to ensure their employer organisation works and works effectively. It is these volunteers, in both registered organisations and in trade unions, that the government are seeking to penalise. That double standard is well on display again. Earlier this year we saw the government champion the rights of volunteers, but once again their partisan approach is on display: it is not the volunteers who give their time to make sure their employer organisations or their trade unions work who get the government’s attention—not this time, not these volunteers.

Labor is once again leading the charge here. We have put up an amendment to this bill seeking to protect those volunteers, but, so far, it has failed to get the support of the government. Our amendment goes to increasing penalties but exempting volunteers. We just heard Senator Hinch talk about the cleaner who mopped the floor after a colostomy bag had broken. That is the sort of person who volunteers in their trade union, and that is the sort of person the Turnbull government want to penalise—make no mistake about that. On the employer side, it is, again, those people who are running the small businesses that are everywhere in our community who volunteer their time to make sure that their employer organisation works. They are the ones the Turnbull government are seeking to penalise.

We want to provide greater protection for whistleblowers. We want more accountability for auditors. We certainly want—and we are absolutely on the record on this one—to provide more accountability for electoral donations, and we want to reduce the disclosure limit amounts. Whether it is union elections or federal elections, we are very clear about making sure that, if you donate, it is out there for everyone to see. We also do not think it is necessary to create a new organisation to police legislation. We have proposed that the Australian Securities and Investments Commission, properly resourced, is the appropriate body to make sure that there is good, solid, open and transparent accountability.

What of this new-found government desire to negotiate? We have seen this bill come before this parliament many times before. Despite the government making a big hue and cry about it being the reason that we had the double dissolution election this year, it was not mentioned anywhere during the election campaign—not one word did I hear the government speak in relation to registered organisations. Prior to then the government steadfastly refused to entertain any negotiations, yet suddenly the government has discovered that it needs to negotiate. What concerns me is that, if the government is successful in getting this bill passed in an amended form, it will become part 1. Then, further down the track, we will see part 2 of
registered organisations, where some of the aspects of the legislation the government did not get in suddenly appear in a new bill. Then, further again down the track, we will see part 3.

This government's track record is not one of negotiation. They have stood there and said: 'We will not negotiate. We have got a mandate.' Yet now they are doing the exact opposite of that, and I question their motives. Is this just: 'We are going to wear people down. We are going to keep at this. We are going to keep coming back with what we really want, even if it takes us one, two, three or four amendments to legislation'? That is what I think is going on here.

This is not a government that readily negotiate, are used to compromise or are trying to find consensus. This is a government that either win or lose and then present the same bill over and over again. Yet, suddenly, here we are negotiating. I am sorry, but I see that for what it is. I see that there will be further amendments down the track to try and get through this unnecessary, burdensome, bureaucratic registered organisations bill which is absolutely designed to go after trade unions and nothing else.

Senator XENOPHON (South Australia) (21:52): I support this bill, the Fair Work (Registered Organisations) Amendment Bill 2014, subject to the amendments that I will be moving jointly with my colleague, Senator Hinch, supported by my colleagues, Senators Skye Kakoschke-Moore and Senator Stirling Griff.

I previously debated this bill on 2 March 2015, when I indicated that I would be voting for the measures in the bill. I want to make very clear the important role that trade unions play in our community: they play a vital role in protecting the rights of workers, as well as holding employers and politicians accountable. I have been fortunate to work with a number of union officials on a variety of issues, from anti-dumping measures to aviation safety improvements to support for local jobs to improved workplace compensation schemes—I could not have done that without the support of those union officials. Many of these officials have shared their concerns with me about cases of corruption and malfeasance that have been exposed. I think it is important to note that the opposition leader, Mr Shorten, has indicated that he has no tolerance for corruption within the trade union movement, and I know that his views on that are genuine and sincere.

This legislation is not friendless, in that union officials in the past have said that this legislation—to bring union officials and to bring unions more in line with Corporations Law measures, in terms of accountability—ought to be considered. The former Australian Workers' Union National Secretary, Paul Howes, as head of the AWU, essentially backed the coalition's plan for tougher penalties for union bosses who misused members' funds, and said—quite rightly—that he had no issue with moves to impose punishments that were in line with those faced by company directors. I think that is the nub of this. It is appropriate that there is a specialist organisation that deals with this, rather than ASIC. That is something that can be debated in the committee stages of this bill. In my view, union members should have even greater protections than shareholders, because the duty their union owes to them goes much further than a financial return. People join unions in the belief and with the understanding that the organisation will support them and look after their rights, and I think, overwhelmingly, that is the case. Unions do outstanding work in relation to this.

I also believe that this bill will be improved significantly by having enhanced whistleblower protections, and I will be moving those amendments, co-sponsored by Senator
Hinch. It is important to put this in context: I am very grateful for the wise advice and counsel of Professor AJ Brown from the Centre for Public Governance. He is Professor of Public Policy and Law and the program leader for Public Integrity & Anti-Corruption at Griffith University. He is the pre-eminent expert on whistleblower laws in this country. He has published many papers, made many submissions, and undertaken extensive research on the whole issue of whistleblowers, and I think knows more about this issue than anyone else in the country. He has made submissions to the Moss review of the Public Interest Disclosure Act, and he has made submissions to the economics committee, which is looking at the issue of whistleblower protection—and I pay tribute to Senator Sam Dastyari, who was a key driver of the economics committee looking at this particular issue. I will discuss the amendments in due course, in the committee stages of this bill. These are amendments to the bill that I would be very happy to take questions on from my colleagues.

I also want to read into the Hansard an undertaking from the government which I expect the minister, Minister Cash, will confirm word for word. I will read the undertaking word for word. It is as follows:

Following the agreement to strengthen and enhance whistleblower protections in the Registered Organisation Commission (ROC) legislation, the Government has agreed to the following:

1) To support a Parliamentary inquiry to examine the ROC whistleblower amendments with the objective of implementing the substance and detail of those amendments to achieve an equal or better whistleblower protection and compensation regime in the corporate and public sectors.

2) To support the Parliamentary inquiry considering, on the basis of mutually agreed terms of reference, matters including but not limited to:

   a. Compensation arrangements in whistleblower legislation across different jurisdictions, for example the bounty scheme used in the United States.
   b. The definition of detrimental action and reprisal and the interaction between criminal and civil liability.
   c. Issues associated with internal disclosures.

3) That the motion to refer this issue to the Parliamentary Committee will be voted on in the Senate (or if a reference to a Joint Committee by both House of Parliament) by Wednesday 30 November 2016 with a reporting date of 30 June 2017.

4) That following the tabling of the Parliamentary Committee report, if the report recommends adopting stronger whistleblower protections in the corporate and public sectors, the Government will establish an expert advisory panel to expedite the development and drafting of legislation to implement whistleblower reforms in the corporate and public sectors.

5) That legislation will be introduced into the Parliament by December 2017 (subject to any extensions on the Parliamentary inquiry reporting date that may be determined by the Senate) to introduce greater protections for whistleblowers in the corporate and public sectors consistent with the recommendations of the Parliamentary Committee and the expert advisory panel with the proviso that the Government commits to, as a minimum, supporting the substance and detail of the whistleblower protection and compensation regime contained in the ROC legislation.

6) The Government will commit to support enhancements to whistleblower protections and commit to a parliamentary vote on the legislation no later than 30 June 2018.

It is a commitment that has been made to me and to Senator Hinch, and that is why I have read the entire commitment into the Hansard; a commitment which I expect that the minister will confirm.
These are momentous changes to whistleblower protection laws, which the government has committed to extending to the corporate and public sectors. The changes will include, for the first time, a broadening of the definition of what a reprisal action is, and mechanisms to make clear the level of harm to individuals—much broader than the current public interest disclosure legislation across Australia, which has proven to be woefully inadequate in respect of this. It will also include, for the first time, a mechanism for civil compensation based on common law principles, which is broader than anything that has ever been done before in this country. Senator Hinch is right: these amendments, if passed, will see Australia go from some of the worst whistleblower protection laws in the world to arguably the best. It will be a momentous leap forward for whistleblower protection laws. There is a process in place to enhance and strengthen them but, most importantly, to extend them to the corporate sector and the public sector so that those who work in banks, for instance, will be able to avail themselves of the extensive protections that have been drafted. Again I am grateful for the wise counsel and advice of Australia's preeminent expert on whistleblower protection laws, Professor AJ Brown, from the Centre for Governance and Public Policy at Griffith University.

These are the matters that ought to be done in order to protect whistleblowers. It will enhance this legislation but, importantly, it will mean that, for corporations and the public sector, we will have, sooner rather than later, extensive whistleblower protections in this country that will ensure that whistleblowers get the protection they deserve. That is why, subject to these amendments, I support this legislation, along with my colleagues.

Senator Wong (South Australia—Leader of the Opposition in the Senate) (22:00): I rise to join this debate on the government's Fair Work (Registered Organisations) Amendment Bill 2014, and I do so after Senator Xenophon's contribution. I have to say it is surprising to see Senator Xenophon, who has been in this place for some time, supporting a suspension of standing orders without notice in order to push this bill through tonight. For someone who has long argued in this place for sensible, considered debate and proper process, it was a surprising turn of events, but that is a matter for him and his party room to consider.

As the chamber knows, Labor opposes this bill in its current form, and we will be advancing a set of amendments to deal with its shortcomings, but I want to make some comments about the legislation. This bill is deeply flawed. It is not only deeply flawed as a piece of substantive legislation but also part of a deeply offensive ideological agenda on the part of this government. It represents the latest phase in the Liberal Party's continuing efforts to undermine and attack the role of trade unions in Australian society. These attacks on trade unions, in one way or another, have been ongoing since the formation of the Liberal Party. They are designed to undermine the role played by trade unions in representing employees and the legitimate role played by unions in bringing employees together to negotiate collectively with employers to secure better pay and better working conditions.

The fact is that those on the other side and their predecessors, the conservatives of Australian politics, have never accepted that trade unions play a legitimate and important role in our workplaces and in our society. From Stanley Bruce, who tried to scrap the federal arbitration system in the 1920s, to John Howard's Work Choices legislation, which cut pay and conditions for Australian working people, it is the same ideological agenda over decades: Liberals and their predecessors always want to attack trade unions, deregulate the labour market, cut wages and conditions, and reduce the fundamental rights and protections for
working people. That is who they are, that is what they believe, and this bill is simply another instalment in that story.

The bill before the chamber deals with the regulation of registered organisations in Australia's industrial relations system. The system is an integral part of Australia's workplace relations system. Registered organisations, of course, are trade unions and also employer organisations which are registered to represent their members under the Fair Work (Registered Organisations) Act 2009, which I will describe as the registered organisations act. Registrations under this act give unions and employer associations the ability to appear in industrial tribunals and to advocate on behalf of their members. It also gives these entities their legal status, in a similar fashion to the way in which incorporation under company law gives companies a separate legal personality. The registered organisations act regulates the rights, responsibilities and duties of organisations and their officers and the internal administration and governance of these entities.

What we are debating is a bill that seeks to make a number of changes to that act. These are changes which already have been rejected by the Senate three times and which are not about improving the welfare of members of registered organisations. In fact, they are about undermining the role of unions and therefore undermining the position of those who trade unions represent: millions of ordinary working Australians.

Labor regards the role of registered organisations as central to our system of workplace relations, and we regard the regulation of those organisations as important. Regulation of registered organisations should ensure that they are administered effectively, in accordance with the highest standards of governance, in the interests of, and subject to the democratic control of, their members. That is why Labor in government strengthened the laws regulating registered organisations in 2012, and it is why Labor in opposition has proposed further reforms to the regulation of registered organisations. In 2012, the Leader of the Opposition, then the Minister for Workplace Relations, significantly strengthened the regulation of registered organisations, and Mr Shorten's reforms improved the accountability of registered organisations to their members. The 2012 reforms tripled the penalties for breaches of the act; required officials of registered organisations to be provided with education and training about their obligations; and required the disclosure of officials' remuneration as well as their pecuniary and financial interests. These reforms also improved the investigative powers available to Fair Work Australia in ensuring compliance with the act. This included providing the Fair Work Australia general manager with the power to provide information to bodies such as federal or state police or other regulatory agencies, correcting a serious flaw in the previously existing regulatory regime. So Labor has a strong track record in this area, and we will not be lectured by those opposite.

The Senate, as I said, has rejected the government's bills three times already, and with each rejection those opposite have ramped up their hyperbole and their bluster. They are deeply misleading in their contributions on this policy. They seek to create the impression that trade unions are not subject to any accountability mechanisms, regulation, scrutiny or standards at all. In fact, before the bill that is before the chamber is passed, the act is some 580 pages long and, as a result of Labor's previous reforms which I have outlined, it provides strong regulation of registered organisations and high levels of accountability of the officers of these organisations. The powers of the Fair Work Commission have been both strengthened and
broadened, and penalties for breaches of the act have been tripled. That means there are serious consequences for those who fail to uphold standards and to act in the interests of their members.

The government's rhetoric ignores the extensive regulation of registered organisations that already exists. The act already allows for criminal proceedings to be initiated where funds are stolen or obtained by fraud. The act already ensures that the Fair Work Commission can share information with the police as appropriate. The act already provides for statutory civil penalties where a party knowingly or recklessly contravenes an order or direction made by the Federal Court or the FWC under the act or the Fair Work Act. The act already requires officers to disclose their personal interests. The act already ensures officers disclose when payments have been made to related parties. It requires officers to exercise care and diligence, act in good faith and not improperly use their position for political advantage. The act prohibits members' funds from being used to favour particular candidates in internal elections or campaigns. This is an act which already heavily regulates trade unions.

Under the Fair Work Act, officers of registered organisations already have fiduciary duties akin to those of directors under the Corporations Law. Rather than strengthening regulation of registered organisations to ensure they operate in members' interests, the government's bill seeks to undermine these organisations. It imposes disproportionate and unfair sanctions on trade unionists who act in voluntary positions for their organisations. It singles out officers of registered organisations for more onerous treatment and penalties than apply to company office holders and executives under the Corporations Law.

The bill will establish a new bureaucracy in the form of the Registered Organisations Commission. In doing so it will increase red tape for registered organisations. It contains higher penalties for civil contraventions and introduces criminal offences in respect of officers' duties which exceed those found in the Corporations Act. Labor do not believe that a trade union member who acts on a voluntary basis as an honorary office holder should face more onerous penalties than the chief executives or directors of Australia's largest companies.

Labor support strong regulation of registered organisations, and—let's be clear—the vast majority of trade unions and employer associations are administered honestly by people who take their responsibilities seriously, who are committed to the welfare of their organisations and their members, and who are diligent, hardworking and professional. It is true that from time to time there are some who do not live up to these standards, and let me say that there is no-one more disgusted or angered by corruption in the trade union movement than those of us on this side of the parliament. That is because we understand the great civilising mission that the trade union movement has played in this country over decades, and we understand that corrupt behaviour by some rips off the very people that the union movement represents: the working people of this country.

Yes, there must be strong regulation and tough penalties for those who break the law. There must be financial accountability. Unlawful behaviour should be met with the full force of the law. That should be the case whether they are a corporate executive or a trade union official. Labor have made clear that we have no tolerance for those, whether they be corrupt union officials or unscrupulous employers, who steal from or exploit workers. The AFP and state and territory police agencies have the power to investigate criminal breaches. Fair Work Australia has the power to investigate and enforce registered organisations' compliance with
the law. And the courts have the power to impose penalties on those who breach the law when it comes to the governance of registered organisations.

Labor's commitment to strong regulation of trade union behaviour was demonstrated by the announcement of the plan for better union governance last year. We will be moving amendments to this bill to implement the key elements of this plan. The amendments will provide for stronger penalties, greater protections for whistleblowers and greater regulation of the conduct of auditors in registered organisations. Rather than create yet another bureaucracy, yet another red tape element, Labor's amendments will mean that, where there are serious breaches of the law, registered organisations will be subject to the powers of the corporate regulator, the Australian Securities and Investments Commission. Our amendments empower ASIC to examine and investigate serious contraventions by registered organisations. This would provide experienced investigative resources without the bureaucracy of a new commission.

Like the government, Labor are also proposing an increase in civil penalties for serious transgressions by officers of registered organisations, but we have taken a more proportionate approach when it comes to volunteers. We will also increase penalties for wrongdoing by auditors, because we want to make sure that people charged with the responsibility of independently examining the finances of registered organisations do so in a professional and accountable manner. Under our amendments, auditors who fail to report malfeasance or criminal conduct in registered organisations could themselves be subject to imprisonment. This will ensure that auditors are not complicit through silence or inaction. Further, in relation to auditing we will require the rotation of auditors so that there is sufficient turnover to ensure that new parties are coming in to examine the books, resulting in greater scrutiny and greater independence. We also propose to extend public service whistleblower protections to registered organisations, including trade unions.

The amendments to the bill which will be moved by Labor are substantive and constructive. They build on the reforms we made in government to improve the governance and accountability of registered organisations. By contrast, the bill as presented by the government is not about improving standards, nor about improving governance. It is about one thing. It is about an ideologically motivated attack on the trade union movement. We all know why this government want to undermine trade unions. When they were last here, under the former Prime Minister John Howard, they introduced the notorious Work Choices legislation, a direct attack on workers' rights and workers' living standards. The stripping back and reduction of award entitlements for working people lay at the heart of the Work Choices legislation. It attacked workers' rights to organise themselves into trade unions and engage in collective bargaining. It provided unscrupulous employers the power to force vulnerable workers onto unfair individual contracts—remember Australian workplace agreements?—with the threat of dismissal for those unwilling to sign.

The campaign against the Howard-era Work Choices legislation was led by the trade union movement in this country. It did so because that legislation was deeply unfair and reduced the living standards and job security of employees in this country. The union campaign against Work Choices contributed to the defeat of the Howard government in 2007 and the election of a Labor government, which restored fairness to Australian workplaces. Here we are, nearly a decade later, and what we have is another Liberal government who would dearly like to repeat
Work Choices. But this time around they have decided to launch an assault on the union movement first—through this bill, through their discredited royal commission, through their incessant propaganda and misleading rhetoric, and through their construction industry legislation. And if they succeed in undermining and incapacitating the Australian union movement with these measures, the next step, as night follows day, will be Work Choices style legislation. It will be a return to the classic Liberal agenda of hard-line industrial relations deregulation, because that is really what they want to do. This is just the entree. What they really want to do is try to diminish the power of the trade union movement and to try to silence the movement which stood against Work Choices and which campaigned so effectively against the Howard government legislation. This is the first step in the return of the classic Liberal agenda of hard-line industrial relations legislation, cuts to wages, cuts to penalty rates, cuts to basic entitlements and cuts to workers' rights.

I want to make one point about the context in which this debate is being undertaken. There has been a lot of discussion in this country in recent times, post Brexit and post the election in the United States and various other political events, about the rise of populism, the effects of globalisation and the advent of a range of political parties here in the Senate and elsewhere globally. There has been a lot of discussion about the economic gains from globalisation and trade as not having been fairly shared. There has been a discussion in this country about inequality as one of the drivers of the anger and frustration that we have seen on display both internationally and here in Australia. There has been a discussion about the anger and frustration of the Australians whose jobs are in industries that have not thrived over these last years.

Political leaders have been focussing on, or at least articulating, these questions: how do we better engage these Australians? How do we respond to their concerns? How do we make this nation fairer? How do we make this nation a fairer place? Isn't it telling, then, that in the middle of this debate about how we better deal with the effects of economic inequality, how we better deal with economic inequality itself and how we make this nation a fairer place that the focus of those opposite is not on how we make Australia fairer, not on those Australians who are so angry at the economic inequality they experience and who are so angry at seeing the changes to their jobs and to their industries; the government's focus is on attacking the trade union movement. At a time when we are concerned about rising economic inequality, it says something about the ideological obsessions of those opposite that their focus is not on how to make this a fairer place but on attacking the institutions who stand for fairness.

If you look at the history of this country, the Australian trade union movement has contributed to this being a more decent society. It is the Australian trade union movement that has stood up over so many decades for decent wages and conditions, for safer workplaces, for Medicare, for superannuation and for a whole range of other social reforms such as maternity leave, paid parental leave, pay equity and so forth. Look at the list of conditions that the trade union movement, over its history, has won: a decent minimum wage, annual leave, penalty rates, equal pay for women, sick leave and unfair dismissal rights just to name a few. So, what does it say about this government that, when faced with some of the events that we have seen overseas and when faced with a debate in this country about the rise of populist views, their priority is to attack one of the very institutions that has contributed to making this Australia a more decent society? It really lays bare not only their ideological obsession but also the
paucity of their economic agenda—the paucity of this government's agenda. What we are debating is a bill that has its origins not in Mr Turnbull's government; it has its origins in Mr Howard's government. It is an old, familiar, tired agenda that says nothing to Australians about the problems that the country really does face.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:19): I rise to sum up the debate in relation to the Fair Work (Registered Organisations) Amendment Bill 2014. I thank all honourable senators for their contributions to this debate. The government acknowledges the important role of registered organisations, both union and employer organisations, and the role that they play in the affairs of workplace relations in this country. What we want to do is ensure, for the two million Australians who are members of registered organisations, that their organisations remain strong. This will only happen if confidence is restored to those members and to the Australian people.

Despite what has been said by those on the other side, this is not about union busting. What it is about, though, is increasing transparency and accountability and stopping those unscrupulous individuals who would use members' hard-earned funds for their own self-interest. The gross breach of trust and financial impropriety displayed by officials of the Health Services Union provided the initial impetus for this reform. The actions of former ALP member of parliament Craig Thomson, former ALP national president Michael Williamson and former HSU national secretary Kathy Jackson are nothing short of shocking and, I would hope, condemned by all in this chamber as unacceptable. Mr Williamson is serving a jail sentence for misusing almost $1 million of HSU money. Ms Jackson is currently facing dozens of charges for theft, and Mr Thomson has been ordered to repay nearly half a million dollars for his indiscretions.

The subsequent findings of the Royal Commission into Trade Union Governance and Corruption have shown that the current system of regulation is doing very little to deter corrupt and unscrupulous individuals—for example, the royal commission identified that former senior officials of the Transport Workers Union were undeterred from using members' funds to purchase themselves two luxury cars. These officials then used their senior positions to change redundancy rules to ensure that one could keep the car for his personal use even after leaving the union. As recently as last week 172 charges were laid against two former staff members from the New South Wales branch of the National Union of Workers who together are alleged to have misappropriated $870,000 from members of their union for personal expenses including holidays, concert tickets and sex toys.

This bill will strengthen existing financial accounting and disclosure requirements placed on registered organisations, increase penalties for those found to have done the wrong thing and establish a strong, independent regulator—the Registered Organisations Commission—to give the regulation of registered organisations the attention it needs.

It is clear from case example after case example after case example that many union officials have used their members' funds and their unions as their own personal piggy bank. Unless parliament acts, there will be nothing to deter this behaviour.

I turn now to the senators' contributions during the debate. Labor has proposed that this bill exclude application to volunteers. I remind those opposite of one particular person whose last position with the HSU was as a volunteer. The position was, of course, the honorary national
secretary, and that person was Kathy Jackson. Labor's amendments would ensure that Kathy Jackson would be able to continue doing what she was doing with no recourse. Under Labor's proposal Kathy Jackson could not be held accountable for any wrongdoing in that role simply because she was a volunteer. This creates a significant loophole in the legislation—one that would no doubt be exploited.

We believe that, if a volunteer like Kathy Jackson makes significant decisions affecting the finances of a registered organisation, they should be held to the same standards as a paid official. We are not talking about a union delegate who attends a conference and is asked to vote to accept the financial reports of a branch. They will not be caught. What we are talking about here is volunteers—Kathy Jackson—with real decision-making power who deliberately do the wrong thing or turn a blind eye to doing the wrong thing.

Labor has also proposed that the regulator be ASIC rather than the Registered Organisations Commission. This is a distraction for ASIC, a watering down of the current arrangements and a signal that Labor still refuses to acknowledge the serious wrongdoings within registered organisations that require stronger, not weaker oversight. Surely registered organisations—and I remind those in the debate that they have a collective net worth of approximately $2 billion and have approximately two million members—deserve their own regulator to ensure that those in charge of the registered organisation are doing the right thing by their members.

Look at the investigations into the misconduct within the Health Services Union. They took years and years to come to a conclusion despite the overwhelming evidence that was available. The current regulator, the Fair Work Commission, has many other duties and is unable to give the regulation of registered organisations the focus they so clearly require. The Registered Organisations Commission is needed to ensure that misconduct is detected and addressed quickly and effectively.

Labor has also proposed that the disclosure threshold for donations to all federal elections be reduced to $1,000. Labor also well knows that this is not the time or place to discuss proposed amendments to electoral laws. That is a completely separate piece of legislation. In addition, Labor is well aware, following any federal election, the matters of electoral policy are first considered by the Joint Standing Committee on Electoral Matters, and that is currently being undertaken.

I now turn specifically to matters raised by members of the crossbench. I place on the record my gratitude and thanks to members of the crossbench for considering this bill on its merits and engaging with the government in good faith to discuss genuine improvements to protect members of registered organisations. I put on the record that the government is happy to support stronger protections for whistleblowers in this bill and thank Senator Xenophon and Senator Hinch for proposing these strong protections. The proposals will ensure that whistleblowers have access to strong and effective remedies where a person causes them detriment out of a belief that they may make a disclosure of certain information. It will also ensure that the regulator can pursue those who cause detriment to whistleblowers, including prosecuting them for a criminal offence. I confirm the undertaking, read into Hansard, by Senator Xenophon from the government.

The government is also very happy to support stronger measures to ensure that those who conduct audits of registered organisations are independent. Auditors should be independent,
should be registered and should be rotated regularly. These are the equivalent arrangements that apply to company auditors, and there is currently no such regime within registered organisations. The government is pleased to support Senator Hinch’s amendments in this regard.

The coalition is committed to improving the governance and accountability of registered organisations. The case for improvement is clear. The Australian people have chosen, and the parliament now has an opportunity to act. I commend the bill to the chamber.

Senator Urquhart: On a point of order: my understanding was that there was a second reading amendment from the Greens at this stage—no?

The ACTING DEPUTY PRESIDENT (Senator Sterle): No, they are sitting there shaking their heads in the negative—no Greens. The question is that the bill be now read a second time.

The House divided. [22:34]

(The President—Senator Parry)

Ayes ..................33
Noes ..................30
Majority..............3

AYES

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Xenophon, N

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B
O’Sullivan, B
Paterson, J
Roberts, M
Scellion, NG
Williams, JR (teller)

NOES

Bilyk, CL
Cameron, DN
Dastyari, S
Dodson, P
Gallagher, KR
Ketter, CR
Lambie, J
Marshall, GM
McKim, NJ
O’Neill, DM
Pratt, LC

Brown, CL
Chisholm, A
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S
McAllister, J (teller)
Moore, CM
Polley, H
Rhiannon, L
Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CAMERON (New South Wales) (22:37): Minister, in relation to the amendments that we have only just received on sheet GB160, can you just take us to what these proposals mean in terms of the bill that you are proposing?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:38): by leave—I move government amendments (1) to (8) on sheet GB160 together:

(1) Clause 2, page 2 (table items 2 and 3), omit the table items, substitute:

2. Schedules 1 and 2 A day or days to be fixed by Proclamation.

However, if any of the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.

[commencement]

(2) Schedule 1, item 88, page 13 (lines 28 and 29), omit the note, substitute:

Note: The expenditure of relevant money (within the meaning of the Public Governance, Performance and Accountability Act 2013) must comply with the requirements in that Act.

[public governance, performance and accountability]

(3) Schedule 1, item 88, page 15 (lines 13 to 17), omit section 329BG, substitute:

329BG Disclosure of interests

(1) A disclosure by the Commissioner under section 29 of the Public Governance, Performance and Accountability Act 2013 (which deals with the duty to disclose interests) must be made to the Minister.

(2) Subsection (1) applies in addition to any rules made for the purposes of that section.

(3) For the purposes of this Act and the Public Governance, Performance and Accountability Act 2013, the Commissioner is taken not to have complied with section 29 of that Act if the Commissioner does not comply with subsection (1) of this section.

[public governance, performance and accountability]

(4) Schedule 1, item 88, page 16 (lines 19 and 20), omit paragraph 329BJ(2)(d), substitute:

(d) the Commissioner fails, without reasonable excuse, to comply with section 29 of the Public Governance, Performance and Accountability Act 2013 (which deals with the duty to disclose interests) or with rules made for the purposes of that section.

[public governance, performance and accountability]
(5) Schedule 1, item 88, page 18 (lines 8 and 9), omit "Special Account for the purposes of the Financial Management and Accountability Act 1997", substitute "special account for the purposes of the Public Governance, Performance and Accountability Act 2013".

[public governance, performance and accountability]

(6) Schedule 1, item 88, page 18 (lines 22 and 23), omit "Special Account if any of the purposes of the Account", substitute "special account if any of the purposes of the special account".

[public governance, performance and accountability]

(7) Schedule 1, item 88, page 19 (lines 2 and 3), omit the note, substitute:

Note: See section 80 of the Public Governance, Performance and Accountability Act 2013 (which deals with special accounts).

[public governance, performance and accountability]

(8) Schedule 1, item 88, page 19 (line 21) to page 20 (line 20), omit section 329FC, substitute:

329FC Annual report

The annual report prepared by the Fair Work Ombudsman and given to the Minister under section 46 of the Public Governance, Performance and Accountability Act 2013 for a period must include the following in relation to the period:

(a) details of the number and types of investigations conducted by the Commissioner under Part 4 of Chapter 11 of this Act;

(b) details of:

(i) when each investigation was started; and

(ii) if the investigation has been completed—when it was completed; and

(iii) if the investigation has not been completed—when it is expected to be completed;

(c) details of any orders applied for under paragraph 310(1)(a) of this Act;

(d) details of the types of education activities undertaken by the Commissioner and whether the education activities were provided to:

(i) registered employer organisations; or

(ii) registered employee organisations; or

(iii) members of registered employer organisations; or

(iv) members of registered employee organisations;

(e) any other matter prescribed by the regulations.

[public governance, performance and accountability]

Senator Cameron, in response to your question, these are minor technical amendments to the bill. In terms of what the amendments will do, they will update the commencement date of the bill in order to ensure it only has prospective effect and amend references to the Financial Management and Accountability Act 1997—the FMA Act, as it is known—which was replaced in 2013 by the Public Governance, Performance and Accountability Act 2013, or the PGPA Act.

In terms of the commencement date, you will be aware that the bill was originally introduced in its current form in June 2014. Because the bill was a trigger for the double dissolution election, the Constitution requires that it is introduced in the same form after the election as prior. So this is a simple transitional matter to now amend this clause to ensure that the bill only has prospective effect, which is, as the government always intended. The
amendments to the bill specify that the bill will commence on proclamation rather than 1 July 2014 and also make consequential amendments necessary to omit transitional provisions of
the bill that are no longer required because of the proposed amendments.

Just in relation to the Public Governance Performance and Accountability Act 2013, the
bill was originally introduced in its current form in June 2014 and the public governance and
performance act commenced on 1 July 2014. The bill was drafted on the basis of the
operation of the Financial Management and Accountability Act 1997, which has now been
replaced by the PGPA Act. Again, because the bill was a trigger for the double dissolution
election, the Constitution requires that it is introduced in the same form after the election as
prior, and these technical amendments to the bill reflect this change and are necessary to
ensure that the bill reflects the fact that it is now the FMA Act that is being replaced by the
PGPA Act.

Senator CAMERON (New South Wales) (22:41): So, Minister, the bill that the Prime
Minister claims went to the election during the election is not the bill that we are dealing with
now, is it?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public
Service, Minister for Employment and Minister for Women) (22:41): Yes it is, Senator
Cameron.

Senator CAMERON (New South Wales) (22:41): Why did these amendments come so
late on the scene? I am sure the public were unaware that you were moving amendments;
and
what are the implications for a double dissolution trigger, if you move these amendments here
tonight and are successful?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public
Service, Minister for Employment and Minister for Women) (22:42): Again, these are minor
technical amendments to the bill to update the commencement date of the bill to ensure that it
only has prospective effect and to amend terminology, because one act has been replaced with
another act.

Senator CAMERON (New South Wales) (22:42): Thank you. When were these
amendments drafted and placed before the Senate?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public
Service, Minister for Employment and Minister for Women) (22:42): I understand that they
were circulated earlier this evening.

Senator CAMERON (New South Wales) (22:43): Surely, this is another example of the
chaos in the government: you come here with this bill tonight with amendments to a bill that
you argued was so important in terms of a double dissolution and you have had all this time to
actually prepare the bill to come to the Senate as a bill that could stand on it own that you
claim went to the Australian public as part of the double dissolution. Here tonight, at the very
last minute, after all the shenanigans that you have put on tonight—I do not mean you personally, Minister; I mean the government—you come here with a list of amendments that
you say changed the bill from a retrospective bill to a prospective bill. Why did it take you so
long to have this prepared; and why didn't you consult with the opposition on this matter?

I will just ask the question again: are you not answering the question or are you getting
advice from Senator Cormann just not to respond? I think this is another example of
democracy in action Liberal-style where you are asked a genuine question and you just ignore the question. I know you need Senator Cormann there to hold your hand. I know you need Senator Cormann there to give you every—

Senator Paterson: Point of order. That was an extremely unnecessary comment about Senator Cormann holding Senator Cash's hand and I ask Senator Cameron to withdraw it.

The CHAIR: It is a broad-ranging debate.

Senator CAMERON: Don't be so mediocre, Senator! This is a serious bill before the Senate. This is a bill that has implications for a double dissolution. Minister, I am sure you do not want to answer it. At least indicate that that is the position and try and deal with the questions that are there. This is democracy. This is supposed to be a house of review and you should actually answer the questions and not just sit there looking disdainfully into the ether as if you do not care.

Senator Cormann interjecting—

Senator CAMERON: Senator Cormann, I know you have to be there to hold the minister's hand, so maybe just hold the minister's hand and stop interjecting. That would be a good start. It is going to be a long night, if that is going to be your approach. The minister cannot handle the bill on her own. She needs Senator Cormann there to chaperone her through this bill. I have never seen this before, where a senior minister in the government has you sit there to hold her hand and chaperone her through the bill.

My question again is: why did it take so long to discover that you had a retrospective bill before the Senate? You now want to make it prospective. Why did it take you so long?

Senator LAMBIE (Tasmania) (22:46): Senator Cash—through the chair—I would like to know why we all went to a double-D and you were not prepared to compromise. There were crossbenchers who lost their jobs out of that, but now you are prepared to compromise. Maybe you could explain, because I know that there are a couple of them listening out there, why you are now prepared to compromise. You would not do that before and we all had to rush to a double-D.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:47): I also table a supplementary explanatory memorandum relating to the government amendments that have now been moved in relation to this bill. Senator Lambie, just to answer your question in relation to the amendments that are currently before the Senate, again they are merely technical amendments. This is obviously the first opportunity the government has had to debate this bill. As such, in debating the bill, we need to move the amendments to ensure that the commencement date is prospective, as we always intended. As I explained to Senator Cameron, because it was a double dissolution trigger, it is a requirement of the Constitution that the bill be introduced in the same form after the election as prior.

In relation to the act that I referred to, we are merely amending references to the Financial Management and Accountability Act 1997. That was replaced in 2013 by the Public Governance, Performance and Accountability Act. So it is just replacing the name of one act with that of another act, because the act was updated.

Senator LAMBIE (Tasmania) (22:48): That is nice to know. It could have saved us all going to a double-D. I guess my next question is this. You did not have to go to a double-D
last time either, because all you had to do was bring on a national ICAC. We pushed for that, so why didn't you lift the bar and put in place a national ICAC? Why have you still not bothered to bring on a national ICAC?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:49): Senator Lambie, the bill that we are debating is about improved governance and transparency in relation to registered organisations.

Senator LAMBIE (Tasmania) (22:49): Yes, I am very well aware of what the bill is about. What I am asking you is basically: how come you have picked on one small part of society and you have forgotten about everybody else out there? What about politics? What about what is going on in the military? What about the crap that is going on in the Department of Veterans’ Affairs? What about a national ICAC? What is stopping you from having this all under one banner, under a national ICAC?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:49): Again, Senator Lambie, whilst I appreciate your sentiments, the bill that is currently before the Senate is in relation to greater transparency for registered organisations.

Senator LAMBIE (Tasmania) (22:50): So when is the Liberal Party going to grow a spine and bring in a national ICAC so that those members who lost their seats in that double dissolution will be shown some respect?

The CHAIR: The question is that government amendments (1) to (8) be agreed to.

The committee divided. [22.55]

(The Chair—Senator Lines)

Ayes ......................34
Noes ......................31
Majority ..............3

AYES

Back, CJ
Brandis, GH
Bushby, DC (teller)
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Scullion, NG
Williams, JR

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B
O’Sullivan, B
Paterson, J
Roberts, M
Ryan, SM
Seselja, Z
Xenophon, N
Question agreed to.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (22:57): by leave—The government opposes schedules 1 and 2 in the following terms:

(9) Schedule 1, item 136, page 28 (lines 21 to 26), to be opposed. [public governance, performance and accountability]

(10) Schedule 2, item 243, page 89 (lines 8 to 12), to be opposed. [disclosure rules]

The CHAIR: The question is that items 136 and 243 stand as printed.

The committee divided. [23:00]

(The Chair—Senator Lines)

Ayes ......................30
Noes ......................34
Majority .................4

AYES

Bilyk, CL Brown, CL
Cameron, DN Chisholm, A
Collins, JMA Dastyari, S
Di Natale, R Dodson, P
Gallacher, AM Gallagher, KR
Hanson-Young, SC Ketter, CR
Kitching, K Lambie, J
Lines, S Marshall, GM
McAllister, J (teller) McKim, NJ
Moore, CM O’Neill, DM
Polley, H Pratt, LC
Rhiannon, L Rice, J
Siewert, R Sterle, G
Urquhart, AE Waters, LJ
Watt, M Whish-Wilson, PS
Wong, P

CHAMBER
Question negatived.

Senator CAMERON (New South Wales) (23:03): by leave—I move opposition amendments (1) to (3) and (14) on sheet 7919 together:

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1 6 months after the day this Act receives the Royal Assent.

[commencement]

(2) Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 2 6 months after the day this Act receives the Royal Assent.

[commencement]

(3) Schedule 1, page 3 (line 1) to page 28 (line 30), omit the Schedule, substitute:

Schedule 1—Investigation by ASIC

Part 1—Investigation by ASIC

Fair Work (Registered Organisations) Act 2009

1 Section 6

Insert:

ASIC means the Australian Securities and Investments Commission.

ASIC staff member means a staff member within the meaning of the Australian Securities and Investments Commission Act 2001.

2 Section 6

Insert:
directions contravention means a contravention of one of the following:
(a) subsection 297(2) or (3);
(b) subsection 298(2) or (3);
(c) subsection 299(2) or (3);
(d) subsection 300(2) or (3);
(e) subsection 301(2) or (3);
(f) subsection 302(2) or (3);
(g) subsection 303(2).

3 Section 6
Insert:

significant contravention means:
(a) a serious contravention of a civil penalty provision; or
(b) a contravention of subsection 290A(1), (2) or (3) (good faith, use of position and use of information—criminal offences).

4 Subsections 310(1) and (2)
Repeal the subsections, substitute:

Application other than for order relating to directions contravention
(1) The following may apply for an order under this Part (other than an order relating to a directions contravention):
(a) the General Manager, or a person authorised in writing by the General Manager to make the application;
(b) ASIC, or a person authorised in writing by ASIC to make the application.

Note: For the meaning of directions contravention, see section 6.

Application for order relating to directions contravention
(2) The Minister, or a person authorised in writing by the Minister to make the application, may apply for an order under this Part relating to a directions contravention.

5 Section 317
Omit:

Part 4 provides for the General Manager to make inquiries as to compliance with financial accountability requirements and civil penalty provisions. The General Manager may also conduct investigations.

Substitute:

Part 3A sets out the circumstances in which the General Manager or ASIC may disclose information obtained in the performance of functions or exercise of powers under this Act.

Part 4 provides for the General Manager to make inquiries as to compliance with financial accountability requirements and civil penalty provisions. The General Manager may also conduct investigations and may refer details of a matter to ASIC for investigation if the General Manager is satisfied that there are reasonable grounds for believing that there has been a significant contravention of this Act.

6 After Part 3 of Chapter 11
Insert:
Part 3A—Information sharing

329A When information may be disclosed

Information to which this section applies

(1) This section applies to information acquired by the following in the performance of functions or exercise of powers under this Act:

(a) the General Manager or a member of the staff of the FWC;
(b) ASIC or an ASIC staff member.

Disclosure that is necessary or appropriate, or likely to assist administration or enforcement

(2) The General Manager or ASIC may disclose, or authorise the disclosure of, the information if the General Manager or ASIC reasonably believes:

(a) that it is necessary or appropriate to do so in the course of performing or exercising his or her functions or powers (including under the Fair Work Act); or
(b) that the disclosure is likely to assist in the administration or enforcement of a law of the Commonwealth, a State or a Territory.

7 Before section 330

Insert:

Division 1—Inquiries

8 Before section 331

Insert:

Division 2—Investigations

9 After section 333

Insert:

333A General Manager to refer significant contraventions to ASIC

(1) If the General Manager is satisfied that there are reasonable grounds for believing that there has been a significant contravention of this Act, the General Manager may refer details of the matter to ASIC for investigation.

(2) If, under subsection (1), the General Manager refers details of a matter to ASIC, the General Manager must, as soon as practicable but, in any event, not later than 14 days after the referral, give the person concerned a notice in writing informing:

(a) of the fact that a matter has been referred under subsection (1); and
(b) of the nature of the matter so referred.

333B ASIC may conduct investigations relating to significant contraventions

If ASIC is satisfied that there are reasonable grounds for doing so, ASIC may conduct an investigation as to whether there has been a significant contravention of this Act.

333C ASIC to refer certain matters to the General Manager

(1) If ASIC is satisfied that there are reasonable grounds for believing that there has been a contravention of a provision of this Act (other than a significant contravention), ASIC must refer details of the matter to the General Manager.

(2) If, under subsection (1), ASIC refers details of a matter to the General Manager, ASIC must, as soon as practicable but, in any event, not later than 14 days after the referral, give the person concerned a notice in writing informing:

(a) of the fact that a matter has been referred under subsection (1); and
(b) of the nature of the matter so referred.

10 Section 334

Repeal the section, substitute:

334 Investigations arising from referral by FWC or ASIC

If a matter is referred to the General Manager under section 278 by the FWC or under section 333C by ASIC, the General Manager must conduct an investigation.

11 Section 335

Repeal the section, substitute:

335 Conduct of investigations by General Manager or ASIC

(1) This section applies if an investigator, in conducting an investigation, believes on reasonable grounds that a person:

(a) has information or a document that is relevant to an investigation; or

(b) is capable of giving evidence which the investigator has reason to believe is relevant to the investigation.

(2) For the purpose of the investigation, the investigator may, by written notice, require the person to do one or more of the following:

(a) to give to the investigator, within the period (being a period of not less than 14 days after the notice is given) and in the manner specified in the notice, any information within the knowledge or in the possession of the person;

(b) to produce or make available to the investigator, at a reasonable time (being a time not less than 14 days after the notice is given) and place specified in the notice, any documents in the custody or under the control of the person, or to which he or she has access;

(c) to attend before the investigator, at a reasonable time (being a time not less than 14 days after the notice is given) and place specified in the notice, to answer questions relating to matters relevant to the investigation, and to produce to the investigator all records and other documents in the custody or under the control of the person relating to those matters;

(d) to give to the investigator such other reasonable assistance in connection with the investigation as is specified in the notice.

Note 1: Failure to comply with a requirement made under this subsection is an offence (see section 337).

Note 2: If the investigator is the General Manager or a person or body to whom the General Manager has delegated conduct of the investigation, the notice can only apply to certain persons: see subsection (5).

(3) A notice requiring a person to attend must:

(a) state the general nature of the matters to which the investigation relates; and

(b) state that the person may be accompanied by another person who may, but does not have to, be a lawyer; and

(c) set out the effect of section 337AD (self-incrimination); and

(d) state whether or not the person will be required to answer questions on oath or affirmation; and

(e) if the person will be required to answer questions on oath or affirmation—set out the effect of section 335F (attendee's lawyer).

Note: For questioning on oath or affirmation, see Division 3.

(4) For the purposes of this section, investigator means:
(a) if the investigation is conducted under section 333B of this Act—ASIC, a member of ASIC, an ASIC staff member or a person or body to whom ASIC has delegated conduct of the investigation; and

(b) in any other case—the General Manager or a person or body to whom the General Manager has delegated conduct of the investigation.

(5) If the investigator is the General Manager or a person or body to whom the General Manager has delegated conduct of the investigation, subsection (2) only applies in relation to:

(a) a designated officer or employee of the reporting unit concerned; and

(b) a former designated officer or employee of the reporting unit; and

(c) a person who held the position of auditor of the reporting unit during the period that is the subject of the investigation.

12 Section 335A
Repeal the section.

13 Section 335B
Repeal the section, substitute:

335B Investigation to be completed as soon as possible
An investigation by the General Manager or ASIC must be completed as soon as practicable.

14 Section 335C
Repeal the section, substitute:

Division 3—ASIC questioning on oath or affirmation

335C When this Division applies
This Division applies if a person (the attendee) is required, for the purposes of an investigation by ASIC under section 333B, to attend before another person (the investigator) to answer questions on oath or affirmation.

335D Requirements made of attendee
(1) The investigator may question the attendee on oath or affirmation and may, for that purpose:

(a) require the attendee to either take an oath or make an affirmation; and

(b) administer an oath or affirmation to the attendee.

Note: Failure to comply with a requirement made under this subsection is an offence (see section 337AA).

(2) The oath or affirmation to be taken or made by the attendee for the purposes of the investigation is an oath or affirmation that the statements that the attendee will make will be true.

(3) The investigator may require the attendee to answer a question that is put to the attendee at the investigation.

Note: Failure to comply with a requirement made under this subsection is an offence (see section 337).

335E Questioning to take place in private
(1) The questioning must take place in private and the investigator may give directions about who may be present during the questioning, or during a part of it.

(2) A person must not be present during the questioning unless he or she is:

(a) the investigator or the attendee; or

(b) an ASIC staff member approved by ASIC to be present; or

(c) is entitled to be present:
(i) because of a direction under subsection (1); or
(ii) because the person is the attendee's lawyer, or another person accompanying the attendee as mentioned in paragraph 335(3)(b).

Note: Failure to comply with this subsection is an offence (see section 337AA).

335F Attendee's lawyer
(1) The attendee's lawyer may, at such times during the questioning as the investigator determines:
   (a) address the investigator; and
   (b) question the attendee;
about matters about which the investigator has questioned the attendee.

(2) If, in the investigator's opinion, a person is trying to obstruct the questioning by exercising rights under subsection (1), the investigator may require the person to stop addressing the investigator, or questioning the attendee, as the case requires.

Note: Failure to comply with a requirement made under this subsection is an offence (see section 337AA).

335G Record of statements
(1) The investigator may, and must if the attendee so requests, cause a record to be made of statements made during the questioning.

(2) If a record made under subsection (1) is in writing or is reduced to writing:
   (a) the investigator may require the attendee to read it, or to have it read to him or her, and may require him or her to sign it; and
   (b) the investigator must, if requested in writing by the attendee to give to the attendee a copy of the written record, comply with the request without charge but subject to such conditions (if any) as the investigator imposes.

Note: Failure to comply with a requirement made under paragraph (2)(a) is an offence (see section 337AA).

335H Copies given subject to conditions
If a copy is given to a person under subsection 335G(2) subject to conditions, the person, and any other person who has possession, custody or control of the copy or a copy of it, must comply with the conditions.

Note: Failure to comply with this section is an offence (see section 337AA).

Division 4—ASIC powers in relation to documents
335K Application for warrant to seize documents
(1) If an ASIC member or an ASIC staff member has reasonable grounds to suspect that there are, or may be within the next 3 days, on particular premises in Australia, documents whose production could be required under section 335 in relation to an investigation under section 333B, he or she may:
   (a) lay before a magistrate an information on oath or affirmation setting out those grounds; and
   (b) apply for the issue of a warrant to search the premises for those documents.

(2) On an application under this section, the magistrate may require further information to be given, either orally or by affidavit, in connection with the application.

335L Grant of warrant
(1) This section applies if, on an application under section 335K, the magistrate is satisfied that there are reasonable grounds to suspect that there are, or may be within the next 3 days, on particular
premises, particular documents whose production could be required under section 335 in relation to an investigation under section 333B.

(2) The magistrate may issue a warrant authorising a member of the Australian Federal Police, whether or not named in the warrant, together with any person so named, with such assistance, and by such force, as is necessary and reasonable:
   (a) to enter on or into the premises; and
   (b) to search the premises; and
   (c) to break open and search anything, whether a fixture or not, in or on the premises; and
   (d) to take possession of, or secure against interference, documents that appear to be any or all of those documents.

(3) If the magistrate issues such a warrant, he or she must set out on the information laid before him or her under section 335K for the purposes of the application:
   (a) which of the grounds set out in the information; and
   (b) particulars of any other grounds;
he or she has relied on to justify the issue of the warrant.

(4) A warrant under this section must:
   (a) specify the premises and documents referred to in subsection (1); and
   (b) state whether entry is authorised to be made at any time of the day or night or only during specified hours; and
   (c) state that the warrant ceases to have effect on a specified day that is not more than 7 days after the day of issue of the warrant.

335M Execution of warrant

(1) Before any person enters premises under a search warrant issued under section 335L, a member of the Australian Federal Police must:
   (a) announce that the member is authorised to enter the premises; and
   (b) give any person at the premises an opportunity to allow entry to the premises.

(2) However, the member of the Australian Federal Police is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure that the effective execution of the warrant is not frustrated.

(3) If the occupier of the premises is present at the premises:
   (a) the member of the Australian Federal Police must make available to the occupier a copy of the warrant; and
   (b) the occupier is entitled to observe the search being conducted.

(4) The occupier's right to observe the search being conducted ends if the occupier impedes the search.

(5) This section does not prevent 2 or more areas of the premises being searched at the same time.

(6) If documents are seized under the warrant, the member of the Australian Federal Police or a person assisting the member must provide a receipt for the documents.

(7) If 2 or more documents are seized, they may be covered in the one receipt.

335N Powers in relation to documents produced or seized

(1) This section applies if:
   (a) documents are produced to a person under a requirement made under section 335 in relation to an investigation under section 333B; or
(b) under a warrant issued under section 335L, a person:
   (i) takes possession of documents; or
   (ii) secures documents against interference; or
   (c) by virtue of a previous application of subsection (8) of this section, documents are delivered into
       a person's possession.
(2) If paragraph (1) (a) applies, the person may take possession of any of the documents.
(3) The person may inspect, and may make copies of, or take extracts from, any of the documents.
(4) The person may use, or permit the use of, any of the documents for the purposes of a proceeding.
(5) The person may retain possession of any of the documents for so long as is necessary:
   (a) for the purposes of exercising a power conferred by this section (other than this subsection and
       subsection (7)); or
   (b) for the purposes of conducting the investigation concerned; or
   (c) for a decision to be made about whether or not a proceeding to which the documents would be
       relevant should be begun; or
   (d) for such a proceeding to be begun and carried on.
(6) No-one is entitled, as against the person, to claim a lien on any of the documents, but such a lien is
    not otherwise prejudiced.
(7) While the documents are in the person's possession, the person:
   (a) must permit another person to inspect at all reasonable times such (if any) of the documents as
       the other person would be entitled to inspect if they were not in the first-mentioned person's possession; and
   (b) may permit another person to inspect any of the documents.
(8) Unless subparagraph (1)(b)(ii) applies, the person may deliver any of the documents into the
    possession of ASIC or of a person authorised by ASIC to receive them.
(9) If paragraph (1)(a) or (b) applies, the person, or a person into whose possession the person delivers
    any of the documents under subsection (8), may require:
    (a) if paragraph (1)(a) applies—a person who so produced any of the documents; or
    (b) in any case—a person who was a party to the compilation of any of the documents;
        to explain any matter about the content of any of the documents or to which any of the documents
        relate.
    Note: Failure to comply with a requirement made under this subsection is an offence (see section
        337).
335P Powers if documents not produced
If a person fails to produce particular documents in compliance with a requirement made by another
person under section 335 in relation to an investigation under section 333B, the other person may
require the first-mentioned person to explain:
(a) where the documents may be found; and
(b) who last had possession, custody or control of the documents and where that person may be
    found.
    Note: Failure to comply with a requirement made under this section is an offence (see section 337).
335Q Power to require person to identify property of an organisation
If a person has power under section 335 in relation to an investigation under section 333B to require another person to produce documents relating to the affairs of an organisation, whether or not that power is exercised, the first-mentioned person may require the other person:
(a) to identify property of the organisation; and
(b) to explain how the organisation has kept account of that property.
Note: Failure to comply with a requirement made under this section is an offence (see section 337).

15 Section 336 (heading)
Repeal the heading, substitute:

Division 5—Action following investigations

336 Action in relation to reporting units
16 At the end of subsection 336(2)
Add:
; (d) refer the matter, or part of the matter, to ASIC under section 333A.

17 After section 336
Insert:

336A Action following an investigation by ASIC
At the conclusion of an investigation, ASIC may:
(a) if ASIC is satisfied that there has been a significant contravention of this Act—do all or any of the following:
(i) apply to the Federal Court for an order under Part 2 of Chapter 10 (civil penalty provisions);
(ii) refer the matter to the General Manager for further action under this Act; or
(b) if ASIC is not satisfied that there has been a significant contravention of this Act—do all or any of the following:
(i) refer the matter to the General Manager for further action under this Act;
(ii) unless section 333C of the Act applies to the matter—notify the person to which the matter relates, within 14 days after the conclusion of the investigation, that the investigation has been completed and no further action is to be taken.

18 Before section 337
Insert:

Division 6—Offences
19 Section 337 (heading)
Repeal the heading, substitute:

337 Offences in relation to investigations
20 Paragraph 337(1)(a)
Repeal the paragraph, substitute:
(a) the person fails, intentionally or recklessly, to comply with a requirement under subsection 335(2):
(i) to give information or produce a document; or
(ii) to attend before an investigator (within the meaning of that section); or
(iii) to give to that investigator such other reasonable assistance as is specified in a notice under that subsection; or

CHAMBER
21 Paragraph 337(1)(c)
Omit "General Manager or delegate", substitute "investigator".

22 At the end of subsection 337(1) (before the penalty)
Add:
; or (d) the person fails, intentionally or recklessly, to comply with:
   (i) a requirement under subsection 335D(3) to answer a question; or
   (ii) a requirement under subsection 335N(9) to explain a matter about the content of a document or to which a document relates; or
   (iii) a requirement under section 335P to explain where documents may be found, and who last had possession, custody or control of the documents and where that person may be found; or
   (iv) a requirement under section 335Q to identify property of an organisation and explain how the organisation has kept account of that property.

23 Subsection 337(1) (penalty)
Repeal the penalty, substitute:
Penalty: 100 penalty units or imprisonment for 2 years, or both.

24 Subsections 337(2) to (5)
Repeal the subsections, substitute:
(2) Paragraphs (1)(a) and (d) do not apply to the extent that the person has a reasonable excuse.
(3) Subparagraphs (1)(d)(ii) and (iii) do not apply to the extent that the person has explained the matter to the best of his or her knowledge or belief.
(4) Subparagraph (1)(d)(iv) does not apply to the extent that the person has, to the extent that the person is capable of doing so, performed the acts referred to in paragraphs 335Q(a) and (b).

Note: A defendant bears an evidential burden in relation to the matters in subsections (2) to (4) (see subsection 13.3(3) of the Criminal Code).

25 Section 337AA
Repeal the section, substitute:
337AA Strict liability offences
(1) A person commits an offence of strict liability if the person:
   (a) fails to comply with a requirement under subsection 335D(1) to take an oath or make an affirmation; or
   (b) contravenes subsection 335E(2) (questioning to take place in private); or
   (c) fails to comply with a requirement under paragraph 335G(2)(a) in relation to a record of statements made during questioning; or
   (d) contravenes section 335H (conditions on use of copies of records of statements made during questioning).
Penalty: 60 penalty units.
(2) A person commits an offence of strict liability if the person fails to comply with a requirement under subsection 335F(2) to stop addressing an investigator, or questioning an attendee.
Penalty: 60 penalty units.
(3) Subsections (1) and (2) do not apply to the extent that the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the Criminal Code).
337AB Obstructing person acting under this Part

(1) A person must not:
   (a) engage in conduct that results in the obstruction or hindering of a person in the exercise of a power under this Part; or
   (b) engage in conduct that results in the obstruction or hindering of a person who is executing a warrant issued under section 335L.

Penalty: 100 penalty units or imprisonment for 2 years, or both.

(2) Subsection (1) does not apply to the extent that the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the Criminal Code).

(3) The occupier, or person in charge, of premises that a person enters under a warrant issued under section 335L must not intentionally or recklessly fail to provide to that person all reasonable facilities and assistance for the effective exercise of his or her powers under the warrant.

Penalty: 25 penalty units or imprisonment for 6 months, or both.

337AC Concealing documents relevant to investigation

(1) If ASIC, or a person or body to whom ASIC has delegated the conduct of an investigation, is investigating, or is about to investigate, a matter, a person must not:
   (a) in any case—engage in conduct that results in the concealment, destruction, mutilation or alteration of a document relating to that matter; or
   (b) if a document relating to that matter is in a particular State or Territory—engage in conduct that results in the taking or sending of the document out of that State or Territory or out of Australia.

Penalty: 200 penalty units or imprisonment for 5 years, or both.

(2) It is a defence to a prosecution for a contravention of subsection (1) if it is proved that the defendant intended neither to defeat the purposes of the investigation, nor to delay or obstruct the investigation, or any proposed investigation under this Part.

Note: A defendant bears a legal burden in relation to a matter mentioned in subsection (2) (see section 13.4 of the Criminal Code).

337AD Self-incrimination

(1) For the purposes of this Part, it is not a reasonable excuse for a person to refuse or fail:
   (a) to give information; or
   (b) to produce a document; or
   (c) to sign a record;

in accordance with a requirement made of the person, that the information, producing the document or signing the record might tend to incriminate the person or make the person liable to a penalty.

(2) Subsection (3) applies if:
   (a) before:
      (i) giving information; or
      (ii) producing a document; or
      (iii) signing a record;

pursuant to a requirement made under this Part, a person (other than a body corporate) claims that the information, producing the document or signing the record might tend to incriminate the person or make the person liable to a penalty; and
(b) the information, producing the document or signing the record might in fact tend to incriminate the person or make the person so liable.

(3) The information, or the fact that the person has produced the document or signed the record, is not admissible in evidence against the person in:

(a) a criminal proceeding; or
(b) a proceeding for the imposition of a penalty;

other than a proceeding in respect of:

(c) in the case of giving information or producing a document—whether the information or document is false or misleading; or

(d) in the case of signing a record—whether any statement contained in the record is false or misleading.

337AE Legal professional privilege

(1) This section applies if:

(a) under this Part, a person requires a lawyer:

(i) to give information; or

(ii) to produce a document; and

(b) giving the information would involve disclosing, or the document contains, a privileged communication made by, on behalf of or to the lawyer in his or her capacity as a lawyer.

(2) The lawyer is entitled to refuse to comply with the requirement unless the person to whom, or by or on behalf of whom, the communication was made, consents to the lawyer complying with the requirement.

(3) If the lawyer so refuses, he or she must, as soon as practicable, give to the person who made the requirement a written notice setting out:

(a) if the lawyer knows the name and address of the person to whom, or by or on behalf of whom, the communication was made—that name and address; and

(b) if subparagraph (1)(a)(i) applies and the communication was made in writing—sufficient particulars to identify the document containing the communication; and

(c) if subparagraph (1)(a)(ii) applies—sufficient particulars to identify the document, or the part of the document, containing the communication.

Penalty: 10 penalty units or imprisonment for 3 months, or both.

Division 7—Evidentiary use of certain material

337AF Statements made on oath or affirmation during an investigation—proceedings against attendee

(1) A statement that a person makes on oath or affirmation during an investigation under section 333B is admissible in evidence against the person in a proceeding unless:

(a) because of subsection 337AD(3), the statement is not admissible in evidence against the person in the proceeding; or

(b) the statement is not relevant to the proceeding and the person objects to the admission of evidence of the statement; or

(c) the statement is qualified or explained by some other statement made by the person on oath or affirmation during the investigation, evidence of the other statement is not tendered in the proceeding and the person objects to the admission of evidence of the first-mentioned statement; or
(d) the statement discloses matter in respect of which the person could claim legal professional
privilege in the proceeding if this subsection did not apply in relation to the statement, and the person
objects to the admission of evidence of the statement.
(2) Subsection (1) applies in relation to a proceeding against a person even if it is heard together with a
proceeding against another person.
(3) If a written record of statements made by a person during questioning is signed by the person under
subsection 335G(2) or authenticated in any other prescribed manner, the record is, in a proceeding,
prima facie evidence of the statements it records, but nothing in this Part limits or affects the
admissibility in the proceeding of other evidence of statements made during the questioning.

337AG Statements made on oath or affirmation during an investigation—other proceedings

If direct evidence by a person (the absent witness) of a matter would be admissible in a proceeding, a
statement that the absent witness made on oath or affirmation during an investigation and that tends to
establish that matter is admissible in the proceeding as evidence of that matter:

(a) if it appears to the court or tribunal that:
   (i) the absent witness is dead or is unfit, because of physical or mental incapacity, to attend as a
       witness; or
   (ii) the absent witness is outside the State or Territory in which the proceeding is being heard and it
        is not reasonably practicable to secure his or her attendance; or
   (iii) all reasonable steps have been taken to find the absent witness but he or she cannot be found;
        or
(b) if it does not so appear to the court or tribunal—unless another party to the proceeding requires
    the party tendering evidence of the statement to call the absent witness as a witness in the proceeding
    and the tendering party does not so call the absent witness.

337AH Weight of evidence admitted under section 337AG

(1) This section applies if evidence of a statement made by a person made on oath or affirmation during
an investigation under section 333B is admitted under section 337AG in a proceeding.
(2) In deciding how much weight (if any) to give to the statement as evidence of a matter, regard is to
be had to:
   (a) how long after the matters to which it related the statement was made; and
   (b) any reason the person may have had for concealing or misrepresenting a material matter; and
   (c) any other circumstances from which it is reasonable to draw an inference about how accurate the
       statement is.
(3) If the person is not called as a witness in the proceeding:
   (a) evidence that would, if the person had been so called, have been admissible in the proceeding for
       the purpose of destroying or supporting his or her credibility is so admissible; and
   (b) evidence is admissible to show that the statement is inconsistent with another statement that the
       person has made at any time.
(4) However, evidence of a matter is not admissible under this section if, had the person been called as a
witness in the proceeding and denied the matter in cross-examination, evidence of the matter would not
have been admissible if adduced by the cross-examining party.

337AJ Objection to admission of statements made on oath or affirmation during an investigation

(1) A party (the adducing party) to a proceeding may, not less than 14 days before the first day of the
hearing of the proceeding, give to another party to the proceeding written notice that the adducing party:
(a) will apply to have admitted in evidence in the proceeding specified statements made on oath or affirmation during an investigation under section 333B; and

(b) for that purpose, will apply to have evidence of those statements admitted in the proceeding.

(2) A notice under subsection (1) must set out, or be accompanied by writing that sets out, the specified statements.

(3) Within 14 days after a notice is given under subsection (1), the other party may give to the adducing party a written notice:

(a) stating that the other party objects to specified statements being admitted in evidence in the proceeding; and

(b) specifying, in relation to each of those statements, the grounds of objection.

(4) The period prescribed by subsection (3) may be extended by the court or tribunal or by agreement between the parties concerned.

(5) On receiving a notice given under subsection (3), the adducing party must give to the court or tribunal a copy of:

(a) the notice under subsection (1) and any writing that subsection (2) required to accompany that notice; and

(b) the notice under subsection (3).

(6) If subsection (5) is complied with, the court or tribunal may either:

(a) determine the objections as a preliminary point before the hearing of the proceeding begins; or

(b) defer determination of the objections until the hearing.

(7) If a notice has been given in accordance with subsections (1) and (2), the other party is not entitled to object at the hearing of the proceeding to a statement specified in the notice being admitted in evidence in the proceeding, unless:

(a) the other party has, in accordance with subsection (3), objected to the statement being so admitted; or

(b) the court or tribunal gives the other party leave to object to the statement being so admitted.

337AK Copies of, or extracts from, certain documents

(1) A copy of, or an extract from, a document relating to the affairs of an organisation is admissible in evidence in a proceeding as if the copy were the original document, or the extract were the relevant part of the original document, whether or not the copy or extract was made under section 335N.

(2) A copy of, or an extract from, a document is not admissible in evidence under subsection (1) unless it is proved that the copy or extract is a true copy of the document, or of the relevant part of the document.

(3) For the purposes of subsection (2), a person who has compared:

(a) a copy of a document with the document; or

(b) an extract from a document with the relevant part of the document;

may give evidence, either orally or by an affidavit or statutory declaration, that the copy or extract is a true copy of the document or relevant part, as the case may be.

337AL Material otherwise admissible

Nothing in this Division renders evidence inadmissible in a proceeding in circumstances where it would have been admissible in that proceeding if this Division had not been enacted.

Division 8—Miscellaneous

337AM Evidence of authority
A person (the investigator) who is about to make, or has made, a requirement of another person under this Part must, if the other person requests evidence of the investigator's authority to make the requirement, produce to the other person:

(a) a written authorisation issued to the investigator by:
   (i) if the investigation is under section 333B—ASIC; or
   (ii) in any other case—the General Manager; and

(b) such other evidence (if any) of the investigator's authority to make the requirement as determined by:
   (i) if the investigation is under section 333B—ASIC; or
   (ii) in any other case—the General Manager.

337AN Application of Evidence Act

Part 2.2, sections 69, 70, 71 and 147 and Division 2 of Part 4.6 of the Evidence Act 1995 apply to questioning on oath or affirmation for the purposes of an investigation under section 333B in the same way that they apply to a proceeding to which that Act applies under section 4 of that Act.

337AP Allowances and expenses

(1) A person who, pursuant to a requirement made under section 335 in relation to an investigation under 333B, attends before ASIC or a person or body to whom ASIC has delegated the conduct of an investigation, is entitled to the prescribed allowances and expenses (if any).

(2) ASIC may pay such amount as it thinks reasonable on account of the costs and expenses (if any) that a person incurs in complying with a requirement made under this Part.

337AQ Compliance with Part

A person is neither liable to a proceeding, nor subject to a liability, merely because the person has complied, or proposes to comply, with a requirement made, or purporting to have been made, under this Part.

26 Subparagraph 337A(b) (v)

Repeal the subparagraph, substitute:

(v) a member of the staff of the Office of the Fair Work Ombudsman (within the meaning of the Fair Work Act);

(vi) ASIC or an ASIC staff member; and

27 Paragraph 337K(3)(a)

After "subparagraph (1)(b)(ii)", insert "and to ASIC".

28 Paragraphs 343A(2)(i), (ia) and (ib)

Repeal the paragraphs, substitute:

(i) subsection 329A(2), section 333A, 334 or 335;

Part 2—Consequential amendments

Australian Securities and Investments Commission Act 2001

29 At the end of subsection 12A(1)

Add:

; (m) the Fair Work (Registered Organisations) Act 2009.

30 At the end of subsection 127(2A)

Add:
; (g) the General Manager of the Fair Work Commission (within the meaning of the Fair Work (Registered Organisations) Act 2009) or a delegate of the General Manager.

Part 3—Transitional provisions

31 Definitions

In this Part:

ASIC has the same meaning as in the Act.

ASIC staff member has the same meaning as in the Act.

commencement time means the time when this Schedule commences.

General Manager has the same meaning as in the Act.

the Act means the Fair Work (Registered Organisations) Act 2009.

32 Information sharing

ASIC may, for the purposes of performing or exercising functions or powers under the Act, require the General Manager to disclose to ASIC, or an ASIC staff member, information acquired by the General Manager or a member of the staff of the FWC in the performance or exercise of functions or powers under the Act before the commencement time.

33 Minister may make rules about transitional matters

The Minister may, by legislative instrument, make rules in relation to transitional matters arising out of the amendments made by Part 1 or Part 2 of this Schedule.

Part 2—Transitional provisions

242 Definitions

In this Part:

ASIC has the same meaning as in the Act.

commencement time means the time when this Schedule commences.

General Manager has the same meaning as in the Act.

the Act means the Fair Work (Registered Organisations) Act 2009.

243 Financial year reporting

(1) Division 3A of Part 2 of Chapter 5 of the Act has effect in relation to a financial year ending before the commencement time as if that Division had not been repealed by this Schedule.

(2) The amendment made by item 166 to insert Part 2A of Chapter 9 of the Act applies in relation to a financial year that starts on or after the commencement time.

244 Approved training

A person who has undertaken training approved by the General Manager under section 154C of the Act, as in force immediately before the commencement time, is taken, for the purposes of section 293L of that Act as in force after the commencement time, to have undertaken that training as approved by the General Manager.

245 Alternative disclosure arrangements

In satisfying himself or herself as mentioned in subsection 293H(3) of the Act during the period of 12 months immediately after the commencement time, the General Manager must take into account:

(a) any exemption granted to the organisation concerned under section 148D of the Act, as in force before the commencement time; and
(b) the statement, particulars and evidence provided in relation to any such exemption as required by subsection 148D(2) of the Act, as in force before the commencement time.

246 Minister may make rules about transitional matters

The Minister may, by legislative instrument, make rules in relation to transitional matters arising out of the amendments and repeals made by Part 1 of this Schedule.

[investigation by ASIC]

These are part of the accountability measures that Labor are very keen to see implemented. The argument from the coalition is that the trade union movement should be treated the same as business. If you take that fundamental proposition then the regulator for business should be the regulator for the trade union movement, and that is the Australian Securities and Investments Commission. Our view is clear. Given the experience that we have had with both the ABCC under the coalition government and the fair work building commission under the coalition government, we need an independent regulator who has got the confidence and the support of the people who are being regulated. The principle that the government argues consistently is for similar treatment for the trade union movement to corporations. ASIC are the corporate regulator.

I think from our perspective having Nigel Hadgkiss in charge of another body that regulates the trade union movement—the experience that we have had there and the experience that the courts have identified is a biased approach, an approach where attempts to litigate are done on the basis of political decisions as distinct from real decisions in terms of dealing with the trade union movement—leaves us very concerned. The position being proposed under the registered organisations bill, with some real power over the trade union movement, should be exercised by an established organisation, an organisation that has got recognition throughout the country as being independent of government.

That is not the position that we see with the fair work building commission, neither was it the position when John Lloyd was in charge of the former Australian Building and Construction Commission. It was an organisation that was biased. It was an organisation that was vexatious in its litigation. It was an organisation that claimed it was about no change to a situation where workers and their unions needed to be confident in that regulator. They had a proposition of zero tolerance, so no matter what the reasonable arguments were, even for a technical breach, under John Lloyd and under Nigel Hadgkiss that was then prosecuted on the basis of this zero tolerance policy. I do not think that is a reasonable approach and it is certainly not the approach ASIC takes in terms of dealing with reasonable issues that are requiring some education, some mediation or some minor rectification. None of that has been done under the ABCC or the fair work building commission when the coalition have been in power.

So these positions of the regulator become politicised under this mob. They politicise the regulator. The regulator does their bidding. The regulator is in complete unison with the government in the context of their political agenda, not their legislative agenda. In fact, we are very concerned about the fair work building commission now under Mr Hadgkiss. Remember, this is a regulator who is supposed to provide a balanced approach but, with the full support of the coalition, takes vexatious litigation against the trade union movement. We find a situation where it simply reacts with litigation against the union movement.
ASIC do not do that. They provide opportunities to rectify situations that may not be serious problems but where there needs to be education and some rectification. So we are very concerned. Given our experience of this government and officers dealing with these situations, we really need ASIC to be overseeing all of the inquiries and investigations into serious misbehaviour.

I think the public would see this as being a fair and reasonable proposition, especially when the government's proposition is that the unions should be treated in the same manner as the business sector. I just cannot understand why a government who rails against red tape, who rails against more bureaucracy, would in this bill put more red tape in place, put more bureaucracy in place. And these are bureaucracies that you cannot be confident will act in an impartial manner, because that is not the experience of the ABCC or the fair work building commission under this government.

So we take the view that the amendments that we are proposing are far fairer. They would be understood by the public to be a proposition that is fair and reasonable. It would certainly be a proposition that we as the opposition would see as fair and reasonable. If you are looking for more oversight of the trade union movement, on the same terms as the business community, let's make it on the same terms as for the business community.

Minister, why won't you do this? Why won't you take up the proposition that the opposition are putting forward, that ASIC become the regulator? That means less red tape. It means less bureaucracy. It means a proposition where the public can be confident that you have an independent regulator dealing with the issues. It would clearly mean that the union movement was being treated in exactly the same terms as the business community. The proposition you are putting forward is not that. It is a different regulatory approach. We say: why don't you have the same regulatory approach to the trade union movement through ASIC as there is for the business community? Why not, Minister?

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:13): I advise the Senate that the government will not be supporting the amendments put forward by the opposition. Making ASIC the regulator of registered organisations would distract from ASIC's core business and would remove all of the benefits that come with having a standalone regulator. It would also water down the existing arrangements, in which registered organisations are already the subject of specialist oversight through the Fair Work Commission.

It is fundamental to this bill that it establishes an independent Registered Organisations Commission. The independence and focus of the Registered Organisations Commission will lead to transparency or enhanced transparency of registered organisations, the development of specialist expertise within the regulator and efficient regulation. This is not unwarranted in the context of registered organisations which have annual revenues of $1.5 billion, assets worth $2.5 billion, represent two million Australians and have the special privilege of being income tax exempt. It would also be problematic to retain the regulation of a Fair Work Commission for so-called ordinary contraventions of registered organisations' obligations but then rely on ASIC for serious contraventions. We have previously—the government—given additional responsibility to ASIC to regulate the banks funded by the banks. But, unlike registered organisations, this is properly an area of policy in which ASIC has expertise. It is also funded by the banks.
Labor's proposal would draw ASIC into an area in which they do not have expertise, and Labor have proposed no additional funding to support this. The question therefore needs to be asked: what activities would ASIC cease? Would they simply not carry out the regulation of registered organisations, given that they have no funding to do so? In addition, the Heydon royal commission recommended a stand-alone body to regulate registered organisations and specifically ruled out a transfer of regulatory functions to ASIC. The final report of that inquiry explained the rationale for preferring the Registered Organisations Commission over ASIC stating:

Transferring regulatory functions in respect of registered organisations to ASIC risks a lack of focus on ASIC's core responsibilities as well as a lack of focus in relation to the regulation of registered organisations.

For these reasons, the government will not be supporting the proposal to make ASIC the regulator.

Senator CAMERON (New South Wales) (23:16): Minister, I just do not understand that response, given the argument and the principle behind this bill to treat the unions in the same manner as business. You have the perfect opportunity to do that here. In response to your answer, I note that—and you can correct me, if I am wrong—the Registered Organisations Commissioner and the Registered Organisations Commission will be funded basically by the Fair Work Ombudsman Yes, that is correct, Minister; your adviser has told you correctly. If you did not understand that, that is the position. It is the Fair Work Commission, as I read this bill. How much will this fair work regulator cost? What is the estimate? How many people will be employed? How much will be taken from the Fair Work Commission to fund it?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:17): It is actually cost neutral.

Senator CAMERON (New South Wales) (23:18): How can it be cost neutral when there is a cost to the Fair Work Commission? What aspects of the work of the Fair Work Commission will not be undertaken? How many personnel will be transferred either from the Fair Work Commission or employed in the Registered Organisations Commission? How many people will be employed in the Registered Organisations Commission? Where does the money come from? How is it cost neutral?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:18): The commission will be headed, as you know, by the Registered Organisations Commissioner. The Registered Organisations Commission will be established within the Office of the Fair Work Ombudsman, and the Fair Work Ombudsman will make staff available to assist the commissioner in exercising his or her functions. However, the commission will have independence in the exercise of his or her functions and powers to direct the staff of the commission.

Senator LAMBIE (Tasmania) (23:19): Minister, I was just wondering why it is coming under the Fair Work Commission when it was quietly stated in the royal commission secret confidential report by Heydon that there was a grave threat to the power and authority of the Australian state. Would it be coming under ASIO?
Senator XENOPHON (South Australia) (23:19): I can indicate that I and my colleagues will not be supporting these amendments for a number of reasons. The minister has already stated them briefly. This will water down the role of ASIC. ASIC already has more than enough on its hands in terms of corporate regulation. In fact, there was a Senate inquiry that Senator John Williams had a key role in instigating where the economics committee was quite critical of the lack of action by ASIC in terms of corporate regulation. Of course, there have been improvements since that time, but this will simply make it more difficult for ASIC to do its job. This does need a specialist regulator, given the nature of our industrial relations framework in this country. There is very little overlap at the moment in terms of Corporations Law and dealing with registered organisations. I think that to require ASIC to regulate trade unions would be a very counterproductive task. It would mean that they could do neither properly, whether it is for corporations or registered organisations. That is why it is important that there be a specialist organisation in respect of this legislation.

Senator LAMBIE (Tasmania) (23:20): Minister, could you inform me as to whether there have been any recent complaints of bullying against Nigel Hadgkiss?

Senator CAMERON (New South Wales) (23:21): Minister, since there has been some confusion in relation to the previous response that you gave, I am just looking at the Fair Work (Registered Organisations) Amendment Bill 2014. On page 16, under division 3—staff and consultants—329CA staff, it states:

(1) The staff assisting the Commissioner are to be persons engaged under the Public Service Act 1999 and made available for the purpose by the Fair Work Ombudsman (within the meaning of the Fair Work Act).

I am not sure but I thought you said it was the Fair Work Commission. I was raising the point that if this is again a raid on the resources of the Fair Work Ombudsman how then are those 457 visas workers going to be protected? How are the apprentices who are being unmercifully ripped off around the country as per the last Fair Work Ombudsman report going to be protected? How are workers who are generally under pressure and being ripped off in areas like 7-Eleven, where senior Liberal Party members are engaged in the most vile attacks on workers wages and conditions, going to be protected? Why would this come out of the Fair Work Ombudsman's pool of money, as I see it? Why would that happen? Again, I ask the question: firstly, why; and, secondly, how many people will be transferred from the Fair Work Ombudsman to this Registered Organisations Commission? What is the cost to the Fair Work Ombudsman in terms of their budget? And how are they going to continue to provide services and protection for workers, apprentices and 457 workers in this country, if they are being diminished again, because they are already diminished because of the work that has been handed over from the fair work building commission to the Fair Work Ombudsman? Maybe if you could answer those points, Minister.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (24:00): Senator Cameron, you will be aware that, as part of our election commitment, we have actually given additional funding of $20 million to the Fair Work Ombudsman. Given your comments in relation to exploitation, obviously you are aware of our comprehensive exploitation package that we will be bringing towards the parliament next year, and we would look forward to your support. In terms of the question that you have asked: all costs of establishing and running the Registered
Organisations Commission are to be met from associated savings derived from the Fair Work Commission, which will no longer, as you know, be undertaking those functions. In relation to your question of staff, 17 staff will transfer from the Fair Work Commission.

Senator CAMERON (New South Wales) (23:24): Minister, what is the dollar value of this Registered Organisations Commission? What is the cost of that? I know you have said it is revenue neutral, but it will have a budget. Basically, what will that budget be? Before you go to that, with your concurrence, Minister, and the concurrence of the Senate, I seek leave to move amendment (9) on sheet 7919, as it also relates to investigation by ASIC.

Leave granted.

Senator CAMERON: I move:

(9) Schedule 2, item 166, page 48 (line 1) to page 62 (line 28), omit "Commissioner" (wherever occurring), substitute "General Manager".

[investigation by ASIC]

Minister, can you take us to the issues that I have just raised in relation to the work of the Fair Work Ombudsman? What are the implications for the work of the Fair Work Ombudsman, who are again under pressure?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:26): There are no implications for the work of the Fair Work Ombudsman. As I said, 17 staff are going to be transferred from the Fair Work Commission. In relation to additional funding for the Fair Work Ombudsman, that is being provided as part of our election commitment of $20 million.

Senator CAMERON (New South Wales) (23:26): Minister, I hope that this is not just terminology, but the bill is clear that the staff will be made available from the Fair Work Ombudsman. On page 16, under '329CA Staff', staff are to be engaged under the act and 'made available for the purpose by the Fair Work Ombudsman'. Why do you keep coming back to the Fair Work Commission? Why do you keep saying the staff are from the Fair Work Commission?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:27): It is technical. They are being transferred from the Fair Work Commission to the Fair Work Ombudsman and then being made available from the Fair Work Ombudsman.

Senator CAMERON (New South Wales) (23:27): So basically the funding is being cut. Whether it is technical or not, the resources and the funding of the Fair Work Commission will be reduced. Is that correct?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:27): No, it is not.

Senator CAMERON (New South Wales) (23:27): Minister, where is the money coming from? I am just reading this. It is now not the Fair Work Ombudsman. Proposed section 329CA is not clear. I do not know if this is another one of those drafting problems, but why would you draft 329CA(1) in those terms when you are basically taking the money out of the Fair Work Commission? Were you trying to hide that?
Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:28): As I have stated, we are redirecting funds from within existing resources and we have been open and up-front about that.

Senator CAMERON (New South Wales) (23:28): So what are the implications, then, if it is not the Fair Work Ombudsman and there is some technical shuffle? I do not know why there would have to be a technical issue here, if you are taking the money from the Fair Work Commission and you are reducing the capacity of the Fair Work Commission. Why then does 329CA say 'the ombudsman' if it is not the ombudsman? What are the technicalities that led you to draft 329CA in the manner that it is drafted, if that is not what is happening in reality?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:29): I have nothing further to add to my previous answers.

Senator CAMERON (New South Wales) (23:29): I think this just shows how flawed this bill is. When the minister had to be advised about such a fundamental proposition as to how this new Registered Organisations Commission and Commissioner were going to be funded, it was clear the minister was confused. It is clear that 329CA(1) does not reflect the reality of what is happening. I think, again, it just demonstrates the confusion and the chaos in this government and I am just surprised that the crossbenchers, who are supporting this bill, did not raise the issue of why we would be reducing funding, as in this, to the Fair Work Ombudsman then were told that it is not the Fair Work Ombudsman; it is the Fair Work Commission. Why would we reduce funding to one of the fundamental pillars of industrial relations and democracy in this country, which is the Fair Work Commission? Why diminish the commission to set up another piece of bureaucracy and one that cannot be trusted, given the approach that this government is taking? So, Minister, on the appointment of this commissioner in 329BA on page 14, it says:

… the Commissioner is to be appointed by the Minister by written instrument.

And:

Before the Minister appoints a person as the Commissioner, the Minister must be satisfied that the person has suitable qualifications or experience and is of good character.

Given that in one of your previous responses you said that you did not want to go to ASIC because this commission would build up its own pool of knowledge, what will be the qualifications and experience that this appointed Registered Organisations Commissioner will have?

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:31): Thank you. The Registered Organisations Commissioner will be appointed by me as the Minister for Employment. The commissioner will be appointed on a full-time basis for a period of up to five years and, as you have stated, before appointing the commissioner, I must be satisfied that the commissioner has suitable qualifications or experience and is of good character.

Senator CAMERON (New South Wales) (23:32): Minister, that does not go to the issue. You simply say they should have suitable qualifications and experience. I am simply asking: what are those qualifications that you are looking for and what type of experience? I think that
is a reasonable ask by the opposition. I think the public would be interested to know, because you are setting up another bureaucracy. You are setting up another organisation that, in the view of many—including myself—if it goes along the route of the Fair Work building commission, would have a biased commissioner leading this commission. So I am just asking you: how will you determine suitable qualifications and experience? I think that is a legitimate question for both this chamber and the public to know.

**Senator CASH** (Western Australia—MinisterAssisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:32): Again, Senator Cameron, it is quite clear: I must be satisfied that the commissioner has suitable qualifications or experience and is of good character and one would assume that the person has relevant experience in relation to this type of law.

**The CHAIR:** The question is that amendments (1) to (3), (14) and (9) on sheet 7919 be agreed to.

The committee divided. [23:37]

(The Chair—Senator Lines)

Ayes ......................30
Noes ......................33
Majority ...............3

**AYES**

Bilyk, CL (teller)
Brown, CL
Cameron, DN
Chisholm, A
Collins, JMA
Dastyari, S
Di Natale, R
Dodson, P
Gallacher, AM
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Kitching, K
Lambie, J
Lines, S
Marshall, GM
McAllister, J
McKim, NJ
Moore, CM
O’Neill, DM
Polley, H
Pratt, LC
Rhiannon, L
Rice, J
Siewert, R
Sterle, G
Urquhart, AE
Waters, LJ
Watt, M
Whish-Wilson, PS

**NOES**

Back, CJ
Brandis, GH
Burston, B
Bushby, DC
Canavan, MJ
Cash, MC
Cormann, M
Culleton, RN
Duniam, J
Fawcett, DJ (teller)
Fieravanti-Wells, C
Fifield, MP
Griff, S
Hanson, P
Hinch, D
Hume, J
Kakoschke-Moore, S
Leyonhjelm, DE
Macdonald, ID
McGrath, J
McKenzie, B
Nash, F
O’Sullivan, B
Question negatived.

**The CHAIR (23:41):** The question now is that items 211 to 230 and 233 to 237 on Schedule 2 stand as printed.

The Committee divided. [23:42]

(The Chair—Senator Lines)

Ayes ....................33
Noes ....................30
Majority................3

**AYES**

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ (teller)
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ryan, SM
Seselja, Z
Xenophon, N

**NOES**

Brown, CL
Cameron, DN
Collins, JMA
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S
McAllister, J
Moore, CM
Polley, H
Rhianmon, L
Siewert, R
Urquhart, AE

**CHAMBER**
Question agreed to.

Senator RHIANNON (New South Wales) (23:43): I move Greens amendment on sheet 7994:

(2) Clause 2, page 2 (table items 2 and 3), omit the table items, substitute:

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<table>
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<tr>
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<td>Schedule 1</td>
</tr>
<tr>
<td>3.</td>
<td>Schedule 2</td>
</tr>
</tbody>
</table>

This amendment is about improving the legislation that we have before us. In the course of the debate we have heard a great deal of talk about the government wanting to clean up corruption, and they have reeled off example after example, but there is a huge shortcoming where they have left out one aspect of it—that is to do with MPs and public servants. It is a very simple amendment here, and it would certainly be appropriate if it were passed, because it would help improve some very damaging legislation and at least move it onto somewhat of a more even playing field. Our amendment would ensure that the bill seeks to place stricter requirements on unions and that it would only take effect once the Senate has voted to establish a national independent corruption watchdog that has the power to investigate politicians and public servants, because, as I said, this is a great shortcoming. There is a huge gap in this debate at the moment. You would think that there were no problems at a federal level with regard to corruption. We have heard story after story reeled out in this debate, even though we know that there are currently criminal laws in place to deal with it. Even within registered organisations, criminal proceedings can be taken. But we have not touched on that key aspect.

If this government were sincere about cleaning up corruption and dealing with the problems that many speakers have put on the table during this debate, we would be bringing both aspects together: the registered organisations and the need for a national anticorruption watchdog. That is what our amendment would do, because this bill that we are dealing with tonight would only kick once a National Integrity Commission Act 2016 takes effect. Many of you would already be acquainted with this legislation. It has been before parliament for many years. We were actually debating it last time this Senate was sitting. So it would be at front of mind for many people, and surely it is time that we brought together these aspects of fighting corruption and improving standards in public life. A national anticorruption watchdog at a federal level would deal with federal MPs and federal public sector workers. Surely this is time to bring this together. So I strongly commend the Greens' amendment and look forward to the discussion.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (23:46): The government will not be supporting this amendment. The Senate has already voted on the commencement provisions of this bill.
**Senator Cameron** (New South Wales) (23:47): The opposition were not made aware of these amendments until very late this afternoon. On the basis that we have not had time to fully consider them, we are not prepared to support them.

**Senator Rhiannon** (New South Wales) (23:47): It is not surprising to hear the comment from the minister. What we have just heard from the opposition is very disappointing. We are all in a rush. We are all in that same position, Senator Cameron. You are well aware of that. The way this whole debate has been conducted is shocking. But you have had time—so much time—to consider the need for a national ICAC and, every time we get close to having a vote on it and it is about to happen, Labor have an excuse. This is your opportunity to stand up for the need for our anticorruption watchdog.

We are in the most extraordinary situation, which goes on and on because Labor, the Liberals and the Nationals continue to vote together to block consideration of this much-needed national commission. Every state and territory jurisdiction in Australia has an anticorruption commission—in slightly different forms, but they have a body to deal with the problem. We see the worth of them time and time again. It was Senator Cameron who gave the example of 10 Liberal MPs in New South Wales who either resigned or were forced to resign because corrupt proceedings were found against them, because of the work that the New South Wales ICAC undertook.

But here they come, at a federal level: 'No, no, no—we just can't do that,' or, 'We don't have enough time.' Saying there is not enough time is really rubbish. It really does not serve Senator Cameron well. If there were sincerity about cleaning up corruption, there would be support for this measure, but again the Liberals, the Nationals and Labor are in a troika to say no.

It is not healthy. It certainly shows a lack of sincerity for the theme of the registered organisations legislation supposedly being to clean up corruption. It is not about that. It is not about what the minister tries to make out. As I said in my speech in the second reading debate, there is a big lie going on here, because the government cannot go out there and say: 'We're moving this legislation to deliver for our corporate mates. Our corporate mates want unions weakened. That's how we can improve their level of profits: by making it tougher for unions and even ending up weakening them so they do not even exist on many work sites.' That is what the government are out to do. They cannot talk about that, so they make up these excuses. We have seen it in a very clear way when they cannot come at dealing with corruption amongst MPs and public sector workers. I commend the Greens' amendment to the chamber.

**The Chair:** The question is that the amendment moved by Senator Rhiannon be agreed to.

The committee divided. [23:54]

(The Chair—Senator Lines)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>9</th>
</tr>
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<tbody>
<tr>
<td>Noes</td>
<td>46</td>
</tr>
<tr>
<td>Majority</td>
<td>37</td>
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</table>

**AYES**

Di Natale, R                Hanson-Young, SC
Question negatived.

Senator CAMERON (New South Wales) (23:58): by leave—I move items (4) to (8), (10) and (11) on sheet 7919 together:

(4) Schedule 2, item 4, page 29 (line 22) to page 30 (line 3), omit the definition of serious contravention, substitute:

serious contravention has the meaning given by section 9C.

(5) Schedule 2, page 30 (after line 3) after item 4, insert:

4A Section 6

volunteer officer, in relation to an organisation, or a branch of an organisation, means a person who:

(a) provides his or her services for no financial gain and any money or benefits received from the organisation or branch of the organisation are reasonable expenses required to carry out the person's duties as an officer; and

(c) does not undertake duties that relate to the financial management of the organisation or branch of the organisation.

4B After section 9B
Insert:

9C Meaning of serious contravention

(1) In this Act, serious contravention, in relation to a contravention of a civil penalty provision by an organisation, a branch of an organisation or a person who is, or was, an officer or employee of an organisation or a branch of an organisation, means a contravention that:

(a) materially prejudices the interests of the organisation or branch, or the members of the organisation or branch; or

(b) materially prejudices the ability of the organisation or branch to pay its creditors; or

(c) is serious.

(2) However, a contravention by an officer of an organisation or a branch of an organisation is taken not to be a serious contravention if, at the time of the contravention the officer is a volunteer officer of the organisation or branch.

(3) Subsection (2) does not affect the operation of section 344 (Conduct by officers, directors, employees or agents) in relation to a serious contravention by an organisation or a branch of an organisation.

[serious contravention]

(6) Schedule 2, item 163, page 46 (line 22), after "An officer", insert "(other than a volunteer officer)".

[serious contravention]

(7) Schedule 2, item 163, page 47 (line 4), after "An officer", insert "(other than a volunteer officer)".

[serious contravention]

(8) Schedule 2, item 163, page 47 (line 17), after "an officer", insert "(other than a volunteer officer)".

[serious contravention]

(10) Schedule 2, item 209, page 67 (line 15), after "period", insert "not exceeding 5 years".

[disqualification of officials for serious contraventions]

(11) Schedule 2, item 209, page 67 (line 17), after paragraph (a), insert:

(aa) the contravention of the civil penalty provision was a serious contravention; and

[disqualification of officials for serious contraventions]

This is one of the weirdest things in this bill. The bill is basically saying that if you are a volunteer, if you are a rigger, if you are a fitter or if you are a cleaner but you have an interest in your union and you want to engage in the operation of the union through the councils of the union, this government wants to treat you the same as a director at BHP, a director at CRA or a director at the Commonwealth bank. There is nothing similar to the roles they play at all.

These are rank-and-file workers simply interested in volunteering their time to union operations, to collectivism, to working together in the interests of their fellow members. They do not have day-to-day determination of expenditure in the union—not at all. They do not make decisions on whom the union will employ to do printing or on any of the contracts that would be leased. These are managerial things. These people are on either the national councils or the national executives of the union on the basis that they are supportive of trade unionism, they want to help the organisation and they want to participate in the organisation. Yet they get put in a position where they could face fines of a similar amount to a part-time director who could be paid $100,000-plus. This is bizarre. This is not fair. This is not reasonable. This is vindictiveness from this government. This is about trying to discourage ordinary rank-and-file members from being part of a union. By sitting on a union council you could lose your
house even though you had no decision-making authority over what has happened. It beggars belief that you would go down this path.

I note the Australian Industry Group's initial concerns about this legislation. They were quite unequivocal about this part of the bill being unfair on their volunteer members. I remember because I was on the committee that looked at this. They put together a very detailed rebuff as to why this should not go ahead and then, a bit like anyone who seems to oppose this government, they went quiet—I think in fear of retribution. I am really surprised that the AiG did that, but that seems to be what has happened with the AiG. The Australian Industry Group were unequivocal that this was a bad proposition to put up and they were indicating the effect that that could have on them because they are one of the few employer groups who have got unpaid volunteer members on their board. They were clear that this was bad law and that this was about discouraging people from going on their board. They said this should not happen.

Minister, why do you persist with this when rank-and-file members, volunteer members, workers in some unions—in my old union—might be earning $50,000 a year and make no decisions in terms of the day-to-day expenditure of the union? They will face fines like this. This is simply about discouraging workers from actually engaging in their union. You are treating them the same as an executive at BHP or even a paid official of the union. It just seems to me not to be valid. It has no logic. If it is not about trying to destroy rank-and-file input into the union movement, what is it about, Minister?

**Tuesday, 22 November 2016**

**Senator CASH** (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (00:03): The government will not be supporting these amendments. In response to Senator Cameron's question: what is it about? It is really summed up with one name, or two words: Kathy Jackson. Kathy Jackson's last position with the Health Services Union was as a volunteer. She was the honorary national secretary. Under the proposal that we have just heard outlined by Senator Cameron, Kathy Jackson could not be held accountable for any wrongdoing in that role simply because she was a volunteer.

Currently all officials, whether paid or volunteer, who have responsibility for financial management have obligations under the existing act. Our amendments do not change this, and this is for very important reasons. Firstly, volunteers—and Kathy Jackson is the example at hand—can have significant control of the finances of an organisation and the power to misuse members' funds. As I said, Kathy Jackson's last position with the HSU was as a volunteer. To exclude volunteers would create a major loophole that could be exploited by an official with bad intentions, such as Kathy Jackson.

Secondly, there is no reason why misappropriation of members' funds by a volunteer should be considered less serious than misappropriation by a paid official. We believe that, if a volunteer—again, Kathy Jackson is the case at hand—makes significant decisions affecting the finances of an organisation, they should be held to the same standards as paid officials. We are not talking about a union delegate who attends a conference and is asked to vote to accept the financial reports of the branch. We are talking about volunteers with real decision-making power who deliberately do the wrong thing or turn a blind eye to doing the wrong thing. Again, Kathy Jackson is the perfect example of why this amendment is so flawed.
Senator CAMERON (New South Wales) (00:06): Minister, this is nearly as bad as your failure to explain anything in relation to the last amendment. Kathy Jackson, who was the hero of the coalition, who was lauded by the coalition, who was held up to be the epitome of all that is good and great about whistleblowers in the trade union movement, was always in a paid position—always. Again, it shows the inexperience of this minister and why she needs Senator Cormann holding her hand, chaperoning her through this bill tonight. She just does not understand.

Government senators interjecting—

Senator CAMERON: Chair, I don't mind people intervening but they should do it from their own seats. With regard to Kathy Jackson, what the crossbench is being told is misleading. If the minister knew anything about how unions work, she would know there are honorary positions in unions that are unpaid positions, but there are also paid positions. It is not uncommon for someone in a paid position to also hold an honorary position, maybe in a state branch if they are a federal official or, if they are state paid official, to have an honorary position at the federal level. They could even at the federal level have both an honorary and a paid position. This is not uncommon. This minister is misleading the Senate. She does not understand how it operates.

Kathy Jackson, this great hero who was lauded by former Prime Minister Tony Abbott, was ripping workers off. She was being lauded by the then opposition as the great hero. She was always in a paid position. She has faced court. She is facing a lengthy jail sentence under the current law. So the legal resources that are available to other union members have been used against Kathy Jackson, and it looks as if she is going to jail for a long period of time. But to stand there and say that Kathy Jackson was an honorary official when she was a paid official, while she was using her position as a paid official to rip the union off, is misleading the Senate. Then, to make that worse, the minister is trying to use Kathy Jackson as an example of why rank and file members—volunteer members—should be faced with massive fines for something that they may have absolutely no control over.

So this is just the minister misleading the Senate. This is the minister demonstrating her lack of understanding about how unions operate and about the bill that she has brought in here. This is why she needs Senator Cormann as a chaperone to hold her hand through this bill. So, Minister, why are you misleading the Senate?

Senator RHIANNON (New South Wales) (00:10): The way the minister replied about the amendment again reveals the deception that the government is running here. First off, what we need to remember is that the current act that is being amended already allows for criminal proceedings being initiated for a whole range of reasons—funds being misappropriated et cetera. So the criminal proceedings are already there.

Then we have heard Senator Cameron set this out very clearly in response to this argument about why the bill needs to capture volunteers. This amendment is a very ugly part of this legislation, and it goes to the heart of why we have taken it up so strongly. The real intent of this legislation is to restrict the activities of unions and the ability of working people to organise collectively to fight for better wages and conditions. Again, it is delivering for the government's constituency, corporate Australia. It is another example of that. To be able to argue the case, they actually end up lying about the real intent here. Already in the act there is the ability to initiate criminal proceedings.
Then they equate volunteers. Surely everybody knows how important volunteers are in organisations. In unions they are a huge part and always have been and, I am sure, always will be. They play a very valuable role, really enhancing the democracy of unions. What do we have here? The government are equating those volunteers with the directors of publicly listed companies. That is just plain wrong. That is not about cleaning up corruption; that is about penalising the ability of unions to collectively organise. That is what is being hammered here in the way it is being set out.

So it is certainly not an amendment that the Greens would support, and we would urge other senators to think clearly about it and vote against it.

The CHAIR: The question is that amendments (4) to (8), (10) and (11) on sheet 7919 be agreed to.

The committee divided. [00:17]

(The Chair—Senator Lines)

Ayes ....................30
Noes ....................33
Majority.................3

AYES

Bilyk, CL (teller)
Brown, CL
Cameron, DN
Chisholm, A
Collins, JMA
Dastyari, S
Di Natale, R
Dodson, P
Gallacher, AM
Gallagher, KR
Hanson-Young, SC
Ketter, CR
Kitching, K
Lambie, J
Lines, S
Marshall, GM
McAllister, J
McKim, NJ
Moore, CM
O’Neill, DM
Polley, H
Pratt, LC
Rhiannon, L
Rice, J
Siewert, R
Sterle, G
Urquhart, AE
Waters, LJ
Wait, M
Whish-Wilson, PS

NOES

Back, CJ
Birmingham, SJ
Brandis, GH
Burston, B
Bushby, DC
Canavan, MJ
Cash, MC
Cormann, M
Culleton, RN
Duniam, J
Fawcett, DJ (teller)
Fierravanti-Wells, C
Fifield, MP
Griff, S
Hanson, P
Hinch, D
Hume, J
Kakoschke-Moore, S
Leyonhjelm, DE
Macdonald, ID
McGrath, J
McKenzie, B
Nash, F
O’Sullivan, B
Parry, S
Paterson, J
Reynolds, L
Roberts, M

CHAMBER
Question negatived.

Senator HINCH (Victoria) (00:20): by leave—I, on behalf of Derryn Hinch’s Justice Party, and at the request of Senator Xenophon, on behalf of the Nick Xenophon Team, move amendments (1) to (21) circulated in my name on sheet 7995 together:

(1) Schedule 2, page 29 (after line 5), after heading specifying Act to be amended, insert:

1AA Section 6 (definition of approved auditor)
Repeal the definition.

1AB Section 6 (definition of auditor)
Repeal the definition, substitute:

auditor, in relation to a reporting unit, means:
(a) if an individual holds the position of auditor of the reporting unit under section 256—the individual; or
(b) if a firm holds the position of auditor of the reporting unit under section 256—each person who is, from time to time, a member of the firm and a registered auditor; or
(c) if a company holds the position of auditor of the reporting unit under section 256—each person who is, from time to time, a director, officer or employee of the company and a registered auditor.

(2) Schedule 2, page 29 (after line 7), after item 1, insert:

1B Section 6 (definition of excluded auditor)
Repeal the definition, substitute:

excluded auditor, in relation to a reporting unit, means:
(a) an officer, former officer, employee or former employee of the reporting unit or the organisation of which the reporting unit is a part; or
(b) a partner, employer or employee of an officer, former officer, employee or former employee of the reporting unit or the organisation of which the reporting unit is a part; or
(c) a relative of an officer, former officer, employee or former employee of the reporting unit or the organisation of which the reporting unit is a part; or
(d) a liquidator in respect of property of the reporting unit or the organisation of which the reporting unit is a part; or
(e) a person who owes more than $5,000 to the reporting unit or the organisation of which the reporting unit is a part; or
(f) a person who would not be, or whom a reasonable person would consider would not be, capable of exercising objective and impartial judgement in relation to audits relating to the reporting unit, having regard to all the circumstances.

For the purposes of this definition, employee has the same meaning as in Part 3 of Chapter 8.

[auditor independence and auditor rotation]
(3) Schedule 2, item 2, page 29 (after line 11), after the definition of *officer and related party disclosure statement*, insert:

*plays a significant role* has the meaning given by subsection 256A(4).

[auditor rotation]

(4) Schedule 2, item 3, page 29 (after line 19), after the definition of *proceeding*, insert:

*registered auditor* means a person who is registered as an auditor under subsection 255B(2) or (3).

*registered company auditor* means a person registered as an auditor under Part 9.2 of the *Corporations Act 2001*.

[auditor registration]

(5) Schedule 2, page 38 (after line 24), after item 89, insert:

89A Before section 256

Insert:

Subdivision A—Registration of auditors

255A Applications may be made for registration as an auditor

(1) A person may apply in writing to the Commissioner for registration as an auditor.

(2) An application under subsection (1) must:

(a) be in a form approved by the Commissioner; and

(b) if the person is a registered company auditor—include evidence of that status; and

(c) if the person is not a registered company auditor—contain the information required by the regulations.

255B Registration by Commissioner

(1) This section applies if a person has made an application under subsection 255A(1) for registration as an auditor.

(2) If the person is a registered company auditor, the Commissioner must, subject to section 255E, grant the application and register the person as an auditor.

(3) If the person is not a registered company auditor, the Commissioner must, subject to section 255E, grant the application and register the person as an auditor if the Commissioner is satisfied that:

(a) the person meets the requirements of subsection 255C(1) or (2) (educational qualifications, or equivalent qualifications and experience); and

(b) the person has either:

(i) satisfied all the components of an auditing competency standard approved by the Australian Securities and Investments Commission under section 1280A of the *Corporations Act 2001*; or

(ii) had such practical experience in auditing as is prescribed by the regulations for the purposes of this paragraph; and

(c) the Commissioner is satisfied that the person is capable of performing the duties of an auditor and is otherwise a fit and proper person to be registered as an auditor.

255C Circumstances in which a person meets educational etc. requirements

(1) A person meets the requirements of this subsection if the person:

(a) holds a degree, diploma or certificate from a university, or other institution in Australia, that is prescribed by regulations made for the purposes of paragraph 1280(2A)(a) of the *Corporations Act 2001*; and
(b) has, in the course of obtaining that degree, diploma or certificate, passed examinations in such subjects, under whatever name, as the appropriate authority of the university or other institution certifies to the Commissioner to represent a course of study:

(i) in accountancy (including auditing) of not less than 3 years duration; and

(ii) in commercial law (including company law) of not less than 2 years duration; and

(c) has satisfactorily completed a course in auditing prescribed by regulations made for the purposes of paragraph 1280(2A)(c) of the Corporations Act 2001.

(2) A person meets the requirements of this subsection if the person has other qualifications and experience that, in the Commissioner's opinion, are equivalent to the requirements mentioned in subsection (1).

255D Commissioner must give an opportunity to be heard before refusal and written notice of decision

(1) The Commissioner must not refuse to grant an application for registration of a person as an auditor unless the Commissioner has given the person an opportunity to appear at a hearing before the Commissioner and to make submissions and give evidence to the Commissioner in relation to the matter.

(2) If the Commissioner refuses an application by a person for registration as an auditor, the Commissioner must, not later than 14 days after the decision, give to the person a notice in writing setting out the decision and the reasons for it.

255E Refusal to grant an application for registration

(1) This section applies if a person has made an application for registration as an auditor.

(2) The Commissioner must refuse to grant the application if:

(a) under subsection 215(1), the person is not eligible to be a candidate for an election, or to be elected or appointed, to an office in an organisation; or

(b) under section 307A, the person is disqualified from holding office in an organisation.

(3) If the person is not a registered company auditor, the Commissioner must refuse to grant the application if the Commissioner is not satisfied as mentioned in subsection 255B(3) in relation to the person.

(4) The Commissioner may refuse to grant the application if the person is not resident in Australia.

255F Commissioner must give certificate of registration

(1) If the Commissioner grants an application made by a person for registration as an auditor, the Commissioner must give the person a certificate:

(a) stating that the person has been registered as an auditor; and

(b) specifying the day the application was granted.

(2) The registration of a person as an auditor:

(a) takes effect at the beginning of the day specified in the certificate as the day the application for registration was granted; and

(b) remains in force until:

(i) the registration is cancelled by the Commissioner; or

(ii) the person dies.

255G Cancellation and suspension of registration—general

(1) The Commissioner may cancel, or suspend for a specified period, the registration of a person as an auditor if the Commissioner is satisfied that the person:
(a) has failed to carry out his or her duties under this Act; or
(b) has not performed any audit work, or any significant audit work, during a continuous period of not less than 5 years, and as a result has ceased to have the practical experience necessary for carrying out audits for the purposes of this Act; or
(c) is otherwise not a fit and proper person to remain registered as an auditor.

(2) In determining for the purposes of paragraph (1)(b) whether audit work performed by a person is significant, the Commissioner must have regard to:

(a) the nature of the audit; and
(b) the extent to which the person was involved in the audit; and
(c) the level of responsibility the person assumed in relation to the audit.

(3) The Commissioner may cancel, or suspend for a specified period, the registration of a person as an auditor if the person requests that his or her registration be cancelled or suspended for that period.

(4) If the Commissioner cancels, or suspends for a specified period, the registration of a person as an auditor under subsection (1), the Commissioner must notify the Australian Securities and Investments Commission of the cancellation or suspension and the reasons for it.

(5) The regulations may make further provision for and in relation to the suspension of the registration of a person as an auditor.

255H Cancellation and suspension of registration—person no longer a registered company auditor

If a person was registered as an auditor under subsection 255B(2) on the basis that the person was a registered company auditor at the time of registration, the Commissioner may:

(a) cancel the registration if the person's registration as a registered company auditor is cancelled; or
(b) suspend the registration for some or all of any period throughout which the person's registration as a registered company auditor is suspended.

255J Written notice to be given of cancellation or suspension of registration

(1) If the Commissioner decides to cancel or suspend the registration of a person as an auditor:

(a) the Commissioner must, not later than 14 days after the decision, give the person a written notice setting out the decision and the reasons for it; and
(b) the decision comes into effect at the end of the day on which that notice is given to the person.

(2) A failure of the Commissioner to comply with subsection (1) does not affect the validity of the decision.

255K Registered auditors to advise of material changes in circumstance etc.

A person who is registered as an auditor under this Subdivision must advise the Commissioner of any change in circumstances that could materially affect the person's registration within 14 days of the change in circumstances.

Civil penalty: 200 penalty units.

255L Commissioner may request further information

(1) The Commissioner may, in writing, request further information from any person for the purposes of making a decision under this Subdivision.

(2) The Commissioner is not required to make a decision under this Subdivision until any information requested under subsection (1) in relation to the decision has been provided.

255M Basis of registration

Registration under this Subdivision is on the basis that:
(a) the registration may cease or be suspended as provided for by this Subdivision; and
(b) the registration may cease or be suspended by or under later legislation; and
(c) no compensation is payable if the registration ceases or is suspended as mentioned in paragraph
(a) or (b).

255N Regulations
(1) The regulations may make provision for and in relation to the registration of auditors.
(2) Without limiting subsection (1), the regulations may make provision for and in relation to the
following:
(a) information relating to the matters to which the Commissioner must have regard in deciding
whether to register a person as an auditor;
(b) the keeping of a register;
(c) fees in respect of applications for registration;
(d) matters relating to the suspension and cancellation of registration;
(e) the delegation, by a person on whom functions or powers are conferred by regulations made for
the purposes of this Subdivision, of any such functions or powers.

Subdivision B—Audits
[auditor registration]
(6) Schedule 2, item 91, page 38 (line 29), omit "100", substitute "200".

[penalties relating to auditors]
(7) Schedule 2, items 92 and 93, page 39 (lines 1 to 5), omit the items, substitute:
92 Subsections 256(2) and (3)
Repeal the subsections, substitute:
(2) The position of auditor of a reporting unit is to be held by:
(a) an individual who is a registered auditor; or
(b) a firm, at least one of whose members is a registered auditor; or
(c) a company, at least one of whose directors, officers or employees is a registered auditor.
(3) An individual must not accept appointment as auditor of a reporting unit unless:
(a) the individual is a registered auditor; and
(b) the individual is not an excluded auditor in relation to the reporting unit.
Civil penalty: 200 penalty units.

93 Paragraph 256(4)(a)
Omit "an approved auditor", substitute "a registered auditor".

[auditor registration]
(8) Schedule 2, item 95, page 39 (line 10), omit "60", substitute "200".

[penalties relating to auditors]
(9) Schedule 2, items 96 and 97, page 39 (lines 11 to 15), omit the items, substitute:
96 Subsection 256(5)
Repeal the subsection, substitute:
(4A) A company must not accept appointment as auditor of a reporting unit unless:
(a) at least one director, officer or employee of the company is a registered auditor; and
(b) no director, officer or employee of the company is an excluded auditor in relation to the reporting unit.
Civil penalty: 200 penalty units.

(5) An individual who holds the position of auditor of a reporting unit must resign the appointment if the individual:
   (a) ceases to be a registered auditor; or
   (b) becomes an excluded auditor in relation to the reporting unit.
Civil penalty: 200 penalty units.

97 Paragraph 256(6)(a)
Omit "an approved auditor" (wherever occurring), substitute "a registered auditor".

[auditor registration]
(10) Schedule 2, item 99, page 39 (line 20), omit "60", substitute "200".

[penalties relating to auditors]
(11) Schedule 2, page 39 (after line 20), after item 99, insert:

99A After subsection 256(6)
Insert:

(6A) A company that holds the position of auditor of a reporting unit must resign the appointment if:
   (a) there is no longer any director, officer or employee of the company who is a registered auditor; or
   (b) a director, officer or employee of the company becomes an excluded auditor in relation to the reporting unit.
Civil penalty: 200 penalty units.

99B After section 256
Insert:

256A Limited term to play significant role in audit of a reporting unit
(1) An individual must not play a significant role in the audit of a reporting unit:
   (a) for more than 5 consecutive financial years; or
   (b) for more than 5 out of 7 consecutive financial years.
Civil penalty: 200 penalty units.

(2) Paragraph (1)(b) does not apply to an individual, in relation to a reporting unit and a series of 7 consecutive financial years, if the Commissioner declares in writing that, in all the circumstances, it is not appropriate for that paragraph to apply to the individual in relation to the reporting unit and that series of 7 consecutive financial years.

(3) A declaration made under subsection (2) is not a legislative instrument.

(4) An individual plays a significant role in the audit of a reporting unit for a financial year if:
   (a) the individual holds the position of auditor of the reporting unit for the financial year; or
   (b) if a firm or company holds the position of auditor of the reporting unit for the financial year—the individual is a registered auditor who, on behalf of the firm or company:
      (i) participates in the preparation of an audit report in relation to a financial report of the reporting unit for the financial year or any part of the financial year; or
      (ii) participates in the conduct of an audit in relation to the reporting unit for the financial year or any part of the financial year.
[auditor rotation]
(12) Schedule 2, item 101, page 39 (line 25), omit "100", substitute "200".

[penalties relating to auditors]
(13) Schedule 2, item 103, page 40 (line 5), omit "100", substitute "200".

[penalties relating to auditors]
(14) Schedule 2, item 106, page 40 (line 12), omit "100", substitute "200".

[penalties relating to auditors]
(15) Schedule 2, item 109, page 40 (line 19), omit "60", substitute "200".

[penalties relating to auditors]
(16) Schedule 2, item 111, page 40 (line 24), omit "60", substitute "200".

[penalties relating to auditors]
(17) Schedule 2, item 113, page 41 (line 3), omit "60", substitute "200".

[penalties relating to auditors]
(18) Schedule 2, item 115, page 41 (line 8), omit "60", substitute "200".

[penalties relating to auditors]
(19) Schedule 2, page 87 (after line 4), after item 232, insert:

232A Paragraph 343B(2) (f)
Omit ", 3 or 4", substitute "or 3, or Subdivision B of Division 4,"

[auditor registration]
(20) Schedule 2, page 87 (after line 14), after item 236, insert:

236A After subsection 343B(2)
Insert:

(2A) Despite subsection (1), the Commissioner's functions or powers under Subdivision A of Division 4 of Part 3 of Chapter 8 (registration of auditors) can only be delegated to a member of the staff assisting the Commissioner who is an SES employee or an acting SES employee.

[auditor registration]
(21) Schedule 2, page 89 (before line 13), before item 244, insert:

243A Excluded auditors
Without limiting the application of the amendments of the definition of excluded auditor made by this Schedule, those amendments apply in relation to a former officer, or former employee, whether the person ceased to be an officer or employee before or after the commencement time.

[auditor independence]
I am proud to move these amendments standing in my name and cosponsored by Senator Xenophon and his team. As I said in the debate earlier tonight, maybe if the unions had had more scrupulous auditors then the millions of dollars of rank and file union members' money, rorted by Kathy Jackson and Michael Williamson and Craig Thomson, might have been picked up sooner. Maybe then they would not have got away with having friends and family members not only doing the books but cooking the books.

I also mentioned the case of New South Wales union secretary Derrick Belan. He was arrested, along with his niece, Danielle O'Brien, who managed the union's accounts on his behalf. He has been charged with 24 offences regarding $440,000 and also charged with
participating in a criminal group, and his niece, O'Brien, is facing 148 fraud-related offences, also over more than $400,000.

These are some of the reasons why the role of auditors is critical to this legislation working effectively. It is vital that auditors are independent and seen to be independent. These amendments will simply make sure that a scheme similar to that applying to company auditors will apply to auditors of registered organisations. This will ensure an impartial examination of the organisation's books and it will be an important step in making sure that rogue officials, whether volunteers or otherwise, like Thomson and Jackson, cannot hide any misappropriation or fraudulent financial activities.

These amendments will make some important changes. Firstly, they will ensure that auditors must be rotated every five years or after acting as an auditor for the organisation for five out of seven successive years. This should also guarantee that an auditor will not become so close to an organisation that they fail to perform their duties with diligence. This is the same requirement that applies to auditors of companies.

Secondly, the amendments will ensure that a person who has a close association with an organisation cannot act as the auditor for that organisation. It will prevent former employees of the organisation or those with significant debts to the organisation from acting as auditors.

Thirdly, the amendments will require that auditors are registered with the regulator before they can carry out an audit and can be deregistered if they are found to have breached their obligations as an auditor. A person will be able to become registered if they are a registered company auditor or have relevant qualifications and are a fit and proper person. The amendments will also increase penalties for auditors who do not comply with those regular requirements to 200 penalty units, which is currently $36,000.

These are important changes that will go a long way to guarantee that registered organisations are accountable to their members and honest in the books. In the federal election, the Justice Party's slogan was: 'It's just common sense,' and I truly believe that these auditor amendments fall into that category—they are just common sense.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (00:24): The government will accept the proposed amendments put forward by Senator Hinch, and by Senator Xenophon on behalf of NXT, that will ensure the independence of auditors. These amendments will ensure greater auditor independence through a requirement to rotate auditors every five years, as it applies under the Corporations Act; not to have a close associate as an auditor; and to register auditors with the Registered Organisations Commission. I would encourage all senators to support the amendments.

Senator CAMERON (New South Wales) (00:25): Labor will not be supporting this amendment. We do not have a lot of issues with the general principles that are being put up, but on a very quick reading of the amendment we do have some issues with the practicalities of some of the amendments. Senator Hinch, we have in Labor been arguing for this position for some time, so we are very clear that there is a need to have some regulation around the auditors of unions. The same position should apply for auditors of businesses. Again, I am not sure if the position is that the union movement is being treated differently from general business.
I just want to indicate the area which we might have some difficulty with, and that is on page 4 of sheet 7995, amendment 255G—the cancellation and suspension of registration. It says:

(b) has not performed any audit work, or any significant audit work, during a continuous period of not less than 5 years, and as a result has ceased to have the practical experience necessary for carrying out audits for the purposes of this Act …

What this could develop into is a very small group of auditors circulating amongst unions and employer organisations. We believe that the best approach on this would be to have a simple fit and proper test so that you do not restrict the number of auditors that can carry the work out. Any auditor, as long as that auditor is fit and proper as an auditor, should be able to carry out the audit. You do not need to create a special group of auditors who end up doing the rounds between employers and unions.

Senator Hinch, we say that as constructive criticism. We only got this amendment at about 8.15 tonight so we have not had a chance to digest it fully. It is a very detailed amendment in terms of auditors. We agree on a number of the principles, but we think the detail of this amendment has some problems and that is why we cannot support it tonight on the basis that we have not had a proper opportunity to look at it and our initial assessment is that this 255G is a problem.

Senator HINCH (Victoria) (00:28): Senator Cameron, I think you will find that 255G mirrors the Corporations Act; that the same thing applies, as it should. If it is going to apply to unions, it should also apply to corporations, and I think that is clear.

Senator CAMERON (New South Wales) (00:28): I do not want to keep the Senate any longer than I need to, but, Senator Hinch, I have to say to you: how many corporations are there in Australia? How many businesses? If that mirrors that then you can still have new entrants; you can still have people coming in. But, in our view, to apply 255G in an area where you are talking about a limited number of unions and a limited number of employers bodies will be a problem in the future.

Senator HINCH (Victoria) (00:29): Just briefly: I have only owned a small business, but my auditor has to be registered with ASIC in the same way that the unions and the registered organisations auditors will have to be registered with the special bodies.

The TEMPORARY CHAIR: The question is that amendments (1) to (21) on sheet 7995 be agreed to.

The committee divided. [00:34]

(The Temporary Chair—Senator O’Sullivan)

Ayes .................. 34
Noes .................. 31
Majority .............. 3

AYES

Back, CJ
Brandis, GH
Bushby, DC (teller)
Cash, MC
Culleton, RN
Fawcett, DJ

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Question agreed to.

Senator CAMERON (New South Wales) (00:37): by leave—I move all of the amendments on sheet 7974 together:

(2) Schedule 2, page 29 (before line 6), before item 1, insert:

1A Section 6 (definition of approved auditor)
Repeal the definition, substitute:

approved auditor means a person who:

(a) is registered as an auditor under Part 9.2 of the Corporations Act 2001; and
(b) is not suspended as a registered auditor under that Act; and
(c) meets any requirements prescribed by the regulations.

(3) Schedule 2, page 39 (after line 20), after item 99, insert:

99A After subsection 256(6)
Insert:

(6A) A person commits an offence if:

(a) the person:
(i) consents to being appointed as an auditor of a reporting unit; or
(ii) acts as an auditor of a reporting unit; or
(iii) prepares a report required by this Act to be prepared by an auditor of a reporting unit; and

(b) the person:
   (i) if the person is a firm—does not have at least one member of the firm who is an approved auditor; or
   (ii) in any other case—is not an approved auditor.

Penalty: 25 penalty units or imprisonment for 6 months, or both.

(4) Schedule 2, page 40 (after line 5), after item 103, insert:

103A At the end of section 257

Add:

(12) If an auditor for the reporting unit is aware of circumstances that:
   (a) the auditor has reasonable grounds to suspect amount to a contravention of an officer's duty provision; or
   (b) amount to an attempt by any person to unduly influence, coerce, manipulate or mislead the auditor in connection with the performance of the auditor's functions or duties; or
   (c) amount to an attempt by any person to unduly influence, coerce, manipulate or mislead the auditor in connection with the performance of the auditor's functions or duties;

the auditor must notify the General Manager in writing of those circumstances as soon as practicable, and in any case within 28 days, after the auditor becomes aware of those circumstances.

(13) An auditor commits an offence if the auditor contravenes subsection (12).

Penalty: 50 penalty units or imprisonment for 1 year, or both.

(14) For the purposes of subsection (12), an officer's duty provision is one of the following provisions:
   (a) subsection 285(1), 286(1) or (2), 287(1) or (2) or 288(1) or (2) (general duties in relation to the financial management of organisations);
   (b) subsection 290A(1), (2) or (3) (good faith, use of position and use of information—criminal offences);
   (c) subsection 293B(1) or (2), 293C(2) or (3), 293F(1) or (2), 293J(1) or (2) (disclosure obligations and restrictions on taking part in making decisions);
   (d) subsection 297(2) or (3), 298(2) or (3), 299(2) or (3), 300(2) or (3), 301(2) or (3), 302(2) or (3) or 303(2) (general duties in relation to orders and directions).

(5) Schedule 2, page 41 (after line 8), after item 115, insert:

115A At the end of Division 4 of Part 3

Add:

264A Rotation of auditor

(1) If an auditor plays a significant role in the audit of a reporting unit for 5 successive financial years (the extended audit involvement period), the auditor is not eligible to play a significant role in the audit of the reporting unit for a later financial year (the subsequent financial year) unless:
   (a) the auditor has not played a significant role in the audit of the reporting unit for at least 2 successive financial years (the intervening financial years); and
   (b) the intervening financial years:
      (i) commence after the end of the extended audit involvement period; and

(ii) end before the beginning of the subsequent financial year.

(2) For the purposes of subsection (1), an auditor plays a significant role in the audit of a reporting unit for a financial year if the auditor is an auditor of the reporting unit for that financial year and:

(a) acts as an auditor for the reporting unit for that financial year; or

(b) prepares an audit report for the reporting unit in relation to a financial report of the reporting unit for that financial year or for a half-year falling within that financial year.

Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 2 6 months after the day this Act receives the Royal Assent.

_Senator CAMERON:_ We believe that this is probably a better way to deal with the auditors, given the issues I raised in relation to the last amendments. I do not think I can add much to what I said last time, and I would simply move the amendments on sheet 7974. In conclusion on this, I just want to indicate that this is something that the Labor Party have had a voice on for a long time. We have been arguing for this for some time, and this is not something that has been newly invented by the crossbench. We were the first ones to raise this issue. We believe that this is the way it should be dealt with. It is a more effective way. It does not create the problems that I outlined in relation to Senator Hinch’s previous amendments. So, on that basis, I will move all of the amendments on sheet 7974.

_Senator CASH_ (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (00:38): The government will be opposing these amendments. The Senate has just dealt with amendments relating to auditors moved by Senator Hinch and Senator Xenophon and accepted those amendments.

_The TEMPORARY CHAIR_: The question is that amendments (2) to (5) and (1) on sheet 7974 be agreed to.

The committee divided. [00:43]

(The Temporary Chair—Senator O’Sullivan)

Ayes .................... 31
Noes ..................... 34
Majority ............... 3

AYES

Bilyk, CL
Cameron, DN
Collins, JMA
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S
McAllister, J
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Urquhart, AE (teller)
Watt, M
Wong, P

Brow...
Question negatived.

Senator XENOPHON (South Australia) (00:46): by leave—1, and also on behalf of Senator Hinch, move amendments (1) to (9) on sheet 7997 together:

(1) Schedule 2, page 29 (before line 6), before item 1, insert:

1A Section 6

Insert:

authorised official means any of the following:

(a) the Commissioner;
(b) the General Manager;
(c) an FWC Member;
(d) the Director, within the meaning of subsection 4(1) of the Fair Work (Building Industry) Act 2012;
(e) the Fair Work Ombudsman (within the meaning of the Fair Work Act).

designated publication restriction has the same meaning as in the Public Interest Disclosure Act 2013.

detriment, in Part 4A of Chapter 11, has the meaning given by subsection 337BA(2).

disclosable conduct means an act or omission that:

(a) contravenes, or may contravene, a provision of this Act, the Fair Work Act or the Competition and Consumer Act 2010; or
(b) constitutes, or may constitute, an offence against a law of the Commonwealth.

(2) Schedule 2, item 2, page 29 (before line 10), before the definition of officer and related party disclosure statement, insert:

lawyer has the meaning given by section 12 of the Fair Work Act.

(3) Schedule 2, item 4, page 30 (after line 3), after the definition of serious contravention, insert:

takes a reprisal has the meaning given by section 337BA.
(4) Schedule 2, item 59, page 35 (line 12), after "section 290A", insert "or 337BE".

(5) Schedule 2, page 68 (after line 10), after item 211, insert:

<table>
<thead>
<tr>
<th>211A Section 317</th>
</tr>
</thead>
<tbody>
<tr>
<td>Omit:</td>
</tr>
<tr>
<td>Part 4A provides protection for officers, employees and members of organisations who disclose information about contraventions of this Act or the Fair Work Act.</td>
</tr>
<tr>
<td>substitute:</td>
</tr>
<tr>
<td>Part 4A provides protection for certain persons (including officers, employees, members and contractors of organisations) who disclose information about certain contraventions of the law. It also provides for investigation of protected disclosures.</td>
</tr>
</tbody>
</table>

(6) Schedule 2, page 86 (after line 30), after item 230, insert:

<table>
<thead>
<tr>
<th>230A Before section 337A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insert:</td>
</tr>
<tr>
<td>Division 1—Protected disclosures</td>
</tr>
<tr>
<td>230B Section 337A</td>
</tr>
<tr>
<td>Before &quot;A disclosure of information&quot;, insert &quot;(1)&quot;.</td>
</tr>
<tr>
<td>230C Subparagraph 337A(a)(i)</td>
</tr>
<tr>
<td>After &quot;officer&quot;, insert &quot;or former officer&quot;.</td>
</tr>
<tr>
<td>230D Subparagraph 337A(a)(ii)</td>
</tr>
<tr>
<td>After &quot;employee&quot;, insert &quot;or former employee&quot;.</td>
</tr>
<tr>
<td>230E Subparagraph 337A(a)(iii)</td>
</tr>
<tr>
<td>After &quot;member&quot;, insert &quot;or former member&quot;.</td>
</tr>
<tr>
<td>230F Subparagraph 337A(a)(iii)</td>
</tr>
<tr>
<td>Omit &quot;and&quot;.</td>
</tr>
<tr>
<td>230G At the end of paragraph 337A(a)</td>
</tr>
<tr>
<td>Add:</td>
</tr>
<tr>
<td>(iv) a person who has or had a contract for the supply of services or goods to, or any other transaction with, an organisation or a branch of an organisation;</td>
</tr>
<tr>
<td>(v) a person who has or had a contract for the supply of services or goods to, or any other transaction with, an officer or employee of an organisation or of a branch of an organisation who is or was acting on behalf of the organisation or branch;</td>
</tr>
<tr>
<td>(vi) an officer, former officer, employee or former employee of a person referred to in subparagraph (iv) or (v); and</td>
</tr>
<tr>
<td>230H Paragraphs 337A(c) to (e)</td>
</tr>
<tr>
<td>Repeal the paragraphs, substitute:</td>
</tr>
<tr>
<td>(c) the discloser has reasonable grounds to suspect that the information indicates one or more instances of disclosable conduct by:</td>
</tr>
<tr>
<td>(i) the organisation or a branch of the organisation; or</td>
</tr>
<tr>
<td>(ii) an officer or employee of the organisation or of a branch of the organisation.</td>
</tr>
<tr>
<td>230J At the end of section 337A</td>
</tr>
<tr>
<td>Add:</td>
</tr>
</tbody>
</table>
(2) A disclosure is taken to have been made by a person mentioned in paragraph (1)(a) (the discloser) to a person mentioned in paragraph (1)(b) (the official) if the disclosure is made to the official by a lawyer on the discloser's behalf.

(3) A disclosure of information by a person (the discloser) qualifies for protection under this Part if:
   (a) the discloser is a person mentioned in paragraph (1)(a) in relation to an organisation or a branch of an organisation; and
   (b) the disclosure is made to the discloser's lawyer; and
   (c) the discloser has reasonable grounds to suspect that the information indicates one or more instances of disclosable conduct by:
      (i) the organisation or a branch of the organisation; or
      (ii) an officer or employee of the organisation or of a branch of the organisation.

230K Before section 337B

Insert:

Division 2—Protections

(7) Schedule 2, item 231, page 87 (lines 1 and 2), omit the item, substitute:

231 Sections 337C and 337D

Repeal the sections, substitute:

337BA What constitutes taking a reprisal

(1) A person (the first person) takes a reprisal against another person (the second person) if:
   (a) the first person causes (by act or omission) any detriment to the second person; and
   (b) when the act or omission occurs, the first person:
      (i) believes or suspects that the second person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part; or
      (ii) should have known that the second person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part.

(2) In this Part, detriment includes (without limitation) any of the following:
   (a) dismissal of an employee;
   (b) injury of an employee in his or her employment;
   (c) alteration of an employee's position to his or her detriment;
   (d) discrimination between an employee and other employees of the same employer;
   (e) harassment or intimidation of a person;
   (f) harm or injury to a person, including psychological harm;
   (g) damage to a person's property;
   (h) damage to a person's reputation.

(3) Despite subsection (1), a person does not take a reprisal against another person to the extent that the person takes administrative action that is reasonable to protect the other person from detriment.

337BB Civil remedies

(1) If the Federal Court or Federal Circuit Court is satisfied, on the application of a person mentioned in subsection (3) (the applicant), that another person (the respondent) took or threatened to take, or is taking or threatening to take, a reprisal against a person (the target), the Court may make any one or more of the following orders:
(a) an order requiring the respondent to compensate the target for loss, damage or injury as a result of the reprisal or threat;

(b) an order granting an injunction, on such terms as the Court thinks appropriate, to prevent, stop or remedy the effects of the reprisal or threat;

(c) an order requiring the respondent to apologise to the target for taking, or threatening to take, the reprisal;

(d) if the target is or was employed in a particular position with the respondent and the reprisal wholly or partly consists, or consisted, of the respondent terminating, or purporting to terminate, the target's employment—an order that the target be reinstated in that position or a position at a comparable level;

(e) if the Court thinks it is appropriate—an order requiring the respondent to pay exemplary damages to the target;

(f) any other order the Court thinks appropriate.

(2) However, the Court must not make an order under subsection (1) if the respondent satisfies the Court that the belief or suspicion mentioned in paragraph 337BA(1)(b)(i) is not any part of the reason for taking the reprisal.

(3) Notwithstanding subsection (2), the Court may make an order under subsection (1) if satisfied that:

(a) the target made, may have made, proposed to make or could have made a disclosure that qualifies for protection under this Part; and

(b) the respondent was under a duty to prevent, refrain from, or take reasonable steps to ensure other persons under the respondent's control prevented or refrained from, any act or omission likely to result in detriment to the target; and

(c) the respondent failed in part or whole to fulfil that duty.

(4) Any of the following persons may make an application under subsection (1):

(a) the target;

(b) the Commissioner;

(c) the General Manager;

(d) the Director, within the meaning of subsection 4(1) of the Fair Work (Building Industry) Act 2012;

(e) the Fair Work Ombudsman (within the meaning of the Fair Work Act).

(5) If the reprisal wholly or partly consists, or consisted, of the respondent terminating, or purporting to terminate, the target's employment, the Court must, in making an order mentioned in paragraph (1)(a), consider the period, if any, the target is likely to be without employment as a result of the reprisal. This subsection does not limit any other matter the Court may consider.

(6) If the Federal Court or Federal Circuit Court has power under subsection (1) to make an order against a respondent in relation to conduct that constituted or constitutes taking or threatening to take a reprisal against a target, the Court may make any other orders that it thinks appropriate against any other person who has:

(a) aided, abetted, counselled or procured the conduct; or

(b) induced the conduct, whether through threats or promises or otherwise; or

(c) failed to fulfil a duty to prevent, refrain from, or take reasonable steps to ensure other persons under the person's control prevented or refrained from, the conduct; or

(c) been in any way (directly or indirectly) knowingly concerned in or a party to the conduct; or

(d) conspired with others to effect the conduct.
337BC Costs only if proceedings instituted vexatiously etc.

(1) This section applies to proceedings (including an appeal) in a court in relation to a matter arising under section 337BB if the target makes the application under subsection 337BB(1).

(2) Section 329 does not apply to the proceedings.

(3) The target must not be ordered by the court to pay costs incurred by another party to the proceedings, except in accordance with subsection (4).

(4) The target may be ordered to pay the costs only if:

(a) the court is satisfied that the target instituted the proceedings vexatiously or without reasonable cause; or

(b) the court is satisfied that the target's unreasonable act or omission caused the other party to incur the costs.

337BD Civil penalties

Taking a reprisal

(1) A person (the first person) must not take a reprisal against another person if the first person's belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, for taking the reprisal.

Civil penalty: 100 penalty units.

(2) In proceedings for a contravention of subsection (1), it is not necessary to prove that a person made, may have made, proposed to make or could have made a disclosure that qualifies for protection under this Part.

Threatening to take a reprisal

(3) A person (the first person) must not make a threat to another person (the second person) to take a reprisal against the second person or a third person if:

(a) the first person:

(i) intends the second person to fear that the threat will be carried out; or

(ii) is reckless as to the second person fearing that the threat will be carried out; and

(b) the first person's belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, for making the threat.

Civil penalty: 100 penalty units.

(4) For the purposes of subsection (3), the threat may be:

(a) express or implied; or

(b) conditional or unconditional.

(5) In proceedings for a contravention of subsection (3), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

337BE Criminal offences

Taking a reprisal

(1) A person commits an offence if:

(a) the person takes a reprisal against another person; and

(b) the person's belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, for taking the reprisal.
Penalty: Imprisonment for 2 years or 120 penalty units, or both.

(2) In a prosecution for an offence against subsection (1), it is not necessary to prove that a person made, may have made, proposed to make or could have made a disclosure that qualifies for protection under this Part.

**Threatening to take a reprisal**

(3) A person (the **first person**) commits an offence if:

(a) the first person makes a threat to another person (the **second person**) to take a reprisal against the second person or a third person; and

(b) the first person:

(i) intends the second person to fear that the threat will be carried out; or

(ii) is reckless as to the second person fearing that the threat will be carried out; and

(c) the first person's belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, for making the threat.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

(4) For the purposes of subsection (3), the threat may be:

(a) express or implied; or

(b) conditional or unconditional.

(5) In a prosecution for an offence under subsection (3), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

**337BF Interaction between civil remedies, civil penalties and criminal offences**

To avoid doubt, a person may bring civil proceedings under section 337BB, or civil proceedings for a contravention of subsection 337BD(1) or (3), in relation to the taking of a reprisal, or the threat to take a reprisal, even if a prosecution for a criminal offence against section 337BE in relation to the reprisal or threat has not been brought, or cannot be brought.

Note: Part 2 of Chapter 10 sets out the relationship between civil penalty provisions (including subsections 337BD(1) and (3)) and criminal proceedings (including under section 337BE) arising out of the same conduct.

**337BG Protections have effect despite other Commonwealth laws**

Section 337B or 337BB has effect despite any other provision of a law of the Commonwealth, unless:

(a) the provision is enacted after the commencement of this section; and

(b) the provision is expressed to have effect despite this Part or that section.

Division 3—Investigation of protected disclosures

**337C Allocation of handling of disclosure**

(1) If a disclosure that qualifies for protection under this Part is made (other than a disclosure to a lawyer that qualifies for protection under this Part because of subsection 337A(4)), the person to whom the disclosure is made must allocate the handling of the disclosure to one or more authorised officials (which may be or include the person).

(2) The person must use his or her best endeavours to decide the allocation within 14 days after the disclosure is made.
The person may, after making a decision under subsection (1) or this subsection allocating the handling of the disclosure to one or more authorised officials, decide to allocate the handling of the disclosure to one or more other authorised officials.

For the purposes of deciding an allocation, the person may obtain information from such persons, and make such inquiries, as the person thinks fit.

**337CA Investigation of disclosure**

(1) If a disclosure that qualifies for protection under this Part is allocated to an authorised official, the authorised official must investigate the disclosure.

(2) However, the authorised official may decide not to investigate the disclosure, or (if the investigation has started) not to investigate the disclosure further, under this Division in circumstances prescribed by the regulations.

(3) To avoid doubt, Division 2 continues to apply to the disclosure even if the authorised official decides not to investigate the disclosure, or not to investigate the disclosure further, under this Division.

(4) The investigation under this Division by the authorised official is to be conducted in accordance with any regulations made for the purposes of section 337CC and otherwise as the authorised official thinks fit.

(5) The authorised official may, for the purposes of the investigation, obtain information from such persons, and make such inquiries, as the authorised official thinks fit.

**337CB Time limit for investigations under this Division**

(1) An investigation under this Division must be completed within 90 days after allocation of the handling of the relevant disclosure.

(2) The Commissioner may extend, or further extend, the 90-day period by such additional period (which may exceed 90 days) as the Commissioner considers appropriate:

   (a) on the Commissioner's own initiative; or
   (b) on application made by the authorised official; or
   (c) on application made by the discloser.

(3) If the 90-day period is extended, or further extended:

   (a) the Commissioner must inform the discloser of the extension or further extension, and of the reasons for the extension or further extension; and
   (b) the authorised official must, as soon as reasonably practicable after the extension or further extension, inform the discloser of the progress of the investigation.

(4) Subsection (3) does not apply if contacting the discloser is not reasonably practicable.

(5) Failure to complete the investigation within the time limit under this section does not affect the validity of the investigation.

**337CC Regulations in relation to allocation and investigation**

(1) The regulations may prescribe procedures to be followed and other matters in relation to allocation of handling of disclosures that qualify for protection under this Part.

(2) The regulations may prescribe procedures to be followed and other matters in relation to investigations under this Division, including in relation to the following:

   (a) informing the discloser that an authorised official will investigate a disclosure;
   (b) informing the discloser and the Commissioner of a decision not to investigate a disclosure, or not to investigate a disclosure further, under this Division;
   (c) preparing a report of an investigation;
(d) adopting a finding of another investigation or inquiry for the purposes of an investigation.

337CD Disclosure to enforcement agencies
(1) If an authorised official to whom a disclosure is allocated suspects on reasonable grounds that some or all of:
   (a) the information disclosed; or
   (b) any other information obtained in the course of investigation of the disclosure;
  is evidence of the commission of an offence against a law of the Commonwealth, a State or a Territory, the authorised official may disclose the information, to the extent that it is such evidence, to a member of an Australian police force that is responsible for the investigation of the offence.
(2) However, if the offence is punishable by imprisonment for life or by imprisonment for a period of at least 2 years, the authorised official must so notify such a member.
(3) If an authorised official to whom a disclosure is allocated suspects on reasonable grounds that some or all of:
   (a) the information disclosed; or
   (b) any other information obtained in the course of investigation of the disclosure;
  is evidence of a contravention of the Competition and Consumer Act 2010, the authorised official may disclose the information, to the extent that it is such evidence, to the Australian Competition and Consumer Commission.
(4) This section does not, by implication, limit a person’s power to notify a matter to a member of an Australian police force, the Australian Competition and Consumer Commission or another agency or person.

337CE Protection of witnesses etc.
(1) A person is not subject to any criminal or civil liability because the person (voluntarily or otherwise) gives information, produces a document or answers a question if:
   (a) the person does so when requested to do so by a person conducting an investigation under this Division; and
   (b) the information, document or answer is relevant to the investigation.
Note: The first person may be the person whose disclosure gave rise to the disclosure investigation.
(2) This section does not apply to liability for an offence against section 137.1, 137.2, 144.1 or 145.1 of the Criminal Code that relates to the information, document or answer, as the case may be.
(3) This section does not apply to proceedings for a breach of a designated publication restriction.
(4) To avoid doubt, if the information, document or answer relates to the person’s own conduct, this section does not affect his or her liability for the conduct.

Division 4—Miscellaneous

337D Reference to this Part
A reference in this Division to this Part includes a reference to regulations made for the purposes of section 337CC.

337DA Liability for acts and omissions
(1) A person to whom a disclosure that qualifies for protection under this Part is made or an authorised official (or a delegate of an authorised official) is not liable to any criminal or civil proceedings, or any disciplinary action (including any action that involves imposing any detriment), for or in relation to an act or matter done, or omitted to be done, in good faith:
(a) in the performance, or purported performance, of any function conferred on the person or authorised official by this Part; or
(b) in the exercise, or purported exercise, of any power conferred on the person or authorised official by this Part.

(2) This section does not apply to a breach of a designated publication restriction.

**337DB Concurrent operation of State and Territory laws**

This Part is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Part.

**337DC Law relating to legal professional privilege not affected**

This Part does not affect the law relating to legal professional privilege.

**337DD Other investigative powers etc. not affected**

(1) This Part does not, by implication, limit the investigative powers conferred on an authorised official by a law of the Commonwealth other than this Part.

(2) This Part does not detract from any obligations imposed on an authorised official by a law of the Commonwealth other than this Part.

(8) Schedule 2, item 237, page 87 (after line 19), after subsection 343B(4), insert:

(4A) Despite subsection (1), the Commissioner's functions or powers under section 337CB can only be delegated to a member of the staff assisting the Commissioner who is an SES employee or an acting SES employee, or who is in a class of employees prescribed by the regulations.

Note: The expressions *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901*.

(9) Schedule 2, page 89 (after line 28), after item 245, insert:

**245A Protected disclosures**

(1) Without limiting the application of the amendments of paragraph 337A(1) (a) of the Act made by this Schedule, those amendments apply in relation to:

(a) a former officer, former employee or former member whether the person ceased to be an officer, employee or member before or after the commencement time; and

(b) a contract or transaction whether the contract or transaction started, ended or occurred before or after the commencement time.

(2) A reference in Part 4A of Chapter 11 of the Act, as amended by this Schedule, to a disclosure that qualifies for protection under that Part includes a reference to a disclosure made before the commencement time that qualified for disclosure under that Part as in force at the time the disclosure was made.

(3) Despite subitem (2), Division 3 of Part 4A of Chapter 11 of the Act, as amended by this Schedule, only applies in relation to disclosures made after the commencement time.

(4) For the purposes of the definition of *disclosable conduct* in section 6 of the Act:

(a) the reference to an act or omission includes an act or omission that occurred before the commencement time; and

(b) the reference to the Fair Work Act includes the WR Act (within the meaning of item 3 of Schedule 2 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*), as in force from time to time.

These amendments relate to the protection of whistleblowers and, as I indicated in my second reading contribution, they go far beyond anything that has ever been proposed and has ever
been implemented in the Commonwealth or the states. These amendments provide significant improvements on what exists in the Public Interest Disclosure Act. These are matters on which I sought the assistance of Professor AJ Brown of Griffith University from the Centre for Governance and Public Policy who is also the program leader of the public integrity and anticorruption program.

These amendments deal with many of the defects we see currently in public interest disclosure legislation around the Commonwealth and the states when it comes to whistleblower protection. In his submission to the Moss review on public interest disclosure, Professor Brown indicated issues with the clarity and workability of the Public Interest Disclosure Act, the need for simplification of wrongdoing and disclosable conduct, that the drafting has been incredibly ill-advised, and issues with the separation of compensable detrimental acts and omissions, and criminal reprisals.

In his submission to the Moss review, Professor Brown recommended:

The PID Act criminalises reprisals, with an increase in penalties to a maximum of two years’ imprisonment, consistently with state laws, also a late amendment … However, there is a major problem that, as with other Australian laws, the definition of criminal reprisals and civilly-actionable reprisals are the same – raising the problem of whether only reprisals of sufficient seriousness to sustain criminal action can also give rise to civil remedies.

The difficulty with existing compensation provisions were also raised by Professor Brown. Effectively, these amendments propose to rectify some of what are proving to be the biggest problems in the struggle to ensure that whistleblower protection is afforded to people in organisations, especially employees, who are prepared to disclose wrongdoing. The limited whistleblower protection provisions in the Public Interest Disclosure Act as it currently stands typify some of the problems confronting honest employees and officers not only within unions but within businesses and not-for-profit organisations generally in this country. The limited protections in the current act are just that: they are simply very limited.

These amendments go a long way to rectify those problems. They expand and broaden the scope of the wrongdoing and breaches of laws in relation to which disclosures can be made. There is an importation of requirements for those authorities to investigate, and there are time limits for actions similar to those in the Public Interest Disclosure Act 2013. These amendments also replace the existing reprisal and compensation provisions for registered organisation whistleblowers with a more comprehensive scheme of civil remedies, civil penalty orders and criminal liability for reprisals, extending the type of approach taken to protecting public sector whistleblowers under the Public Interest Disclosure Act 2013.

However, there are four even more important aspects of these amendments which I hope the Senate will support. Under section 337A(c) of the act as it stands, a whistleblower is only protected if they first give their name to the authority receiving a disclosure. This requirement was a copy of the widely criticised similar limitation on company employees more generally under part 9.4AAA of the Corporations Act. Indeed, this requirement is something of a laughing stock, because we all know from Crime Stoppers or the National Security Hotline that many people with information will only approach authorities if they feel they can remain anonymous at least in the first instance. These amendments will remove that requirement so whistleblowers who wish to remain anonymous in the first instance will still be protected, and that is a very significant reform.
Similarly, section 337A(e) of the act requires that a whistleblower will only be protected if their disclosure is made in 'good faith'. This is another copy from the Corporations Act. This is another major barrier to disclosure, because it is all too easy for employers or wrongdoers to cloud the picture in relation to what the many motives of a valid whistleblower may be, especially where there is conflict in the organisations. These amendments repeal this requirement, replacing it with a simple need for a whistleblower to have reasonable suspicions that their information discloses breaches of the law. I hope this amendment will be a very significant step to removing this similar retrograde requirement from other equivalent laws, and I will address that shortly.

Thirdly, the amendments address the community's expectation that whistleblowers will be able to claim damages for any detriment suffered not only if individuals take direct reprisals against them but if their employers or others fail in their duty to prevent or limit the detrimental impacts they may experience, ranging from psychological harm such as stress through to impacts on their reputation through to employment impacts. That goes way beyond anything we have in the Commonwealth or the states at present. As a result, the proposed new section 337BB of the act includes, at subsections (3) and (6)(c), the ability for the Federal Court to award compensation, injunctions and other remedies, including exemplary damages, where detriment results from someone failing in their duty to prevent or refrain from adverse actions against a whistleblower, or failing to take reasonable steps to ensure that other persons under their control prevent or refrain from those detrimental actions. As recently as two weeks ago, preliminary results from the national Whistling While They Work 2 research project, led by Professor Brown of Griffith University, showed just how important it is that this parliament widen the scope of protections such as these to ensure that whistleblowers can receive appropriate compensation from their organisation if it fails to protect them or turns a blind eye to those who might undertake reprisals, not just to have provisions for people who take reprisals to be prosecuted or disciplined, which, even if it can be achieved, does nothing for the whistleblower. This amendment begins this vital process of wider reform.

Finally, the proposed new section 337BC guarantees that, if a whistleblower seeks to obtain compensation remedies, they will not face the huge risk of having the organisation's legal costs imposed on them if, for whatever reason, they fail, unless their claim is completely vexatious or an abuse of process. This replicates some of the most important innovations in the regime for Commonwealth public sector whistleblowers from 2013. There is a huge problem for whistleblowers in getting access to legal remedies and access to justice, even after what can sometimes be a major ordeal. This amendment helps to make that possible, and it goes a long way in doing so. These reforms also should be seen in the context of undertakings made by Minister Cash, who has confirmed there will be a process where these reforms need to be replicated, at the very minimum, into our corporations law and into our public sector law. I will not repeat the undertakings made, but the process will be a comprehensive one. There will be a parliamentary committee process, and there will be an expert advisory panel in relation to this. That legislation will need to be introduced by December 2017, with legislation to be dealt with no later than 30 June 2018.

These amendments go further than anything we have ever had before in the Commonwealth or in any of the states when it comes to whistleblower protections, and I must say that the negotiations that took place in good faith with Minister Cash have been incredibly
constructive. This is an issue that I have raised with the Prime Minister, and his commitment to this is something that is very pleasing. There will be a process to deal with these matters further by way of parliamentary committee to enhance and to improve them, but this goes further—much further—than anything we have done before. This is something that ought to be a template for our corporate sectors and for our public sector, and it mirrors the very good work that Senator Dastyari did on the Senate economics committee to drive reform of whistleblower protection.

I also note the incredible contribution of Professor AJ Brown, the nation's foremost authority on whistleblower protection, who says that this, effectively, is groundbreaking change to whistleblower protection. I commend these amendments to my colleagues.

Senator HINCH (Victoria) (00:56): As I mentioned earlier tonight, Senator Xenophon and I are rightly proud of what could be the best whistleblower protection in the world. It would cover anonymity, compensation and protection and, even though it now deals specifically with unions, as he said, it must in the near future be extended, with the same powers and the same protections, to whistleblowers in the corporate sector. That is vital. The limited whistleblower protection provisions in the act as it currently stands typify to me some of the problems confronting honest employees and officers not only within unions, but within businesses and not-for-profit organisations generally in this country.

I believe these amendments begin to rectify these problems by offering whistleblower protection to people in organisations, especially employees who are bravely prepared to disclose wrongdoing. These amendments greatly improve on the existing reprisal and compensation provisions for registered organisation whistleblowers; they provide a more comprehensive scheme of civil remedies, civil penalty orders and criminal liability for reprisals. And they extend the type of approach taken to protecting public sector whistleblowers under the Public Interest Disclosure Act 2013. Finally, I have been told—and have no reason not to believe it—that, if our whistleblower amendments are passed, then Australia will have one of the best, if not the best, whistleblower protection systems in the world. If that is the case, that can only lead to a better, more equitable and corruption-intolerant Australia.

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (00:58): The government will be supporting the amendments moved by Senator Hinch and Senator Xenophon on behalf of the Nick Xenophon Team. They without a doubt provide strong protections for whistleblowers, and they will give the whistleblowers the protections that they need to confidently expose corruption in registered organisations. I would call upon all honourable senators to support these amendments.

Senator CAMERON (New South Wales) (00:58): I must say that Senator Cash calling on everyone to support these amendments, when we only received a copy at 8.53 pm today, is a bit rich. Yesterday? Yes, it was yesterday. I stand corrected. It was circulated at 8.53 pm last night and here we are, four hours later, being told that this has gone through Professor AJ Brown; there have been all these discussions; the eminent professor has said this is the best thing going. But did either Senator Hinch or Senator Xenophon ever think to come to the opposition and say: 'We've got this great thing going. Let's explain exactly what you've got.'

An honourable senator interjecting—
Senator CAMERON: You should know better than to interject out of your seat. You are supposed to be the expert on this. So Senator Xenophon and Senator Hinch have come here and said, 'We want to do this.' I want to go back to the principle of the overarching bill, and the principle of the overarching bill was that the trade union movement would be treated the same way as corporate Australia. That is not the position here. This is an experiment in whistleblower legislation that has not been implemented anywhere else, that we got at 8:56 pm last night and about which we were told, 'You should support this because it's great.' It does not work like that. Senator Hinch I think has an excuse: he has not been here that long. There is an excuse for you, but there is no excuse for Senator Xenophon. He has been here long enough to know that, if he wants support on a bill, he should seek that support from the shadow minister and he should seek that minister's support to bring it here and get that support. He did not do that.

We have our own amendments and we will continue to push them tonight, but what we are saying about this is that this does not meet that standard that was set by the government that the union movement would be treated the same as corporate Australia. That is not the case here. If ever you were in a position to actually deliver a better outcome and make sure that corporate Australia was facing this, when you had your meeting with the Prime Minister you should have said, 'That's the price for our support for these bills.' You should have actually muscled up a little bit, not caved in, not capitulated to a committee. That is what you have got out of this: propositions that are different for the union movement and nothing to do with the banks. So the whistleblowers in the banks can wait for some time after 2017 if you ever get a result out of this mob over here, who will not have a royal commission into the banks, who will not take the banks on on anything. All the want from the banks is money to get their electoral funds up.

I want to know, Senator Xenophon, if you will table the agreement that you have. Table that agreement. I am calling on you to table the agreement you have with the government so we can see what is going on so there is some transparency in this process. Table it. Get it on the table now and let's see what you have got. Senator Xenophon, why didn't you just stand up to this mob and say, 'We will support this as long as it applies to the rest of corporate Australia?' What have you got? You have got a committee. You have got an expert panel. You have got some legislation in 2017, but nobody knows what it is. If you were fair dinkum, you would have fixed this tonight and corporate Australia would have been facing the same stringency as the Australian trade union movement. But you dropped the ball. You should have stood up to this government and said, 'The price for my support on this is that it applies everywhere.' That would have been consistent with this government's principles that they are applying to this bill. But, no, you did not do it, so the trade union movement are the guinea pigs for professor AJ Brown's expert whistleblower legislation.

There are issues in here if you go to 337BA. How do you determine somebody's state of mind?

Senator Brandis interjecting—

Senator CAMERON: I know what your state of mind is: not very good after the performance you put on, Senator Brandis! Your state of mind is not very good. I know the state of mind of all those Liberal National Party people in Queensland, and it ain't too good for you! The sooner you are in London, the better.
Getting back to the real issues—not when Senator Brandis is going to London—this is a problem. You have caved in to the government. You have not delivered. You had an opportunity to actually make a big change and help all those poor people that are being ripped off. The whistleblowers in the Commonwealth Bank, the whistleblowers in the financial sector, the whistleblowers in corporate Australia—you let them down.

**Senator XENOPHON** (South Australia) (01:05): Earlier on I read out the terms of the agreement, which I am very happy to table. I read it out. It was read into Hansard, but if Senator Cameron wishes me to table a copy I am very pleased to table that. It is word for word what was read into the Hansard. I seek leave to table it.

Leave granted.

**Senator XENOPHON:** I will just remind Senator Cameron what was contained in it. These amendments will be transferred to the corporate and public sectors in the next 18 months. The government has committed:

1) To support a Parliamentary inquiry to examine the … amendments with the objective of implementing the substance and detail of those amendments to achieve an equal or better whistleblower protection and compensation regime in the corporate and public sectors.

2) To support the Parliamentary inquiry considering, on the basis of mutually agreed terms of reference, matters including …
   a. Compensation arrangements … across different jurisdictions, for example the bounty scheme used in the United States.
   b. The definition of detrimental action and reprisal and the interaction between criminal and civil liability—something that has been in force for a number of years that has been incredibly problematic for the protection of whistleblowers. This is something that the Gillard government had an opportunity to deal with through amendments that Andrew Wilkie, the member for Denison, moved a number of years ago, but the Gillard government walked away from those key amendments to improve the Public Interest Disclosure Act for the protection of whistleblowers.

**Senator Cameron interjecting**—

**Senator XENOPHON:** Senator Cameron's interjections are simply absurd. This matter will be referred to a parliamentary committee. Under the terms of the agreement, the referral needs to be voted on by Wednesday, 30 November, with a reporting date of 30 June 2017, so we are moving quickly in relation to this. The agreement also states:

4) That following the tabling of the Parliamentary Committee report, if the report recommends adopting stronger whistleblower protections in the corporate and public sectors—
   in other words, stronger than the amendments that are here in this bill for registered organisations—
   the Government will establish an expert advisory panel to expedite the development and drafting of legislation to implement whistleblower reforms in the corporate and public sectors.

5) That legislation will be introduced into the Parliament by December 2017 … to introduce greater protections for whistleblowers in the corporate and public sectors consistent with the recommendations of the Parliamentary Committee and the expert advisory panel with the proviso that the Government
commits to, as a minimum, supporting the substance and detail of the whistleblower protection and compensation regime contained in the ROC legislation.

6) The Government will commit to support enhancements to whistleblower protections and commit to a parliamentary vote on the legislation no later than 30 June 2018.

That is a pretty comprehensive set of undertakings and a process that will lead—

Senator Sterle interjecting—

Senator XENOPHON: Well, maybe that is a good thing, Senator Sterle. But these are significant reforms. So what Senator Cameron is saying is simply inaccurate. It is churlish—

Honourable senators interjecting—

Senator XENOPHON: Of course. There will be this process which Senator Gallacher and others can participate in. These are comprehensive reforms. They go further than anything that Labor did in their six years in office. This is about greater transparency and accountability, and not only in registered organisations. It will lead to the same in the corporate and public sectors, and that is unambiguously a good thing for good governance in this country.

Senator RHIANNON (New South Wales) (01:09): I ask Senator Xenophon some questions. I am always very interested in whistleblower legislation and ways to improve it. I just want to draw your attention to clause 230G, at the bottom of page 2 of sheet 7997, and the additions to paragraph 337A(a). I found this a very broad definition of someone who will be caught by these protections. That is what I want to focus on, because I am actually troubled by this, Senator Xenophon. What does 'any other transaction' mean? They are the words that you have in there—'any other transaction'. What does 'any other transaction' mean in the new (iv) at the bottom of page 2? Is that a term used elsewhere in the Fair Work Act?

Senator XENOPHON (South Australia) (01:10): I thank Senator Rhiannon for her question. The aim of this provision is to broaden this legislation as much as possible to ensure that those who can make a protected disclosure are covered. For instance, if a person is contracting to supply goods or services or there is another transaction which is a contractual transaction with an organisation or a branch of an organisation, they could be a person who can come forward and make a protected disclosure.

Senator RHIANNON (New South Wales) (01:10): The words that you use that aim to broaden it sound alarm bells for me, because what I started to see from reading this amendment and when you use that term—which is where I think there might be a serious weakness—was that it could include an employer of union members who is negotiating with the union, couldn't it? I think there are unintended consequences here, and this is what you have captured. I think this is what we have to deal with. There is a serious problem here.

Senator XENOPHON (South Australia) (01:11): It ought to be read with the other subclauses—for instance:

... a person who has or had a contract for the supply of services or goods to, or any other transaction with, an officer or employee of an organisation or of a branch of an organisation who is or was acting on behalf of the organisation or branch;

Effectively, at the core of it is that this is whistleblower protection legislation so that if there is an allegation of malfeasance, corruption or dishonest behaviour then this is as broad as possible to give that person protection to come forward. That is the whole basis of making
protected disclosures as broad as possible. It has been one of the flaws in whistleblower protection legislation around the country for many years. Protected disclosures have simply been too narrow. The importance of this clause needs to be seen in the context of what this means in terms of what constitutes taking a reprisal, the compensation mechanisms in terms of the civil remedies and also the cost mechanism, because one of the problems we have at the moment is that, if anyone has been the subject of a reprisal and wants to take action, if they fail, with our current very narrow definitions of whistleblower protections—which are very problematic—they can massive cost orders against them. That is a massive issue in this country in terms of access to justice. So the fact that you will only have costs awarded against you if it is a vexatious proceeding or an abuse of process gives confidence for people to come forward and to be able to take action. So the idea of this legislation in its scope is to make it as broad as possible, and it is triggered only if there is a disclosure of bad behaviour, corrupt behaviour, dishonest behaviour or an abuse of office—these are the sorts of matters that it is intended to capture.

Senator RHIANNON (New South Wales) (01:13): Senator Xenophon, I noted in your answer that you did not deny that it could capture an employer. This is what I want to explore, because this then does take it into a different realm in how that could play out. A binding agreement that an employer has with a union would be a transaction. I understand that is correct. And then there is also an employer that has taken out an advertisement in a union journal or paid a union body to conduct training. These are all transactions and why I think we could then be capturing employers. If the employer is a person within with the meaning of this new 337A(a) and they think they know the union has done something wrong then, presumably, they would be entitled to the protections of the new 337BA. That is correct? We need to explore this if we are going to be confident that what you have said this amendment can well achieve is actually correct. That is where I have now got a big doubt.

Senator XENOPHON (South Australia) (01:14): The whole basis of these amendments that I have moved with my colleague, Senator Hinch, is that if there is an allegation—a disclosure—it is a protected disclosure that relates to malfeasance. It relates to behaviour that could be an abuse of office, corruption or a waste of funds, and it is intended to protect that person. If people have been conducting themselves appropriately, then it does not apply. But if somebody comes forward and says: I think there was a dodgy contract entered into or that someone was receiving a bribe or it was a contract that was improper in any way—why should that person be protected in the context of this disclosure regime?

Senator RHIANNON (New South Wales) (01:15): So the employer could effectively say they are a whistleblower. I am taking that as correct. Even if the employer has made a mistake and there is nothing the union has done wrong, it does not seem to matter, from my reading of it. What matters is that the employer thinks the union has done something wrong and is intending to blow the whistle. Doesn't that give the employer a huge new weapon in industrial negotiations with the union? It gives them a protected status. Seriously, there is a dangerous flaw in this from the unintended consequences in how this is written.

Senator XENOPHON (South Australia) (01:16): This whistleblower protection regime, as set out in these amendments, is intended to apply—using the employer example—if someone is subject to a reprisal or if someone is subject to a detriment. In other words, there must be a reprisal taken against that person who makes a disclosure. There must be a
detrimen

to that person, and that it includes an injury or damage to a person. There must be, in order for this to be triggered, harm. There must be, firstly, a reprisal and a detriment, and it must be in that context. The civil remedies that apply are subject to the whole issue of reprisal and detriment. I hope that has answered Senator Rhiannon's questioning. I am happy to oblige on any further questions.

Senator CAMERON (New South Wales) (01:18): When you watch someone's career, as I have with Senator Xenophon—I think most people in Australia have watched Senator Xenophon's career—accumulating power and accumulating influence, but when they get to a position where they can actually exercise that power and exercise that influence they drop the ball. They bottle it. They do not really deliver. That is exactly what we are watching here. I have just got this so-called agreement. So what does the agreement say? The government will support a parliamentary inquiry. Nothing much in that. There will be mutually agreed terms of reference. We do not know what the terms of reference are. The committee may not go ahead if you cannot get mutually agreed terms of reference. Who are the mutually agreed terms of reference between? Is it between Senator Xenophon and the government? Is that it? Who is going to agree to the terms of reference? Is the Senate going to have access to these terms of reference? Does the Senate have a say in that? Then it goes on to say: it will be done by Wednesday, 30 November, with a reporting day of 30 June.

Can you imagine the number of whistleblowers that are out there now waiting to go after the Commonwealth Bank, NAB and the rest of the banks? You are going to have them wait for 12 months when you had the opportunity and the power—something you have worked for your whole life—to actually do something about this. You dropped the ball. You could have had this done tonight. You could have had an agreement tonight.

What this says is that the government commits to, as a minimum, supporting the substance and detail of the whistleblower protection and compensation regime contained in the ROC legislation. If they agree to that here, why can't they agree to it tonight? Why can't the whistleblowers in the banks, the whistleblowers in the financial sector and the whistleblowers in the companies that are operating overseas and taking bribes have this protection as well? Why can't they have it tonight? I will tell those whistleblowers why they cannot have it tonight: because Senator Xenophon bottled it. Senator Xenophon got his playlunch taken away by the coalition. If this ever comes to anything, I think we will all be a bit surprised.

You have a commitment—I think you have a commitment in here—from the government to the ROC whistleblower legislation. If that is right—and that is how it reads—then, Senator Xenophon, they should have been forced to come here tonight, and the whistleblowers in the Defence Force, the whistleblowers in the public sector, the whistleblowers in the banks and the whistleblowers in the financial sector would have had better protections, but no. You did not have the bottle, the skill or the capacity to work this through. You had the power, you had the influence, and you have given it up. After all these years of struggle to get that power and influence, you have given it up.

My question to you, Senator Xenophon, is: why, when you get to the top of the mountain, do you roll down to the bottom? Why don't you take it on? Why don't you force them? Why don't you say to them: 'I'm not signing this agreement. Bring it back tomorrow and give us a chance to have a look at it.' The chances are that we would support it. The chances are that we would have it in the Defence Force, we would have it in the banks, we would have it in the
finance sector and we would have it in the corporate sector tomorrow? That is my challenge to you. Pull it back tonight, deal with it tomorrow and let's get it everywhere if it is so good.

Senator RHIANNON (New South Wales) (01:22): Senator Xenophon, I do appreciate the detailed answers that you have given, but each one compounds my concern, so an example might help. Say we have a workplace with honest employees, and they are members of the union. They decide that they are going to take industrial action, and they say that. Can't the employer say, ‘Well, you're just doing that because you know we are about to blow the whistle, so we're commencing whistleblower proceedings against you’? This is where it could end up. There are unintended consequences, and employers could end up with the ability to exploit this situation. That is where we could end up. Surely that is the case.

Senator XENOPHON (South Australia) (01:23): I will deal with Senator Rhiannon’s questions first. Respectfully I say to Senator Rhiannon that that is a complete misreading of what these amendments are about. This is about giving protection to those in organisations, particularly employees, who speak out and who wish to make a disclosure and then suffer any detriment in respect of that disclosure. It triggers civil remedies. If you are talking about the situation of industrial action, that cannot possibly be something that would be caught within this legislation. It does not make sense in terms of how this works in terms of detriment. It is actually improving significantly the very limited protections relating to registered organisations.

I will turn to Senator Cameron. I have a lot of time for Senator Cameron—maybe a little less after tonight. But seriously—

Senator Cameron interjecting—

Senator XENOPHON: I can't handle the truth? I think Senator Cameron is perhaps wrangling the truth, or strangling the truth, when it comes to this particular debate. When the test came of the Gillard government to deal with public interest disclosure—do not shake your head, Senator Cameron—and to deal with legislation that Andrew Wilkie, the member for Denison, put up, the Gillard government killed it off.

Senator Cameron interjecting—

Senator XENOPHON: No, it is about the fact—

Senator Cameron interjecting—

Senator XENOPHON: You can point and carry on. You do not have to be so rude, Senator Cameron. The fact is this: you had six years to give real whistleblower protections in the corporate and public sectors, and all we had in the end was a confusing, weak public interest disclosure. You can wave the piece of paper dismissively. There was more than a committee. You have read—you can laugh and scoff and carry on, but the fact is this goes further than anything that you and your party did in government.

Senator Cameron interjecting—

The CHAIR: Order, Senator Cameron!

Senator XENOPHON: These changes go beyond anything that has been introduced by any government previously—Labor or coalition—anywhere in the Commonwealth. The wording of the commitments that have been tabled are very clear. There are tight timelines. The government has committed to introduce legislation no less than the protections contained
in this legislation for the corporate and public sectors. And that goes further, Senator Cameron, than anything that has been done before, including by the Gillard and Rudd governments.

Senator LAMBIE (Tasmania) (01:26): I would like to know this from the coalition: since you can do it for those sectors, why isn't the military put into that? That would be my first call. My second call is: why is it going to take you 18 months? How many more years do you want this country to wait to have decent whistleblower protection laws? How much more time? You have got an expert here who has got it damn close, so why is it going to take 18 months? There is a lot of stuff going on in the military. Those men and women are standing up and they are going to need protection, and they are going to need—18 months? Rubbish! It is only the lack of the will of this Senate that is stopping it. If we cannot get it done in six months, I tell you what: we have got problems in here. You know what? Let us get this right. Let us shorten it, because there are people out there who want to come forward. If you have got nothing to hide, then let us get it done!

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (01:27): Senator Lambie, the government is supporting amendments that have been put forward by Senator Xenophon and Senator Hinch. In terms of those amendments, a very clear process has been outlined that the government has agreed to.

Senator RHIANNON (New South Wales) (01:28): I did want to put on the record that the Greens are very strong supporters of whistleblower legislation provisions, and that is why I have been exploring those questions. I do feel, Senator Xenophon and the Xenophon team, that the hasty drafting of these amendments is very troubling. We have not really got clear answers about what we are trying to deal with and what we are trying to work out.

The intention of these amendments, we are told, is to strengthen such protections for whistleblowers, but the case has not been made for this. That is why we are left with serious concerns about any unintended consequences, and I would ask that that be taken on board. Senator Cameron also made reference to this, but the other problem we have had, and I do need to put this on the record, is it is really difficult to get one's head around these amendments within a few hours. Again, that is why we really needed to work through those questions. Because of those factors, we are not in a position to support these amendments, but we will certainly continue to work to strengthen whistleblower protection in this country.

Senator ROBERTS (Queensland) (01:29): To Senators Xenophon and Hinch, it is a delight to see that, instead of standing over, muscling up and caving in, you have approached this in a way that I can admire and that will enhance this bill that has been so necessary for so many years. Secondly, you have been accused of accumulating power. If power is accumulated in the way that you have just done then I think that is to be commended. That is real power; it is not the power from the fifties and sixties of standing over people. Thirdly, I commend you for the deal you have done with the government to spread this through other sectors—

The CHAIR: I remind you that your remarks are made to the chair.

Senator ROBERTS: Thank you, Chair. The next point I would like to make is that while this is going to be spread into the corporate sector through the government's commitment, and
that relies on trust, trust is something that is very important to us in Pauline Hanson's One Nation party—and we know what happened to Senator Leyonhjelm. Fourthly, the fact is that union members will be the first to benefit from this whistleblower legislation, and that is something on which I further commend Senators Xenophon and Hinch. It is union members that are being protected by this bill and it is they for whom we are standing in support of the ROC and in support of Senators Xenophon and Hinch’s amendments. Fifthly, I would like to commend the two senators because they have turned this Senate from a house of repetition to a house of review—that is our full role.

It is with some humour that I say that my understanding is that this legislation was first introduced in 2013. Children born in 2013 in Queensland and Australia are now on the verge of entering primary school. Thanks to Senators Xenophon and Hinch, perhaps we will not have to wait until they are on the verge of entering high school for the ROC bill to be passed.

The CHAIR: The question is that the amendments (1) to (9) on sheet 7997, as moved by the Senator Xenophon, be agreed to.

The committee divided [01:36]

(The Chair—Senator Lines)

<table>
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AYES

- Back, CJ
- Birmingham, SJ
- Brandis, GH
- Burston, B
- Bushby, DC
- Canavan, MJ
- Cash, MC
- Cormann, M
- Cullen, RN
- Duniam, J
- Fawcett, DJ
- Fierravanti-Wells, C
- Fifield, MP
- Griff, S
- Hanson, P
- Hinch, D
- Hume, J
- Kakoschke-Moore, S
- Lambie, J
- Leyonhjelm, DE
- Macdonald, ID
- McGrath, J
- McKenzie, B
- Nash, F
- O'Sullivan, B
- Parry, S
- Paterson, J
- Reynolds, L
- Roberts, M
- Ruston, A
- Scullion, NG
- Seselja, Z
- Williams, JR (teller)
- Xenophon, N

NOES

- Bilyk, CL
- Brown, CL
- Cameron, DN
- Chisholm, A
- Collins, JMA
- Dastyari, S
- Di Natale, R
- Dodson, P
- Gallacher, AM
- Gallagher, KR
- Hanson-Young, SC
- Ketter, CR
- Kitching, K
- Lines, S
- Marshall, GM
- McAllister, J (teller)
Senator CAMERON (New South Wales) (01:39): by leave—I move all opposition amendments on sheet 7976 together:

(1) Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 2 6 months after the day this Act receives the Royal Assent.

(2) Schedule 2, item 8, page 30 (line 12), omit "100 penalty units", substitute "60 penalty units".

(3) Schedule 2, item 15, page 31 (line 3), omit "100 penalty units", substitute "60 penalty units".

(4) Schedule 2, item 42, page 33 (line 24), omit "100 penalty units", substitute "60 penalty units".

(5) Schedule 2, item 49, page 34 (line 14), omit "100 penalty units", substitute "60 penalty units".

(6) Schedule 2, item 76, page 37 (line 5), omit "60 penalty units", substitute "100 penalty units".

(7) Schedule 2, item 78, page 37 (line 10), omit "60 penalty units", substitute "100 penalty units".

(8) Schedule 2, item 80, page 37 (line 15), omit "100 penalty units", substitute "60 penalty units".

(9) Schedule 2, item 93, page 39 (line 5), omit "60 penalty units", substitute "100 penalty units".

(10) Schedule 2, item 95, page 39 (line 10), omit "60 penalty units", substitute "100 penalty units".

(11) Schedule 2, item 97, page 39 (line 15), omit "60 penalty units", substitute "100 penalty units".

(12) Schedule 2, item 99, page 39 (line 20), omit "60 penalty units", substitute "100 penalty units".

(13) Schedule 2, item 109, page 40 (line 19), omit "60 penalty units", substitute "100 penalty units".

(14) Schedule 2, item 111, page 40 (line 24), omit "60 penalty units", substitute "100 penalty units".

(15) Schedule 2, item 113, page 41 (line 3), omit "60 penalty units", substitute "100 penalty units".

(16) Schedule 2, item 115, page 41 (line 8), omit "60 penalty units", substitute "100 penalty units".

(17) Schedule 2, item 121, page 41 (line 23), omit "100 penalty units", substitute "60 penalty units".

(18) Schedule 2, item 123, page 42 (line 3), omit "60 penalty units", substitute "100 penalty units".

(19) Schedule 2, item 129, page 42 (line 19), omit "100 penalty units", substitute "60 penalty units".

(20) Schedule 2, item 137, page 43 (line 13), omit "100 penalty units", substitute "60 penalty units".

(21) Schedule 2, item 139, page 43 (line 18), omit "60 penalty units", substitute "100 penalty units".

(22) Schedule 2, item 141, page 43 (line 23), omit "60 penalty units", substitute "100 penalty units".

(23) Schedule 2, item 169, page 63 (lines 3 to 4), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".

(24) Schedule 2, item 171, page 63 (lines 9 to 10), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".

(25) Schedule 2, item 174, page 63 (lines 17 to 18), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".

CHAMBER
(26) Schedule 2, item 176, page 63 (lines 23 to 24), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(27) Schedule 2, item 179, page 64 (lines 5 to 6), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(28) Schedule 2, item 181, page 64 (lines 11 to 12), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(29) Schedule 2, item 184, page 64 (lines 19 to 20), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(30) Schedule 2, item 186, page 64 (lines 25 to 26), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(31) Schedule 2, item 189, page 65 (lines 7 to 8), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(32) Schedule 2, item 191, page 65 (lines 13 to 14), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(33) Schedule 2, item 194, page 65 (lines 21 to 22), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(34) Schedule 2, item 196, page 66 (lines 1 to 2), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(35) Schedule 2, item 199, page 66 (lines 9 to 10), omit "100 penalty units, or 1,200 penalty units for a serious contravention", substitute "60 penalty units".
(36) Schedule 2, item 239, page 87 (line 24), omit "60 penalty units", substitute "100 penalty units".

These are amendments that actually go to increasing penalties. The penalties are increased in line with the issues that are important—that is, the protection of members. So if any official is actually ripping members off, then the penalties are very significant in this schedule. Labor will not tolerate any ripping off of union members. Labor has had long experience of dealing with issues with the trade union movement. We are determined that the labour movement actually does what the Liberal Party in New South Wales will not do, and that is clean up their act. I know that you guys will continue to go in the back seats of Bentleys, getting $10,000 handed to you in brown paper bags and in breach of the laws, but the labour movement has agreed that we are not prepared to tolerate any corruption. But what you guys are prepared to do is to continue the corruption—

Government senators interjecting—

The CHAIR: Senator Cameron, resume your seat. Order on my right! I remind senators it is disorderly to interject, particularly if you are not in your seat. Senator Cameron?

Senator Cameron: I am finished, thanks.

The CHAIR: The question is that all the amendments moved by Senator Cameron on sheet 7976 be agreed to.

The committee divided. [01:46]

The Chair—Senator Lines

<table>
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<td>33</td>
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Question negatived.

**Senator CAMERON** (New South Wales) (01:48): by leave—I move all opposition amendments on sheet 7973 together:

(1) Clause 2, page 2 (table item 3), omit the table item, substitute:

3. Schedule 2  6 months after the day this Act receives the Royal Assent.

(2) Schedule 2, page 86 (after line 30), after item 230, insert:

230A Section 337A

Before "A disclosure", insert "(1)".

230B At the end of section 337A

Add:

(2) A disclosure of information by a discloser also qualifies for protection under this Part if:
(a) the information has been disclosed in accordance with subsection (1) to a person mentioned in paragraph (1)(b) (the authorised recipient); and

(b) the discloser believes on reasonable grounds that the authorised recipient has not taken adequate action in relation to the information and further disclosure is not, on balance, contrary to the public interest; and

(c) the disclosure of no more information than is reasonably necessary to identify the suspected contravention of this Act or the Fair Work Act is made to another person (including a journalist within the meaning of the Evidence Act 1995).

(3) Schedule 2, item 231, page 87 (lines 1 to 2), omit the item, substitute:

231 Subsection 337C(6) (penalty)
Repeal the penalty, substitute:
Penalty: 120 penalty units or imprisonment for 2 years, or both.

(4) Schedule 2, page 87 (after line 2), after item 231, insert:

231A At the end of section 337C
Add:

(8) For the purposes of subsections (1) and (2), detriment includes any disadvantage, including (without limitation) any of the following:

(a) dismissal of an officer or employee;
(b) injury of an officer employee in his or her employment;
(c) alteration of an officer's or employee's position to his or her detriment;
(d) discrimination between an officer or employee and other officers or employees of the same employer.

231B At the end of Part 4A of Chapter 11
Insert:

337E Powers of Federal Court—protection for whistleblowers
If the Federal Court is satisfied, on the application of a person (the applicant) against whom conduct is being, has been, or is threatening to be taken by another person (the respondent) in contravention of subsection 337C(1), (2) or (3), the Court may make one or more of the following orders:

(a) an order:
(i) restraining the respondent from carrying out a threat made by the respondent; or
(ii) requiring the respondent not to make any further threat; or
(iii) if the threat involves refusing or failing to do something—requiring the respondent to do that thing;

(b) an order requiring the respondent to apologise for causing, or threatening to cause, detriment to the applicant;

(c) if the detriment caused to the applicant was the dismissal of the applicant from a position or the alteration of the applicant's position to his or her detriment—an order requiring that the applicant be reinstated in the position or a position at a comparable level;

(d) injunctions (including interim injunctions), and any other orders, that the Court considers necessary to stop the conduct or remedy its effects;

(e) any other consequential orders.

These are the Labor Party's amendments about whistleblowers. This is something the Labor Party has been advocating now since 2015. We do clearly understand the need for
whistleblower protection but we cannot understand why, when you are in a position to deliver it for everybody, you do not do it.

I would say to Senator Xenophon and Senator Hinch: have a discussion with the Labor Party. Let us have a look at your legislation in detail and then come back tomorrow and pass legislation that protects whistleblowers in the Defence Force, whistleblowers in the banks, whistleblowers in the finance sector, whistleblowers in corporate Australia and whistleblowers in the Commonwealth government. Let us do that. Let us come back and actually fix this tomorrow. There is no need for committees. If the legislation is so good—if the professor has got it so right; if you, Senator Xenophon, have got it so right; and Senator Hinch has got it so right—let us start protecting the whistleblowers of Australia tomorrow, not just the whistleblowers in the trade union movement. Let us treat everybody the same. Let us follow the principle that the government said this legislation should be, that everybody gets treated the same.

So the challenge, Senator Xenophon, is that if you really want to get to the top of the hill and exercise power, do it tomorrow. Let us have whistleblower protection for everyone. Don't have whistleblowers scared to expose malfeasance in corporate Australia because you did not do the deal. You can do the deal. I am convinced that you would have the numbers in parliament tomorrow if you came tomorrow and spoke to the Labor Party and delivered. We do not need to wait for committees. We do not need to wait for this to be delivered. We can do it tomorrow. This agreement in my view is unnecessary. Let us fix the problem and protect all whistleblowers.

Senator XENOPHON (South Australia) (01:51): Senator Cameron's contribution is an Orwellian contribution. It is just bizarre that Senator Cameron is going to lecture me and others about these amendments. These are the opposition's amendments on whistleblowers. They are an anaemic contribution at best. There is nothing there that says anything about compensation for whistleblowers who have had their lives ruined. All the amendments relate to are powers of the Federal Court, in terms of getting injunctions and requiring orders for apologising for causing or threatening to cause detriment to the applicant and so on. The amendments are completely anaemic. No civil remedies are built into these amendments, none whatsoever. The detriment that is referred to is simply so narrow, whereas the amendments that the coalition have agreed to with my crossbench colleagues are much more comprehensive. We include damage to a person's property, damage to a person's reputation, harm or injury to a person including psychological harm. None of that is in the opposition's amendments. These are woeful amendments and that is the best they can do. We have gone much further with our amendments. Senator Cameron, George Orwell would have been proud of your contribution tonight in relation to these amendments.

Senator CAMERON (New South Wales) (01:53): What a pathetic performance to cap a pathetic week for Senator Xenophon. He actually had the power; he actually had the capacity to deliver for all whistleblowers, and what has he done? He has bottled it. Every whistleblower who can save the community their savings in the banking industry—the whistleblower is there; for this 12 months nothing can happen. Senator Xenophon, I have a question for you. What are the consequences if this government reneges on this deal? What are the consequences?
Senator Hinch: A point of order, Madam Chair. Does Senator Cameron ever go through the chair or does he go direct to the senator?

The CHAIR: That is a debating point, Senator Hinch.

Senator Cormann: A point of order: Senator Cameron is not talking to the amendment before the chair. Senator Cameron is actually talking to an amendment that has already been dealt with, namely, the Xenophon-Hinch amendments. This is now tedious repetition. We are dealing with the amendment of the Labor Party, not the amendment that was put forward by Senators Xenophon and Hinch.

The CHAIR: Thank you, Senator Cormann. I remind senators to address the chair.

Senator Cameron: I apologise to the Senate; I should talk through the chair. Through the chair: Senator Xenophon has stuffed this. Senator Xenophon had an opportunity to fix what he claims is a big issue, and that is whistleblower legislation. He could have had it in here tonight and it could have been applied everywhere if he had spoken to the Labor Party and the Greens. We could have worked something out. But he chose not to do that. He chose to do some deal—and not a very good deal. What are the consequences if they do the same as former Senator Joyce is doing to South Australia now and they just rip this up and say, 'See you later; bye-bye'? You had an opportunity to fix this up now. You have an opportunity tomorrow. My challenge to you is to talk to the Labor Party and talk to the Greens. Let's bring this back and let's protect the community in Australia, protect everyone, protect all whistleblowers. You have got the chance to do it; don't bottle it again.

Senator Cash (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (01:56): I indicate that the government will not be supporting Labor's proposed amendments. We were pleased earlier on to support the amendments put forward by Senator Hinch and Senator Xenophon.

Senator Xenophon (South Australia) (01:56): In relation to the amendment moved by Senator Cameron, can he indicate whether there is any provision there for civil remedies for compensation for whistleblowers? Can he indicate whether that is the case, or does he acknowledge—

Honourable senators interjecting—

Senator Xenophon: It is a simple question. Is there any compensation mechanism here for civil remedies in relation to these amendments? That is all.

Senator Cameron (New South Wales) (01:56): My simple answer, Senator Xenophon, is: if you had any courage, if you had any backbone, if you were not a jellyback, you would be back in here later today and you would protect all consumers. You would protect all citizens. But you do not seem to have the backbone. You do not seem to have the courage.

The CHAIR: Senator Cameron, I remind you to make your remarks to the chair.

Senator Xenophon (South Australia) (01:57): I take that answer as a no, there is no compensation for civil remedy in this legislation, nor is there a definition of 'detriment' as broad as that that has just been passed by this chamber, nor is there a distinction between civil and criminal remedies and nor is there a protection in respect of costs, which deters people from bringing actions in relation to these sorts of matters.
The CHAIR: The question is that the amendments, as moved by Senator Cameron, on sheet 7973 be agreed to.

The committee divided. [02:02]

(The Chair—Senator Lines)

Ayes ...................... 29
Noes ...................... 34
Majority ................ 5

AYES

Bilyk, CL
Cameron, DN
Dastyari, S
Dodson, P
Gallagher, KR
Ketter, CR
Lines, S
McAllister, J (teller)
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Urquhart, AE
Watt, M
Wong, P

Brown, CL
Chisholm, A
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Marshall, GM
McKim, NJ
O’Neill, DM
Pratt, LC
Rice, J
Sterle, G
Waters, LJ
Whish-Wilson, PS

NOES

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Lambie, J
Macdonald, ID
McKenzie, B
O’Sullivan, B
Paterson, J
Roberts, M
Scullion, NG
Williams, JR (teller)

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Fierravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Xenophon, N

Question negatived.

The CHAIR (02:06): The question is that the bill, as amended, be agreed to.

The committee divided. [02:06]

(The Chair—Senator Lines)

Ayes ...................... 33
Noes ..................30
Majority ..............3

AYES

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Xenophon, N

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Ferravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B
O'Sullivan, B
Paterson, J
Roberts, M
Scullion, NG
Williams, JR (teller)

NOES

Bilyk, CL
Cameron, DN
Dastyari, S
Dodson, P
Gallagher, KR
Ketter, CR
Lambie, J
Marshall, GM
McKim, NJ
O'Neil, DM
Pratt, LC
Rice, J
Sterle, G
Waters, LJ
Whish-Wilson, PS

Brown, CL
Chisholm, A
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S
McAllister, J (teller)
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Urquhart, AE
Watt, M
Wong, P

Question agreed to.
Bill, as amended, agreed to.
Bill reported with amendments; report adopted.

Third Reading

Senator CASH (Western Australia—Minister Assisting the Prime Minister for the Public Service, Minister for Employment and Minister for Women) (02:10): I move:

That this bill be now read a third time.

The PRESIDENT: The question is that this bill be now read a third time.
The Senate divided. [02:11]
Monday, 21 November 2016

(The President—Senator Parry)

Ayes ......................33
Noes ......................30
Majority ...............3

AYES

Back, CJ
Brandis, GH
Bushby, DC
Cash, MC
Culleton, RN
Fawcett, DJ
 Fifield, MP
Hanson, P
Hume, J
Leyonhjelm, DE
McGrath, J
Nash, F
Parry, S
Reynolds, L
Ruston, A
Seselja, Z
Xenophon, N

Birmingham, SJ
Burston, B
Canavan, MJ
Cormann, M
Duniam, J
Ferravanti-Wells, C
Griff, S
Hinch, D
Kakoschke-Moore, S
Macdonald, ID
McKenzie, B
O'Sullivan, B
Paterson, J
Roberts, M
Scullion, NG
Williams, JR (teller)

NOES

Bilyk, CL
Cameron, DN
Dastyari, S
Dodson, P
Gallagher, KR
Ketter, CR
Lambie, J
Marshall, GM
McKim, NJ
O'Neill, DM
Pratt, LC
Rice, J
Sterle, G
Waters, LJ
Whish-Wilson, PS

Brown, CL
Chisholm, A
Di Natale, R
Gallacher, AM
Hanson-Young, SC
Kitching, K
Lines, S
McAllister, J (teller)
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Urquhart, AE
Watt, M
Wong, P

Question agreed to.
Bill read a third time.

Senate adjourned at 02:14

DOCUMENTS

Tabling

The following documents were tabled by the Clerk pursuant to statute:
[Legislative instruments are identified by a Federal Register of Legislation (FRL) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Australian Film, Television and Radio School Act 1973—Determination of Degrees, Diplomas and Certificates No. 2016/3 [F2016L01731].


Civil Aviation Act 1988—Civil Aviation Safety Regulations 1998—
State of Design Airworthiness Directives—AD/CL-600/71 Amdt 3 [F2016L01722].

Commissioner of Taxation—Public Rulings—
Class Rulings CR 2016/85 and CR 2016/86.

Corporations Act 2001—
ASIC Corporations (CSSF-Regulated Financial Services Providers) Instrument 2016/1109 [F2016L01757].
ASIC Corporations (Repeal) Instrument 2016/1053 [F2016L01766].
ASIC Corporations (Top-up Product Disclosure Statements Relief) Instrument 2016/1054 [F2016L01767].

Customs Act 1901—Defence and Strategic Goods List Amendment Instrument 2016 [F2016L01727].

Defence Act 1903—
Section 58B—Education assistance—amendment—Defence Determination 2016/35 [F2016L01723].
Language Proficiency Allowance—Amendment—Defence Force Remuneration Tribunal Determination No. 9 of 2016.


Environment Protection and Biodiversity Conservation Act 1999—Amendment of List of Exempt Native Specimens—Queensland East Coast Otter Trawl Fishery and Western Australian South Coast Crustacean Fishery (9 November 2016)—EPBC303DC/SFS/2016/32 [F2016L01742].

Export Control Act 1982—Export Control (Dairy Produce Tariff Rate Quotas) Order 2016 [F2016L01758].

Fair Work Act 2009—Fair Work (State Declarations—employer not to be national system employer) Endorsement 2016 (No. 3) [F2016L01734].

Federal Court of Australia Act 1976—
Federal Court (Criminal Proceedings) Rules 2016 [F2016L01726].

Federal Financial Relations Act 2009—
Federal Financial Relations (General purpose financial assistance) Determination No. 91 (October 2016) [F2016L01725].
Federal Financial Relations (National Partnership payments) Determination No. 112 (October 2016) [F2016L01724].

Financial Framework (Supplementary Powers) Act 1997—
Financial Framework (Supplementary Powers) Amendment (Agriculture and Water Resources Measures No. 4) Regulation 2016 [F2016L01752].
Financial Framework (Supplementary Powers) Amendment (Education and Training Measures No. 5) Regulation 2016 [F2016L01739].
Financial Framework (Supplementary Powers) Amendment (Employment Measures No. 2) Regulation 2016 [F2016L01747].
Financial Framework (Supplementary Powers) Amendment (Health Measures No. 4) Regulation 2016 [F2016L01751].
Financial Framework (Supplementary Powers) Amendment (Social Services Measures No. 3) Regulation 2016 [F2016L01753].


Judiciary Act 1903—Legal Services Amendment (Repeal of Solicitor-General Opinions) Direction 2016 [F2016L01732].


Legislation Act 2003—
Legislation (Agricultural Levies Instruments) Sunset-altering Declaration 2016 [F2016L01741].
Legislation (Hearing Services Instruments) Sunset-altering Declaration 2016 [F2016L01750].

Medical Research Future Fund Act 2015—
Australian Medical Research and Innovation Priorities 2016—2018 Determination 2016 [F2016L01729].

Migration Act 1958—
Migration Amendment (Temporary Activity Visas) Regulation 2016 [F2016L01743].
Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016 [F2016L01745].
Migration Regulations 1994—
Arrangements for E-Visitor Applications 2016/111—IMMI 16/111 [F2016L01760].
Arrangements for Work and Holiday and Working Holiday Visa Applications 2016/101—IMMI 16/101
[F2016L01763].
Motor Vehicle Standards Act 1989—Vehicle Standard (Australian Design Rule 57/00—Special
Requirements for L-Group Vehicles) 2006 Amendment 2 [F2016L01761].
National Disability Insurance Scheme Act 2013—National Disability Insurance Scheme (Protection and
Ozone Protection and Synthetic Greenhouse Gas Management Act 1989—Grant of exemption under
section 40—Air Affairs (Australia) Pty. Ltd.—No. S40E24383665.
Parliamentary Entitlements Act 1990—Parliamentary Entitlements Regulations 1997—Advice of
decision to pay assistance—9 November 2016.
Public Governance, Performance and Accountability Act 2013—Commonwealth has acquired shares in
NBN Co Limited—16 November 2016 [2].
Remuneration Tribunal Act 1973—
Remuneration and Allowances for Holders of Public Office—Remuneration Tribunal Determination
2016/10 [F2016L01360]—Replacement explanatory statement.
Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices—
Retirement Savings Accounts Act 1997—RSA Data and Payment Standards (Payments and Information
from the Commissioner of Taxation) Amendment 2016 [F2016L01738].
Superannuation Industry (Supervision) Act 1993—Superannuation Data and Payment Standards
(Payments and Information from the Commissioner of Taxation) Amendment 2016 [F2016L01737].
1 of 2016 [F2016L01078]—Replacement explanatory statement.
Trans-Tasman Proceedings Act 2010—Trans-Tasman Proceedings Amendment (2016 Measure No. 1)
Regulation 2016 [F2016L01746].
Work Health and Safety Act 2011—Work Health and Safety Amendment Regulation 2016 (No. 2)
[F2016L01736].

Tabling
The following documents were tabled pursuant to standing order 61(1)(b):
[Documents presented since the last sitting of the Senate, pursuant to standing order 166, were
authorised for publication on the dates indicated]
Anindilyakwa Land Council—Report for 2015-16. [Received 15 November 2016]
Australian Human Rights Commission—Reports—
No. 104—Lee family and Misinale family v Commonwealth of Australia (Department of
Immigration and Border Protection).
No. 105—AW v Data#3.
No. 106—Ms Bakhtiari and Master Reza Bakhtiari v Commonwealth of Australia (Department of Immigration and Border Protection).
No. 107—Six persons with adverse security assessments detained in immigration detention, and family members affected by their detention v Commonwealth of Australia (Department of Immigration and Border Protection).

Commonwealth Superannuation Corporation (CSC)—Report for 2015-16, including financial statements for the Commonwealth Superannuation Scheme, Public Sector Superannuation Scheme, Military Superannuation and Benefits Fund and Public Sector Superannuation Accumulation Plan.

Crimes Act 1914—Reports for 2015-16—
Australian Commission for Law Enforcement Integrity—
Authorisations for the acquisition and use of assumed identities.
Witness identity protection certificates.
Australian Crime Commission—Authorisations for the acquisition and use of assumed identities. [Received 17 November 2016]

Defence Housing Australia (DHA)—Report for 2015-16. [Received 17 November 2016]
Executive Director of Township Leasing—Report for 2015-16.
High Court of Australia—Report for 2015-16.


National Archives of Australia and National Archives of Australia Advisory Council—Reports for 2015-16. [Received 17 November 2016]

Outback Stores Pty Ltd—Report for 2015-16. [Received 15 November 2016]

Status of government responses outstanding to parliamentary committee reports as at 30 September 2016.


Torres Strait Regional Authority (TSRA)—Report for 2015-16. [Received 15 November 2016]

Orders for production of documents—Document: The following document received on 15 November 2016 was tabled:

Qualification of former Senator Day—Legal advice—Letter to the President of the Senate from the Attorney-General (Senator Brandis), dated 10 November 2016, responding to the order of the Senate of 9 November 2016.